

of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: February 19, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-4254 Filed 3-1-10; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2000-7918; FMCSA-2001-10578; FMCSA-2005-21711; FMCSA-2005-22727; FMCSA-2007-27897]

#### Qualification of Drivers; Exemption Renewals; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 13 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA,

Department of Transportation, 1200 New Jersey Avenue, SE., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

##### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on February 10, 2010 (75 FR 1451).

##### Discussion of Comments

FMCSA received no comments in this proceeding.

##### Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 13 renewal applications, FMCSA renews the Federal vision exemptions for Donald J. Bierwirth, Jr., Ronald D. Boeve, Arthur L. Bousema, Matthew W. Daggs, Donald R. Date, Jr., John E. Kimmet, Jr., Robert C. Leathers, Jason L. Light, Robert Mollicone, Kenneth R. Murphy, Robert A. Sherry, Stephen G. Sniffin, and John R. Snyder.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 19, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2001-10578; FMCSA-2005-22194; FMCSA-2005-22727; FMCSA-2007-29019]

#### Qualification of Drivers; Exemption Renewals; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 6 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

##### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on February 10, 2010 (75 FR 1450).

##### Discussion of Comments

FMCSA received no comments in this proceeding.

##### Conclusion

The Agency has not received any adverse evidence on any of these drivers

that indicates that safety is being compromised. Based upon its evaluation of the 6 renewal applications, FMCSA renews the Federal vision exemptions for James S. Ayers, Vernon J. Dohrn, Mark A. Massengill, Douglas J. Mauton, Dennis L. Maxcy, and Dean B. Ponte.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 19, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Regulatory Guidance Concerning the Applicability of Fees for the Unified Carrier Registration Plan and Agreement

**AGENCY:** Federal Motor Carrier Safety Administration, DOT.

**ACTION:** Notice of regulatory guidance.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces regulatory guidance concerning the applicability of fees in 49 CFR 367.20 to registration under the Unified Carrier Registration (UCR) Plan and Agreement beginning after December 31, 2009. Until an adjustment in the fees is published by FMCSA, States participating in the UCR Plan and Agreement may assess and collect fees under the current FMCSA regulation. In accordance with a statutory amendment that applies to the current regulation, fees must be based on the number of self-propelled commercial motor vehicles owned and operated.

**DATES:** *Effective Date:* This regulatory guidance is effective on March 2, 2010.

**FOR FURTHER INFORMATION CONTACT:** Frederic L. Wood, Regulatory Affairs Division, Office of Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. E-mail:

*frederic.wood@dot.gov.* Telephone: (202) 366-0834.

#### SUPPLEMENTARY INFORMATION:

##### Legal Basis

The Secretary of Transportation has the responsibility for setting the initial fees, as well as any adjustments in those fees, to be paid by motor carrier entities required to register with the UCR Plan and Agreement (49 U.S.C. 14504a(d)(7)(B)). The Secretary is also authorized by section 4308 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub L. 109-59, 119 Stat. 1144, 1774 (Aug. 10, 2005) (SAFETEA-LU) (set out as a note to 49 U.S.C. 13902), to “issue such regulations as the Secretary determines are necessary to carry out [the Unified Carrier Registration Act of 2005, title IV, subtitle C, of SAFETEA-LU].” The FMCSA Administrator has been delegated authority by 49 CFR 1.73(a)(5) and (7) to carry out the functions and exercise the authority vested in the Secretary of Transportation by 49 U.S.C. chapters 139 and 145.

##### Background

This document provides regulatory guidance concerning the applicability of 49 CFR 367.20, *Fees under the Unified Carrier Registration Plan and Agreement for each registration year*, for registration years beginning after December 31, 2009. FMCSA added this section to part 367 of title 49, Code of Federal Regulations (CFR) in a final rule in 2007 in order to set the initial fees for the Unified Carrier Registration Plan (UCR Plan). 72 FR 48590 (Aug. 24, 2007).

The UCR Plan is generally governed by the provisions of 49 U.S.C. 14504a, as added by section 4305 of SAFETEA-LU, 119 Stat. 1764-1773. The UCR Plan is the organization responsible for implementing and administering the Unified Carrier Registration Agreement (UCR Agreement), an interstate agreement governing the collection and distribution of registration information and fees collected pursuant to the statute. 49 U.S.C. 14504a(a)(8) and (9). Section 14504a(f)(1)(A)(i) requires that motor carriers, motor private carriers, and freight forwarders operating motor vehicles be charged registration fees that are “based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder \* \* \*.” At the time of the issuance of the 2007 final rule, section 14504a(a)(1)(A) provided that, in general, a commercial motor vehicle “has the meaning such term has under [49 U.S.C.] 31101.” In that section, a

commercial motor vehicle is defined as “a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo \* \* \*.” Taken together, these provisions required entities subject to registration and payment of fees to the UCR Plan to determine both the number of self-propelled vehicles (i.e., powered units, such as tractors and straight trucks) and the number of towed vehicles (i.e., trailers) in their fleets in order to assess the applicable fee to be paid under 49 CFR 367.20.

In § 367.20, FMCSA published a table that established the fee schedule for motor carrier entities that are subject to registration and payment of fees under the UCR Plan. The headings of both § 367.20 and the table it contains read “Fees under the Unified Carrier Registration Plan and Agreement for each registration year.” Accordingly, the fee schedule is not limited to a specific year, but can be used in any registration year. The fee schedule is based on brackets established by the “number of commercial motor vehicles owned or operated by an exempt or non-exempt motor carrier, motor private carrier, or freight forwarder.” This is essentially identical to the statutory phrase in section 14504a(f)(1)(A)(i). Section 367.20 does not contain a separate definition of the term “commercial motor vehicles.” Therefore, it is reasonable to conclude that the term’s meaning is controlled by the statutory definition found in section 14504a(f)(1)(A)(i). The provisions of § 367.20 have been applied by the States participating in the UCR Plan and Agreement on that basis to assess and collect fees for three registration years: 2007, 2008 and 2009. See 73 FR 10157-58 (Feb. 26, 2008).

In 2008, in section 701(d)(1)(B) of the Rail Safety Improvement Act of 2008, Public Law 110-432, div. A, title IV, 122 Stat. 4848, 4906 (Oct. 16, 2008), Congress amended section 14504a(a)(1)(A) so that it now provides:

[T]he term “commercial motor vehicle”—  
(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101 [of title 49, U.S.C.]; and

(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101.

This amendment means that for UCR registration years beginning with 2010, the number of “commercial motor vehicles” used to determine the size of a motor carrier’s fleet will be based only on the number of self-propelled (or powered) vehicles and will not include towed vehicles.

Because the meaning of the term “commercial motor vehicles” in § 367.20