

commercial vehicle." Mr. McGinnis submitted that he has driven straight trucks for 20 years, accumulating 150,000 miles, and tractor-trailer combinations for 13 years, accumulating 1.2 million miles. He holds a Class A CDL from Texas. His driving record shows one accident and no convictions for moving violations in a CMV during the last 3 years. According to the accident report, Mr. McGinnis was attempting to make a right turn when another driver also attempted to turn right by driving on the shoulder. The report indicated that the other driver contributed to the collision by "turning improperly—wrong lane." Mr. McGinnis was not cited.

*17. Gary L. Miller*

Mr. Miller, 61, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/30 and in the left, 20/60. Following an examination in 2003 his optometrist stated, "Mr. Miller's driving experience and life-long visual adaptation make him quite capable of driving commercial vehicles safely." Mr. Miller submitted that he has driven straight trucks for 30 years, accumulating 750,000 miles, and tractor-trailer combinations for 12 years, accumulating 840,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—"failure to yield right of way to an emergency vehicle"—in a CMV.

*18. Jack D. Miller*

Mr. Miller, 46, has had a retinal and iridic coloboma in his left eye since birth. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. His optometrist examined him in 2003 and certified, "With an excellent driving history, stable visual condition and 20/20 potential, I do believe Jack Miller would be safe to drive a commercial vehicle." Mr. Miller reported that he has driven straight trucks for 10 years, accumulating 100,000 miles, and tractor-trailer combinations for 18 years, accumulating 1.6 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—speeding—in a CMV. He exceeded the speed limit by 19 mph.

*19. Ezequiel M. Ramirez*

Mr. Ramirez, 45, lost his right eye due to trauma 20 years ago. His visual acuity in the left eye is 20/20. Following an examination in 2003, his optometrist certified, "In my medical opinion, Ezequiel, has sufficient vision in his left

eye to perform the driving tasks required to operate a commercial vehicle, and has reported performing these driving tasks for the past five to ten years." Mr. Ramirez reported that he has driven tractor-trailer combinations for 5 years, accumulating 816,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—speeding—in a CMV. He exceeded the speed limit by 10 mph.

*20. Carl W. Skinner, Jr.*

Mr. Skinner, 47, has had a macular scar in his left eye since 1997 due to toxoplasmosis. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/400. Following an examination in 2003, his optometrist stated, "Carl Skinner, in my opinion, has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Skinner submitted that he has driven straight trucks for 15 years, accumulating 375,000 miles, and tractor-trailer combinations for 2 years, accumulating 30,000 miles. He holds a Class A CDL from Ohio. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

*21. Doyce J. Soriez*

Mr. Soriez, 70, experienced a retinal artery occlusion in his left eye in 1999. His best-corrected visual acuity is 20/20 in the right eye and 20/50 in the left. Following an examination in 2003, his ophthalmologist stated, "In my opinion, Mr. Soriez has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Soriez reported that he has driven straight trucks for 1 year, accumulating 20,000 miles, tractor-trailer combinations for 1 year, accumulating 800 miles, and buses for 13 years, accumulating 988,000 miles. He holds a Class D chauffeur's license from Louisiana. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*22. Peter D. Wehner*

Mr. Wehner, 27, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/15 and in the left, 20/50. Following an examination in 2003, his optometrist certified, "I see no indication from a visual standpoint that he would be unable to properly handle the visual tasks required in operating a commercial motor vehicle." Mr. Wehner reported that he has driven straight trucks for 4 years, accumulating 160,000 miles. He holds a Class B CDL from

Minnesota. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*23. Howard W. Williams*

Mr. Williams, 54, has retinal scarring in his right eye due to trauma at age 2. His best-corrected visual acuity is 20/200 in the right eye and 20/20 in the left. His optometrist examined him in 2003 and certified, "In my opinion, Mr. Williams has sufficient vision to drive a commercial vehicle." Mr. Williams reported that he has driven buses for 21 years, accumulating 874,000 miles. He holds a Class D chauffeur's license from Louisiana. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

*24. Jack E. Wilson*

Mr. Wilson, 55, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. Following an examination in 2003, his ophthalmologist certified, "It is my medical opinion that he currently has adequate vision to perform the visual tasks required pertaining to the operation of a commercial vehicle." Mr. Wilson reported that he has driven straight trucks for 24 years, accumulating 2.8 million miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

**Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), the 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 earlier in the notice.

Issued on: October 24, 2003.

**Pamela M. Pelcovits,**  
*Office Director, Policy, Plans, and Regulations.*

[FR Doc. 03-27384 Filed 10-29-03; 8:45 am]

BILLING CODE 4910-EX-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA-2003-15892]

**Qualification of Drivers; Exemption Applications; Vision**

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

**ACTION:** Notice of final disposition.

**SUMMARY:** The FMCSA announces its decision to exempt 29 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). 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:** October 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (202) 366-2987, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. 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**

You may see all the comments online through the Document Management System (DMS) at: <http://dmses.dot.gov>.

**Background**

On September 5, 2003, the FMCSA published a Notice of its receipt of applications from 30 individuals, and requested comments from the public (68 FR 52811). The 30 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. They are: Lauren C. Allen, Tracey A. Ammons, Randy B. Combs, William J. Corder, Robert L. Cross, Jr., William P. Davis, Dennis R. Ferguson, Edward J. Genovese, Dewayne E. Harms, Mark D. Kraft, David F. LeClerc, Roger J. Mason, David L. Menken, Richard L. Messinger, James M. Nelson, Edward J. Perfetto, Keith G. Reichel, Carson E. Rohrbaugh, Ronald L. Roy, Robert E. Sanders, Earl W. Sheets, James T. Simmons, Donald J. Snider, Ralphis L. Tisdale, Jesse L. Townsend, Thomas A. Valik, Jr., Thomas D. Walden, James A. Welch, John M. Whetham, and Michael E. Yount.

Under 49 U.S.C. 31315 and 31136(e), the 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, the FMCSA has evaluated the 30 applications on their merits and made a determination to grant the exemptions to 29 of them. The comment period closed on October 6,

2003. One comment was received, and its contents were carefully considered by the FMCSA in reaching the final decision to grant the exemptions.

The FMCSA has not made a decision on the application of Edward J. Perfetto. Subsequent to the publication of the notice of applications and request for comments, the agency received additional information from its check of his motor vehicle record and we are evaluating that information. A decision on this application will be made in the future.

**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 standard red, green, and amber (49 CFR 391.41(b)(10)).

Since 1992, the agency has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FHWA-98-4334.) The panel's conclusion supports the agency's view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 29 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, corneal and retinal scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but nine of the applicants were either born with their vision impairments or have had them since childhood. The nine individuals who

sustained their vision conditions as adults have had them for periods ranging from 4 to 48 years.

Although each applicant has one eye which does not meet the vision standard 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. The 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 performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 29 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 42 years. In the past 3 years, six of the drivers have had convictions for traffic violations. Three of these convictions were for speeding, two for "disregarding a traffic control device," one for "obstructing an intersection," and one for "truck off truck route." Three drivers were involved in an accident but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the September 5, 2003 notice (68 FR 52811). Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants is supported by the information published at 68 FR 52811.

**Basis for Exemption Determination**

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard 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, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 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 accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA-98-3637)

We believe we can properly apply the principle to monocular drivers, because data from a former FMCSA waiver study program clearly demonstrates that 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 with good driving records in the waiver program demonstrated their ability to drive safely 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 accident 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 accident proneness from accident 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 accidents. (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 accident 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 29 applicants receiving an exemption, we note that the applicants have had only three accidents and seven traffic violations in the last 3 years. The applicants achieved this 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, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe 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 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 or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard 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. 31315 and 31136(e) to 29 of the 30 applicants listed in the September notice (68 FR 52811).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 29

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 standard 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 also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

#### Discussion of Comments

The FMCSA received one comment in this proceeding. The comment was considered and is discussed below.

Advocates for Highway and Auto Safety (Advocates) expresses continued opposition to the FMCSA's policy to grant exemptions from the FMCSRs, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

#### Conclusion

After considering the comments to the docket and based upon its evaluation of the 29 exemption applications, the FMCSA exempts Lauren C. Allen, Tracey A. Ammons, Randy B. Combs,

William J. Corder, Robert L. Cross, Jr., William P. Davis, Dennie R. Ferguson, Edward J. Genovese, Dewayne E. Harms, Mark D. Kraft, David F. LeClerc, Roger J. Mason, David L. Menken, Richard L. Messinger, James M. Nelson, Keith G. Reichel, Carson E. Rohrbaugh, Ronald L. Roy, Robert E. Sanders, Earl W. Sheets, James T. Simmons, Donald J. Snider, Ralphis L. Tisdale, Jesse L. Townsend, Thomas A. Valik, Jr., Thomas D. Walden, James A. Welch, John M. Whetham, and Michael E. Yount from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (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 standard 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 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), each exemption will be valid for 2 years unless revoked earlier by the 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. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: October 27, 2003.

**Pamela M. Pelcovits,**

*Office Director, Policy, Plans, and Regulations.*

[FR Doc. 03-27385 Filed 10-29-03; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 11, 2003. No comments were received.

**DATES:** Comments must be submitted on or before December 1, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Michael H. Franklin, Maritime Administration, 400 7th Street, SW., Washington, DC 20590. Telephone: 202-366-2628; Fax: 202-366-3954; or e-mail:

*michael.franklin@marad.dot.gov.*

Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:** Maritime Administration (MARAD).

*Title:* Automated Mutual-Assistance Vessel Rescue System (AMVER).

*OMB Control Number:* 2133-0025.

*Type of Request:* Extension of currently approved collection.

*Affected Public:* U.S.-flag and U.S. citizen-owned vessels that are required to respond under current statute and regulation.

*Forms:* None.

*Abstract:* This collection of information is used to gather information regarding the location of U.S.-flag vessels and certain other U.S. citizen-owned vessels for the purpose of search and rescue in the saving of lives at sea and for the marshalling of ships for national defense and safety purposes. This collection consists of vessels that transmit their positions through various electronic means.

*Annual Estimated Burden Hours:* 2,253 hours.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Date: October 24, 2003.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03-27298 Filed 10-29-03; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD 2003-16248]

#### Maersk Line Ltd.; Extension of Comment Period

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Extension of comment period.

**SUMMARY:** The Maritime Administration (MARAD) is hereby giving notice that the closing date for filing comments in Docket No. MARAD 2003-16248, Notice of Request to Transfer Maritime Security Program Operating Agreements MA/MSP-29 through MA/MSP-43 to Maersk Line, Limited, has been extended to the close of business (5 p.m. EST) November 3, 2003. The notice of request in Docket No. MARAD 2003-16248 was published in the **Federal Register** of October 3, 2003 (68 FR 57507-57508).

Dated: October 24, 2003.

By Order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03-27334 Filed 10-29-03; 8:45 am]

**BILLING CODE 4910-81-P**