



[4910-EX-P]

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-1999-5748; FMCSA-1999-6156; FMCSA-2001-11426; FMCSA-2003-16564; FMCSA-2005-22194; FMCSA-2005-23099; FMCSA-2006-23773; FMCSA-2006-24015; FMCSA-2006-24783; FMCSA-2007-0017; FMCSA-2007-0071; FMCSA-2007-29010; FMCSA-2008-0021; FMCSA-2009-0011; FMCSA-2009-0291; FMCSA-2010-0050; FMCSA-2010-0082; FMCSA-2011-0379; FMCSA-2012-0040; FMCSA-2012-0104; FMCSA-2012-0106; FMCSA-2013-0166; FMCSA-2013-0174; FMCSA-2014-0002; FMCSA-2014-0003; FMCSA-2014-0004; FMCSA-2014-0005; FMCSA-2014-0006]**

### **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 exemptions for 88 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** Each group of renewed exemptions was effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments

must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**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, S.E., Room W64-224, Washington, DC 20590-0001. Office hours are from 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.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-1999-5748; FMCSA-1999-6156; FMCSA-2001-11426; FMCSA-2003-16564; FMCSA-2005-22194; FMCSA-2005-23099; FMCSA-2006-23773; FMCSA-2006-24015; FMCSA-2006-24783; FMCSA-2007-0017; FMCSA-2007-0071; FMCSA-2007-29010; FMCSA-2008-0021; FMCSA-2009-0011; FMCSA-2009-0291; FMCSA-2010-0050; FMCSA-2010-0082; FMCSA-2011-0379; FMCSA-2012-0040; FMCSA-2012-0104; FMCSA-2012-0106; FMCSA-2013-0166; FMCSA-2013-0174; FMCSA-2014-0002; FMCSA-2014-0003; FMCSA-2014-0004; FMCSA-2014-0005; FMCSA-2014-0006 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket number(s) 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, S.E., Washington, DC, between 9 a.m. and 5 p.m., e.t., 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 online.

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

## **I. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years 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.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver 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 a 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.

The 88 individuals listed in this notice have requested renewal of their exemptions from the vision standard in 49 CFR 391.41(b)(10), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period

## **II. Request for Comments**

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.

### **III. 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. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 88 applicants has satisfied the renewal conditions for obtaining an exemption from the vision requirement (64 FR 40404; 64 FR 54948; 64 FR 66962; 65 FR 159; 66 FR 63289; 67 FR 10471; 67 FR 10475; 67 FR 19798; 68 FR 64944; 68 FR 74699; 69 FR 8260; 69 FR 10503; 69 FR 19611; 70 FR 57353; 70 FR 67776; 70 FR 72689; 71 FR 4194; 71 FR 6824; 71 FR 6828; 71 FR 6829; 71 FR 13450; 71 FR 14567; 71 FR 19604; 71 FR 26602; 71 FR 30229; 71 FR 32183; 71 FR 41310; 72 FR 58362; 72 FR 64273; 72 FR 67340; 72 FR 67344; 73 FR 1395; 73 FR 6242; 73 FR 11989; 73 FR 15254; 73 FR 15255; 73 FR 15567; 73 FR 16950; 73 FR 27015; 73 FR 27017; 73 FR 27018; 73 FR 28187; 73 FR 36955; 74 FR 62632; 74 FR 65842; 74 FR 65845; 75 FR 9477; 75 FR 9481; 75 FR 9482; 75 FR 14656; 75 FR 19674; 75 FR 20881; 75 FR 20882; 75 FR 22178; 75 FR 25917; 75 FR 25918; 75 FR 27621; 75 FR 28684; 75 FR 36778; 75 FR 36779; 75 FR 39729; 76 FR 70215; 77 FR 7233; 77 FR 10606; 77 FR 13689; 77 FR 15184; 77 FR 17115; 77 FR 23797; 77 FR 23799; 77 FR 23800; 77 FR 27847; 77 FR 27849; 77 FR 27850; 77 FR 33017; 77 FR 33558; 77 FR 36338; 77 FR 38384; 77 FR 38386; 77 FR 44708; 78 FR 62935; 78 FR 64280; 78 FR 76395; 79 FR 1908; 79 FR 10606; 79 FR 14328; 79 FR 14331; 79 FR 14333; 79 FR 14571; 79 FR 17641; 79 FR 18390; 79 FR 18392; 79 FR 22000; 79 FR 22003; 79 FR 23797; 79 FR 27365; 79 FR 27681; 79 FR 28588; 79 FR 29495; 79 FR 29498; 79 FR

35212; 79 FR 35218; 79 FR 35220; 79 FR 37843; 79 FR 38649; 79 FR 47175). They have submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 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 requirements. 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.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of July and are discussed below:

As of July 8, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 40 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (64 FR 40404; 64 FR 66962; 66 FR 63289; 67 FR 10471; 67 FR 19798; 68 FR 64944; 69 FR 19611; 70 FR 57353; 70 FR 67776; 70 FR 72689; 71 FR 26602; 72 FR 58362; 72 FR 64273; 72 FR 67340; 72 FR 67344; 73 FR 1395; 73 FR 6242; 73 FR 15254; 73 FR 15567; 73 FR 16950; 73 FR 27015; 73 FR 27017; 74 FR 62632; 74 FR 65842; 74 FR 65845; 75 FR 9477; 75 FR 9482; 75 FR 14656; 75 FR 19674; 75 FR 20881; 75 FR 27621; 75 FR 28684; 76 FR 70215; 77 FR 7233; 77 FR 10606; 77 FR 13689; 77 FR 17115; 77 FR 23799; 77 FR 23800; 77 FR 27847; 77 FR 27849; 77 FR 33558; 77 FR 38386; 78 FR 62935; 78 FR 64280; 78 FR 76395; 79 FR 1908; 79 FR 10606; 79 FR 14328; 79 FR 14331; 79 FR 14333; 79 FR 14571; 79 FR

17641; 79 FR 18390; 79 FR 18392; 79 FR 22000; 79 FR 22003; 79 FR 23797; 79 FR 27365; 79 FR 27681; 79 FR 28588; 79 FR 29495; 79 FR 29498; 79 FR 38649):

|                                 |                             |                             |
|---------------------------------|-----------------------------|-----------------------------|
| Guy M. Alloway (OR)             | Roger E. Anderson (TX)      | Alan A. Andrews (NE)        |
| William C. Christy (FL)         | David F. Cialdea (MA)       | Gerard J. Cormier (MA)      |
| Travis C. Denzler (MN)          | Barent H. Eliason (MO)      | Sean O. Feeny (FL)          |
| Paul W. Fettig (SD)             | Hector O. Flores (MD)       | Brian R. Gallagher (TX)     |
| Todd C. Grider (IN)             | Jimmy G. Hall (NC)          | Taras G. Hamilton (TX)      |
| Donald W. Holt (MA)             | William D. Jackson (MN)     | Darryl J. Johnson (MN)      |
| Gregory R. Johnson (SC)         | Glenn K. Johnson, Jr. (NC)  | John Lucas (NC)             |
| Albert E. Malley (MN)           | Steven Martin (IL)          | Charles E. Meis (TX)        |
| Carlos A. Mendez-Castellon (VA) | Michael R. Moore (MD)       | Charles R. Morris, Jr. (OH) |
| Hassan Ourahou (KY)             | James M. Nohl (MN)          | Enoc Ramos III (TX)         |
| Jamey D. Reed (OK)              | Christopher A. Reineck (OH) | James T. Rohr (MN)          |
| Joe Sanchez (TX)                | James S. Seenoo (NV)        | Steven S. Smith, Jr. (PA)   |
| Thomas L. Tveit (SD)            | Kevin R. White (NC)         | Richard W. Wylie (CT)       |
| Steven E. Young (MO)            |                             |                             |

The drivers were included in one of the following dockets: Docket Nos. FMCSA-1999-5748; FMCSA-2001-11426; FMCSA-2005-22194; FMCSA-2007-0017; FMCSA-2007-0071; FMCSA-2007-29019; FMCSA-2008-0021; FMCSA-2009-0291; FMCSA-2010-0050; FMCSA-2012-0040; FMCSA-2012-0104; FMCSA-2013-0166; FMCSA-2013-0174; FMCSA-2014-0002; FMCSA-2014-0003; FMCSA-2014-0004; FMCSA-2014-0005. Their exemptions are effective as of July 8, 2016, and will expire on

July 8, 2018.

As of July 12, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 7 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (71 FR 4194; 71 FR 13450; 73 FR 15255; 75 FR 9481; 75 FR 20882; 75 FR 22178; 75 FR 25917; 75 FR 25918; 75 FR 39729; 77 FR 15184; 77 FR 27847; 77 FR 27850; 77 FR 36338; 77 FR 38386; 79 FR 35220):

|                         |                           |                              |
|-------------------------|---------------------------|------------------------------|
| Walter M. Brown (SC)    | Chadwick S. Chambers (AL) | William C. Dempsey, Jr. (MA) |
| Miguel H. Espinoza (CA) | Ricky P. Hastings (TX)    | Leland B. Moss (VT)          |
| Markus Perkins (LA)     |                           |                              |

The drivers were included in one of the following dockets: Docket No. FMCSA-2005-23099; FMCSA-2009-0011; FMCSA-2010-0082; FMCSA-2011-0379; FMCSA-2012-0104. Their exemptions are effective as of July 12, 2016, and will expire on July 12, 2018.

As of July 20, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 17 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (64 FR 5948; 65 FR 159; 67 FR 10471; 67 FR 10475; 67 FR 19798; 68 FR 74699; 69 FR 8260; 69 FR 10503; 69 FR 19611; 70 FR 57353; 70 FR 72689; 71 FR 6824; 71 FR 6828; 71 FR 6829; 71 FR 14567; 71 FR 19604; 71 FR 26602; 71 FR 30229; 71 FR 32183; 71 FR 41310; 73 FR 11989; 73 FR 15567; 73 FR 27017; 73 FR 27018; 73 FR 28187; 73 FR 36955; 75 FR 36778; 75 FR 36779; 77 FR 38384; 79 FR 35212; 79 FR 35218; 79 FR 47175):

|                          |                           |                          |
|--------------------------|---------------------------|--------------------------|
| Delmas C. Bergdoll (WV)  | Kenneth J. Bernard (LA)   | Harvis P. Cosby (MD)     |
| Daniel R. Franks (OH)    | Walter D. Hague, Jr. (VA) | William G. Hix (AR)      |
| Timothy B. Hummel (KY)   | Clarence H. Jacobsma (IN) | Charles E. Johnston (MO) |
| Aaron C. Lougher (OR)    | William F. Mack (WA)      | Patrick E. Martin (WA)   |
| Leland K. McAlhaney (IN) | Ronald M. Price (MD)      | Scott D. Russell (WI)    |
| Alton M. Rutherford (FL) | Sandra J. Sperling (WA)   |                          |

The drivers were included on the following docket: Docket No. FMCSA-1999-6156; FMCSA-2001-11426; FMCSA-2003-16564; FMCSA-2005-22194; FMCSA-2006-23773; FMCSA-2006-24015; FMCSA-2006-24783; FMCSA-2008-0021; FMCSA-2014-0006. Their exemptions are effective as of July 20, 2016, and will expire on July 20, 2018.

As of July 22, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 15 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (79 FR 35212; 79 FR 47175):

|                         |                          |                         |
|-------------------------|--------------------------|-------------------------|
| Abdulahi Abukar (KY)    | Gregory K. Banister (SC) | Amanuel W. Behon (WA)   |
| Kenneth W. Bos (MN)     | Brian L. Elliot (MO)     | Bradley C. Hansell (OR) |
| Samuel L. Klaphake (MN) | Timothy L. Klose (PA)    | Phillip E. Mason (MO)   |
| Kenneth A. Orrino (WA)  | Ruel W. Smith (SD)       | Loren Smith (SD)        |
| Seth D. Sweeten (ID)    | Ronald L. Weiss (MN)     | John T. White, Jr. (NC) |

The drivers were included on the following docket: Docket No. FMCSA-2014-0006. Their exemptions are effective as of July 22, 2016, and will expire on

July 22, 2018.

As of July 30, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 9 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (71 FR 32183; 71 FR 41310; 73 FR 36955; 75 FR 25917; 75 FR 36779; 75 FR 39729; 77 FR 33017; 77 FR 36338; 77 FR 38384; 77 FR 44708; 79 FR 37843; 79 FR 38661):

|                         |                          |                          |
|-------------------------|--------------------------|--------------------------|
| Dale W. Coblentz (MT)   | Lester M. Ellingson, Jr. | Damon G. Gallardo (CA)   |
| Daniel L. Grover (KS)   | James E. Modaffari (OR)  | Larry A. Nienhaus (MI)   |
| Gregory A. Reinert (MN) | Scott J. Schlenker (WA)  | Joseph B. Shaw, Jr. (VA) |

The drivers were included on the following docket: Docket No. FMCSA-2006-24783; FMCSA-2010-0082; FMCSA-2012-0106. Their exemptions are effective as of July 30, 2016, and will expire on July 30, 2018.

#### **Conditions and Requirements**

The exemptions are extended subject to the following conditions: (1) each driver must undergo an annual physical examination (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a certified Medical Examiner, as defined by 49 CFR 390.5, who attests that the driver is otherwise physically qualified under 49 CFR 391.41; (2) each driver must 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) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person

while driving for presentation to a duly authorized Federal, State, or local enforcement official. 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.

#### **IV. Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

#### **VI. Conclusion**

Based upon its evaluation of the 88 exemption applications, FMCSA renews the exemptions of the aforementioned drivers 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 two years unless revoked earlier by FMCSA.

Issued on: December 19, 2016

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Larry W. Minor  
Associate Administrator for Policy

