



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0003]

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 11 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 identified by the Federal Docket Management System (FDMS) Docket No. FMCSA-2021-0003 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/docket?D=FMCSA-2021-0003>. 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, 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., 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-2021-0003), 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

<http://www.regulations.gov/docket?D=FMCSA-2021-0003>. Click on the “Comment

Now!” 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 Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov/docket?D=FMCSA-2021-0003> and choose the document to review. 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at 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 11 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, 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 3 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 <https://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 (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.¹ 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

¹ 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>.

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 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

III. Qualifications of Applicants

Antonio R. Barros

Mr. Barros, 53, 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 2020, his ophthalmologist stated, “In my medical opinion, Mr. Barros has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Barros reported that he has driven straight trucks for 12 years, accumulating 120,000 miles, and tractor-trailer combinations for 12 years, accumulating 96,000 miles. He holds a Class A CDL from NY. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert D. Boudreau

Mr. Boudreau, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20 and in his left eye, 20/350. Following an examination in 2020, his ophthalmologist stated, “In my medical opinion, Mr. Boudreau has sufficient vision to perform the driving tasks to operate a commercial vehicle.” Mr. Boudreau reported that he has driven tractor-trailer combinations for 22 years, accumulating 2.2 million miles. He holds an operator’s license from Arizona. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Doris J. Goldsmith

Ms. Goldsmith, 48, has complete loss of vision in her left eye due to a traumatic incident in childhood. The visual acuity in her right eye is 20/20, and in her left eye, hand motion only. Following an examination in 2020, her optometrist stated, "Her left eye is entirely stable. In my opinion Doris is completely capable of operating a commercial vehicle with no restriction." Ms. Goldsmith reported that she has driven straight trucks for 2 years, accumulating 31,200 miles, and tractor-trailer combinations for 20 years, accumulating 2.2 million miles. She holds a Class DA CDL from Kentucky. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Todd C. Kraese

Mr. Kraese, 51, has had a retinal detachment in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2020, his optometrist stated, "In my opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Kraese reported that he has driven tractor-trailer combinations for 6 years, accumulating 36,000 miles. He holds an operator's license from Indiana. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kathy A. Mason

Ms. Mason, 55, has a prosthetic right eye due to melanoma in 2012. The visual acuity in her right eye is no light perception, and in her left eye, 20/20. Following an examination in 2020, her optometrist stated, "Her prosthetic in the left eye will not hinder her driving in any way. She is capable of operating a commercial vehicle or any vehicle thereof." Ms. Mason reported that she has driven straight trucks for 20 years, accumulating 200,000 miles, tractor-trailer combinations for 17 years, accumulating 85,000 miles, and buses for 13 years, accumulating 1.56 million miles. She holds a Class

A CDL from Texas. Her driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Luke A. Perry

Mr. Perry, 58, has a corneal 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, 20/300. Following an examination in 2020, his ophthalmologist stated, "It is my opinion that Mr. Perry has sufficient vision to operate a commercial vehicle." Mr. Perry reported that he has driven straight trucks for 6 years, accumulating 60,000 miles, and tractor-trailer combinations for 3 years, accumulating 330,000 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.

Percy C. Robinson

Mr. Robinson, 48, has a retinal detachment in his left eye due to spontaneous degeneration in 2008. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2020, his optometrist stated, "In my opinion, Mr. Robinson has vision sufficient to perform the driving tasks to operate a commercial vehicle." Mr. Robinson reported that he has driven straight trucks for 25 years, accumulating 120,000 miles, and tractor-trailer combinations for 25 years, accumulating 25,000 miles. He holds a Class AM CDL from Alabama. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Harvinder S. Sahota

Mr. Sahota, 38, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2020, his ophthalmologist stated, "In my medical opinion Harvinder has sufficient vision, color vision and visual fields to perform the driving tasks required to operate a commercial vehicle." Mr. Sahota reported that he has driven tractor-trailer combinations

for 3 years, accumulating 360,000 miles. He holds a Class A CDL from California. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Michael J. Wells

Mr. Wells, 64, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is hand motion only, and in his left eye, 20/25. Following an examination in 2020 his optometrist stated, "Mr. Wells has been able to safely operate a commercial vehicle for years and should be able to continue doing so, without his vision impacting that ability." Mr. Wells reported that he has driven straight trucks for 25 years, accumulating 1.25 million miles, and tractor-trailer combinations for 25 years, accumulating 5 million miles. He holds a Class A CDL from North Carolina. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Dennis C. Welp

Mr. Welp, 55, has a retinal detachment in his in his left eye due to a traumatic incident in 1983. 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 in my opinion Mr. Welp has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Welp reported that he has driven buses for 37 years, accumulating 74,000 miles. He holds a Class B CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kevin D. White

Mr. White, 48, has a 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, complete loss of vision. Following an examination in 2021, his ophthalmologist stated,

“In my medical opinion, I believe Mr. White has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. White reported that he has driven straight trucks for 4 years, accumulating 160,000 miles, and tractor-trailer combinations for 15 years, accumulating 780,000 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.

IV. 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.