

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

[Docket No. FMCSA-2000-7918; FMCSA-2002-12844; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2007-27897; FMCSA-2008-0266; FMCSA-2010-0413]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 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 exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 1, 2013. Comments must be received on or before April 4, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: [Docket No. FMCSA-2000-7918; FMCSA-2002-12844; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2007-27897; FMCSA-2008-0266; FMCSA-2010-0413] 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 or Courier:* 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 number 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 Federal Docket Management System (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 Federal Docket Management System (FDMS) published in the **Federal Register** on December 29, 2010 (75 FR 82132), or you may visit <http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf>.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, 202-366-4001, 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 renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each

exemption for a renewable two-year period. They are:

David F. Breuer (WI)
 Todd A. Chapman (NC)
 Joseph A. Dean (AR)
 Daniel L. Jacobs (AZ)
 Jimmy C. Killian (NC)
 Jose M. Limon-Alvarado (WA)
 Joe L. Meredith, Jr. (VA)
 John W. Montgomery (MA)
 Robert A. Moss (MO)
 Steve A. Reece (TN)
 Elvis E. Rogers, Jr. (TX)
 Artis Suitt (NC)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements 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 provides 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 and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded 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(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 66286; 66 FR 13825; 67 FR 68719; 68 FR 2629; 68 FR 13360; 69 FR 64806; 70 FR 12265; 70 FR 16887; 70 FR 2701; 70 FR 2705; 72 FR 1056; 72 FR 11425; 72 FR 11426; 72 FR 39879; 72 FR 52419; 73 FR 51689; 73 FR 63047; 73 FR 76440; 74 FR 8302; 74 FR 8842; 75 FR 66423; 75 FR 80887; 76 FR 12215; 76 FR 12216; 76 FR 12408; 76 FR

1493). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 4, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made 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 27, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013-05096 Filed 3-4-13; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Notice of Proposed Policy Clarification Concerning Designation of Adjacent Coastal States for Deepwater Port License Applications

AGENCY: Maritime Administration, DOT.

ACTION: Notice of proposed policy clarification.

SUMMARY: The Maritime Administration ("MarAd") is seeking comments on a proposed policy clarification for deepwater port license applications. Specifically, nautical miles shall be applied when designating Adjacent Coastal States under 33 U.S.C. 1508(a)(1).

DATES: Written public comments regarding this MarAd policy clarification shall be submitted by April 4, 2013.

ADDRESSES: The public docket for USCG-2012-0927 is maintained by the: Department of Transportation, Docket Management Facility, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

The Federal Docket Management Facility accepts hand-delivered submissions and makes docket contents available for public inspection and copying at this address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Facility telephone number is 202-366-9329, the fax number is 202-493-2251, and the Web site for electronic submissions or for electronic access to docket contents is <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ms. Yvette Fields, Maritime Administration, at (202) 366-0926 or Yvette.Fields@dot.gov. If you have questions regarding viewing the Docket, contact Renee V. Wright, Program Manager, Docket Operations, at (202) 493-0402.

SUPPLEMENTARY INFORMATION: MarAd has reviewed policies and practices with regard to designation of Adjacent Coastal States ("ACS") in the deepwater

port application licensing process. In past applications and public notices, MarAd found inconsistency in the use of units of distance in describing the distance between proposed deepwater ports and ACS.

Under 33 U.S.C. 1508(a)(1), when issuing a Notice of Application, MarAd, as designated by the Secretary of Transportation, shall designate as an ACS "any coastal State which (A) would be directly connected by pipeline to a deepwater port as proposed in an application, or (B) would be located within 15 miles of any such proposed deepwater port." In general, in its publications, MarAd adopted the units of measurement provided by the deepwater port license applicants in their description of their proposed deepwater ports. At different times, MarAd used statute miles (approximately .87 nautical miles) or nautical miles (approximately 1.15 statute miles) in describing the location of deepwater ports in its publications.

Due to the configuration and the physical location of proposed deepwater port projects in prior applications, the use of statute or nautical miles did not impact the designation of an ACS, since these projects were either connected to the ACS directly by pipeline, or were within both 15 statute and 15 nautical miles from those states. As a result, MarAd was not required to clarify which unit of measurement is the appropriate distance standard to apply when designating an ACS in Notices of Application. For proposed deepwater port locations where the chosen distance standard is significant to the designation of ACS (applications where the port location falls between 15 statute and 15 nautical miles of a potential ACS), however, clarification of the standard measure is necessary. For the sake of clarity in such instances, MarAd is issuing this notice of proposed policy clarification that nautical miles shall be applied when designating ACS under 33 U.S.C. 1508(a)(1).

The Deepwater Port Act ("DWPA" or the "Act") (33 U.S.C. 1501 *et seq.*) authorizes the Secretary of Transportation to issue licenses for the construction and operation of deepwater ports.¹ A deepwater port is defined in Section 1502 of the Act as "any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for

¹ The Secretary of Transportation delegated to the Maritime Administrator the authority to "issue, transfer, amend, or reinstate a license for the construction and operation of a deepwater port." 49 CFR 1.93(h)(1).