

report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was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(b).

#### VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

#### VII. Conclusion

Based upon its evaluation of the 27 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41(b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

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BILLING CODE 4910-EX-P

### DEPARTMENT OF TRANSPORTATION

#### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0004]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from nine individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If

granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** Comments must be received on or before April 16, 2021.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA-2021-0004 using any of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov/](http://www.regulations.gov/); insert the docket number, FMCSA-2021-0004, in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click on the "Comment" button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; 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., ET, Monday through Friday, except Federal Holidays.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, 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 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

###### A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA-2021-0004), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 [www.regulations.gov/docket?D=FMCSA-2021-0004](http://www.regulations.gov/docket?D=FMCSA-2021-0004). Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click the "Comment" button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

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.

FMCSA will consider all comments and material received during the comment period.

###### B. Viewing Comments

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number, FMCSA-2021-0004, in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

###### C. 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.transportation.gov/privacy](http://www.transportation.gov/privacy).

##### II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-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 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The nine individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). 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.

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV 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 standard red, green, and amber.

On July 16, 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (57 FR 31458). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of § 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely in intrastate commerce with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at [www.regulations.gov/docket?D=FMCSA-1998-3637](http://www.regulations.gov/docket?D=FMCSA-1998-3637).

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively.<sup>1</sup> The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

### Qualifications of Applicants

#### *Jack A. Hemelgarn*

Mr. Hemelgarn, 68, has a retinal detachment in his left eye due to a traumatic incident in 2008. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2020, his optometrist stated, "In my opinion, from a vision stand point, he can safely perform the

driving tasks required to operate a commercial vehicle." Mr. Hemelgarn reported that he has driven buses for 28 years, accumulating 1.12 million miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Joshua D. Kelley*

Mr. Kelley, 35, has had a cataract in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2020, his ophthalmologist stated, "It is my medical opinion that Joshua Kelley Sr. has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Kelley reported that he has driven buses for 7 years, accumulating 437,500 miles. He holds a Class A CDL from Texas. 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.

#### *Richard T. Kessen*

Mr. Kessen, 63, has had optic nerve coloboma in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2020, his optometrist stated, "Overall, his vision appears stable at this time in both eyes and he has demonstrated that he has an adequate vision to perform the driving task required to operate a commercial vehicle." Mr. Kessen reported that he has driven straight trucks for 40 years, accumulating 540,000 miles and tractor-trailer combinations for 40 years, accumulating 4 million 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.

#### *Charles W. McClister III*

Mr. McClister, 46, has had aphakia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2020, his optometrist stated, "In my opinion, I believe Mr. McClister does have sufficient vision to perform the tasks to operate a commercial vehicle." Mr. McClister reported that he has driven straight trucks for 3 years, accumulating 420,000 miles. He holds an 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.

<sup>1</sup> A thorough discussion of this issue may be found in a FHWA final rule published in the **Federal Register** on March 26, 1996 and available on the internet at <https://www.govinfo.gov/content/pkg/FR-1996-03-26/pdf/96-7226.pdf>.

*Craig Neblett*

Mr. Neblett, 58, has had amblyopia in his right eye since 1977. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2020, his optometrist stated, "In my medical opinion, Craig Neblett has stable and sufficient vision OS and his condition OD (longstanding since 1977, 43 years) should not adversely affect his ability to operate a commercial motor vehicle safely due to 43 years of experience with only left eye vision." Mr. Neblett reported that he has driven straight trucks for 20 years, accumulating 80,000 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John G. Shaver*

Mr. Shaver, 53, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/40, and in his left eye, 20/80. Following an examination in 2020, his optometrist stated, "In my medical opinion, John Shaver, has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Shaver reported that he has driven tractor-trailer combinations for 26 years, accumulating 3,380,000 miles. He holds a Class A CDL from North Carolina. 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 10 mph.

*Robert L. Strange, Jr.*

Mr. Strange, 52, has a retinal detachment in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2020, his optometrist stated, "It is my professional opinion that with 20/20 vision in his right eye and with both eyes operating together as well as a normal visual field as documented by automated perimetry, it should be safe for Mr. Strange to continue to operate a commercial vehicle safely." Mr. Strange reported that he has driven straight trucks for 15 years, accumulating 300,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Scott E. Wertman*

Mr. Wertman, 60, has had optic neuropathy in his right eye since 2001. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2020, his ophthalmologist stated, "Patient has

demonstrated the ability to operate a commercial vehicle with the previous 2 decades, his examination is essentially unchanged [sic], and I do not see any alteration in his visual abilities at this time from his success in the past." Mr. Wertman reported that he has driven straight trucks for 26 years, accumulating 32,500 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Thomas L. Wiles*

Mr. Wiles, 40, has a retinal detachment in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/30, and in his left eye, 20/150. Following an examination in 2020, his optometrist stated, "In my professional opinion, this patient has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle." Mr. Wiles reported that he has driven straight trucks for 12 years, accumulating 819,000 miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

**III. Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated under the **DATES** section of the notice.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2021-05491 Filed 3-16-21; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA-2019-0117; Notice 2]

**Notice of Denial of Petition for Decision That Nonconforming Model Year 2017-2019 Mercedes-Benz Maybach S600 Pullman Passenger Cars Are Eligible for Importation**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of petition for determination of import eligibility.

**SUMMARY:** G&K Automotive Conversion, Inc. (G&K or Petitioner) has petitioned

NHTSA for a decision that model year 2017-2019 Mercedes-Benz Maybach S600 Pullman vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States. In its petition, G&K claims that these vehicles are eligible for import because they are substantially similar to and of the same model year as vehicles originally manufactured for import into and certified for sale in the United States, and they are capable of being readily altered to conform to all applicable FMVSS. This document announces the denial of G&K's petition.

**FOR FURTHER INFORMATION CONTACT:** Robert Mazurowski, Office of Vehicle Safety Compliance, NHTSA (202-366-1012).

**SUPPLEMENTARY INFORMATION:****I. Background**

A motor vehicle that was not originally manufactured to conform to all applicable FMVSS may be eligible for import into the United States if NHTSA determines that the motor vehicle is (1) substantially similar to a motor vehicle originally manufactured for importation into and certified for sale in the United States, (2) of the same model year as the model of the motor vehicle to which it is being compared, and (3) capable of being readily altered to conform to all applicable FMVSS. See 49 U.S.C. 30141(a)(1)(A).<sup>1</sup> If NHTSA determines that a nonconforming vehicle is import eligible, any such nonconforming vehicle imported into the United States must be modified into conformance and certified as conforming by a registered importer before it is sold or otherwise released from the custody of the registered importer. 49 U.S.C. 30146(a)(1); 49 CFR 592.6.<sup>2</sup>

Petitions for import eligibility decisions may be submitted by either manufacturers or registered importers and must comply with the requirements set forth in 49 CFR 593.6. A petition based on the existence of a substantially similar conforming vehicle manufactured for import and certified for sale in the United States must include, among other things, "[d]ata, views and arguments demonstrating that the vehicle [which is the subject of the petition] is substantially similar to the

<sup>1</sup> This provision was codified at 15 U.S.C. 1397(c)(3)(A) prior to the 1994 recodification of the transportation laws.

<sup>2</sup> A registered importer is an importer that has registered with NHTSA under 49 CFR part 592 and is therefore authorized to modify and then certify imported vehicles as compliant with all applicable FMVSS.