

March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the seven applicants, none of the drivers were involved in crashes and none of the drivers were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover,

driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the seven applicants listed in the notice of May 11, 2012 (77 FR 27852).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the seven 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 requirement 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 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 seven exemption applications, FMCSA exempts Charles S. Amyx, Jr. (LA), Giovanni B. Cerino, Jr. (FL), Randall L. Mathis (AL), Shane N. Maul (IN), Michael E. McAfee (KY), Dennis D. Pimley (CA) and James E. Sikkink (IL) 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: June 20, 2012.

**Larry W. Minor,**  
*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0160]

#### 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 10 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye.

**DATES:** Comments must be received on or before July 27, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0160 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.

**Instructions:** Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

**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 DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

#### FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, (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 from

the Federal Motor Carrier Safety Regulations 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 10 individuals listed in this notice have each requested such 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

##### Kerry L. Baxter

Mr. Baxter, age 59, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/30, and in his left eye, 20/200. Following an examination in 2011, his optometrist noted, "I certify that, at this time, Mr. Kerry Baxter has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Baxter reported that he has driven tractor-trailer combinations for 40 years, accumulating 9 million miles. He holds a Class A Commercial Driver's License (CDL) from Utah. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### Tyrane Harper

Mr. Harper, 51, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, "Mr. Harper has sufficient vision to drive a commercial motor vehicle based on the exemption he is trying to obtain." Mr. Harper reported that he has driven straight trucks for 16 years, accumulating 240,000 miles. He holds a Class D operator's license from Alabama. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

##### Edward C. Little

Mr. Little, 58, 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, count finger vision. Following an examination in 2012, his optometrist noted, "In my medical opinion, Mr. Little's vision is sufficient to operate a commercial vehicle." Mr. Little reported that he has

driven straight trucks for 6 weeks, accumulating 7,500 miles, and tractor-trailer combinations for 5 years, accumulating 323,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### John P. Loichinger

Mr. Loichinger, 36, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "His vision is stable and sufficient to perform the driving tasks required to operate a commercial vehicle." Mr. Loichinger reported that he has driven straight trucks for 15 years, accumulating 30,000 miles. He holds a chauffeur's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### Jeffrey Macysyn

Mr. Macysyn, 35, has complete loss of vision in his right eye due to a traumatic injury sustained in childhood. The best corrected visual acuity in his left eye is 20/15. Following an examination in 2011, his ophthalmologist noted, "In my opinion, Mr. Macysyn has sufficient peripheral vision using his left eye only to operate a commercial vehicle." Mr. Macysyn reported that he has driven straight trucks for 5 years, accumulating 80,000 miles. He holds a Class D operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### Peter G. Packard

Mr. Packard, 57, has had cystoidal macular edema in his right eye since 2011. The best corrected visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "In my opinion Mr. Packard likely has sufficient visual function required to operate a commercial vehicle." Mr. Packard reported that he has driven tractor-trailer combinations for 32 years, accumulating 3.2 million miles. He holds a Class A CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### Raef O. Parmelee

Mr. Parmelee, 42, has complete loss of vision in his left eye due to a traumatic injury sustained in 1996. The best corrected visual acuity in his right eye

is 20/15. Following an examination in 2011, his optometrist noted, "I do find that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Parmelee reported that he has driven straight trucks for 25 years, accumulating 390,000 miles. He holds a Class C operator's license from Oregon. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

#### Ronald H. Sieg

Mr. Sieg, 41, has loss of vision in his right eye due to trauma sustained in childhood. The best corrected visual acuity in his right eye is light perception only, and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "Therefore, in my professional opinion Mr. Sieg has the ability to perform the driving tasks required to operate a commercial vehicle." Mr. Sieg reported that he has driven straight trucks for 19 years, accumulating 316,198 miles, and tractor-trailer combinations for 19 years, accumulating 32,186 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.

#### Ted L. Smeltzer

Mr. Smeltzer, 59, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "I certify that this patient has sufficient vision to operate a commercial vehicle." Mr. Smeltzer reported that he has driven straight trucks for 10 years, accumulating 100,000 miles, and tractor-trailer combinations for 10 years, accumulating 100,000 miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### Gregory S. Smith

Mr. Smith, 38, has complete loss of vision in his right eye since birth. The best corrected visual acuity in his right eye is light perception only, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "I feel that Mr. Smith has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Smith reported that he has driven straight trucks for 5 years, accumulating 120,000 miles. He holds a Class D operator's license from Arkansas. 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 July 27, 2012. 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: June 20, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2012-0107]

#### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 23 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions are effective June 27, 2012. The exemptions expire on June 27, 2014.

#### FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Room W64-224, Department of Transportation, 1200 New Jersey Avenue SE., 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>.

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/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.

**Privacy Act:** Anyone may search the electronic form of all comments received into any of DOT's 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, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

#### Background

On May 11, 2012, FMCSA published a notice of receipt of Federal diabetes exemption applications from 23 individuals and requested comments from the public (77 FR 27842). The public comment period closed on June 11, 2012, and no comments were received.

FMCSA has evaluated the eligibility of the 23 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

#### Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with