

that will be used by a motor carrier that has successfully completed the PASA.

a. "U.S." means the controlled substance and alcohol collection facility is based in the United States.

b. "MX" means the controlled substance and alcohol collection facility is based in Mexico.

c. "Non-CDL" means that during the PASA, FMCSA verified that the motor carrier is not utilizing commercial motor vehicles subject to the commercial driver's license requirements as defined in 49 CFR 383.5 (Definition of Commercial Motor Vehicle). Any motor carrier that does not operate commercial motor vehicles as defined in § 383.5 is

not subject to DOT controlled substance and alcohol testing requirements.

V. *Name of Controlled Substances and Alcohol Collection Facility*: Shows the name and location of the controlled substances and alcohol collection facility that will be used by a Mexico-domiciled motor carrier who has successfully completed the PASA.

TABLE 1—APPLICANT THAT FAILED THE PASA

Row number in Tables 2, 3 and 4 of the Appendix to today's notice	Name of carrier	USDOT No.
1 .....	Trans-Mex Inc., SA de CV .....	710381

TABLE 2—FAILED PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 3 and 4]

Column A—Row No.	Column B—Name of Carrier	Column C—US DOT No.	Column D—FMCSA Register No.	Column E—PASA Initiated	Column F—PASA Completed	Column G—PASA Results	Column H—FMCSA Register	Column I—US Drivers	Column J—US Vehicles
1 .....	Trans-Mex Inc. SA de CV.	710381	MX-324695	10/22/2013	10/22/2013	Failed .....	Not published.	10	5

TABLE 3—FAILED PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 2 and 4]

Column A—row No.	Column B—name of Carrier	Column C—US DOT No.	Column D—FMCSA register No.	Column K—passed verification of 5 elements (yes/no)	Column L—If no, which element failed	Column M—passed phase 1 factor 1	Column N—passed phase 1 factor 2	Column O—passed phase 1 factor 3	Column P—passed phase 1 factor 4
1 .....	Trans-Mex, Inc SA de CV.	710381	MX324695	No	Hours of Service.	Not Completed.	Not Completed.	Not Completed.	Not Completed

TABLE 4—FAILED PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 2 and 3]

Column A—Row No.	Column B—Name of carrier	Column C—US DOT No.	Column D—FMCSA Register No.	Column Q—Passed Phase I Factor 5	Column R—Passed Phase I Factor 6	Column S—No. US vehicles inspected	Column T—No. US Vehicles issued CVSA decal	Column U—Controlled substance collection	Column V—Name of controlled substances and alcohol collection facility
1 .....	Trans-Mex Inc. SA de CV.	710381	MX-324695	Not Completed.	Not Completed.	None	None	Not Completed.	Not Completed.

At the point that the Auditor determined that the applicant failed Phase 1, the PASA was discontinued. As a result, other factors were not assessed and are marked "Not Completed."

To date, this is the third carrier that has failed the PASA. The Act only requires publication of data for carriers receiving operating authority, as failure to successfully complete the PASA prevents the carrier from being granted

authority to participate in the long-haul pilot program. FMCSA agreed to publish this information to show motor carriers that failed to meet U.S. safety standards.

Issued under the authority of delegation in 49 CFR 1.87: June 20, 2014.

Anne S. Ferro,  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0005]

### 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 26 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 July 8, 2014. The exemptions expire on July 8, 2016.

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

**Background**

On May 14, 2014, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (79 FR 27681). That notice listed 26 applicants' case histories. The 26 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 26 applications on their merits and made a determination to grant exemptions to each of them.

**Vision and Driving Experience of the Applicants**

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing 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 26 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 prosthetic eye, retinal detachment, amblyopia, acute zonal occult outer retinopathy with central scotoma, corneal transplant, retina damage, corneal scar, exotropia, strabismus, cataracts, optic nerve disorder, macular degeneration, retinal scarring, macular scar, hereditary macular dystrophy, complete loss of vision, degenerative myopia, and central vein occlusion. In most cases, their eye conditions were not recently developed. Ten of the applicants were either born with their vision impairments or have had them since childhood.

The sixteen individuals that sustained their vision conditions as adults have had it for a period of 4 to 35 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 26 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 in careers ranging from 2 to 52 years. In the past 3 years, one of the drivers was involved in a crash and two were convicted for moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the May 14, 2014 notice (79 FR 27681).

**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.

FMCSA believes it 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

26 applicants, one of the drivers was involved in a crash 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 26 applicants listed in the notice of May 14, 2014 (79 FR 27681).

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 26 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 eight comments in this proceeding. The comments are discussed below.

Karen Whitmer, Theo Rumble, Alyce Johnson, Steven Levine, Larry D. Piner, Christopher L. Webb, Joel G. Arnette, Jr., and Rebecca McPhail are all in favor of granting Glenn K. Johnson, Jr. an exemption from the vision standard.

### Conclusion

Based upon its evaluation of the 26 exemption applications, FMCSA exempts Lyle R. Bell (NE), Tracy L. Bowers (IA), Bradley E. Buzzell (NH), William C. Christy (FL), Gerard J. Cormier (MA), Joe T. Gage (AR), Hector A. Hernandez (MD), Rex G. Holladay (AR), Chestor E. Jaycox (NY), Danny J. Johnson (MN), Glenn K. Johnson, Jr. (NC), Terry A. Legates (OK), Charles E. Meis (TX), Ronald B. Mohr (IA), Hassan Ourahou (KY), Jesus Penuelas (AZ), Enoc Ramos III (TX), James T. Rohr (MN), DelRay V. Ryckman (SD), Joe Sanchez (TX), James S. Seeno (NV), George W. Thomas (SC), Thomas L. Tveit (SD), Bart M. Valiante (CT), James W. Van Ryswyk (IA), and Drake M. Vendsel (ND) 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: June 30, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014-15956 Filed 7-7-14; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0007]

#### 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 52 individuals for exemption from the vision requirement for operating a commercial motor vehicle (CMV) in the Federal Motor Carrier Safety Regulations. The applicants are unable to meet the vision requirement in one eye for various reasons. The exemptions will allow these individuals to operate CMVs in interstate commerce without meeting the prescribed vision requirement in one eye. At the end of the comment period, the Agency will grant exemptions to the applicants listed herein if there are no adverse comments that indicate the driver's ability will not achieve a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulations. All comments will be reviewed and evaluated by FMCSA. Some individuals appearing in this notice may not receive exemptions based on comments received during the comment period. Individuals not granted an exemption may either be published at a future date based on further evaluation or may not be deemed to meet the aforementioned level of safety if granted an exemption. These individuals will be published in a quarterly notice of exemption denials. As always, any adverse comments received after the exemption is granted will be evaluated, and if they indicate that the driver is not achieving a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulation, the exemption will be revoked. When granted, the exemptions will allow these individuals with vision deficiencies in one eye to operate in interstate commerce.

**DATES:** Comments must be received on or before August 7, 2014. All comments will be investigated by FMCSA. The

exemptions will be issued the day after the comment period closes.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2014-0007 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.

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**FOR FURTHER INFORMATION CONTACT:**

Elaine M. Papp, Chief, Medical Programs Division, (202) 366-4001, [fmcamedical@dot.gov](mailto:fmcamedical@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." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 52 individuals listed in this notice have recently 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 has evaluated the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

##### Qualifications of Applicants

###### Don R. Alexander

Mr. Alexander, 59, has had a central retinal vein occlusion in his left eye since 2007. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, "He has a central retinal vein occlusion in his LEFT EYE which dates back to 2007. In my medical opinion, given his history of exemption in the past and the lack of progression in his disease, he can perform the driving tasks required to operate a commercial vehicle." Mr. Alexander reported that he has driven tractor-trailer combinations for 40 years, accumulating 2.17 million miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

###### Jimmy A. Baker

Mr. Baker, 50, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2014, his optometrist stated, "In my opinion, Mr. Baker has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Baker reported that he has driven tractor-trailer combinations for 19 years, accumulating 1.52 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.