Grant, 08/29/00, Exemption No. 6002C

Docket No.: 26378

Petitioner: DaimlerChysler Aerospace, MTU Maintenance Hannover GmbH (MTU)

Section of the FAR Affected: 14 CFR 145.47(c)(1)

Description of Relief Sought/ Disposition: To permit MTU to extend its certification privileges as an FAA-approved foreign repair station to contract the maintenance and repair of engine components of International Aero Engines AG Model V2500 turbine engines to facilities that are not FAA-certificated repair stations, U.S.-original equipment manufacturers, or approved manufacturing licensees for such engines.

Grant, 08/25/00, Exemption No. 5337D

Docket No.: 26608

Petitioner: Phillips Alaska, Inc.

Section of the FAR Affected: 14 CFR 43.3(a), 43.7(a), 91.407(a)(2), 91.417(a)(2)(v), and 121.379

Description of Relief Sought/ Disposition: To permit ARCO Alaska, Inc. (ARCO Alaska), and British Petroleum Exploration, Inc. (BPX), to use the approved maintenance recordkeeping procedures for Alaska Airlines, Inc. (ASA) for Boeing 737–200 aircraft leased and operated by ARCO Alaska and BPX. It also permits ASA to perform maintenance, preventive maintenance, alterations, inspections, major repairs, and major alterations, and subsequently return to service Boeing 737–200 aircraft leased and operated by ARCO Alaska and BPX in accordance with ASA's continuous airworthiness maintenance program and maintenance procedures.

Grant, 08/25/00, Exemption No. 5667D

[FR Doc. 00–23814 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7006]

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 56 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: September 21, 2000.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–2519, FMCSA, 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.

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Background

Sixty-one individuals petitioned the FHWA for an exemption of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are John W. Arnold, James H. Bailey, Victor F. Brast, Jr., John P. Brooks [published as James P. Brooks in the Notice of Intent on April 14, 2000], Robert W. Brown, Benny J. Burke, Derric D. Burrell, Anthony J. Cesternino, Ronald W. Coe, Sr., Richard A. Corey, James A. Creed, William G. Croy, Craig E. Dorrance, Willie P. Estep, Duane H. Eyre, James W. Frion, Lee Gallmeyer, Shawn B. Gaston, James F. Gereau, Rodney M. Gingrich, Esteban Gerardo Gonzalez, Harlan Lee Gunter, Thanh Van Ha, James O. Hancock, Paul A. Harrison, Joseph H. Heidkamp, Jr., Thomas J. Holtmann, Larry D. Johnson, Gary Killian, Marvin L. Kiser, Jr., David R. Lambert, James R. Lanier, Donald Eugene Lee, James Stanley Lewis, Thomas J. Long, Newton Heston Mahoney, Ronald L. Martsching, Robert Evans McClure, Jr., Duane D. Mims, James A. Mohr, William A. Moore, Leonard James Morton, Timothy W. Noble, Kevin J. O'Donnell, Gary L. Reveal, John W. Robbins, Jr., Doyle R. Roundtree, Charles L. Schnell, David L. Slack, Everett J. Smeltzer, Philip Smiddy, James C. Smith, Terry L. Smith, James N. Spencer, Teresa Mary Steeves, Roger R. Strehlow, Timothy W. Strickland, John T. Thomas, Darel E. Thompson, Ralph A. Thompson, and Kevin Wayne Windham.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA 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 FMCSA evaluated the petitions on their merits and made a preliminary determination that the waivers should be granted. On April 14, 2000, the agency published notice of its preliminary determination and requested comments from the public (65 FR 20245). The comment period closed on May 15, 2000. Three comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the petitions.

The FMCSA has not made a decision on five applicants (Donald Eugene Lee, Thomas J. Long, Robert Evans McClure, Jr., Gary L. Reveal, and Charles L. Schnell). Subsequent to the publication of the preliminary determination, the agency received additional information from its check of these applicants' motor vehicle records, and we are evaluating that information. A decision on these five petitions will be made in the future.

Vision and Driving Experience of the Applicants

The vision requirement 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 FHWA 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.) The panel's

conclusion supports the FMCSA's (and previously the FHWA'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 56 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, corneal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 14 of the applicants were either born with their vision impairments or have had them since childhood. The 14 individuals who sustained their vision conditions as adults have had them for periods ranging from 8 to 41 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, can perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL) or non-CDL to operate a CMV. Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the 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. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 56 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 50 years. In the past 3 years, the 56 drivers had 10 convictions for traffic violations among them. Three drivers were involved in accidents in their CMVs, but did not receive a citation. The drivers were convicted of three moving traffic violations; two of them were for speeding and one was for ''Disobey Traffic Signal.''

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in an April 14, 2000, notice (65 FR 20245). Except for two applicants (Thanh Van Ha and James N. Spencer), the docket comments did not focus on the specific merits or qualifications of any applicant; therefore, we have not repeated the individual profiles here. The qualifications of Mr. Ha and Mr. Spencer are further examined below in the discussion of comments. With one exception, our summary analysis of the applicants as a group is supported by the information published at 65 FR 20245. In Mr. Killian's case, his accident was not reported in the April 14, 2000, notice because it was discovered on a subsequent check of his motor vehicle record. The police report indicated that Mr. Killian's vehicle was sideswiped by the other vehicle and the other driver was charged with ''Left of Center.'' Mr. Killian has no other accidents or convictions in a CMV on his driving record for the 3-year review period.

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 these drivers to drive in interstate commerce as opposed to restricting them 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. 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.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver 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.) 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 56 applicants, we note that cumulatively the applicants have had only three accidents and 10 traffic violations in the last 3 years. None of the accidents resulted in the issuance of a citation against the applicant. 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 provides 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 exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. 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 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 will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

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 56 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 its driver qualification file, or keep a copy in his/her driver 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.

Discussion of Comments

The FMCSA received three comments in this proceeding. The comments were considered and are discussed below.

The Licensing Operations Division of the California Department of Motor Vehicles commented opposing the granting of an exemption to Mr. James N. Spencer and Mr. Thanh Van Ha. California is opposed to granting an exemption to Mr. Spencer because he was cited in 1995 for driving a CMV on the wrong side of the road, and he was involved in accidents while operating a CMV in both 1995 and 1996, in which the officer identified him as being the party most responsible for the accidents. California also argues that, although the above violations and accidents are outside the FMCSA's 3-year review period for exemptions, the actions are serious enough to warrant a denial of the exemption.

The FMCSA has established the 3-year requirement of driving with a vision impairment before being eligible for a waiver because: (1) It takes time for a person with a vision deficiency to compensate for that deficiency; (2) the best predictor of safety and future performance of a driver is his past record of accidents and violations; and (3) the 3-year standard corresponds to the longest period of time that states uniformly keep driving records.

Mr. Spencer currently holds a valid intrastate CDL with endorsements for both doubles and triples issued on July 23, 1997, by the State of California. His driving record with the State of California does not reflect the instances cited by the Department of Motor Vehicles. While the FMCSA might agree that an applicant's exceptionally poor driving record outside the established 3-year period might give us pause to reconsider the merits of issuing an exemption, we do not believe that Mr. Spencer's current record warrants a denial. In fact, it appears that his driving has improved over the years as his record indicated no accidents and no violations in the last three years. Nonetheless, we will continue to monitor his driving, along with all other drivers issued exemptions, and will take action to revoke the exemption, if and when warranted.

The State of California is opposed to granting an exemption to Mr. Ha because he does not hold a California commercial driver's license (CDL) and he has never passed a commercial knowledge test or demonstrated compensation for his vision deficiency on a commercial driving test.

The FMCSA requires an applicant for a vision exemption to submit documentation showing that he or she currently holds a intrastate CDL or a license (non-CDL) to operate a CMV. Mr. Ha submitted a copy of a valid California Class C license which allows him to operate a Class C vehicle (having a gross vehicle weight rating of 26,000 pounds or less). California does not require a CDL to operate a Class C vehicle unless the vehicle is used to transport hazardous materials/wastes requiring placards. Mr. Ha has 10 years experience operating a straight truck having a gross vehicle weight rating over 10,000 pounds, a CMV as defined in 49 CFR 390.5. Mr. Ha has satisfied California licensing requirements, including a written test and road test, to operate a Class C vehicle. Consequently, we do not think that Mr. Ha's application for a vision exemption should be denied because he does not possess a CDL and has not passed the knowledge and skills testing required of applicants for CDLs.

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), including the driver qualification standards. Specifically, the AHAS: (1) Asks the agency to clarify the consistency of the exemption application information, (2) objects to the agency's reliance on conclusions drawn from the vision waiver program, (3) raises procedural objections to this proceeding, (4) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)), and finally, (5) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

Most of the issues raised by the AHAS were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), and 65 FR 159 (January 3, 2000). We will not address these points again herein but refer interested parties to those earlier discussions. However, the AHAS has raised some new issues, and these are addressed in the following discussion.

Relative to the comments on the consistency of the information presented to the public, the AHAS questions how various aspects of that information are verified. In particular, the AHAS states that the public is not advised about outside verification of each applicant's miles driven, the number of years driving commercial vehicles, the type of vehicle driven, and the most recent 3-year driving record. The number of years driving commercial vehicles is not the precise experience criteria used to determine an applicant's acceptability for an exemption. That determination is made on the most recent 3 years experience before application. That experience and the type of truck driven is verified by the applicant's employer.

The recent 3-year driving record is verified through the Commercial Driver

License Information System (CDLIS). This is another criteria used to determine if an applicant is acceptable. Total miles driven is not a criteria used to decide acceptability. It has not been stated any place that mileage is a critical criteria. It is, therefore, not verified. Mileage is presented as an indication of overall experience with commercial motor vehicles.

The AHAS states that the FMCSA needs to provide an accurate mileage figure for the recent 3-year period. This mileage is needed, it is stated, to determine whether applicant's crashes and violations are accumulated at low or high exposure in the three years preceding the application. While this may be an interesting determination in some contexts, it is not relevant to the determination of the driver's acceptability. An applicant is acceptable relative to a driving record if there are no crashes for which the driver was issued a citation nor was a contributing factor. It is not relevant whether these types of crashes occur at high or low exposure. If they are present, the driver is disqualified.

The AHAS states that the FMCSA should require a minimum average annual miles driven or total mileage in order to qualify for an exemption. In making this statement, the AHAS notes that mileage driven by applicants in the **Federal Register** notice ranges from as little as 40,000 and 66,000 miles (for 4 and 3 years, respectively) to over three million miles for applicants with 20 or more years driving experience. The AHAS further states that drivers in the Vision Waiver Program appear to have far more driving miles than the applicants to the exemption program (no data were offered). This comparison seems to be presented to support the need for a minimum number of miles to be driven before these drivers can apply for an exemption. This comparison is not valid because the data from the Vision Waiver Program do not support the AHAS statement. An examination of the data from the years the program was in operation shows the annual mileage driven ranged from as little as 1,000 miles to a maximum of 160,000 miles. The median annual miles driven was about 40,000 with 25 percent of the waiver holders usually driving less than 17,000 per year. Defining a required minimum mileage for application would enact a spurious screening standard.

Claiming that a maximum mileage standard is not feasible does not mean that miles driven has no value as a measure. It is part of the basis for establishing whether a program has achieved a ''level of safety that is equivalent to, or greater than, the level of safety that would have been achieved'' absent from exemption. The other part of the safety determination is the number of accidents experienced by an exemption group where accidents and mileage are related through a statistical model named Poisson regression. In this model, the relationship is given as the number of accidents (na) being equal to a rate (r) times mileage (m) (na=r x m). The rate in this model is usually referred to as the accident rate per some convenient unit of miles driven (1 million, for example). This rate is the basis through which the safety level of a program is determined and miles driven are an integral part of the determination. This framework, however, does not suggest that there is a minimum level of mileage that could be arbitrarily used for a screening decision.

The AHAS states that, while the FMCSA provides some information on the applicant's separate experience with combination tractor-trailers and the straight trucks, the agency has not assessed the relative value in terms of driving experience between driving these two types of vehicle configurations. This statement is somewhat unclear. If it is made in the context of the paragraph, then the relative value of the experience is presumed to be related to the granting of an exemption. This would suggest that there should be separate experience specifications for each type of CMV and that an exemption would be issued for a particular type of vehicle. Relative to this, the AHAS also points to research literature concerned with the differences between the two types of trucks. This literature, however, does not address the operation of the two types of CMVs in relation to the visual conditions which are the focus of the exemption program. The best evidence of possible disparities in the operation of the CMV types is taken from the earlier Vision Waiver Program, the AHAS doubts notwithstanding. The data taken from the program show that those driving straight trucks had an accident that was slightly higher than that of the combination truck operators (2.15 accidents per million miles driven versus 1.76). This difference was not statistically significant. As a result, it appears that a consideration of truck type in the application process is not necessary.

The same conclusion can be drawn in relation to the AHAS statement concerned with driving routines. The AHAS states that the FMCSA has not made any attempt to distinguish between the kinds of driving routine the applicants experienced based on the type of driving they had done. To support the need to do this, they note that the agency distinguishes between five types of drivers and driving regimens in its recently issued proposed rule on driver rest and sleep for safe operations. This proposal is concerned with driver fatigue. There is no evidence that there is a differential effect of fatigue on drivers with the vision conditions that are the focus of exemptions. Consequently, the FMCSA does not believe there is a need to issue exemptions for specific types of driving routine.

In a supplemental comment to the docket, the AHAS states its concern with the use of a 3-year driving record to screen drivers who apply for exemptions. They first claim that it is misleading to report a driving record for the most recent 3-year period in conjunction with drivers' self report of the total number of years driving. This is misleading, they state, because the addition of the unverified total years of driving gives the impression of a longer period of safe driving. The FMCSA had no intention of conveying this type of interpretation. Total years driving was reported, as was mileage, to give an overall indication of experience. For the purposes of screening, a recent 3-year driving record is the critical focus relative to safe driving.

The AHAS then argues that a 3-year record may not be sufficient to guarantee a level of safety that is equivalent to or greater than that present in the absence of an exemption program. In support of this, it points to the comments filed by the Department of Motor Vehicles (DMV) for the State of California relative to a driver from that State who applied for an exemption (Mr. James N. Spencer at 65 FR 20245, April 14, 2000). The California DMV opposed the granting of an exemption to this driver because of his accident involvement and citation record in years 4 and 5 before application for an exemption. The FMCSA finds this comment inconsistent because the driver has a valid California intrastate CDL issued on July 23, 1997, by the State of California.

The FMCSA believes that the submission of a driving record for a period longer than 3 years is not necessary. As the AHAS correctly points out, not all states maintain driving records for more than 3 years. Requiring some drivers to submit 3-year records and others to submit ones for a longer duration, as the AHAS suggests, would be arbitrary and capricious.

The FMCSA believes that using a 3-year driving record as a screening procedure in the application process is

very adequate to insure the required level of safety. The basis for this is that there is compelling evidence to show the efficacy of a 3-year window. This evidence is taken from the earlier Vision Waiver Program where the driving record in the most recent 3 years was used to screen all applicants to that program. That program existed from July 1992 until March 1996 and, during that period, those holding waivers had an accident rate of 1.902 accidents per million miles driven. In the comparable period, the national accident rate for large trucks was 2.348 (General Estimates System; 1992–1995, a database managed by the National Highway Traffic Safety Administration). These data verify that a 3-year screening period ensures the required safety level for almost 4 years after application. This is sufficient for safety in a 2-year exemption period where the recipient must renew his or her exemption using a new, most recent 3-year driving record. The process used in the exemption program is even more rigorous than that used in the waiver program. If drivers have an accident in an exemption period for which they receive a citation or are a contributing factor, they will be ineligible to renew their exemption. Under this framework, the exemption program is even more conservative than the Vision Waiver Program which clearly demonstrated its acceptable level of safety.

Notwithstanding the FMCSA's ongoing review of the vision standard, as evidenced by the medical panel's report dated October 16, 1998, and filed in this docket, the FMCSA must comply with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration,* 95 F.3d 715 (8th Cir. 1996), and grant individual exemptions under standards that are consistent with public safety. Meeting those standards, the 56 veteran drivers in this case have demonstrated to our satisfaction that they can continue to operate a CMV with their current vision safely in interstate commerce because they have demonstrated their ability in intrastate commerce. Accordingly, they qualify for an exemption under 49 U.S.C. 31315 and 31136(e).

Conclusion

After considering the comments to the docket and based upon its evaluation of the 56 exemption applications in accordance with the *Rauenhorst* decision, the FMCSA exempts John W. Arnold, James H. Bailey, Victor F. Brast, Jr., John P. Brooks [published as James P. Brooks in the Notice of Intent on April 14, 2000], Robert W. Brown, Benny J. Burke, Derric D. Burrell, Anthony J. Cesternino, Ronald W. Coe, Sr., Richard A. Corey, James A. Creed, William G. Croy, Craig E. Dorrance, Willie P. Estep, Duane H. Eyre, James W. Frion, Lee Gallmeyer, Shawn B. Gaston, James F. Gereau, Rodney M. Gingrich, Esteban Gerardo Gonzalez, Harlan Lee Gunter, Thanh Van Ha, James O. Hancock, Paul A. Harrison, Joseph H. Heidkamp, Jr., Thomas J. Holtmann, Larry D. Johnson, Gary Killian, Marvin L. Kiser, Jr., David R. Lambert, James R. Lanier, James Stanley Lewis, Newton Heston Mahoney, Ronald L. Martsching, Duane D. Mims, James A. Mohr, William A. Moore, Leonard James Morton, Timothy W. Noble, Kevin J. O'Donnell, John W. Robbins, Jr., Doyle R. Roundtree, David L. Slack, Everett J. Smeltzer, Philip Smiddy, James C. Smith, Terry L. Smith, James N. Spencer, Teresa Mary Steeves, Roger R. Strehlow, Timothy W. Strickland, John T. Thomas, Darel E. Thompson, Ralph A. Thompson, and Kevin Wayne Windham 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 its driver qualification file, or keep a copy in his/her driver 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.

Authority: 49 U.S.C. 322, 31315 and 31136; 49 CFR 1.73.

Issued on: September 18, 2000.

Julie Anna Cirillo,

Acting Assistant Administrator, Federal Motor Carrier Safety Administration.

[FR Doc. 00–24396 Filed 9–20–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. 2000–7165]

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 60 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: September 21, 2000.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–2519, FMCSA, 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.

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Background

Sixty-three individuals petitioned the FMCSA for an exemption of the vision requirement in 49 CFR 391.41(b)(10),