

resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Schaff meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2008 and certified that he does not have diabetic retinopathy. He holds a Class DA CDL from Kentucky.

*Jeffrey A. Scovel*

Mr. Scovel, 38, has had ITDM since 2008. His endocrinologist examined him in 2008 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scovel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2008 and certified that he does not have diabetic retinopathy. He holds a Class B3 CDL from South Dakota, which allows him to drive single vehicles greater than 26,000 lbs gross vehicle weight rating and includes car/light truck/motorcycle privileges.

*Charles C. Smith*

Mr. Smith, 68, has had ITDM since 2007. His endocrinologist examined him in 2008 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2008 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

*Michael L. Wise*

Mr. Wise, 58, has had ITDM since 1992. His endocrinologist examined him in 2008 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes

management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wise meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2008 and certified that he does have stable non-proliferative diabetic retinopathy. He holds a Class B CDL from Indiana.

*Richard L. Wright*

Mr. Wright, 59, has had ITDM since 2008. His endocrinologist examined him in 2008 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; and has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wright meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2008 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

**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 (SAFETEA-LU) 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) The elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) the 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

<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.

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. 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.

Issued on: February 5, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9-2957 Filed 2-11-09; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket ID. FMCSA-2008-0398]

**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 33 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision standard.

**DATES:** Comments must be received on or before March 16, 2009.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2008-0398 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.

Each submission must include the Agency name and the docket ID 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 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 the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at <http://Docketsinfo.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., 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 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 33 individuals listed in this notice each have requested 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 the exemption will achieve the required level of safety mandated by statute.

#### **Qualifications of Applicants**

##### *James M. Andrews*

Mr. Andrews, age 39, has had toxoplasmosis chorioretinopathy in his left eye since birth. The best corrected visual acuity in his right eye left eye is 20/30 and in his left eye, counting fingers. Following an examination in 2008, his ophthalmologist noted, "It is my medical opinion that the normal vision of his right eye allows sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Andrews reported that he has driven straight trucks for 6 years, accumulating 108,000 miles. He holds a Class B commercial driver's license (CDL) from Oregon. His driving record for the last 3 years shows one crash and no convictions for moving violations in a CMV.

##### *Michael L. Ayers*

Mr. Ayers, 46, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/15 and in his left eye, 20/80. Following an examination in 2008, his optometrist noted, "In my professional opinion as an eye care practitioner, Mr. Lane Ayers has sufficient vision to perform the driving tasks required to drive a commercial motor vehicle." Mr. Ayers reported that he has driven tractor-trailer combinations for 20 years, accumulating 960,000 miles. He holds a Class A CDL from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### *Todd J. Berglund, Sr.*

Mr. Berglund, age 34, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/400 and in his left eye, 20/20. Following an examination in 2008, his optometrist noted, "In my opinion, Todd has sufficient vision function to perform the driving tasks required to operate a commercial vehicle." Mr. Berglund reported that he has driven straight trucks for 13 years, accumulating 130,000 miles, and

tractor-trailer combinations for 13 years, accumulating 260,000 miles. He holds a Class A CDL from Utah. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### *George M. Callahan*

Mr. Callahan, 52, has loss of vision in his left eye loss due to a corneal scar sustained at age 5. The visual acuity in his right eye is 20/20 and in his left eye, 20/400. Following an examination in 2008, his optometrist noted, "Mr. Callahan has sufficient vision to perform necessary tasks to operate a commercial vehicle." Mr. Callahan reported that he has driven straight trucks for 1½ years, accumulating 75,000 miles, and tractor-trailer combinations for 21 years, accumulating 2.1 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows one crash and no convictions for moving violations in a CMV.

##### *William D. Cardiff*

Mr. Cardiff, 53, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/15 and in his left eye, 20/200. Following an examination in 2008, his optometrist noted, "In my medical opinion, Mr. Cardiff has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Cardiff reported that he has driven straight trucks for 3½ years, accumulating 35,000 miles. He holds a Class C 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.

##### *Paul V. DaLuisio*

Mr. DaLuisio, 40, has had amblyopia in his left eye since birth. The best corrected visual acuity in his right eye is 20/20 and in his left eye, light perception. Following an examination in 2008, his optometrist noted, "Patient has sufficient vision to operate a commercial vehicle." Mr. DaLuisio reported that he has driven straight trucks for 13 years, accumulating 305,500 miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### *Richard DiStaola*

Mr. DiStaola, 62, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye left eye is 20/150 and in his left eye, 20/20. Following an examination in 2008, his ophthalmologist noted, "In my

medical opinion, Mr. DiStaoila has sufficient vision to perform the tasks required to operate a commercial motor vehicle." Mr. DiStaoila reported that he has driven straight trucks for 16 years, accumulating 320,000 miles, and tractor-trailer combinations for 16 years, accumulating 480,000 miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Tracy A. Doty*

Mr. Doty, 45, has loss of vision in his left eye due to a corneal scar sustained as a child. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/200. Following an examination in 2008, his optometrist noted, "In my medical opinion, Mr. Doty's vision is sufficient to operate a commercial vehicle." Mr. Doty reported that he has driven straight trucks for 5 years, accumulating 150,000 miles, and tractor-trailer combinations for 3½ years, accumulating 346,500 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV, following improperly.

*Vincent C. Durazzo, Jr.*

Mr. Durazzo, 44, has complete loss of vision in his right eye due to a traumatic injury that occurred in 1986. The visual acuity in his left eye is 20/20. Following an examination in 2008, his optometrist noted, "It is my opinion that the health of Mr. Durazzo's left eye is stable and he has sufficient vision and peripheral vision to operate a commercial vehicle." Mr. Durazzo reported that he has driven straight trucks for 17 years, accumulating 340,000 miles. He holds a Class 2 operator's license from Connecticut which allows him to drive non-commercial vehicles including vehicle tow of 10,000 lbs gross vehicle weight rating or less. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Matthew A. Ericson*

Mr. Ericson, 50, has had branch retinal vein occlusion since 2005. The best corrected visual acuity in his right eye is 20/20 and in his left eye, 20/50. Following an examination in 2008, his optometrist noted, "He has sufficient vision to operate a commercial vehicle." Mr. Ericson reported that he has driven straight trucks for 17 years, accumulating 510,000 miles, and tractor-trailer combinations for 26 years, accumulating 780,000 miles. He holds a Class ABCD CDL from Wisconsin. His

driving record for the last 3 years shows no crashes and one conviction for a moving violation, speeding in a CMV. He exceeded the speed limit by 10 mph.

*Breck L. Falcon*

Mr. Falcon, 37, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye left eye is 20/60 and in his left eye, 20/20. Following an examination in 2008, his ophthalmologist noted, "In my medical opinion, he appears to have sufficient vision to perform driving tasks for a commercial vehicle." Mr. Falcon reported that he has driven straight trucks for 4 years, accumulating 72,800 miles. He holds a Class B CDL from Louisiana. His driving record for the last 3 years shows no crashes and one conviction for a moving violation, speeding in a CMV. He exceeded the speed limit by 15 mph.

*Charles W. Hillyer*

Mr. Hillyer, 40, has loss of vision in his left eye sustained from a traumatic injury sustained in 1972. The best corrected visual acuity in his right eye is 20/20 and in his left eye, hand motion. Following an examination in 2009, his optometrist noted, "In my medical opinion, Mr. Hillyer's vision is sufficient to operate a commercial vehicle." Mr. Hillyer reported that he has driven straight trucks for 12 years, accumulating 6,000 miles, and tractor-trailer combinations for 12 years, accumulating 936,000 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.

*Stephen R. Jackson*

Mr. Jackson, 57, has had his right eye surgically removed due to retinal blastoma at 18 months of age. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2008, his optometrist noted, "Mr. Jackson's condition is stable. His vision is sufficient to perform the driving tasks required to operate a commercial vehicle." Mr. Jackson reported that he has driven straight trucks for 11 years, accumulating 22,000 miles. He holds a Class B CDL from Wyoming. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV, speeding in a school zone. He exceeded the speed limit by 23 mph.

*Wesley J. Jenkins*

Mr. Jenkins, 41, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/200 and in his left eye, 20/20.

Following an examination in 2008, his optometrist noted, "In my professional opinion, Mr. Jenkins' vision is satisfactory enough to continue operation of commercial motor vehicles." Mr. Jenkins reported that he has driven straight trucks for 19 years, accumulating 1.5 million miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Richard H. Johnson*

Mr. Johnson, 58, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2008, his ophthalmologist noted, "Mr. Richard Johnson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Johnson reported that he has driven straight trucks for 30 years, accumulating 900,000 miles, and tractor-trailer combinations for 30 years, accumulating 900,000 miles. He holds a Class A CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Darrel R. Martin*

Mr. Martin, 61, has a prosthetic left eye due to a traumatic injury sustained in 1977. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2008, his optometrist noted, "In our medical opinion, we certify that Mr. Martin has sufficient vision to perform the driving tasks necessary to operate a commercial vehicle." Mr. Martin reported that he has driven straight trucks for 45 years, accumulating 1.4 million miles, and tractor-trailer combinations for 43 years, accumulating 860,000 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.

*James W. McGhee*

Mr. McGhee, 60, has loss of vision 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, 20/200. Following an examination in 2008, his optometrist noted, "It is my feeling that Mr. McGhee has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. McGhee reported that he has driven straight trucks for 6 years, accumulating 480,000 miles, tractor-trailer combinations for 34 years, accumulating 2.2 million miles, and buses for 2 years, accumulating

100,000 miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Felix L. McLean*

Mr. McLean, 38, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/60 and in his left eye, 20/20. Following an examination in 2008, his optometrist noted, "It is my opinion that Felix McLean has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. McLean reported that he has driven straight trucks for 5 years, accumulating 500 miles, and tractor-trailer combinations for 7 years, accumulating 840,000 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.

*James P. Mittlefehldt*

Mr. Mittlefehldt, 54, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/200 and in his left eye, 20/20. Following an examination in 2008, his optometrist noted, "In my medical opinion, Mr. Mittlefehldt has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Mittlefehldt reported that he has driven straight trucks for 24 years, accumulating 480,000 miles and tractor-trailer combinations for 10 years, accumulating 750,000 miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Robert E. Morrison*

Mr. Morrison, 62, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/100 and in his left eye, 20/30. Following an examination in 2008, his ophthalmologist noted, "It is my professional opinion that Mr. Morrison has adequate vision with glasses to operate commercial vehicles safely." Mr. Morrison reported that he has driven straight trucks for 15 years, accumulating 450,000 miles. He holds a Class B CDL from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Pahl M. Olson*

Mr. Olson, 57, has loss of vision due to an ammonia burn to the cornea that occurred in 1973. The best corrected visual acuity in his right eye is 20/20

and in his left eye, 20/200. Following an examination in 2008, his optometrist noted, "I certify, Paul Olson, in my opinion, has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Olson reported that he has driven straight trucks for 8 years, accumulating 120,000 miles, and tractor-trailer combinations for 31 years, accumulating 1.1 million miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Craig P. Osborn*

Mr. Osborn, 45, has had extropia in his right eye since birth. The best corrected visual acuity in his right eye is 20/200 and in his left eye, 20/20. Following an examination in 2008, his optometrist noted, "In my medical opinion, Mr. Osborn has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Osborn reported that he has driven straight trucks for 20 years, accumulating 500,000 miles, and tractor-trailer combinations for 20 years, accumulating 300,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jeremy L. Perry*

Mr. Perry, 26, has a prosthetic left eye due to a traumatic injury sustained in 2004. The visual acuity in his right eye is 20/20. Following an examination in 2008, his optometrist noted, "It is my medical opinion that Jeremy Perry has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Perry reported that he has driven tractor-trailer combinations for 5 years, accumulating 396,310 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Wayne G. Resch*

Mr. Resch, 45, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20 and in his left eye, 20/60. Following an examination in 2008, his optometrist noted, "Considering the consistent and stable nature of Mr. Resch's vision, there is no reason to believe there would be a visual difficulty in operating a commercial vehicle safely." Mr. Resch reported that he has driven straight trucks for 20 years, accumulating 800,000 miles, and tractor-trailer combinations for 20 years, accumulating 800,000 miles. He holds a Class A CDL

from Wisconsin. His driving record for the last 3 years shows one crash and no convictions for moving violations in a CMV.

*Brad E. Robrock*

Mr. Robrock, 34, has loss of vision in his left eye due to a macular scar sustained from a traumatic injury that occurred in 1991. The visual acuity in his right eye is 20/20 and in his left eye, 20/300. Following an examination in 2008, his optometrist noted, "Mr. Robrock, in my medical opinion, has adequate binocular vision to perform the driving tasks required to operate a commercial vehicle." Mr. Robrock reported that he has driven straight trucks for 10 years, accumulating 150,000 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James L. Rooney*

Mr. Rooney, 51, 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 2008, his optometrist noted, "In my opinion he has sufficient vision to continue to perform the driving tasks required to operate a commercial vehicle." Mr. Rooney reported that he has driven straight trucks for 11 years, accumulating 220,000 miles. He holds a Class B CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James E. Russell*

Mr. Russell, 38, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is count fingers and in his left eye, 20/20. Following an examination in 2008, his optometrist noted, "In my opinion, James has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Russell reported that he has driven straight trucks for 5 years, accumulating 65,000 miles, and tractor-trailer combinations for 16 years, accumulating 1.6 million miles. He holds a Class A CDL from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Robert C. Sellers, Jr.*

Mr. Sellers, 43, has complete loss of vision in the left eye due to a traumatic injury sustained at age 3. The best corrected visual acuity in his right eye is 20/25. Following an examination in

2008, his ophthalmologist noted, "I believe Mr. Sellers will continue to perform well as a commercial truck driver. He has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Sellers reported that he has driven tractor-trailer combinations for 15 years, accumulating 225,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*James A. Smith*

Mr. Smith, 49, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/200 and in his left eye, 20/15. Following an examination in 2008, his optometrist noted, "In my opinion, he has sufficient vision to perform all driving tasks required to operate a commercial motor vehicle." Mr. Smith reported that he has driven tractor-trailer combinations for 17 years, accumulating 595,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Richard Sturk*

Mr. Sturk, 59, has had loss vision in the right eye due to ischemic optic atrophy since 2003. The best corrected visual acuity in his right eye is 20/200 and in his left eye, 20/25. Following an examination in 2008, his ophthalmologist noted, "In my medical opinion, I do believe that Mr. Sturk has sufficient vision in his left eye to operate a commercial vehicle." Mr. Sturk reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.7 million miles. He holds a Class A CDL license from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Wayne A. Whitehead*

Mr. Whitehead, 42, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/60 and in his left eye, 20/25. Following an examination in 2008, his ophthalmologist noted, "I certify that in my medical opinion, Mr. Whitehead has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Whitehead reported that he has driven straight trucks for 5 years, accumulating 120,750 miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows

no crashes and no convictions for moving violations in a CMV.

*Charles F. Wotring*

Mr. Wotring, 41, has had macular dystrophy in his left eye since birth. The best corrected visual acuity in his right eye is 20/25 and in his left eye, 20/400. Following an examination in 2008, his optometrist noted, "He is visually able to drive commercially." Mr. Wotring reported that he has driven straight trucks for 1½ years, accumulating 52,500 miles, and tractor-trailer combinations for 14 years, accumulating 1.1 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and one conviction for a moving violation, speeding in a CMV. He exceeded the speed limit by 14 mph.

*Forrest L. Wright*

Mr. Wright, 54, has had optic nerve hypoplasia in his right eye since birth. The best corrected visual acuity in his right eye is light perception and in his left eye, 20/20. Following an examination in 2008, his optometrist noted, "It is my opinion that Mr. Wright has sufficient vision to perform all driving tasks to operate a commercial vehicle." Mr. Wright reported that he has driven straight trucks for 3 years, accumulating 30,000 miles, and buses for 6 years, accumulating 24,000 miles. He holds a Class B CDL from Alabama. 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 March 16, 2009. 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: February 5, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9-2958 Filed 2-11-09; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-00-8398; FMCSA-00-7165; FMCSA-04-18885; FMCSA-04-17984; FMCSA-06-24783]

#### Qualification of Drivers; Exemption Renewals; Vision

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 26 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, 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>.

##### Background

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. The comment period ended on November 17, 2008.

##### Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.