



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0022]

Qualification of Drivers; Exemption Applications; Vision

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

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

SUMMARY: FMCSA announces receipt of applications from 22 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 [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2017-0022 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.

- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket number(s) 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, S.E., Washington, DC, between 9 a.m. and 5 p.m. ,e.t., 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 online.

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 <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., 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. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a two-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The statute also allows the Agency to renew exemptions at the end of the two-year period.

The 22 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 49 CFR 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.

In July 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 (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). 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 49 CFR 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 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 Docket Number FMCSA-1998-3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) 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 (See 61 FR 13338, 13345, March 26, 1996). 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.

II. Qualifications of Applicants

Eddie S. Bennett

Mr. Bennett, 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 2017, his ophthalmologist stated, "In my medical opinion, Mr. Bennett has sufficient vision to operate a commercial vehicle." Mr. Bennett reported that he has driven straight trucks for 29 years, accumulating 348,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Ray M. Bliss

Mr. Bliss, 56, has a prosthetic left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2017, his optometrist stated, “It is my medical opinion that Ray has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Bliss reported that he has driven straight trucks for 34 years, accumulating 442,000 miles. He holds a Class B CDL from Minnesota. His driving record for the last three years shows no crashes

and no convictions for moving violations in a CMV.

Gary S. Boryk

Mr. Boryk, 61, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "...Mr. Boryk meets the visual requirements for operating a commercial vehicle..." Mr. Boryk reported that he has driven buses for 16 years, accumulating 960,000 miles. He holds a Class BM CDL from Virginia. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jonathan E. Burt

Mr. Burt, 29, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "Jonathan has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Burt reported that he has driven straight trucks for three years, accumulating 30,000 miles, and tractor-trailer combinations for seven years, accumulating 525,000 miles. He holds a Class A CDL from Vermont. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

David A. Cooper

Mr. Cooper, 50, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/70. Following an examination in 2017, his optometrist stated, "The patient, David Cooper, has sufficient vision to operate a commercial vehicle." Mr. Cooper reported that he has driven straight trucks for 11 years, accumulating 6,600 miles. He holds an operator's license from West Virginia. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Nicholas M. Deschepper

Mr. Deschepper, 31, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2017, his optometrist stated, "My understanding of a CDL license is that it requires 20/30 visual acuity or better of at least one eye with normal color vision and peripheral vision. It is my opinion that Nick passes all of these requirements and is safe to operate with a CDL license." Mr. Deschepper reported that he has driven tractor-trailer combinations for eight years, accumulating 720,000 miles. He holds a Class A3 CDL from South Dakota. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Frank J. Devitz

Mr. Devitz, 34, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "In my opinion, Mr. Devitz has sufficient vision to perform the driving tasks required to operate a commercial vehicle, especially since he has been doing so for so many years." Mr. Devitz reported that he has driven tractor-trailer combinations for 12 years, accumulating 780,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

John F. Ferguson, Jr.

Mr. Ferguson, 55, has a scotoma in his right eye due to a traumatic incident during birth. The visual acuity in his right eye is 20/300, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "In my opinion, John has a sufficient visual acuity and visual field to operate a commercial vehicle." Mr. Ferguson reported that he has driven

straight trucks for five years, accumulating 390,000 miles. He holds a Class B CDL from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Dominick P. Fittipaldi

Mr. Fittipaldi, 37, has complete loss of vision 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, no light perception. Following an examination in 2017, his ophthalmologist stated, "In my medical opinion, Mr. Fittipaldi has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Fittipaldi reported that he has driven straight trucks for 21 years, accumulating 210,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Alvin H. Horgdal

Mr. Horgdal, 68, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/30. Following an examination in 2017, his optometrist stated, "... I feel he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Horgdal reported that he has driven straight trucks for 26 years, accumulating 1.5 million miles. He holds a Class B CDL from Iowa. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Louis R. LeMonds, Jr.

Mr. LeMonds, 53, has a phthisis bulbi in his right eye due to a traumatic incident in 2008. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "My medical opinion is that he has sufficient vision to operate a commercial vehicle without difficulty."

Mr. LeMonds reported that he has driven tractor-trailer combinations for 34 years, accumulating two million miles. He holds a Class A CDL from Washington. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jonathan Marin

Mr. Marin, 26, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, "Mr. Marin's left eye has sufficient visual acuity, color vision and visual field as required for commercial driving." Mr. Marin reported that he has driven straight trucks for three years, accumulating 1,500 miles. He holds an operator's license from New Jersey. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Mark E. McNaughton

Mr. McNaughton, 53, has had complete loss of vision in his right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "He has no deficiencies in color vision, and I feel he has sufficient vision to perform driving tasks required for a commercial vehicle." Mr. McNaughton reported that he has driven straight trucks for 30 years, accumulating 900,000 miles. He holds a Class B CDL from Iowa. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Louis Neofotistos

Mr. Neofotistos, 55, has a macular scar in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/25.

Following an examination in 2017, his optometrist stated, "In my medical opinion, Louis has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Neofotistos reported that he has driven straight trucks for 38 years, accumulating 45,600 miles. He holds a Class BM CDL from Massachusetts. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Josue M. Rodriguez-Espinoza

Mr. Rodriguez-Espinoza, 25, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "I feel that Mr. Rodriguez would have no problems performing the tasks required to appropriately operate a commercial vehicle despite the poor vision in his right eye." Mr. Rodriguez-Espinoza reported that he has driven straight trucks for eight years, accumulating 80,000 miles. He holds an operator's license from California. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

James R. Rupert

Mr. Rupert, 54, has had a central retinal vein occlusion in his right eye since 2012. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2017, his ophthalmologist stated, "In my medical opinion James has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Rupert reported that he has driven straight trucks for 37 years, accumulating 1.33 million miles, and tractor-trailer combinations for 35 years, accumulating 175,000 miles. He holds an operator's license from California. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Christopher J. Schmidt

Mr. Schmidt, 31, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2017, his ophthalmologist stated, "In my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Schmidt reported that he has driven straight trucks for four years, accumulating 25,000 miles, and tractor-trailer combinations for four years, accumulating 25,000 miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Brandon L. Siebe

Mr. Siebe, 45, has complete loss of vision in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2016, his optometrist stated, "He has a nearsighted left eye that corrects to 20/15, and he has sufficient vision to perform the driving test required to operate a commercial vehicle." Mr. Siebe reported that he has driven straight trucks for 19 years, accumulating 285,000 miles. He holds an operator's license from Kentucky. His driving record for the last three years shows one crash and no convictions for moving violations in a CMV.

Greg C. Stilson

Mr. Stilson, 54, 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 2017, his optometrist stated, "He is also able to recognize color and in my opinion is safe to operate a commercial vehicle over interstate lines. Even though he is amblyopic OD his peripheral awareness is

normal on his right side.” Mr. Stilson reported that he has driven straight trucks for five years, accumulating 125,000 miles, and tractor-trailer combinations for 32 years, accumulating four million miles. He holds a Class AM CDL from Wyoming. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Paul M. Wooton

Mr. Wooton, 39, has a macular scar 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, 20/200. Following an examination in 2017, his ophthalmologist stated, “In my opinion, this individual has sufficient vision to perform the driving tasks required to operate commercial vehicles.” Mr. Wooton reported that he has driven straight trucks for six years, accumulating 270,000 miles, and tractor-trailer combinations for four years, accumulating 420,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Willie C. Young

Mr. Young, 58, has fibrosis 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, counting fingers. Following an examination in 2017, his optometrist stated, “It is my opinion that Mr. Willie Young has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Young reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.19 million miles. He holds a Class A CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Eloy Zuniga

Mr. Zuniga, 41, has retinal scarring in his left eye due to a traumatic incident in 1994.

The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2016, his optometrist stated, “In my opinion Mr. Zuniga has sufficient vision to perform the driving tasks required to operate a commercial vehicle.”

Mr. Zuniga reported that he has driven tractor-trailer combinations for seven years, accumulating 350,000 miles. He holds a Class A CDL from Texas. His driving record for the last three 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, 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 in the dates section of the notice.

IV. 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-2017-0022 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 materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2017-0022 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

Issued on: August 3, 2017

Larry W. Minor
Associate Administrator for Policy

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