

grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

#### Discussion of Comments

FMCSA received four comments in this proceeding. The comments were considered and discussed below. Two of the comments were recommendations in favor of granting the Federal vision exemption to Gerald Culverwell, John Brumberg, Armando D'Angeli, Scott Hillman, John Stone, and Robert Szeman.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSRs, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

The Kansas division of transportation challenged the validity of James W. Lappan's reported CMV driving

experience. The Agency is currently investigating the commenter's claims and will wait to render a final decision in this case until the investigation is complete.

#### Conclusion

Based upon its evaluation of the 68 exemption applications, FMCSA exempts, Ronald G. Adams, Catarino Aispuro, Edwin A. Betz, James F. Brumberg, Donald L. Carman, John W. Carter, Jr., Christopher R. Cone, Walter O. Connelly, Stephen B. Copeland, Gerald L. Culverwell, Armando P. D'Angeli, Stephen R. Daugherty, Donald R. Davis, Louis A. Dipasqua, Jr., Henry L. Donivan, Randy J. Doran, Robert E. Dukes, Roger D. Elders, Robert E. Engel, James F. Epperson, James H. Facemyre, Gregory L. Farrar, Richie Ford, Kevin K. Friedel, Eric M. Giddens, Sr., Paul W. Goebel, Jr., Edward J. Grant, Jeffery M. Hall, Ronnie L. Hanback, Steven G. Harter, Michael C. Hensley, George G. Hernandez, Jr., Scott A. Hillman, Charles S. Huffman, Lance G. James, Jesse P. Jamison, James A. Jones, Ronnie M. Jones, Andrew C. Kelly, Jason W. King, Leslie A. Landschoot, Billy J. Lewis, Larry McCoy, Tommy L. McKnight, Robert W. McMillian, Danny W. Nuckles, David G. Olsen, Robert L. Person, Carroll G. Quisenberry, Ryan J. Reimann, Ronny L. Rogers, Paul L. Savage, Manuel G. Savin, Brandon J. See, Douglas A. Sharp, LeTroy D. Sims, Robert M. Stewart, John L. Stone, Robert J. Szeman, Donald J. Thompson, Nils S. Thornberg, Daniel W. Toppings, Kenneth E. Valentine, Lewis H. West, Jr., Christopher R. Whitson, Leon S. Willis, and George L. Young from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked 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 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: August 12, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-99-6156, FMCSA-99-6480, FMCSA-00-7006, FMCSA-01-10578, FMCSA-02-11714, FMCSA-02-13411, FMCSA-03-16241, FMCSA-03-16564, FMCSA-04-17195, FMCSA-05-21711, FMCSA-05-22194, FMCSA-05-23099, FMCSA-05-23238, FMCSA-06-23773, FMCSA-06-24015, 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 58 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, [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 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 July 30, 2008.

#### Discussion of Comments

FMCSA received no comments in this proceeding.

#### Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 58 renewal applications, FMCSA renews the Federal vision exemptions for Jawad K. Al-Shaibani, Harold J. Bartley, Jr., Kenneth J. Bernard, Allen G. Bors, Brad T. Braegger, Michael C. Branham, John E. Breslin, Trixie L. Brown, Raymond L. Brush, Marcus S. Burkholder, Scott F. Chalfant, Leroy A. Chambers, Harvis P. Cosby, Rodney D. Curtis, Norman J. Day, Michael D. DeBerry, Francisco Espinal, William L. Foote, Spencer N. Haugen, Victor B. Hawks, Edward J. Hess, Jr., William G. Hix, Ralph Holmes, Bruce A. Homan, Timothy B. Hummel, Fredrick C. Ingles, Larry L. Jarvis, Michael S. Johannsen, Charles Johnston, Harry L. Jones, Mearl C. Kennedy, Patrick E. Martin, Bennet G. Maruska, Leland K. McAlhaney, Bobby G. Minton, William C. Mohr, Sr., Charles J. Morman, Charles R. Murphy, Larry A. Nienhuis, Corey L. Paraf, Kenneth R. Piechnik, John J. Pribanic, Ronald M. Price, John P. Raftis, Bruce G. Robinson, Scott D. Russell, Alton M. Rutherford, Richard A. Schneider, Charles L. Schnell, Andrew W. Schollett, Joseph B. Shaw, Jr., Wolfgang V. Spekis, Sandra J. Sperling, Ryan K. Steelman, Robert L. Swartz, Jr., Charles V. Tracey, Duane L. Tysseling, and Leonard R. Wilson.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked 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 and 31315.

Issued on: August 12, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA-99-5578, FMCSA-99-6156, FMCSA-99-6480, FMCSA-00-7006, FMCSA-00-7165, FMCSA-04-17195, FMCSA-06-23773, FMCSA-06-24015]**

#### 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 25 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, 1200 New Jersey Avenue, SE., 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:

##### 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 June 16, 2008.

#### Discussion of Comments

FMCSA received no comments in this proceeding.

#### Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 25 renewal applications, FMCSA renews the Federal vision exemptions for James C. Askin, Paul J. Bannon, Ernie E. Black, Ronnie F. Bowman, Gary O. Brady, Richard J. Cummings, Stephen H. Goldcamp, Steven F. Grass, Wai F. King, Dennis E. Krone, Christopher P. Lefler, William F. Mack, Richard J. McKenzie, Jr., Christopher J. Meerten, Craig W. Miller, William J. Miller, Robert J. Mohorter, James A. Mohr, Roderick F. Peterson, Tommy L. Ray, Jr., Ricky L. Shepler, Donald W. Sidwell, Elmer K. Thomas, Raul R. Torres, and Richard G. Wendt.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked 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 and 31315.

Issued on: August 12, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) § 211.41, and 49 U.S.C. 20103, this notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being sought, and the petitioners' argument in favor of relief.

#### Association of American Railroads and The American Short Line and Regional Railroad Association

[FRA Docket No. FRA-2008-0092]

On August 6, 2008, the Association of American Railroads (AAR) and The American Short Line and Regional Railroad Association (ASLRRA) jointly