

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****[FMCSA–2013–0171]****Qualification of Drivers; Exemption Applications; Vision****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of denials.

SUMMARY: FMCSA announces its denial of 91 applications from individuals who requested an exemption from the Federal vision standard applicable to interstate truck and bus drivers and the reasons for the denials. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The Agency has concluded that granting these individuals an exemption would not achieve the required level of safety.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, U.S. Department of Transportation, FMCSA, 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 vision standard for a renewable 2-year period if it finds “such an exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such an exemption.” The procedures for requesting an exemption are set forth in 49 CFR part 381.

Accordingly, FMCSA evaluated 91 individual exemption requests on their merit and made a determination that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption program. Each applicant has, prior to this notice, received a letter of final disposition on the exemption request. Those decision letters fully outlined the basis for the denial and constitute final Agency action. The list published in this notice summarizes the Agency’s recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following 15 applicants had no experience operating a CMV:

Daniel S. Billig
Christopher Delo
Alan Dorantes
Deborah S. Ford
Rebecca L. Jenson
Christopher M. Kelly
Alex M. Long
Charles McDonald
Kenneth C. Mead
Abdelkhaleq R. Muhammad
Eduardo Nunez
Michael J. Sawlville
Richard Seidel
Kyle Smith
Kirk C. Ward

The following 23 applicants did not have 3 years of experience driving a CMV on public highways with their vision deficiencies:

Gordon T. Anderson
Amanuel W. Behon
John Bertelle
Devon W. Bivens
Vernie W. Bochmann
Larry Brown
Larry E. Carter
Eric Cherry
Donald Darling
David Dibbs
Everett H. Fuller
Tom Gibson
Joshua A. Holcombe
Christopher A. Johnson
Thomas R. Lease
Collin C. Longacre
Jason McKinney
Michael L. Muetting
Steven D. Nelson
Steven S. Smith, Jr.
Kyle L. Souza
Kyle M. Wallace
Ricky W. Woods

The following 3 applicants did not have 3 years of recent experience driving a CMV with the vision deficiency:

Roy Duncan
Edmond Harold
John M. Munroe

The following applicant, Dawson Smith, did not have sufficient driving experience during the past 3 years under normal highway operating conditions.

The following 2 applicants had their commercial driver’s license suspended during the 3-year review period for moving violations. Applicants do not qualify for an exemption with a suspension during the 3-year period:

Buck J. Barney
Charles R. Edwards

The following applicant, Victor A. Jorge, did not have verifiable proof of commercial driving experience over the

past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

The following applicant, James C. Reed, Jr., was unable to obtain a statement from an optometrist or ophthalmologist stating that he was able to operate a commercial vehicle from a vision standpoint.

The following 15 applicants were denied for miscellaneous/multiple reasons:

Anthony Bartel
Ricky A. Bruens
DeAndre Bryan
Robert S. Buckwalter
John R. Freeman
George H. Harrison
Tim Hollenback
Darrel J. Karpowicz
Jason S. Klepp
Mark H. Schneewind
Brian R. Smith
Glenn Snowberger
Drake M. Vendsel
James E. Wilkes, III
Willard C. Wilson

The following applicant, Don R. Alexander, was denied because he never submitted the required documents.

The following 11 applicants met the current federal vision standards. Exemptions are not required for applicants who meet the current regulations for vision:

Bryan L. Adkins
Charles J. Clay, Jr.
Michael W. Doig
Jonathan E. Edwards
Shane B. Henninger
Kevin Hesson
Aldric L. Jones
Fernando Polanco
Francisca M. Rhodes
Ronald F. Simpson
Russel P. Worl

The following 12 applicants were denied because they will not be driving interstate, interstate commerce, or not required to carry a DOT medical card:

Pasco Anderson
Steven K. Bain
William C. Braaten
Stanley Chaskey
Keith Dowty
Richard B. Grove
Richard Hazelwood
Wilton F. Marine
James B. McCullough
Gary D. Morgan
Michael Nishida-Llanes
Dennis C. Welp

Finally, the following 6 applicants perform transportation for the federal government, state, or any political subdivision of the state.

Michael Newhouse
Donald C. Schmitt
Ronnie L. Pruitt
Denish L. McQueen
Jimmy J. Thornton
Sharon McDaniel

Issued on: December 16, 2013.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0169]

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 48 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 are effective December 24, 2013. The exemptions expire on December 24, 2015.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, 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 from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

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> 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 acknowledgement 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 Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On October 28, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 64274). That notice listed 48 applicants' case histories. The 48 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 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." The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 48 applications on their merits and made a determination to grant exemptions to each of them.

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 requirement 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 vision limitation and demonstrated their ability to drive safely. The 48 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 complete loss of vision, anophthalmos, amblyopia, anisometropic amblyopia, penetration trauma, refractive amblyopia, enucleation, exotropia, prosthetic eye, corneal scar, retinal damage, macular scar, esotropia, macular hole, visual acuity loss, cataract, chronic angle closure glaucoma, central retinal artery occlusion, and idiopathic ischemic event. In most cases, their eye conditions were not recently developed. Thirty-three of the applicants were either born with their vision impairments or have had them since childhood.

The fifteen individuals that sustained their vision conditions as adults have had it for a period of 3 to 32 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 48 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 of careers ranging from 3 to 50 years. In the past 3 years, two of the drivers were involved in crashes and three were convicted for moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the October 28, 2013 notice (78 FR 64274).