

### 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. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441)<sup>1</sup>. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

### Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of

<sup>1</sup> Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2013-0184 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

### Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2013-0184 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 22, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2013-25382 Filed 10-25-13; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0167]

### 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 24 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 November 27, 2013.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2013-0167 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 Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

**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 24 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**

*Larry Adams, Jr.*

Mr. Adams, age 44, has had traumatic corneal necrosis in his left eye since 1990. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted, "It is my opinion the Mr. Adams should be allowed to have his commercial license. Mr. Adams has been successfully driving with only his right eye for the past 18 years." Mr. Adams reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.64 million miles. He holds a Class A Commercial Driver's License (CDL) from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Juan R. Andrade*

Mr. Andrade, 53, has a macular hole in his right eye due to a traumatic incident in 2001. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in

2013, his ophthalmologist noted, "I certify that, in my medical opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Andrade reported that he has driven tractor-trailer combinations for 29 years, accumulating 2.9 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Ronald C. Ashley*

Mr. Ashley, 42, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "I find no reason to restrict his duties as a CDL driver. I find that speaking with Mr. Ashley that he is well aware of his visual situation and understands the importance of good vision in his occupation as a CDL holder. I find that he is fit to perform his duties." Mr. Ashley reported that he has driven tractor-trailer combinations for 3 years, accumulating 255,000 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.

*Michael A. Bagwell*

Mr. Bagwell, 38, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "It is my opinion that Mr. Bagwell has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Bagwell reported that he has driven straight trucks for 10 years, accumulating 42,500 miles, and tractor-trailer combinations for 15 years, accumulating 67,500 miles. He holds an operator's license from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Lester E. Burnes*

Mr. Burnes, 47, has a prosthetic left eye due to a traumatic incident in 2012. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2012, his optometrist noted, "It is my opinion that this patient has loss of left eye due to trauma; well adapted to loss. Right eye visual correction consistent with previous Rx and age. Patient shows better than average adjustment to loss of one eye and approval for continued CDL is recommended." Mr. Burnes reported that he has driven straight trucks for 10 years, accumulating 1 million miles,

and tractor-trailer combinations for 5 years, accumulating 100,000 miles. He holds a Class A CDL from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Miguel A. Calderon*

Mr. Calderon, 40, has a prosthetic left eye due to a traumatic incident in 1990. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted, "In my opinion, Mr. Calderon has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Calderon reported that he has driven straight trucks for 5 years, accumulating 150,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Terry L. Cliffe*

Mr. Cliffe, 59, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "The amblyopic right eye seems to be stable at this time and you have enough vision in the left eye to be able to drive a commercial vehicle." Mr. Cliffe reported that he has driven straight trucks for 4 years, accumulating 272,000 miles, and tractor-trailer combinations for 10 years, accumulating 1.19 million miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Herman R. Dahmer, Jr.*

Mr. Dahmer, 56, has amblyopia in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist noted, "Can drive a commercial vehicle." Mr. Dahmer reported that he has driven straight trucks for 33 years, accumulating 442,497 miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Andrew S. Durward*

Mr. Durward, 52, has had a central retinal vein occlusion in his right eye since 2010. The visual acuity in his right eye is 20/70, and in his left eye, 20/25. Following an examination in 2013, his ophthalmologist noted, "He is able to recognize the colors of traffic

control signals and in my medical opinion has sufficient vision to perform the driving task required to operate a commercial vehicle." Mr. Durward reported that he has driven straight trucks for 4 years, accumulating 40,000 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James P. Fitzgerald*

Mr. Fitzgerald, 57, has had a retinal detachment in his left eye since 2010. The visual acuity in his right eye is 20/25, and in his left eye, hand motion. Following an examination in 2012, his ophthalmologist noted, "Mr. Fitzgerald has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Fitzgerald reported that he has driven tractor-trailer combinations for 33 years, accumulating 3.1 million miles. He holds a Class AM CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Vashion E. Hammond*

Mr. Hammond, 34, has had a mature mixed cataract in his left eye since 1982. The visual acuity in his right eye is 20/20, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "I certify that in my optometric opinion, Mr. Hammond has sufficient vision to operate a commercial vehicle." Mr. Hammond reported that he has driven tractor-trailer combinations for 5 years, accumulating 600,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows one crash, for which he was cited due to careless driving, and one conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

*Louis E. Henry, Jr.*

Mr. Henry, 58, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his optometrist noted, "Based upon my findings and medical expertise, I Dr. Rashid Omar hereby certify Louis Henry to be visually able to safely operate a commercial motor vehicle." Mr. Henry reported that he has driven straight trucks for 32 years, accumulating 1.6 million miles, and tractor-trailer combinations for 6 years, accumulating 150,000 miles. He holds a Class DMA CDL from Kentucky. His driving record for the last 3 years shows no crashes and

no convictions for moving violations in a CMV.

*Adam S. Larson*

Mr. Larson, 33, has central opacity in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2013, his ophthalmologist noted, "In my professional opinion, Mr. Larson has normal peripheral vision and can operate a commercial vehicle." Mr. Larson reported that he has driven straight trucks for 4.5 years, accumulating 90,000 miles, and tractor-trailer combinations for 1.5 months, accumulating 1,600 miles. He holds a Class B CDL from Colorado. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Sally A. Leavitt*

Ms. Leavitt, 49, has had optic neuropathy in her right eye since childhood. The visual acuity in her right eye is 20/50, and in her left eye, 20/25. Following an examination in 2012, her ophthalmologist noted, "I certify she has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Ms. Leavitt reported that she has driven buses for 4 years, accumulating 16,640 miles. She holds a Class C CDL from Nevada. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Glenn H. Lewis, Jr.*

Mr. Lewis, 45, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "In my opinion, from past performance and the current vision situation Glenn should still be able to operate a commercial vehicle for his employment, just as he has done for the past 15 years." Mr. Lewis reported that he has driven straight trucks for 16 years, accumulating 3.3 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.

*Leonardo Lopez*

Mr. Lopez, 21, has complete loss of vision in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20. Following an examination in 2012, his optometrist noted, "In my medical opinion, Leonardo Lopez seems to have sufficient vision in his right eye to perform the visual tasks associated with

operating a commercial vehicle." Mr. Lopez reported that he has driven straight trucks for 1 year, accumulating 12,000 miles, and tractor-trailer combinations for 2 years, accumulating 80,000 miles. He holds an operator's license from Nebraska. His driving record for the last 3 years shows one crash, to which he did not contribute and for which he was not cited, and no convictions for moving violations in a CMV.

*Larry P. Magrath*

Mr. Magrath, 49, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "I believe Larry Magrath has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Magrath reported that he has driven straight trucks for 15 years, accumulating 75,000 miles, tractor-trailer combinations for 1 year, accumulating 30,000 miles, and buses for 5 years, accumulating 12,500 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.

*Gilberto D. Miramontes*

Mr. Miramontes, 44, has a retinal detachment in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, "In my medical opinion, given that Mr. Miramontes has had decreased vision in his right eye for many years and that he has driven a commercial vehicle with no incidents for four years, that [sic] Mr. Miramontes has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Miramontes reported that he has driven tractor-trailer combinations for 4 years, accumulating 208,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Richard J. Pauxtis*

Mr. Pauxtis, 51, has had a vascular occlusion in his left eye since 2002. The visual acuity in his right eye is 20/15, and in his left eye, 20/50. Following an examination in 2013, his optometrist noted, "Mr. Pauxtis has sufficient vision to perform the driving tasks required to operate commercial vehicles." Mr. Pauxtis reported that he has driven tractor-trailer combinations for 38 years,

accumulating 4.56 million miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Johnny L. Powell*

Mr. Powell, 48, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "Sufficient VA to perform commercial vehicles." Mr. Powell reported that he has driven straight trucks for 2 years, accumulating 64,000 miles, and tractor-trailer combinations for 1 year, accumulating 47,000 miles. He holds a Class AM CDL from Maryland. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he was operating a moving vehicle while the operator/occupant was not restrained by a seatbelt.

*Jacques W. Rainville*

Mr. Rainville, 59, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "In my medical opinion I believe Mr. Rainville has sufficient vision to drive a commercial vehicle based on his long driving history and the fact his vision has been mostly stable the last 10 years." Mr. Rainville reported that he has driven tractor-trailer combinations for 25 years, accumulating 3.75 million miles. He holds a Class A CDL from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jeffrey T. Skaggs*

Mr. Skaggs, 38, has complete loss of vision in his right eye due to a traumatic incident in 1996. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "Today's examination findings suggest that he would be perfectly capable of operation [sic] a commercial vehicle without limitations. His left eye has 20/20 vision with and without correction. He has full peripheral vision." Mr. Skaggs reported that he has driven straight trucks for 21 years, accumulating 1.05 million miles, and tractor-trailer combinations for 4 years, accumulating 12,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Roy A. Whitaker*

Mr. Whitaker, 36, has had refractive amblyopia 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 2013, his optometrist noted, "He has refractive amblyopia in his left eye with best corrected va [sic] 20/100, he has negligible [sic] rx [sic] in his right eye and sees 20/20 . . . He appears to be competent and capable of driving a commercial vehicle on our roads and highways." Mr. Whitaker reported that he has driven straight trucks for 3.5 years, accumulating 84,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Sammy D. Wynn*

Mr. Wynn, 55, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is hand motion, and in his left eye, 20/25. Following an examination in 2013, his optometrist noted, "It is my professional opinion that Mr. Sammy Wynn meets the requirements to safely drive any motor vehicle." Mr. Wynn reported that he has driven straight trucks for 15 years, accumulating 37,500 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 November 27, 2013. 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.

**Submitting Comments**

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document

so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2013-0167 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

**Viewing Comments and Documents**

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Issued on: October 16, 2013.

**Larry W. Minor,**

*Associate Administration for Policy.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2013-0169]

**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 48 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