

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2012–0161]

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 13 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. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before August 15, 2012.**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0161 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, fmcamedical@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 13 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*Joseph E. Brunette*

Mr. Brunette, age 43, has had a retinal detachment in his right eye since 1999. The 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, “In my medical opinion, Mr. Joseph Brunette has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Brunette

reported that he has driven tractor-trailer combinations for 7 years, accumulating 560,000 miles. He holds a Class A Commercial Driver's License (CDL) from California. His driving record for the last 3 years shows one crash, which he was not cited for, and one conviction for speeding in a CMV; he exceeded the speed limit by 5 mph.

William C. Christy

Mr. Christy, 68, has had acute zonal occult outer retinopathy and a central scotoma in his right eye since 2007. The best corrected visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, “It is my opinion based on my exam of Mr. Christy, his visual field testing and his driving history that he is safe to drive a commercial vehicle without restriction.” Mr. Christy reported that he has driven straight trucks for 46 years, accumulating 46,000 miles, and tractor-trailer combinations for 46 years, accumulating 552,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Anthony A. Gibson, Jr.

Mr. Gibson, 51, has had an enucleation of his left eye since 1992. The best corrected visual acuity in his right eye is 20/15. Following an examination in 2012, his optometrist noted, “I believe Tony has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Gibson reported that he has driven straight trucks for 11 years, accumulating 330,000 miles, and tractor-trailer combinations for 20 years, accumulating 500,000 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.

Rickey W. Goins

Mr. Goins, 52, 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, 20/70. Following an examination in 2012, his optometrist noted, “It is my professional opinion that Mr. Goins has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Goins reported that he has driven straight trucks for 5 years, accumulating 260,000 miles, and tractor-trailer combinations for 11 years, accumulating 1.4 million miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years

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

Michael J. Hoffarth

Mr. Hoffarth, 37, has had atrophic scarring in the macula of his right eye since 2000. The best corrected visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "In my medical opinion, I certify that Michael has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Hoffarth reported that he has driven straight trucks for 1 year, accumulating 30,000 miles, and tractor-trailer combinations for 11 years, accumulating 1 million miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 11 mph.

Boyd M. Kinzer, Jr.

Mr. Kinzer, 62, has had macular scarring in his right eye due to a traumatic injury sustained in 1994. 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, "In my opinion, Mr. Kinzer has the visual ability necessary to operate a commercial vehicle." Mr. Kinzer reported that he has driven straight trucks for 3 years, accumulating 27,000 miles, and buses for 1 year, accumulating 9,000 miles. He holds a Class D operator's license from Tennessee. His driving record for the last 3 years shows two crashes, which he was not cited for, and no convictions for moving violations in a CMV.

Jason N. Moore

Mr. Moore, 34, has had amblyopia and strabismus in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2012, his optometrist noted, "In my opinion, he is visually capable of safely operating a commercial motor vehicle." Mr. Moore reported that he has driven straight trucks for 8 years, accumulating 328,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 15 mph.

Dennis M. Rubeck

Mr. Rubeck, 65, has complete loss of vision in his left eye due to a traumatic accident sustained during childhood. The best corrected visual acuity in his right eye is 20/15. Following an examination in 2012, his optometrist noted, "In my medical opinion Dennis

Mark Rubeck has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Rubeck reported that he has driven straight trucks for 12 years, accumulating 720,000 miles, and tractor-trailer combinations for 18 years, accumulating 1.4 million miles. He holds a Class A CDL from Wyoming. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Leon F. Stephens

Mr. Stephens, 61, has had macular scarring in his left eye since 1984. The best corrected visual acuity in his right eye is 20/15, and in his left eye, 20/400. Following an examination in 2012, his optometrist noted, "In my opinion, Mr. Stephens has adequate vision to safely perform the task of driving and operating a commercial vehicle." Mr. Stephens reported that he has driven straight trucks for 6 years, accumulating 60,000 miles, and tractor-trailer combinations for 42 years, accumulating 2.5 million miles. He holds a Class A CDL from Colorado. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Clayton L. Schroeder

Mr. Schroeder, 62, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20, and in his left eye, light perception only. Following an examination in 2011, his optometrist noted, "I believe, in my professional opinion, that Mr. Schroeder has adequate vision to operate a commercial vehicle." Mr. Schroeder reported that he has driven tractor-trailer combinations for 12 years, accumulating 900,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes but one conviction for a moving violation in a CMV; he failed to obey a traffic sign.

James C. Sharp

Mr. Sharp, 51, has had corneal scarring in his left eye since 1990. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2012, his ophthalmologist noted, "I, Thomas A. Armstrong, M.D., certify that in my medical opinion, Mr. James C. Sharp does have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Sharp reported that he has driven straight trucks for 5 years, accumulating 5,000 miles. He holds a Class C operator's license from Pennsylvania. His driving record for the last 3 years shows no

crashes and no convictions for moving violations in a CMV.

Ronald J. VanHoof

Mr. VanHoof, 60, has loss of vision in his left eye due to a central retinal vein occlusion that occurred in 2001. The best corrected visual acuity in his right eye is 20/20, and in his left eye, count fingers vision. Following an examination in 2012, his optometrist noted, "His visual condition is stable, and in my medical opinion has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. VanHoof reported that he has driven tractor-trailer combinations for 43 years, accumulating 3.2 million 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.

Scott C. Westphal

Mr. Westphal, 31, has macular scarring in his right eye due to a traumatic accident sustained in childhood. The visual acuity in his right eye is hand motion vision, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, "In summary, it is my medical opinion that Scott is able to perform the driving tasks required to operate a commercial vehicle based on the visual requirements." Mr. Westphal reported that he has driven tractor-trailer combinations for 12 years, accumulating 960,000 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.

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 August 15, 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: July 9, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012-17267 Filed 7-13-12; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2012-03; Buckling-Prone Conditions in Continuous Welded Rail Track

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Safety Advisory.

SUMMARY: FRA is issuing Safety Advisory 2012-03 to remind track owners, railroads, and their employees of the importance of complying with their continuous welded rail (CWR) plan procedures and reviewing their current internal engineering instructions that address inspecting CWR track to identify buckling-prone conditions. In an effort to heighten awareness of the potential consequences of an unexpected track buckle, particularly considering the unusually high, and prolonged, record-breaking temperatures that have affected much of the United States in recent weeks, this notice highlights a series of recent train accidents involving derailments that were preliminarily determined by the respective railroads to be caused by the rail buckling under extreme heat conditions (commonly referred to as "sun kinks" in the rail). This notice contains recommendations to track owners and railroads to ensure their employees comply with the requirements of their CWR plan procedures that address inspecting track to identify buckling-prone conditions in CWR track, particularly if the track is located on or near railroad bridges. It also recommends that track owners and railroads review current internal engineering instructions to ensure that the instructions properly identify the necessary track maintenance instructions to prevent track buckling during extreme heat conditions.

FOR FURTHER INFORMATION CONTACT:

Carlo M. Patrick, Staff Director, Rail and Infrastructure Integrity Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493-6399; Kenneth Rusk, Staff Director, Track Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493-6236; or Anna Nassif Winkle, Trial

Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone (202) 493-6166.

SUPPLEMENTARY INFORMATION:

Background

The overall safety of railroad operations has improved in recent years. However, a series of recent accidents has highlighted the need for track owners, railroads, and their respective employees to review, reemphasize, and adhere to the requirements of a track owner's CWR plan procedures and current internal engineering instructions that address inspecting track to identify buckling-prone conditions in CWR track, particularly if the track is located on or near railroad bridges.

FRA requires that a track owner comply with the contents of a CWR plan that is approved or conditionally approved under Title 49 Code of Federal Regulations (CFR) Section 213.118.¹ See § 213.119. The plan must include procedures that prescribe when physical track inspections are to be performed. See § 213.119(g). At a minimum, these procedures are required to address inspecting track to identify buckling-prone conditions in CWR track, locations where tight or kinky rail conditions are likely to occur, locations where track work (disturbing the roadbed or ballast section and reducing the lateral or longitudinal resistance of the track) has recently been performed, and pull-apart prone conditions in CWR track, including locations where pull-apart or stripped-joint rail conditions are likely to occur. See § 213.119(g)(1). In formulating such procedures, the track owner is required to specify when the inspections will be conducted, as well as the appropriate remedial actions to be taken when either buckling-prone or pull-apart prone conditions are found. See § 213.119(g)(2).

CWR can produce peculiar maintenance issues for the railroad industry due to the constant temperature changes that rails experience because they are exposed to the open air and radiant heat from the sun. These temperature changes in CWR can create longitudinal stresses in the rail due to the constraints along the rail in conjunction with the thermal expansion or contraction of the rail steel. During long-term exposure to extremely high temperatures, the longitudinal stress in the rail can result in an unexpected track buckle (or kink).

¹ All references in this notice to a section or other provision of a regulation are to a section, part, or other provision in 49 CFR, unless otherwise specified.

In addition, if the track buckle occurs on track that is located on or near a railroad bridge, the consequences of any subsequent derailment at that location can be compounded, often resulting in more severe damage and sometimes death.

During the course of the last few weeks, the railroad industry has experienced four derailments that resulted in two fatalities and more than \$5,000,000 in FRA-reportable railroad property damage. Based on preliminary investigations by the involved railroads, it appears that these four incidents may have occurred because of extremely high compressive forces that were present in the rail, which resulted from the record-setting excessive heat wave that has recently affected most of the United States.

Recent Incidents

The following is a brief summary of the circumstances surrounding each of the recent train derailments that appear to have been heat-related incidents. Information regarding these incidents is based on FRA's and the respective railroad's preliminary investigations and findings to date. The probable causes and contributing factors, if any, have not yet been established. Therefore, nothing in this safety advisory is intended to attribute a cause to these incidents, or place responsibility for these incidents on the acts or omissions of any person or entity.

1. On July 4, 2012, at approximately 5:30 p.m., a BNSF Railway Company (BNSF) train crew noticed a sun kink (buckled track) in the rail ahead, and attempted to stop, but were unable to do so, which caused 43 loaded coal cars to derail in Pendleton, TX. BNSF preliminarily determined the cause of the derailment to be buckled track.

2. On July 4, 2012, at approximately 1:30 p.m., a northbound Union Pacific Railroad Company (UP) coal train with 137 cars, traveling at 39 mph, derailed 31 loaded coal cars in Northbrook, IL. The derailment occurred in a populated area on a steel trestle spanning a four-lane street. The bridge was destroyed, and the derailed cars fell on the roadway below, resulting in two fatalities. UP preliminarily determined the cause of the derailment to be buckled track adjacent to the bridge span.

3. On July 2, 2012, at approximately 6:30 p.m., a westbound BNSF unit coal train derailed 31 loaded cars of coal next to a public grade crossing in Mesa, WA. The train crew had reported feeling rough track going through the grade crossing, and then placed the train into