

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

Applying principles from these studies to the past 3-year record of the twelve applicants, none of the drivers were involved in a crash and none were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants’ ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants’ intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and

driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the twelve applicants listed in the notice of January 5, 2012 (77 FR 539).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the twelve individuals consistent with the 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 requirement 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 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 no comments in this proceeding.

#### Conclusion

Based upon its evaluation of the twelve exemption applications, FMCSA exempts Rene Amaya (NM), Brian K. Cline (NC), Robert R. Judd (IN), Mickey E. Lawson (NC), Robbery J. Nelson (NC), Thomas M. Nubert (NC), Terri D. Payne (KY), Michael C. Reese (GA), Mark C. Reineke (NM), Robert T. Reynolds (OH), Lawrence D. Ventimiglia (NV) and Chadwick L. Wyatt (NC) 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: February 10, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2012–3976 Filed 2–21–12; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0378]

#### 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 twelve 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 requirement.

**DATES:** Comments must be received on or before March 23, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2011–0378 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.

**Instructions:** Each submission must include the Agency name and the docket numbers 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 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 DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

**FOR FURTHER INFORMATION CONTACT:**

Elaine M. Papp, Chief, Medical Programs Division, (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:**

**Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations 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 twelve individuals listed in this notice have each requested such 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 an exemption will achieve the required level of safety mandated by statute.

**Qualifications of Applicants**

*Robert J. Abbas*

Mr. Abbas, age 62, has had amblyopia in his left eye since birth. The best corrected visual acuity in right eye is 20/20 and in his left eye, 20/100. Following an examination in 2011, his ophthalmologist noted, "In my medical opinion, this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Abbas reported that he has driven tractor-trailer combinations for 31 years, accumulating 2.3 million miles. He holds a Class A Commercial Driver's License (CDL) from Minnesota. His driving record for the last 3 years shows no crashes and one conviction for speeding in a Commercial Motor Vehicle (CMV); he exceeded the speed limit by 13 mph.

*Paul T. Browning*

Mr. Browning, 50, has a severed optic nerve in his right eye due to a traumatic injury sustained in 1995. The best corrected visual acuity in right eye is light perception and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, "It is my opinion after examining Mr. Browning that visually he is able to operate a commercial motor vehicle in a safe and prudent manner." Mr. Browning reported that he has driven straight trucks for 13 years, accumulating 273,000 miles. He holds a Class B CDL from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Robert P. Clark*

Mr. Clark, 66, has a detached retina in his left eye due to a traumatic injury sustained in 1967. The best corrected visual acuity in right eye is 20/20 and in his left eye, hand motion vision. Following an examination in 2011, his optometrist noted, "It is my opinion that Mr. Clark has sufficient vision to operate a commercial vehicle." Mr. Clark reported that he has driven straight trucks for 45 years, accumulating 1.1 million miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; driving a CMV while disqualified.

*Carey C. Earwood*

Mr. Earwood, 67, has a corneal scar in his left eye due to an injury sustained 55 years ago. The best corrected visual acuity in right eye is 20/20 and in his left eye, 20/70. Following an examination in 2011, his optometrist noted, "Based on the results of the examination, Mr. Carey Earwood was found to have sufficient vision to safely operate a motor vehicle." Mr. Earwood reported that he has driven tractor-trailer combinations for 40 years, accumulating 4.4 million miles. He holds a Class D operator's license from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Cheryl G. Johnson*

Mrs. Johnson, 66, has had complete loss of vision in her left eye since birth. The best corrected visual acuity in right eye 20/20. Following an examination in 2011, his ophthalmologist noted, "In my opinion Mrs. Johnson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mrs. Johnson reported that she has driven buses/trucks for 24 years, accumulating 288,000 miles. She holds a chauffeur's license from Indiana. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Kevan J. Larson*

Mr. Larson, 28, has had macular scarring in his left eye since birth. The best corrected visual acuity in his right eye is 20/15, and in his left eye, count-finger vision. Following an examination in 2011, his optometrist noted, "In my medical opinion, and based upon results of Kevan's vision examination, I believe he has sufficient vision capabilities to perform the driving tasks required to operate a commercial vehicle." Mr. Larson reported that he has driven straight trucks for 10 years, accumulating 280,000 miles. He holds a Class D operator's license from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Melvin D. Rolfe*

Mr. Rolfe, 57, 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, 20/200. Following an examination in 2011, his optometrist noted, "I feel he has sufficient vision to perform the driving tasks of a commercial vehicle." Mr. Rolfe reported that he has driven straight trucks for 4 years, accumulating 80,000 miles. He holds a Class D

operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gilbert M. Rosas*

Mr. Rosas, 44, 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, 20/100. Following an examination in 2011, his optometrist noted, "I certify that patient Gilbert Rosas has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Rosas reported that he has driven straight trucks for 14 years, accumulating 1.1 million miles and tractor-trailer combinations for 3 years, accumulating 150,000 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.

*Kim A. Shaffer*

Mr. Shaffer, 61, has a prosthetic right eye due to a traumatic injury sustained as a child. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2011, his optometrist noted, "This patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Shaffer reported that he has driven tractor-trailer combinations for 40 years, accumulating 1.4 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Larry W. Slinker*

Mr. Slinker, 59, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200 and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "In my opinion, he should be able to perform the driving tasks required to operate a commercial vehicle." Mr. Slinker reported that he has driven tractor-trailer combinations for 2 years, accumulating 280,000 miles and buses for 2 years, accumulating 41,600 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Lonnie J. Supanchick*

Mr. Supanchick, 59, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/25, and in his left eye, 20/150. Following an examination in 2011, his optometrist

noted, "In my opinion, Mr. Lonnie Supanchick has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Supanchick reported that he has driven straight trucks for 11 years, accumulating 137,500 miles and tractor-trailer combinations for 10 years, accumulating 175,000 miles. He holds a Class B CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gerald W. Warner*

Mr. Warner, 20, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/70 and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "In my professional opinion, Mr. Warner has sufficient vision to operate a commercial vehicle and to perform the driving tasks required." Mr. Warner reported that he has driven straight trucks for 32 years, accumulating 480,000 miles and tractor-trailer combinations for 32 years, accumulating 1.6 million 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.

#### 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 23, 2012. 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 10, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2011-0382]

#### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

**ACTION:** Notice of applications for exemption from the diabetes mellitus requirement; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 17 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before March 23, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2011-0382 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.

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