



[4910-EX-P]

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2019-0110]

**Qualification of Drivers; Exemption Applications; Hearing**

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

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 29 individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions would enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA-2019-0110 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/docket?D=FMCSA-2019-0110>. Follow the online 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., ET, Monday through Friday, except Federal Holidays.
- Fax: (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the SUPPLEMENTARY INFORMATION section for instructions on submitting comments.

**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, SE, Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation**

**A. Submitting Comments**

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA-2019-0110), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov/docket?D=FMCSA-2019-0110>. Click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

#### **B. Viewing Documents and Comments**

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov/docket?D=FMCSA-2019-0110> and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

#### **C. 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**

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-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 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 29 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, "Qualification of Drivers; Application for Exemptions; National Association of the Deaf,"

(78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

### **III. Qualifications of Applicants**

Jeremy T. Albright

Mr. Albright, 31, holds an operator's license in California.

Byron S. Allen

Mr. Allen, 30, holds an operator's license in Florida.

Carlos Arellano

Mr. Arellano, 32, holds an operator's license in California.

Ryan Arrington

Mr. Arrington, 34, holds an operator's license in Minnesota.

Jeffrey A. Barbuto

Mr. Barbuto, 38, holds an operator's license in New Hampshire.

Dain Covington

Mr. Covington, 31, holds an operator's license in Virginia.

Tymekia L. Crawford

Ms. Crawford, 26, holds an operator's license in Texas.

Brian J. Davlin

Mr. Davlin, 50, holds a class A CDL in Nevada.

John Fazio

Mr. Fazio, 37, holds a class A CDL in Ohio.

Alvin Grasty

Mr. Grasty, 54, holds a class A CDL in Pennsylvania.

Derek Hawkins

Mr. Hawkins, 37, holds an operator's license in New Hampshire.

Emil A. Iontchev

Mr. Iontchev, 38, holds a class A CDL in Illinois.

Shane Kennedy

Mr. Kennedy, 71, holds a class A CDL in Florida.

Lacey Mathis

Ms. Mathis, 37, holds an operator's license in Tennessee.

Billy Joe McClain

Mr. McClain, 53, holds a class A CDL in New York.

Danny W. McGowan

Mr. McGowan, 42, holds a class A CDL in West Virginia.

Alan Mitchell

Mr. Mitchell, 70, holds a class A CDL in New York.

Ronald Misner

Mr. Misner, 57, holds a class A CDL in California.

Matthew Moore

Mr. Moore, 34, holds a class A CDL in Texas.

Abdiwahab S. Olow

Mr. Olow, 31, holds an operator's license in Minnesota.

Timothy Roberts

Mr. Roberts, 29, holds an operator's license in Tennessee.

Gilbert L. Swagger, Jr.

Mr. Swagger, 66, holds a class A CDL in Texas.

Teddy R. Tice

Mr. Tice, 50, holds a class A CDL in New York.

Cameron Thomas

Mr. Thomas, 33, holds an operator's license in Iowa.

Tyler Turner

Mr. Turner, 52, holds an operator's license in Tennessee.

Jerry Ward

Mr. Ward, 28, holds an operator's license in North Carolina.

Edward Wessels

Mr. Wessels, 28, holds an operator's license in Missouri.

Joseph Williams

Mr. Williams, 58, holds an operator's license in Maryland.

Thomas E. Wray

Mr. Wray, 50, holds an operator's license in North Carolina.

#### **IV. Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the DATES section of the notice.

Issued on: October 4, 2019.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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