

perform the necessary tasks that are required to operate a commercial vehicle." Mr. Terry reported that he has driven straight trucks for 3 years, accumulating 120,000 miles, and tractor-trailer combinations for 22 years, 1.6 million miles. He holds a Class A CDL from Alabama. 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 12 mph.

Steven L. Thomas

Mr. Thomas, 51, has endophthalmitis in his left eye after cataract surgery in 1997. The best corrected visual acuity in his right eye is 20/15 and in the left, 20/400. Following an examination in 2009, his optometrist noted, "Mr. Thomas has sufficient vision to drive and operate a commercial vehicle." Mr. Thomas reported that he has driven straight trucks for 15 years, accumulating 150,000 miles, and tractor-trailer combinations for 22 years, accumulating 770,000 miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Daniel A. Wescott

Mr. Wescott, 56, 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, 20/400. Following an examination in 2009, his optometrist noted, "The result of his vision exam does in my medical opinion qualify him to drive a commercial vehicle." Mr. Wescott reported that he has driven straight trucks for 10 years, accumulating 130,000 miles, and tractor-trailer combinations for 26 years, accumulating 780,000 miles. He holds a Class A CDL from Colorado. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald J. Zuza

Mr. Zuza, 62, has central retinal artery occlusion in his right eye. The best corrected visual acuity in his right eye is count-finger vision and in his left eye, 20/25. Following an examination in 2009, his ophthalmologist noted, "In my medical opinion, Donald Zuza has sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Zuza reported that he has driven straight trucks for 33 years, accumulating 330,000 miles. He holds a Class D operator's license from New Jersey. 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 July 2, 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: May 26, 2009.

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-1998-4334; FMCSA-2000-7006; FMCSA-2000-7363; FMCSA-2000-8398; FMCSA-2001-9258; FMCSA-2003-14223; FMCSA-2003-14504; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2005-20560; FMCSA-2006-26066; FMCSA-2007-27333; FMCSA-2007-27515**]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 29 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective June 26, 2009. Comments must be received on or before July 2, 2009.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-1998-4334; FMCSA-2000-7006; FMCSA-2000-7363; FMCSA-2000-8398; FMCSA-2001-9258; FMCSA-2003-14223; FMCSA-2003-14504; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2005-20560; FMCSA-2006-26066; FMCSA-2007-27333; FMCSA-2007-27515, 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 or Courier:* 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 number 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://DocketInfo.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (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 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 renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, 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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 29 individuals who have requested a renewal of their exemption in accordance with FMCSA procedures. FMCSA has evaluated these 29 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Gary A. Barrett
Ivan L. Beal
Johnny A. Beutler
Daniel R. Brewer
Darryl D. Cassatt
Larry Chinn
Brett L. Condon
Albion C. Doe, Sr.
William K. Gullet
Daryl A. Jester
James P. Jones
Clyde H. Kitzan
Larry J. Lang
Spencer E. Leonard
Dennis D. Lesperance
John W. Locke
Herman G. Lovell
Ronald L. Maynard
Donald G. Meyer
William A. Moore, Jr.
Earl R. Neugebauer
Danny R. Pickelsimer
Richard S. Rehbein
Bernard E. Roche
David E. Sanders
David B. Speller
Lynn D. Veach
Harry S. Warren
Michael C. Wines

These exemptions are extended subject to the following conditions: (1) That each individual have a physical

examination 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 and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two 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.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 29 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 66 FR 17994; 68 FR 35772; 70 FR 33937; 72 FR 32705; 65 FR 20245; 65 FR 57230; 67 FR 57266; 65 FR 45817; 65 FR 77066; 65 FR 78256; 66 FR 16311; 68 FR 13360; 70 FR 25878; 72 FR 28093; 66 FR 17743; 66 FR 33990; 68 FR 10301; 68 FR 19596; 70 FR 25878; 68 FR 19598; 68 FR 33570; 69 FR 64806; 70 FR 2705; 72 FR 1056; 70 FR 2701; 72 FR 16887; 70 FR 17504; 70 FR 30997; 71 FR 63379; 72 FR 1050; 72 FR 12666; 72 FR 25831; 72 FR 21313; 72 FR 32703). Each of these 29 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified in 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate

commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by July 2, 2009.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 29 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: May 22, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

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