

review and approval. FMCSA requests approval to revise an ICR entitled, "Annual and Quarterly Report of Class I Motor Carriers of Passengers (formerly OMB 2139-0003)," which the Agency uses to ensure that motor carriers of passengers comply with its financial and operating statistics requirements in chapter III of title 49 CFR part 369 entitled, "Reports of Motor Carriers." The Agency invites public comment on this ICR. On April 20, 2012, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR. FMCSA received one comment in response to the above notice. The comment did not address the burden or utility of the ICR.

**DATES:** Please send your comments by October 26, 2012. OMB must receive your comments by this date in order to act quickly on the ICR.

**ADDRESSES:** All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA-2012-0048. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov), or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Ms. Vivian Oliver, Transportation Specialist, Office of Information Technology, Operations Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building, 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202-366-2974; email Address: [vivian.oliver@dot.gov](mailto:vivian.oliver@dot.gov). Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** *Title:* Annual and Quarterly Report of Class I Motor Carriers of Passengers (formerly OMB 2139-0003).

*OMB Control Number:* 2126-0031.

*Type of Request:* Extension of a currently-approved information collection.

*Respondents:* Class I Motor Carriers of Passengers.

*Estimated Number of Respondents:* 2 (per year).

*Estimated Time per Response:* 18 minutes per response.

*Expiration Date:* September 30, 2012.

*Frequency of Response:* Annually and Quarterly.

*Estimated Total Annual Burden:* 3 hours [10 responses × 18 minutes per response/60 minutes].

**Background:** For-hire Class I motor carriers of passengers (including interstate and intrastate)<sup>1</sup> must file Motor Carrier Quarterly and Annual Reports (Form MP-1) that provide financial and operating data (see 49 U.S.C. 14123 and implementing FMCSA regulations in 49 CFR part 369). The Agency uses this information to assess the health of the industry and identify industry changes that may affect national transportation policy. The info also shows company financial stability and traffic patterns. Passengers carriers required to comply with the regulations are classified on the basis of their annual gross carrier operating revenues. Under the Financial & Operating Statistics (F&OS) program, FMCSA collects balance sheet and income statement data along with information on tonnage, mileage, employees, transportation equipment, and other related data.

The Agency makes the data and information collected publicly available as prescribed in 49 CFR part 369. In the past, the former Interstate Commerce Commission (ICC) issued these regulations pursuant to the Interstate Commerce Act, 49 U.S.C. 11145, 49 U.S.C. 11343(d)(1) and the Bus Regulatory Act of 1982. Later, the authority was transferred to the U.S. Department of Transportation on January 1, 1996, by Chapter 141 of the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104-88, 109 Stat. 803, 893 (Dec. 29, 1995)), now codified at 49 U.S.C. 14123. The Secretary of Transportation (Secretary) transferred the authority to administer the F&OS program to the former Bureau of Transportation Statistics on September 30, 1998 (63 FR

<sup>1</sup>For purposes of the Financial & Operating Statistics (F&OS) program, passenger carriers are classified into two groups: (1) Class I carriers are those having average annual gross transportation operating revenues (including interstate and intrastate) of \$5 million or more from passenger motor carrier operations after applying the revenue deflator formula in the Note of section 369.3; (2) Class II passenger carriers are those having average annual gross transportation operating revenues (including interstate and intrastate) of less than \$5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in Note A of section 369.3. Only Class I carriers of passengers must file Annual and Quarterly Report Form MP-1, but Class II passenger carriers must notify the agency when there is a change in their classification or their revenues exceed the Class II limit.

52192). Pursuant to this authority, the BTS, now part of the Research and Innovative Technology Administration (RITA), became the responsible DOT modal administration for implementing the F&OS program and requirements in 49 CFR part 1420. On September 29, 2004, the Secretary transferred the responsibility for the F&OS program from BTS to FMCSA (69 FR 51009). On August 10, 2006 (71 FR 45740), the Secretary published a final rule that transferred and redesignated the motor carrier financial and statistical reporting regulations of BTS formerly located in chapter XI of title 49 CFR to FMCSA, See 49 CFR part 369.

**Public Comments Invited:** FMCSA requests comments on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued on: September 18, 2012.

**Kelly Leone,**

*Associate Administrator for Office of Research and Information Technology.*

[FR Doc. 2012-23677 Filed 9-25-12; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0214]

#### 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 12 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 September 26, 2012. The exemptions expire on September 26, 2014.

**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:**

**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 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>.

**Background**

On August 6, 2012, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (77 FR 46793). That notice listed 12 applicants' case histories. The 12 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 12 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 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 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 12 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 retinal scarring, telangiectasis, enucleation, amblyopia, macular scarring, strabismus, loss of vision, and glaucoma. In most cases, their eye conditions were not recently developed. Seven 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 period of 7 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 12 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 for careers ranging from 3 to 52 years. In the past 3 years, two of the drivers were involved in crashes, and two of the 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 August 6, 2012 notice (77 FR 46793).

**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 3 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.

We believe we 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 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 12 applicants, two of the drivers were involved in crashes, and two 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 12 applicants listed in the notice of August 6, 2012 (77 FR 46793).

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 12 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 two comments in this proceeding. The comments were considered and discussed below.

The first individual, Timmeeka Bridges, was in favor of granting the Federal vision exemption to all of the drivers listed in this notice because they have already demonstrated their ability to operate a CMV safely on state highways and a doctor's opinion has supported the applicants.

The second individual, Tyler Nieman, was not in support of granting the Federal vision exemption to all the drivers listed because he feels that they cannot meet the requirements necessary to drive CMVs on interstate highways and pose a danger on the roads.

In response to the second comment, FMCSA's exemption process supports drivers with vision deficiencies who seek to operate in interstate commerce. In addition, FMCSA relies on the expert medical opinion of the optometrist or ophthalmologist, who are required to attest that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and the medical examiner, who is required to attest that the individual is otherwise physically qualified under 49 CFR 391.41. Until the Agency issues a Final Rule, however, drivers with vision deficiencies must continue to apply for exemptions from FMCSA, and request renewals of such exemptions. FMCSA will grant exemptions only to those applicants who meet the specific conditions and comply with all the requirements of the exemption.

#### Conclusion

Based upon its evaluation of the 12 exemption applications, FMCSA exempts Michael J. Bechta (PA), Bryan G. Brockus (ID), Larry Clay (NM), Michael D. DeKorte (MI), Eric L. Gomersall (WI), Larry E. Johnsonbaugh, Jr. (PA), Albert Lewis, (AL), John B. Middleton (OH), Ronald W. Patten (ME), Kirk W. Scott (CT), Michael F. Sprouse (SC), and John G. Steedley (GA) 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: September 19, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2012-23675 Filed 9-25-12; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0278]

#### 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 5 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. 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. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

**DATES:** Comments must be received on or before October 26, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0278 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 5 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

##### James R. Atherton

Mr. Atherton, age 64, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "I feel that Mr. Atherton has sufficient vision to drive a commercial vehicle as long as he follows all the recommended restrictions." Mr. Atherton reported that he has driven tractor-trailer combinations for 37 years, accumulating 2.7 million miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; failure to obey a traffic signal.

##### Jose S. Chavez

Mr. Chavez, 47, had a rupture in his left eye due to an injury sustained in 1984. The best corrected visual acuity in his right eye is 20/20, and in his left eye, hand motion vision. Following an examination in 2011, his ophthalmologist noted, "I certify, in my medical opinion, that this patient has sufficient vision to perform the driving test required to operate a commercial vehicle and a waiver should be done, because I am aware of that normally you have to have two eyes unless you have a waiver; but he has been doing this for many years without an accident and he is a very reliable and careful driver." Mr. Chavez reported that he has driven tractor-trailer combinations for 22 years, accumulating 3.3 million miles. He holds a Class A Commercial Driver's License (CDL) from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### Christopher K. Foot

Mr. Foot, 46, has a prosthetic right eye due to traumatic injury sustained in 1970. The best corrected visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, "Based on his excellent vision in the left eye and his long history of driving commercial vehicles, it is in my medical opinion that he has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle." Mr. Foot reported that he has driven straight trucks for 4 years, accumulating 312,000 miles. He holds a Class B CDL from Nevada. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 10 mph.