

fails to comply with the terms and conditions of the 1/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(e) 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: July 27, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2012-19119 Filed 8-3-12; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0214]

#### 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 12 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 September 5, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0214 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](mailto: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 12 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

##### Michael J. Bechta

Mr. Bechta, age 28, had 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, 20/80. Following an examination in 2012, his ophthalmologist noted, "With these parameters, in my opinion, Michael is safe and qualified visually to drive commercial vehicles." Mr. Bechta reported that he has driven straight trucks for 7 years, accumulating 36,400 miles. He holds a Class C operator's license from Pennsylvania. 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.

##### Bryan G. Brockus

Mr. Brockus, 42, had an enucleation of his left eye due to a traumatic injury sustained as a child. The visual acuity in his right eye is 20/20. Following an examination in 2012, his ophthalmologist noted, "In my opinion, this patient has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Brockus reported that he has driven straight trucks for 14 years, accumulating 252,000 miles, and tractor-trailer combinations for 3 years, accumulating 15,000 miles. He holds a Class A Commercial Driver's License (CDL) from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### Larry Clay

Mr. Clay, 55, 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, 20/400. Following an examination in 2012, his optometrist noted, "I do believe Mr Clay has sufficient vision to perform his job in operating a commercial vehicle." Mr. Clay reported that he has driven straight trucks for 10 years, accumulating 52,000 miles. He holds a Class D operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Michael T. DeKorte*

Mr. DeKorte, 42, has had amblyopia and Peter's Anomaly in his left eye since childhood. 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 ophthalmologist noted, "no restriction or visual impairment that should limit ability to operate a commercial vehicle." Mr. DeKorte reported that he has driven straight trucks for 23 years, accumulating 460,000 miles, and tractor-trailer combinations for 23 years, accumulating 460,000 miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows no crashes and one conviction for speeding in a CMV; he exceeded the speed limit by 5 mph.

*Erric L. Gomersall*

Mr. Gomersall, 45, has had macular scarring and histoplasmosis in his right eye since 2005. The best corrected visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, "In my medical opinion Erric Gomersall does have the visual ability to perform the driving tasks required to operate a commercial vehicle." Mr. Gomersall reported that he has driven tractor-trailer combinations for 6 years, accumulating 780,000 miles. He holds a Class A CDL from Wisconsin. 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.

*Larry E. Johnsonbaugh, Jr.*

Mr. Johnsonbaugh, 42, has a prosthetic left eye due to a traumatic injury sustained in 1992. The visual acuity in his right eye is 20/20. Following an examination in 2012, his ophthalmologist noted, "Mr. Johnsonbaugh is well adapted to his monocular status and, therefore, with a normal right eye with a full visual field he should not have any limitations in operating a commercial vehicle." Mr. Johnsonbaugh reported that he has driven straight trucks for 20 years, accumulating 364,000 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.

*Albert Lewis*

Mr. Lewis, 65, has a prosthetic left eye due to a retinal detachment since 1980. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2011, his optometrist noted, "In my professional opinion,

Albert Lewis has stable vision and should continue to be able to perform the driving tasks required to operate a commercial vehicle." Mr. Lewis reported that he has driven straight trucks for 9 years, accumulating 270,000 miles, and tractor-trailer combinations for 16 years, accumulating 1.3 million miles. He holds a Class A CDL from Alabama. His driving record for the last 3 years shows no crashes and one conviction for speeding in a CMV; he exceeded the speed limit by 21 mph.

*John B. Middleton*

Mr. Middleton, 70, has had retinal telangiectasis in his left eye since the 1980s. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2012, his optometrist noted, "He has sufficient vision to perform tasks required to operate a commercial vehicle." Mr. Middleton reported that he has driven straight trucks for 3 years, accumulating 36,000 miles, and tractor-trailer combinations for 52 years, accumulating 5.2 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Ronald W. Patten*

Mr. Patten, 59, has had retinal scarring in his left eye due to a traumatic injury sustained as a child. The best corrected visual acuity in his right eye is 20/20, and in his left eye, hand motion vision. Following an examination in 2012, his optometrist noted, "In my medical opinion, Ronald Patten has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Patten reported that he has driven straight trucks for 9 years, accumulating 315,000 miles, and tractor-trailer combinations for 32 years, accumulating 3.4 million 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.

*Kirk W. Scott*

Mr. Scott, 42, has had glaucoma in his right eye due to a traumatic injury sustained in 1981. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "In my medical opinion the applicant has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Scott reported that he has driven straight trucks for 5 years, accumulating 48,000 miles, and tractor-trailer

combinations for 5 years, accumulating 288,000 miles. He holds a Class A CDL from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Michael F. Sprouse*

Mr. Sprouse, 52, has had loss of vision in his right eye due to a traumatic injury sustained in 1992. The best corrected visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "Mr. Sprouse has sufficient enough vision to perform the tasks necessary to drive a commercial vehicle." Mr. Sprouse reported that he has driven tractor-trailer combinations for 20 years, accumulating 1.3 million miles. He holds a Class A CDL from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John C. Steedley*

Mr. Steedley, 48, has had refractive 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, "In my medical opinion, Mr. Steedley has sufficient vision to perform the driving task required to operate a commercial vehicle." Mr. Steedley reported that he has driven tractor-trailer combinations for 26 years, accumulating 1 million miles. He holds a Class A CDL from Georgia. 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 September 5, 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 27, 2012.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2012-19123 Filed 8-3-12; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0159]

#### 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 10 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). 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. 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.

**DATES:** The exemptions are effective August 6, 2012. The exemptions expire on August 6, 2014.

**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:

##### 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> 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

acknowledgement 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>.

#### Background

On June 18, 2012, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (77 FR 36336). That notice listed 10 applicants' case histories. The 10 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

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. Accordingly, FMCSA has evaluated the 10 applications on their merits and made a determination to grant exemptions to each of them.

#### Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive

safely. The 10 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including complete loss of vision, enucleation, amblyopia, prosthesis, and optic atrophy. In most cases, their eye conditions were not recently developed. Eight of the applicants were either born with their vision impairments or have had them since childhood. The individuals that sustained their vision conditions as adults have had it for a period of 12 to 40 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 10 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 4 to 41 years. In the past 3 years, one of the drivers was involved in a crash, and none of the drivers was convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the June 18, 2012, notice (77 FR 36336).

#### Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive