

individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

#### Discussion of Comments

FMCSA received no comments in this proceeding.

#### Conclusion

Based upon its evaluation of the 24 exemption applications, FMCSA exempts, Dennis J. Ameling, Cris D. Bush, Cary Carn, Billy C. Chenault, Matthew J. Cruver, Harvey H. Curtis, Sr., David E. Evans, Wayne W. Ferguson, Randy M. Garcia, Miguel Godinez, Henry J. Gregoire, Jr., Jason L. Hoovan, Tom A. McCarty, Carlos C. Mendez-Castellon, Glenn A. Miller, Raymond R. Miller, Russell L. Moyers, William E. Norris, Donald D. Overton, Willie L. Parks, Derrick A. Robinson, Clarence Robinshaw, Jr., Norman J. Watson and Jeffrey T. Zuniga from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each 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.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

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

[Docket ID. FMCSA-2009-0011]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 19 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision standard.

**DATES:** Comments must be received on or before *April 1, 2010*.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2009-0011 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1-202-493-2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of

the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at <http://www.regulations.gov>. **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:

##### 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." FMCSA can renew exemptions at the end of each 2-year period. The 19 individuals listed in this notice have each requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

#### Qualifications of Applicants

##### Dwight A. Bennett

Mr. Bennett, age 33, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is count-finger vision and in his left eye, 20/20. Following an examination in 2009, his optometrist noted, "Patient has sufficient vision to operate a commercial vehicle according to data shown today." Mr. Bennett reported that he has driven straight

trucks for 12 years, accumulating 480,000 miles. He holds a Class C operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Arthur W. Boatright, Jr.*

Mr. Boatright, 49, has had aphakia, amblyopia and corneal scarring in his left eye since childhood. The best corrected visual acuity in his right eye is 20/15 and in his left eye, count-finger vision. Following an examination in 2009, his optometrist noted, "In my medical opinion and from his driving history, I believe his condition is stable at this time and he can safely operate a commercial vehicle." Mr. Boatright reported that he has driven tractor-trailer combinations for 17 years, accumulating 884,000 miles. He holds a Class A operator's license from North Carolina. His driving record for the last 3 years shows one crash, for which he was not cited, and no convictions for moving violations in a CMV.

*Larry D. Buchanan*

Mr. Buchanan, 56, has a prosthetic left eye due to a traumatic injury sustained in 1961. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2009, his optometrist noted, "It is my professional opinion that Larry can and does operate machinery, as well as a motor vehicle." Mr. Buchanan reported that he has driven straight trucks for 18 years, accumulating 450,000 miles. He holds a Class A CDL from New Mexico. His driving record for the last 3 years shows one crash, for which he was not cited, and no convictions for moving violations in a CMV.

*Chad L. Burnham*

Mr. Burnham, 38, has a prosthetic right eye due to a traumatic injury sustained at age 12. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2009, his optometrist noted, "In my medical opinion Chad Burnham has sufficient vision to operate a commercial vehicle." Mr. Burnham reported that he has driven straight trucks for 21 years, accumulating 630,000 miles and tractor-trailer combinations for 8 years, accumulating 200,000 miles. He holds a Class A CDL from Maine. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Chadwick S. Chambers*

Mr. Chambers, 34, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye

is 20/200 and in his left eye, 20/20. Following an examination in 2009, his ophthalmologist noted, "I certify in my medical opinion Mr. Chambers has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Chambers reported that he has driven straight trucks for 4 years, accumulating 20,000 miles and tractor-trailer combinations for 4 years, accumulating 12,000 miles. He holds a Class D operator's license from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Loren D. Chapman*

Mr. Chapman, 50, has had retinal detachment in his left eye since 2005. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/100. Following an examination in 2009, his optometrist noted, "It continues to be my personal opinion that Mr. Loren Chapman can perform all the visual tasks and demands placed on him to safely operate a commercial vehicle." Mr. Chapman reported that he has driven tractor-trailer combinations for 23 years, accumulating 1.8 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*David A. Christenson*

Mr. Christenson, 71, has a prosthetic left eye due to a congenital tumor. The best corrected visual acuity in his right eye is 20/25. Following an examination in 2009, his optometrist noted, "The patient has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Christenson reported that he has driven tractor-trailer combinations for 10 years, accumulating 1 million miles. He holds a Class A CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Charles R. Everett*

Mr. Everett, 45, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/200. Following an examination in 2009, his optometrist noted, "I am confident his vision is sufficient to operate a commercial vehicle." Mr. Everett reported that he has driven straight trucks for 10 years, accumulating 130,000 miles. He holds a Class D operator's license from Tennessee. His driving record for the last 3 years shows

no crashes and no convictions for moving violations in a CMV.

*Julian R. Hall*

Mr. Hall, 66, has corneal scarring in his right eye due to a traumatic injury sustained as a child. The best corrected visual acuity in his right eye is light-perception only and in his left eye, 20/20. Following an examination in 2009, his optometrist noted, "In my opinion, due to Mr. Hall's visual stability, clean driving record, and visual fields, he is very capable to operate a commercial vehicle." Mr. Hall reported that he has driven buses for 33 years, accumulating 990,000 miles. He holds a Class B CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Claude R. Havener*

Mr. Havener, 49, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/200. Following an examination in 2009, his optometrist noted, "As long as he obeys the traffic law and drives carefully, there is sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Havener reported that he has driven straight trucks for 5 years, accumulating 93,600 miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Paul K. Leger*

Mr. Leger, 46, has had retinal detachment in his left eye since 1996. The best corrected visual acuity in his right eye is 20/20 and in his left eye, hand-motion vision. Following an examination in 2009, his ophthalmologist noted, "Mr. Leger qualifies to have sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Leger reported that he has driven straight trucks for 9 years, accumulating 360,000 miles. He holds a Class B CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Robert L. Postell*

Mr. Postell, 46, has a prosthetic left eye due to a traumatic injury sustained during childhood. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2009, his optometrist noted, "I certify that in my medical opinion, Mr. Postell has sufficient vision to perform the driving

tasks required to operate a commercial vehicle." Mr. Postell reported that he has driven straight trucks for 22 years, accumulating 704,000 miles and tractor-trailer combinations for 21 years, accumulating 735,000 miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV, failure to stay in the proper lane.

*Martin L. Reyes*

Mr. Reyes, 45, has retinal scarring in his left eye. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/200. Following an examination in 2009, his ophthalmologist noted, "In my professional opinion he has adapted well to his vision deficit and I feel professionally that he should be able to perform all his duties as an electrician, including working at heights and driving a commercial vehicle without any problems." Mr. Reyes reported that he has driven straight trucks for 17 years, accumulating 297,500 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gerald L. Rush, Jr.*

Mr. Rush, 50, has a prosthetic left eye due to a traumatic injury sustained in 1989. The best corrected visual acuity in his right eye is 20/30. Following an examination in 2009, his optometrist noted, "In my medical opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Rush reported that he has driven straight trucks for 29 years, accumulating 1.2 million miles. He holds a Class B CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Wayne J. Savage*

Mr. Savage, 46, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/15 and in his left eye, 20/200. Following an examination in 2009, his optometrist noted, "In my opinion, Mr. Savage certainly has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Savage reported that he has driven straight trucks for 20 years, accumulating 800,000 miles. He holds a Class B CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gary F. Segur*

Mr. Segur, 53, has a prosthetic right eye due to a traumatic injury sustained in 2004. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2009, his optometrist noted, "I believe that Mr. Segur has suitable vision to drive a commercial vehicle." Mr. Segur reported that he has driven straight trucks for 37 years, accumulating 925,000 miles, tractor-trailer combinations for 35 years, accumulating 1.7 million miles, and buses for 3 years, accumulating 42,000 miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Alan T. Watterson*

Mr. Watterson, 58, has a prosthetic right eye due to a traumatic injury sustained 30 years ago. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2009, his ophthalmologist noted, "In my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Watterson reported that he has driven straight trucks for 33 years, accumulating 990,000 miles and tractor-trailer combinations for 33 years, accumulating 660,000 miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*David E. Williford*

Mr. Williford, 61, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/50. Following an examination in 2009, his optometrist noted, "In my medical opinion, Mr. Williford has sufficient visual acuity, color vision and peripheral vision to perform the driving tasks required to operate a commercial vehicle." Mr. Williford reported that he has driven straight trucks for 4 years, accumulating 320,000 miles and tractor-trailer combinations for 1 year, accumulating 80,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Larry W. Winkler*

Mr. Winkler, 59, has a prosthetic left eye due to a traumatic injury sustained in 1997. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2009, his optometrist noted, "In my medical opinion, Larry Winkler is stable with no anticipated

changes. He has sufficient vision to operate a commercial vehicle." Mr. Winkler reported that he has driven straight trucks for 26½ years, accumulating 715,500 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### **Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business April 1, 2010. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: February 22, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

[Docket ID FMCSA-2009-0321]

#### **Qualification of Drivers; Exemption Applications; Vision**

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 33 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.