

signature by the respondents and will be scanned and submitted electronically to the Refugee Processing Center (RPC) by the resettlement agencies for downloading into the Worldwide Refugee Admissions Processing System (WRAPS) for data entry and case processing. A signed paper copy of the AOR will remain with resettlement agencies.

Dated: April 2, 2015.

**Simon Henshaw,**

*Principal Deputy Assistant Secretary, Bureau of Population, Refugees and Migration, Department of State.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2013-0124]

**Qualification of Drivers; Application for Exemptions; Hearing**

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 51 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

**DATES:** The exemptions are effective April 8, 2015. The exemptions expire on April 10, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (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 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**A. 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., e.t., Monday through Friday, except Federal holidays.

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**B. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the 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." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 51 individuals an exemption from section 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the "Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety" (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached

two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,<sup>1</sup> for CDL holders, and inspections recorded in MCMIS.<sup>2</sup> For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

**C. Comments**

On February 14, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 51 individuals. The comment period ended on March 17, 2014. In response to the notice, FMCSA received one comment from Ann Sherman, who supports the idea of deaf drivers having the opportunity to get training and seek employment "like everyone else". FMCSA has determined that the following 51 applicants should be granted an exemption:

**D. Exemptions Granted**

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 51 individuals. Under current FMCSA regulations, all of the 51 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered physically qualified to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following 51 applicants should be granted an exemption:

*Brooks Andresen*

Mr. Andresen, 34, holds a driver's license in Utah.

<sup>1</sup> *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of 51 licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

<sup>2</sup> *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

*Alexey Belousov*

Mr. Belousov, 37, holds a driver's license in Maryland.

*Richard Boggs*

Mr. Boggs, 37, holds a driver's license in Ohio.

*Conley Bowling*

Mr. Bowling, 35, holds a driver's license in Kentucky.

*Marquarius Boyd*

Mr. Boyd, 23, holds a driver's license in Mississippi.

*Charles Breidenthal*

Mr. Breidenthal, 62, holds a driver's license in California.

*Adam Brown*

Mr. Brown, 32, holds a driver's license in Texas.

*Kwinton C. Carpenter*

Mr. Carpenter, 29, holds a driver's license in Ohio.

*Ronald Dillon, Jr.*

Mr. Dillon, 49, holds a driver's license in California.

*Clark Dobson*

Mr. Dobson, 50, holds a driver's license in California.

*Louis Dominik*

Mr. Dominik, 54, holds a driver's license in Texas.

*Kareem M. Douglas*

Mr. Douglas, 39, holds a driver's license in Ohio.

*Craig Eberhart*

Mr. Eberhart, 43, holds a driver's license in Pennsylvania.

*Anthony Farinacci*

Mr. Farinacci, 50, holds a driver's license in Ohio.

*Timothy D. Finley*

Mr. Finley, 48, holds a driver's license in California.

*Danny E. Fisk*

Mr. Fisk, 57, holds a driver's license in Colorado.

*Christopher Fitzwater*

Mr. Fitzwater, 27, holds a driver's license in Virginia.

*Kenneth Frilando*

Mr. Frilando, 46, holds a driver's license in New York.

*Timothy Gallagher*

Mr. Gallagher, 51, holds a driver's license in Pennsylvania.

*John R. Harper, Jr.*

Mr. Harper, 33, holds a driver's license in Illinois.

*Kenneth E. Harris*

Mr. Harris, 39, holds a driver's license in Missouri.

*Susan D. Helgerson*

Ms. Helgerson, 49, holds a driver's license in Wisconsin.

*Kimberly Hicks*

Ms. Hicks, 47, holds a driver's license in Illinois.

*Devon T. Hinds*

Mr. Hinds, 56, holds a driver's license in Colorado.

*Ryan S. Howard*

Mr. Howard, 41, holds a driver's license in New York.

*Gregory Ingram*

Mr. Ingram, 28, holds a driver's license in North Carolina.

*Bernard LaFayette*

Mr. LaFayette, 59, holds a driver's license in California.

*Christopher Lucki*

Mr. Lucki, 32, holds a driver's license in Illinois.

*Joshua Matlow*

Mr. Matlow, 34, holds a driver's license in Texas.

*Kathy Mazique*

Ms. Mazique, 31, holds a driver's license in Illinois.

*David W. McCoy*

Mr. McCoy, 63, holds a driver's license in California.

*Clair Mitcham*

Ms. Mitcham, 56, holds a driver's license Texas.

*Jeffrey S. Moore*

Mr. Moore, 35, holds a driver's license in Pennsylvania.

*Christopher Morgan*

Mr. Morgan, 25, holds a driver's license in Massachusetts.

*Quinton Murphy*

Mr. Murphy, 32, holds a driver's license in Wisconsin.

*William Noble*

Mr. Noble, 63, holds a driver's license in New York.

*Veniamin Panteleimonov*

Mr. Panteleimonov, 34, holds a driver's license in California.

*Kelly Pulvermacher*

Mr. Pulvermacher, 27, holds a driver's license in Wisconsin.

*Jeremy Reams*

Mr. Reams, 37, holds a driver's license in Kentucky.

*Victor M. Robinson*

Mr. Robinson, 31, holds a driver's license in Louisiana.

*Darrin A. Rutley*

Mr. Rutley, 32, holds a driver's license in New York.

*Samuel Sherman*

Mr. Sherman, 36, holds a driver's license in Minnesota.

*Andrey Shevchenko*

Mr. Shevchenko, 22, holds a driver's license in Minnesota.

*Ronald K. Smith, Jr.*

Mr. Smith, 33, holds a driver's license in Texas.

*Willine D. Smith*

Ms. Smith, 52, holds a Class B commercial driver's license (CDL) in Florida.

*William Templeton*

Mr. Templeton, 44, holds a driver's license in Georgia.

*Timothy A. Terpak*

Mr. Terpak, 28, holds a driver's license in Pennsylvania.

*Jeremy L. Thrush*

Mr. Thrush, 27, holds a driver's license in Pennsylvania.

*Carlos A. Torres*

Mr. Torres, 30, holds a driver's license in Florida.

*John K. Turner, III*

Mr. Turner, 49, holds a driver's license in Colorado.

*Chad Weaver*

Mr. Weaver, 32, holds a driver's license in Georgia.

**E. Basis For Exemption**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these

drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce. The driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391.

### Conclusion

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 51 individuals based on a thorough evaluation of each driver's safety experience. Safety analysis of information relating to these 51 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the CMV industry will gain 51 additional CMV drivers. In accordance with 49 U.S.C. 31315, each exemption will be valid for 2 years from the effective date with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 51 drivers for a period of 2 years from the physical qualification standard concerning hearing: Brooks Andresen (UT); Alexey Belousov (MD); Richard Boggs (OH); Conley Bowling (KY); Marquarius Boyd (MS); Charles Breidenthal (CA); Adam Brown (TX); Kwinton Carpenter (OH); Ronald Dillon, Jr. (CA); Clark Dobson (CA); Louis Dominik (TX); Kareem M. Douglas (OH); Craig Eberhart (PA); Anthony Farinacci (OH); Timothy D. Finley (CA); Danny E. Fisk (CO); Christopher Fitzwater (VA); Kenneth Frilando (NY); Timothy Gallagher (PA); John R. Harper, Jr. (IL); Kenneth E. Harris (MO); Susan D. Helgerson (WI); Kimberly Hicks (IL); Devon T. Hinds (CO); Ryan S. Howard (NY); Gregory Ingram (NC); Bernard LaFayette (CA); Christopher Lucki (IL); Joshua Matlow (TX); Kathy Mazique (IL); David W. McCoy (CA); Clair Mitcham (TX); Jeffrey S. Moore (PA); Christopher Morgan (MA); Quinton Murphy (WI); William Noble (NY); Veniamin Panteleimonov (CA); Kelly Pulvermacher (WI); Jeremy Reams (KY); Victor M. Robinson (LA); Darrin A.

Rutley (NY); Samuel Sherman (MN); Andrey Shevchenko (MN); Ronald K. Smith, Jr. (TX); Willine D. Smith (FL); William Templeton (GA); Timothy A. Terpak (PA); Jeremy L. Thrush (PA); Carlos A. Torres (FL); John K. Turner, III (CO); and Chad Weaver (GA).

Issued on: April 2, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0121; FMCSA-2013-0122; FMCSA-2013-0123]

#### Qualification of Drivers; Application for Exemptions; Hearing

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 39 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

**DATES:** The exemptions are effective April 8, 2015. The exemptions expire on April 10, 2017.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (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 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

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