

the Agency will use to examine the feasibility, costs, and benefits of making crash preventability determinations. The data gathered through the demonstration program will allow the Agency to better evaluate the utility of making crash preventability determinations. As a result, FMCSA is moving forward to implement this demonstration program.

Issued under the authority delegated in 49 CFR 1.87 on: July 19, 2017.

**Daphne Y. Jefferson,**  
Deputy Administrator.

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BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0018]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt ten individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

**DATES:** The exemptions were granted June 27, 2017. The exemptions expire on June 27, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-113, 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. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

*Docket:* For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/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., E.T., Monday through Friday, except Federal holidays.

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

#### II. Background

On May 26, 2017, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (82 FR 24430). That notice listed ten applicants' case histories. The ten individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption 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. Accordingly, FMCSA has evaluated the ten applications on their merits and made a determination to grant exemptions to each of them.

#### III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle 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 red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The ten exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, complete loss of vision, congenital cataract, corneal transplant, macular scar, optic neuropathy, and prosthetic eye. In most cases, their eye conditions were not recently developed. Five of the applicants were either born with their vision impairments or have had them since childhood.

The five individuals that sustained their vision conditions as adults have had it for a range of 10 to 47 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these ten drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 5 to 35 years. In the past three years, no drivers were involved in crashes and no drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the May 26, 2017, notice (82 FR 24430).

#### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to

be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

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 demonstrate 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.

Applying principles from these studies to the past three year record of the ten applicants, no drivers were involved in crashes and no drivers 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 three 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 two year period allowed by 49 U.S.C. 31136(e) and 31315 to the ten

applicants listed in the notice of May 26, 2017 (82 FR 24430).

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 ten 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.

#### V. Discussion of Comments

FMCSA received one comment in this proceeding. Simon Batter stated the he has worked with Blaine Dickman for 19 years and has never seen or heard of any issues related to his monocular vision.

#### IV. Conclusion

Based upon its evaluation of the ten exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10):

Blaine R. Dickman (NV)  
Sean J. Dornin (PA)  
Wade J. Jandreau (ME)  
Eric C. Johnson (WI)  
Thomas M. Leonard (PA)  
James Q. Meeks, Jr. (GA)  
Al V. Nowviocck (IL)  
Hubert O. Pollard (ND)  
Daniel L. Troop (MI)  
Jeffrey Waterbury (NY)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two 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 two year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: July 19, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2016-0058]

#### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that on June 30, 2017, Watco Companies LLC (Watco) petitioned the Federal Railroad Administration (FRA) seeking reconsideration of a decision regarding the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA-2016-0058.

*Applicant:* Watco Companies LLC, Anthony Cox, VP of Engineering, 315 E. 3rd St., Pittsburg, KS 66762.

Watco is the owner-operator of the Grand Elk Railroad LLC (GDLK), which operates on track that is currently leased from Norfolk Southern Railway Company (NS). Watco requests reconsideration under 49 CFR 235.13(a) of FRA's denial of its application to discontinue and remove the traffic control system (TCS) from mile post (MP) 33.00 at Park, in Grand Rapids, MI to MP 1.4 at the end of GDLK, in Elkhart, IN. FRA issued its decision letter denying the application on November 29, 2016, and issued a second letter to clarify the basis of its decision on January 10, 2017.

Based on new facts and new evidence, Watco is seeking reconsideration of its application on behalf of GDLK. Watco asserts that FRA's Railroad Safety Board (Board) based its denial on erroneous information. Watco believes the hazardous materials (hazmat) information provided in the field report considered by the Board was out of date or incorrect.

Watco owns and operates 20 railroads on 3570 miles of main line that is track warrant controlled (TWC) and Watco

states that of those railroads, 5 safely transport more hazmat than GDLK. GDLK conducts ultrasonic rail and geometry testing twice per year over the entire railroad. GDLK operates to the north of subject trackage from milepost 33 to milepost 102.3 a mix of TWC and yard limits (YL). There are two manual interlockings on the north section of track using TWC as an acceptable method of operation. TWC is the method of operation used by all dispatched Watco railroads, including parts of the GDLK. Watco states that the discontinuance of the TCS section and converting it to TWC maintains the consistency of dispatching and standardization of training for the GDLK, and will provide a higher level of safety through simplified operations by having one method of controlled operation rather than the two it has now. Watco further states that this consistency and standardization of dispatching and training will enhance the safety of GDLK operations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 11, 2017 will be considered

by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacynotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2017-15789 Filed 7-26-17; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2017-0059]

#### Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on June 27, 2017 the San Bernardino Railroad Historical Society Inc. (SBRHS) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 230, *Steam Locomotive Inspection and Maintenance Standards*. FRA assigned the petition docket number FRA-2017-0059.

SBRHS maintains and operates No. 3751, a 4-8-4 "Northern" type steam locomotive built by the Baldwin Locomotive Works in 1927 for the Atchison, Topeka & Santa Fe Railroad. SBRHS requests relief from performing the 1472 service day inspection (SDI), for No. 3751, as it pertains to the inspection of the boiler every 15 calendar years or 1472 service days under 49 CFR 230.17—*One thousand four hundred seventy-two (1472) service day inspection*. SBRHS is requesting an additional 139 calendar days before performing a 1472 SDI. The previous SDI was performed on August 14, 2002. Granting relief will allow No. 3751 an