

drive safely now is equivalent to his ability 4 to 5 years ago.

Based upon these factors, the FHWA has determined that Mr. Durham has more than three years of creditable safe-driving experience with his vision deficiency to satisfy the *Rauenhorst* criteria and qualify for a vision exemption.

Basis for Preliminary Determination to Grant Exemption

Independent studies support the principle that past driving performance is a reliable indicator of an individual's future safety record. The studies are filed in FHWA Docket No. FHWA-97-2625 and discussed at 63 FR 1524, 1525 (January 9, 1998). We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrates the driving performance of monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, March 26, 1996.) That monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely.

Mr. Durham has qualifications similar to those possessed by drivers in the waiver program. His experience and safe driving record operating CMVs demonstrate that he has adapted his driving skills to accommodate his vision deficiency. For that reason, the FHWA believes exempting him from 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as vision in his better eye continues to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the FHWA proposes to impose requirements on Mr. Durham similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are (1) that he be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in his better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests he is otherwise physically qualified under 49 CFR 391.41; (2) that he 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 he provide a copy of the annual medical certification to his

employer for retention in its driver qualification file or keep a copy in his driver qualification file if he becomes self-employed. He must also have a copy of the certification when driving to present to a duly authorized Federal, State, or local enforcement official.

In accordance with revised 49 U.S.C. 31315 and 31136(e), the proposed exemption will be valid for 2 years unless revoked earlier by the FHWA. The exemption will be revoked if: (1) Mr. Durham fails to comply with the terms and conditions of the exemption; (2) the exemption results 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. 31315 and 31136(e). If the exemption is effective at the end of the 2-year period, Mr. Durham may apply to the FHWA for a renewal under procedures in effect at that time.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FHWA is requesting public comment from all interested parties on the exemption petition and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue an exemption to Mr. Durham and publish in the **Federal Register** a notice of final determination at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information which becomes available after the closing date. Interested persons should continue to examine the docket for new material.

A copy of this notice will be mailed to compliance and enforcement personnel in the State of Tennessee, in accordance with 49 U.S.C. 31315(b)(7) and 31136(e), and we welcome comments from State officials.

Authority: 49 U.S.C. 31315 and 31136; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: May 12, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99-12464 Filed 5-17-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA DOCKET NO. FHWA-99-5578]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of petitions and intent to grant applications for exemption; request for comments.

SUMMARY: This notice announces the FHWA's preliminary determination to grant the applications of 32 individuals for an exemption from the vision requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). Granting the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before June 17, 1999.

ADDRESSES: Your written, signed comments must refer to the docket number at the top of this document, and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All comments will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywockarte, Office of Motor Carrier Research and Standards, (202) 366-2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the **Federal Register's** home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

Thirty-two individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), the FHWA may grant an exemption for a renewable 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." Accordingly, the FHWA has evaluated each of the 32 exemption requests on its merits, as required by 49 U.S.C. 31315 and 31136(e), and preliminarily determined that exempting these 32 applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption.

Qualifications of Applicants

1. Grady Lee Black, Jr.

Mr. Black is a 46-year-old individual who has operated CMVs for 24 years. He has had a congenital irregularity called amblyopia ("lazy eye") in his right eye since birth, according to his optometrist. Because of this condition, Mr. Black is unable to meet the vision requirement in 49 CFR 391.41(b)(10).

A 1999 examination by the optometrist reveals Mr. Black has 20/30 vision in his left eye with glasses. In the optometrist's opinion, Mr. Black has sufficient vision to perform the tasks necessary to operate a CMV.

Mr. Black holds a Mississippi commercial driver's license (CDL) with a tank vehicle endorsement. He has driven tractor-trailer combinations more than 2 million miles since 1975, and his official driving record for the past 3 years contains one speeding ticket and no accidents.

2. Marvin E. Brock

In the words of his optometrist, Mr. Brock, 64, has "long-standing" amblyopia in his right eye. Because the eye condition is an old one, he has had many years to adapt his driving skills to accommodate his vision deficiency. A

1998 medical examination indicates he has 20/25 vision in his left eye with glasses. In the optometrist's opinion, Mr. Brock is capable of operating a CMV safely.

Mr. Brock has been a professional truck driver for 24 years and has driven tractor-trailer combinations more than 2 million miles. He holds a California CDL, and his official State driving record reflects no moving violations and no accidents in any vehicle in the last 3 years.

3. Roosevelt Bryant, Jr.

Mr. Bryant is 49 years old and has been employed as a commercial truck driver for 25 years. He has been blind in his left eye since 1979 and therefore cannot meet the vision requirement of 49 CFR 391.41(b)(10).

A 1999 examination indicates Mr. Bryant has 20/20 vision in his right eye without glasses. In his optometrist's opinion, Mr. Bryant is capable of operating a CMV safely.

Mr. Bryant holds a Georgia CDL. He has driven CMVs more than 2 million miles since 1974. His official driving record for the past 3 years reflects no traffic violations and no accidents in any vehicle. Mr. Bryant has operated tractor-trailer combinations for Truck and Trailer Leasing Corporation since May 1979; the president of the company calls him "a dependable, conscientious, hard-working employee."

4. John Alex Chizmar

Mr. Chizmar, 47, has amblyopia in his right eye. The vision in his left eye was 20/15 with glasses in a 1998 examination. His optometrist says Mr. Chizmar is able to perform the tasks necessary to operate a CMV.

Mr. Chizmar has an Ohio CDL. He has driven straight trucks and tractor-trailer combinations in 20 years as a professional driver. His official State driving record for the past 3 years contains no traffic violations and no accidents in a CMV.

5. Billy M. Coker

Mr. Coker, 59, has been employed as a commercial truck driver for 30 years. He has been blind in his left eye since he was a child.

A 1999 medical report indicates Mr. Coker has 20/20 vision in the right eye with corrective lenses. His optometrist states Mr. Coker has the skills to operate a CMV. Having been blind in one eye since childhood, he has had almost his entire life to adapt to it.

He has driven tractor-trailer combinations 3 million miles since 1969. Mr. Coker holds a Tennessee CDL, and his driving record for the past 3

years reflects no traffic violations and no accidents.

6. Cliff Dovel

Mr. Dovel, 46, had his right eye removed in 1993 due to intraocular cancer. A 1999 examination by an ophthalmologist revealed the vision in his left eye to be 20/20 without correction. The ophthalmologist stated Mr. Dovel has sufficient vision to perform the driving tasks associated with a CMV.

Mr. Dovel holds a Washington CDL with a tank vehicle endorsement. He has operated straight trucks and tractor-trailer combinations during a professional driving career spanning more than 20 years. His official State driving record reflects no traffic citations and no accidents in any vehicle for the past 3 years. A statement from Gary Davis Trucking Inc., Mr. Dovel's employer since 1991, refers to him as "an exemplary employee" whose "driving record is excellent."

7. George T. Ellis, Jr.

Mr. Ellis, 55, lost the sight in his left eye in 1980. His vision in the right eye is 20/20 with glasses, according to a 1998 examination. His optometrist states Mr. Ellis can perform the tasks necessary to operate a CMV.

Mr. Ellis holds a Virginia CDL. He is a self-employed owner-operator who has driven straight trucks and tractor-trailer combination vehicles during a 20-year career. For the last 8 years, he has operated tractor-trailers an average of 80,000 miles a year. His official State driving record reveals no traffic citations or accidents in any vehicle in the last 3 years.

8. Weldon R. Evans

Mr. Evans, 32, has had amblyopia in his right eye since birth. Because of this eye condition, Mr. Evans is unable to meet the Federal vision requirement. His left eye was measured at 20/20 with glasses in a 1998 examination, and the optometrist says Mr. Evans "has more than adequate vision to safely perform any driving task" in a CMV.

Weldon Evans holds an Ohio CDL with a tank vehicle endorsement. He has operated tractor-trailer combination vehicles for 8 years and has driven them more than 700,000 miles. His official State driving record lists one moving violation and no accidents in a CMV in the last 3 years. The safety director at his employer since 1995, Total Xpress, writes that Mr. Evans "has been a safe and conscientious driver" for the company.

9. Richard L. Gagnebin

Mr. Gagnebin is a 49-year-old individual who has been blind in his left eye since he was about 19. He has 20/20 unaided vision in his right eye, according to a 1999 examination. The ophthalmologist who conducted the examination asserts Mr. Gagnebin has sufficient vision to drive a CMV.

Mr. Gagnebin has 9 years' experience operating tractor-trailer combinations and 18 years of experience driving straight trucks. He holds a Kansas CDL with a tank vehicle endorsement and has had no traffic violations or accidents in a CMV in the past 3 years. Like the other applicants, Mr. Gagnebin's safe driving record indicates he has adjusted successfully to his vision impairment.

10. James P. Guth

Mr. Guth is a 44-year-old man who has had amblyopia in his left eye since childhood. He has 20/15 vision in his right eye with corrective lenses and 20/20 uncorrected. An optometrist examined him in 1998 and stated Mr. Guth is able to operate a CMV safely.

Mr. Guth has 16 years of experience operating tractor-trailer combinations and 7 years' experience operating straight trucks. He holds a Pennsylvania CDL with tank vehicle and passenger endorsements and has driven more than 2 million miles in commercial vehicles. He has no traffic citations or accidents in any vehicle on his official driving record for the past 3 years.

11. James J. Hewitt

Mr. Hewitt, 33, has had amblyopia in his left eye since birth. The vision in his right eye is 20/20 without glasses, according to a 1999 examination. His ophthalmologist states Mr. Hewitt is able to perform the duties of a CMV driver.

Mr. Hewitt has a Wisconsin CDL with tank vehicle and hazardous materials endorsements. He has operated tractor-trailer combination vehicles for 4 years and has accumulated more than 350,000 miles behind the wheel. His official State driving record reveals no accidents or citations in any vehicle for the past 3 years. This safe driving record indicates Mr. Hewitt has adapted successfully to a vision impairment he has had all his life.

12. Paul M. Hoerner

Mr. Hoerner, 58, has had amblyopia in his left eye since childhood. The vision in his right eye was 20/30 with glasses in a 1999 examination. His ophthalmologist says Mr. Hoerner has sufficient vision to perform the tasks necessary to operate a CMV.

Mr. Hoerner holds a South Dakota CDL with a tank vehicle/hazardous materials endorsement. He has 40 years' experience driving straight trucks and has driven tractor-trailer combinations for 15 years. His official State driving record contains no traffic violations and no accidents in any vehicle in the past 3 years.

13. Carroll Joseph Ledet

Mr. Ledet, 48, has a cataract condition in his left eye which prevents him from meeting the Federal vision standard. The condition has existed since he was 12 years old. An optometrist examined him in 1999 and found Mr. Ledet's vision in the right eye to be 20/20 without glasses. The optometrist says Mr. Ledet is able to perform the tasks required to operate a CMV.

Mr. Ledet has a Louisiana CDL with a tank vehicle/hazardous materials endorsement. He has been a professional truck driver for 19 years and has driven tractor-trailer combination vehicles more than 800,000 miles. There are no traffic violations or accidents in any vehicle in the past 3 years on his official driving record.

14. Charles L. Lovern

Mr. Lovern, 49, has had a lesion on the retina in his left eye since early childhood, thus making him unable to meet the Federal vision standard in 49 CFR 391.41(b)(10). An optometrist examined him in 1999 and found the vision in his right eye to be 20/20 without glasses. The optometrist states Mr. Lovern has sufficient vision to "operate any commercial vehicle safely."

Mr. Lovern has a Tennessee CDL with a tank vehicle endorsement and has operated straight trucks for 9 years and tractor-trailer combinations for almost 3 years. His official driving record for the past 3 years reveals one accident and no traffic violations in a CMV. The 1996 accident caused damage to Mr. Lovern's truck; however, there were no injuries and no other vehicle was involved. He was not issued a citation.

15. Craig M. Mahaffey

Mr. Mahaffey is a 25-year-old individual who was born with a cataract on his right eye. This prevents him from meeting the Federal vision requirement. Mr. Mahaffey has 20/20 vision in his left eye with corrective lenses, according to a 1999 examination. The ophthalmologist who conducted the examination asserts Mr. Mahaffey has sufficient vision "to safely operate a commercial vehicle."

Mr. Mahaffey has 3 years' experience operating straight trucks and 6 years'

experience operating tractor-trailer combinations for two Ohio companies. He has driven these CMVs almost 300,000 miles. He holds an Ohio CDL with a tank vehicle endorsement and has no traffic violations or accidents in any vehicle on his official State driving record. One of his employers reports Mr. Mahaffey has received its "Excellence without Incident" award since 1992. Mr. Mahaffey's safe driving record is testimony to the fact he has successfully adapted his driving techniques to his vision impairment.

16. Michael S. Maki

Mr. Maki, 33, has had amblyopia in his right eye since birth. Vision in the left eye is 20/20 with glasses, according to a 1998 examination. His optometrist states Mr. Maki "has demonstrated . . . he is able to safely operate" a CMV and "nothing found in this visual examination would indicate that he is no longer able" to do so.

Mr. Maki holds a Minnesota CDL. He has operated a CMV for United Parcel Service for 6 years, and the company's terminal manager calls him a "valued part of our organization." Mr. Maki's official State driving record reveals no traffic citations or accidents in any vehicle in the past 3 years.

17. Gerald Wayne McGuire

Mr. McGuire, 53, has had amblyopia in his left eye since childhood. A 1999 examination by an optometrist confirmed vision in the right eye to be 20/20 with glasses. The optometrist believes Mr. McGuire is able to perform the tasks required to operate a CMV.

Mr. McGuire holds a Colorado CDL. He has operated straight trucks for 3 years and tractor-trailer combinations for 5 years, driving a total of 550,000 miles in CMVs. His employer, Western Freightways, Inc., calls him "very dependable and safe." There are no moving violations in any vehicle and one accident in a CMV in the past 3 years on his official driving record. In that accident, Mr. McGuire's truck was hit in the rear by a vehicle. No citation was issued to him.

18. Eldon Miles

Mr. Miles, 49, has had a scar on his right eye since 1992 which prevents him from meeting the Federal vision standard. His left eye was measured at 20/15 with glasses in a 1999 examination, and the optometrist asserts Mr. Miles can perform the tasks required to operate a CMV.

Eldon Miles has an Indiana CDL with a hazardous materials/tank vehicle endorsement. He has operated straight trucks and tractor-trailer combination

vehicles for 27 years. In the 7 years since he developed the scar on his eye, Mr. Miles has driven CMVs more than 400,000 miles. There are no traffic violations or accidents in any vehicle on his official State driving record for the past 3 years.

19. Craig W. Miller

Mr. Miller, 43, has been a commercial truck driver for 18 years and has driven for the same company for 15 of them. He has had a macular scar on his right eye since 1992 and cannot meet the Federal vision requirement. A 1998 medical examination indicates Mr. Miller has 20/20 vision in the left eye without corrective lenses. His ophthalmologist states Mr. Miller can perform the tasks required to operate a CMV.

He has driven tractor-trailer combinations and straight trucks approximately 500,000 miles in his career. He has a Missouri CDL with a tank vehicle/hazardous materials endorsement, and his official driving record for the past 3 years reflects no traffic violations and no accidents in any vehicle.

20. Walter F. Moniowczak

Mr. Moniowczak lost the sight in his left eye in 1956. According to a 1999 examination, his right eye is 20/20 without the need for glasses. His ophthalmologist states Mr. Moniowczak can perform the tasks associated with driving a CMV.

Mr. Moniowczak is 62 years old and holds a Michigan CDL with a tank vehicle endorsement. He has operated tractor-trailer combinations for more than 40 years and has driven 4 million miles. He has worked for the same company for the past 42 years, and the company's president says Mr. Moniowczak is "a great asset . . . with his excellent driving record."

There are no moving violations in any vehicle and one accident in a CMV in the past 3 years on his official driving record. In that accident, Mr. Moniowczak was driving his truck on an icy road during a snowstorm. He drove onto the shoulder to avoid vehicles stopped in front of him, and his truck sustained minor damage. There were no injuries and Mr. Moniowczak was not issued a citation.

21. Howard R. Payne

Mr. Payne, 60, was hit in the left eye with a baseball bat as a child. He is unable to meet the Federal vision standard. An optometrist examined him in 1999 and found the vision in Mr. Payne's right eye to be 20/20 unaided. The optometrist writes that he "sees no

reason" why Mr. Payne cannot continue to operate a CMV safely.

Mr. Payne holds a Minnesota CDL. He has been a professional truck driver for 12 years and has driven tractor-trailer combination vehicles almost 600,000 miles. His official driving record for the past 3 years contains one speeding ticket in a CMV and no accidents in any vehicle.

22. Kenneth Adam Reddick

Mr. Reddick, 35, has had amblyopia in his left eye since childhood. A 1999 examination by an optometrist revealed vision in the right eye to be 20/20 with corrective lenses. The optometrist believes Mr. Reddick has sufficient vision to operate a CMV and noted his "very long and safe record."

Mr. Reddick has a Pennsylvania CDL with a hazardous materials/tank vehicle endorsement. In his 14 years as a professional driver, he has driven straight trucks and tractor-trailer combinations almost 1 million miles. His official State driving record for the past 3 years contains no traffic violations and no accidents in any vehicle.

23. Leonard Rice, Jr.

Mr. Rice is a 51-year-old man who had his right eye removed when he was 3 months old. He has 20/20 vision in his left eye without corrective lenses. An optometrist examined him in 1998 and asserted Mr. Rice has sufficient vision to operate a CMV.

Mr. Rice holds a Georgia CDL with tank vehicle/hazardous materials and passenger endorsements. He has driven tractor-trailer combinations and straight trucks more than 1 million miles in a 35-year professional driving career. There are no traffic violations or accidents in any vehicle on his official driving record for the past 3 years.

Mr. Rice received a safe driving award from one of his employers and compliments on his safe driving from others. His record indicates he has successfully adapted his driving techniques to a vision impairment he has had all his life.

24. Willard L. Riggle

Mr. Riggle, 52, suffered an injury to his right eye when he was 8, resulting in a macular scar. A 1999 examination by an ophthalmologist revealed the vision in his left eye to be 20/15 with correction. The ophthalmologist stated Mr. Riggle has "sufficient vision to safely operate" a CMV.

Mr. Riggle holds an Indiana CDL. He has 12 years' experience operating straight trucks and has operated tractor-trailer combinations for 18 years,

accumulating almost 2 million miles in CMVs. Mr. Riggle's official State driving record reflects no traffic violations or accidents in any vehicle in the past 3 years.

25. John A. Sortman

Mr. Sortman, 48, has had a macular defect in his right eye since birth. This condition prevents him from meeting the Federal vision requirement. A 1998 medical report indicates he has 20/20 vision in his left eye with glasses. In his optometrist's opinion, Mr. Sortman is capable of operating a CMV.

Mr. Sortman has operated straight trucks and tractor-trailer combinations professionally for 26 years. He has an Ohio CDL with a hazardous materials endorsement, and his official driving record for the past 3 years reflects no traffic violations or accidents in any vehicle.

26. James Archie Strickland

Mr. Strickland is a 44-year-old individual who lost his left eye in 1993 due to malignant melanoma. He has 20/15 vision in his right eye without glasses, according to a 1999 examination by an ophthalmologist. The ophthalmologist states Mr. Strickland's vision in the right eye "permits normal, unrestricted operation" of a CMV.

Mr. Strickland holds a North Carolina CDL with a tank vehicle/hazardous materials endorsement. He has driven straight trucks and tractor-trailer combinations almost 500,000 miles since he began his professional driving career in 1991. His official State driving record contains no traffic violations and no accidents in a CMV in the past 3 years.

27. James Terry Sullivan

Mr. Sullivan, 40, has amblyopia in his left eye. Because of this condition, Mr. Sullivan is unable to meet the vision requirement in 49 CFR 391.41(b)(10). A 1998 medical examination indicates he has 20/15 vision in his right eye with glasses. In his optometrist's opinion, Mr. Sullivan has sufficient vision to operate a CMV.

Mr. Sullivan has been a professional truck driver for 11 years and has operated straight trucks and tractor-trailer combinations. He holds a Kentucky CDL with a tank vehicle endorsement, and his official State driving record reflects no traffic violations or accidents in any vehicle for the past 3 years.

28. Edward A. Vanderhei

Mr. Vanderhei is 44 years old and has been employed as a commercial truck driver for 20 years. The optic nerve in

his right eye was damaged in 1992, leaving him blind in that eye. An optometrist examined him in 1999 and reports the vision in Mr. Vanderhei's left eye to be 20/20 without correction. In the optometrist's opinion, Mr. Vanderhei "has very good distance [and] peripheral vision" and is capable of operating a CMV.

Mr. Vanderhei holds an Illinois CDL and has driven tractor-trailer combination vehicles more than 1.2 million miles in his career. His official driving record for the past 3 years reflects no traffic violations or accidents in any vehicle. Mr. Vanderhei's employer says he "has performed his duties accident-free and is a valued employee."

29. Buford C. Varnadore

Mr. Varnadore, 72, injured his left eye when he was 14 and has been virtually blind in the eye since then. A 1999 medical examination indicates Mr. Varnadore has 20/30 vision in the right eye without corrective lenses. He has sufficient vision to operate a CMV, according to his optometrist. Having been blind in one eye since he was a teenager, Mr. Varnadore has had almost his entire life to adapt to it.

He has been a professional truck driver more than 41 years and has driven tractor-trailer combinations 2.4 million miles since 1957. Mr. Varnadore holds a North Carolina CDL; his official driving record for the past 3 years reflects no traffic violations and no accidents in any vehicle.

30. Kevin P. Weinhold

Mr. Weinhold, 48, has amblyopia in his left eye. Vision in the right eye was 20/20 with glasses in a 1999 examination. His ophthalmologist states Mr. Weinhold is able to operate a CMV "and control [it] safely."

Mr. Weinhold has a Massachusetts CDL and has 30 years' experience operating CMVs, 10 years with straight trucks and 20 more with tractor-trailer combinations. His official State driving record for the past 3 years reflects no traffic violations and no accidents in any vehicle. He has worked for Pacific Packaging Products, Inc., since 1984, and its chief financial officer says the company has "routinely given Kevin its safe driving awards."

31. Thomas A. Wise

Mr. Wise, 56, has been employed as a commercial truck driver for 30 years. He has had a macular scar in his right eye since he was a child. A 1999 medical report indicates Mr. Wise has 20/20 vision in the left eye with corrective lenses. His optometrist states

Mr. Wise has sufficient vision to operate a CMV.

He has driven tractor-trailer combination vehicles more than 1.5 million miles during his professional career. He has a Colorado CDL, and his official driving record for the past 3 years contains one moving violation in a CMV and no accidents in any vehicle. Mr. Wise has driven trucks for Welby Gardens since 1984. The company's general manager says he has performed his "driving responsibilities safely and efficiently."

32. Rayford R. Harper

Mr. Harper is a 44-year-old individual who has operated CMVs for more than 23 years. He has amblyopia in his left eye, according to his optometrist. Because of this condition, Mr. Harper is unable to meet the Federal vision requirement. A 1999 examination by the optometrist reveals Mr. Harper has 20/20 vision in his right eye without glasses. In the optometrist's opinion, Mr. Harper's vision impairment does not affect his ability to operate a CMV.

He has driven straight trucks and tractor-trailer combinations more than 2.5 million miles in his career. He holds an Alabama CDL, and his official driving record for the past 3 years contains no traffic violations and no accidents in any vehicle.

Basis for Preliminary Determination To Grant Exemptions

Independent studies support the principle that past driving performance is a reliable indicator of an individual's future safety record. The studies are filed in FHWA Docket No. FHWA-97-2625 and discussed at 63 FR 1524, 1525 (January 9, 1998). We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, March 26, 1996.) That monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely.

The 32 applicants have qualifications similar to those possessed by drivers in the waiver program. Their experience and safe driving record operating CMVs demonstrate that they have adapted their driving skills to accommodate their vision deficiency. Since past driving records are reliable precursors of the future, there is no reason to expect

these individuals to drive less safely after receiving their exemptions. Indeed, there is every reason to expect at least the same level of safety, if not a greater level, because the applicants can have their exemptions revoked if they compile an unsafe driving record.

For these reasons, the FHWA believes exempting the individuals from 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as vision in their better eye continues to meet the standard specified in Section 391.41(b)(10). As a condition of the exemption, therefore, the FHWA proposes to impose requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests 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 his or her employer for retention in its driver qualification file or keep a copy in his or her driver qualification file if he or she becomes self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), the proposed exemption for each person will be valid for 2 years unless revoked earlier by the FHWA. 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. 31315 and 31136. If the exemption is effective at the end of the 2-year period, the person may apply to the FHWA for a renewal under procedures in effect at that time.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FHWA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All

comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue exemptions from the vision requirement to the 32 applicants and publish in the **Federal Register** a notice of final determination at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information which becomes available after the closing date. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 31136 and 31315; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: May 12, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-98-4430; Notice 1]

Application for Decision of Inconsequential Noncompliance Federal Motor Vehicle Safety Standard 108—Lamps, Reflective Devices and Associated Equipment

General Motors Corporation (GM), has determined that approximately 15,300 1998 GMC Sonoma and Chevrolet S-10 pickup trucks, and GMC Jimmy and Chevrolet Blazer sport utility vehicles, equipped with the "ZR2" option package, fail to meet a requirement of

Federal Motor Vehicle Safety Standard (FMVSS) 108—*Lamps, Reflective Devices and Associated Equipment*. Specifically, these vehicles are equipped with daytime running lamps (DRLs) mounted higher than the maximum height allowed by S5.5.11(a)(1)(ii) of FMVSS 108. Pursuant to 49 U.S.C. 30118 and 30120, GM has applied to the National Highway Traffic Safety Administration (NHTSA) for a decision that the noncompliance is inconsequential to motor vehicle safety.

GM has also submitted a 49 CFR Part 573 noncompliance notification to the agency in accordance with 49 CFR 556.4(b)(6).

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

The DRLs on the noncompliant vehicles are provided by the upper beam headlamps operating at reduced intensity, with a maximum output of approximately 6,700 candela per lamp. As such, FMVSS 108 requires the DRL be mounted not higher than 34 inches (864 mm) from the road surface. Base-level GMC Sonomas and Jimmys and Chevrolet S-10 pickups and Blazers comply with the DRL height limitation of FMVSS 108. However, the ZR2 option package gives the vehicles a stiffer suspension and larger tires, which results in an over-all increase in the height of the vehicle, including the DRL mounting height. The mean mounting height of DRLs on the noncompliant vehicles is 36 inches above the ground, with a maximum height of 37 inches. As a result, they fail to meet S5.5.11(a)(1)(ii) of FMVSS 108.

GM believes that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. Research conducted by the University of Michigan Transportation Research Institute (UMTRI) on the changes in glare caused by varying mounting height of high beam DRLs confirms that the DRLs on the subject vehicles do not produce significantly more glare than compliant DRLs. In a report published in November of 1995 (UMTRI-95-40), the researchers concluded glare is not appreciably affected by mounting height. In other words, vehicles equipped with DRL lamps not meeting the maximum height restriction do not cause any more glare than vehicles that meet the height restriction. This is true even though the research was conducted on lamps mounted as high as 54 inches above the ground.

2. In addition to the UMTRI research, GM conducted subjective evaluations that confirm the DRLs on the non-complying vehicles do not cause a consequential increase in glare. Vehicles representative of the subject vehicles were modified to create DRLs with mounting heights of 32, 34, 36 and 38 inches above the ground. Subjects were asked to evaluate the glare in their rearview mirror from the DRLs. The results indicate that there is no significant difference in glare rating when the subject lamps are mounted at 32, 34, 36 or 38 inches above the ground (see chart below). While a final research report is not yet available, a summary of the research can be found in Appendix 2, to the petition. The subject lamps received favorable ratings when evaluated for glare. In the chart above, the lamps mounted at 36 and 38 inches above the ground received an overall rating of 6.4, which is just below a rating of 7 ("lamps are satisfactory") and well above a rating of 5 ("lamps are just acceptable").

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