

APPENDIX B TO THE NOTICE OF REVISED REGULATORY EXEMPTION FOR THE AMERICAN PYROTECHNICS ASSOCIATION (APA)

[For a Limited HOS Exemption for 48 Motor Carriers during the 2012 Independence Day Celebrations]

Motor carrier	Address 1	Address 2	DOT No.
1. Alonzo Fireworks Display, Inc	12 County Rd 75	Mechanicsville, NY 12118	420639
2. American Fireworks Company	7041 Darrow Road	Hudson, OH 44236	103972
3. AM Pyrotechnics, LLC	2429 East 535th Rd	Buffalo, MO 65622	1034961
4. Arthur Rozzi Pyrotechnics	6607 Red Hawk Ct	Maineville, OH 45039	2008107
5. Atlas Enterprises Inc	6601 Nine Mile Azle Rd	Fort Worth, TX 76135	0116910
6. B.J. Alan Company	555 Martin Luther King, Jr Blvd	Youngstown, OH 44502-1102	262140
7. Cartwright Fireworks, Inc	1608 Keely Road	Franklin, PA 16323	882283
8. Central States Fireworks, Inc	18034 Kincaid Street	Athens, IL 62613	1022659
9. Colonial Fireworks Company	5225 Telegraph Road	Toledo, OH 43612	177274
10. East Coast Pyrotechnics, Inc	4652 Catawba River Rd	Catawba, SC 29704	545033
11. Entertainment Fireworks, Inc	P.O. Box 7160	Olympia, WA 98507-7160	680942
12. Falcon Fireworks	3411 Courthouse Road	Guyton, GA 31312	1037954
13. Fireworks & Stage FX America	P.O. Box 488	Lakeside, CA 92040	908304
14. Fireworks by Grucci, Inc	1 Grucci Lane	Brookhaven, NY 11719	324490
15. Fireworks Extravaganza	58 Maple Lane	Otisville, NY 10963	2064141
16. Fireworks West Internationale	3200 West 910 North	Logan, UT 84321	245423
17. Garden State Fireworks, Inc	383 Carlton Road	Millington, NJ 07946	435878
18. Gateway Fireworks Displays	P.O. Box 39327	St Louis, MO 63139	1325301
19. Global Pyrotechnics Solutions, Inc ...	10476 Sunset Drive	Dittmer, MO 63023	1183902
20. Great Lakes Fireworks	24805 Marine	Eastpointe, MI 48021	1011216
21. Hamburg Fireworks Display Inc	4300 Logan Lancaster Rd	Lancaster, OH	395079
22. Hi-Tech FX, LLC	1135 Ave. I	Fort Madison, IA 52627	1549055
23. Hollywood Pyrotechnics, Inc	1567 Antler Point	Eagan, MN 55122	1061068
24. J&M Displays, Inc	18064 170th Ave	Yarmouth, IA 52660	377461
25. Kellner's Fireworks Inc	478 Old Rte 8	Harrisville, PA	481553
26. Lantis Productions dba Lantis Fireworks and Lasers.	P.O. Box 491	Draper, UT 84202	195428
27. Legion Fireworks Co., Inc	10 Legion Lane	Wappingers Falls, NY 12590	554391
28. Mad Bomber/Planet Productions	P.O. Box 294	Kingsbury, IN 46345	777176
29. North Central Industries, Inc	1500 E. Washington	Muncie, IN 47305	00165755
30. Precocious Pyrotechnics, Inc	4420-278th Ave NW	Belgrade, MN 56312	435931
31. Pyro Engineering Inc., dba/Bay Fireworks.	110 Route 110, Suite 102	Huntington Station, NY 11746	530262
32. Pyro Shows Inc	701 W. Central Ave	LaFollette, TN 37766	456818
33. Pyro Spectacuars, Inc	3196 N Locust Ave	Rialto, CA 92376	029329
34. Pyro Spectaculars North, Inc	5301 Lang Avenue	McClellan, CA 95652	1671438
35. Pyrotechnic Display, Inc	8450 W. St. Francis Rd	Frankfort, IL 60423	1929883
36. Pyrotecnico	302 Wilson Rd	New Castle, PA 16105	526749
37. Pyrotecnico of Louisiana, LLC	60 West Ct	Mandeville, LA 70471	548303
38. Rainbow Fireworks, Inc	76 Plum Ave	Inman, KS 67546	1139643
39. RES Specialty Pyrotechnics	21595 286th St	Belle Plaine, MN 56011	523981
40. Rozzi's Famous Fireworks, Inc	11605 North Lebanon Rd	Loveland, OH 45140	0483686
41. Skyworks, Ltd	13513 W. Carrier Rd	Carrier, OK 73727	1421047
42. Spielbauer Fireworks Co, Inc	220 Roselawn Blvd	Green Bay, WI 54301	046479
43. Stonebraker-Rocky Mountain Fireworks Co.	5650 Lowell Blvd, Unit E	Denver, CO 80221	0029845
44. Vermont Fireworks Co., Inc./ Northstar Fireworks Co., Inc.	2235 Vermont Route 14 South	East Montpelier, VT 05651	310632
45. Western Display Fireworks, Ltd	10946 S. New Era Rd	Canby, OR 97013	498941
46. Western Enterprises, Inc	P.O. Box 160	Carrier, OK 73727	203517
47. Wolverine Fireworks Display, Inc	205 W Seidlars	Kawkawlin, MI	376857
48. Zambelli Fireworks MFG, Co., Inc	P.O. Box 1463	New Castle, PA 16103	033167

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DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****[Docket No. FMCSA-2012-0105]****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 seven individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). 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 June 27, 2012. The exemptions expire on June 27, 2014.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Background

On May 11, 2012, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (77 FR 27852). That notice listed seven applicants' case histories. The seven 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 seven 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 requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The seven 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 enucleation of the eye, amblyopia, congenital eye disease and retinal detachment. In most cases, their eye conditions were not recently developed. Six of the applicants were either born with their vision impairments or have had them since childhood. The individual that sustained a vision condition as an adult has had it for a period of 10 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 seven drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 10 to 43 years. In the past 3 years, none of the drivers were involved in crashes, and none of the drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the May 11, 2012 notice (77 FR 27852).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA-1998-3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345,

March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., “Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,” Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the seven applicants, none of the drivers were involved in crashes and none of the drivers 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 seven applicants listed in the notice of May 11, 2012 (77 FR 27852).

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 seven 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 no comments in this proceeding.

Conclusion

Based upon its evaluation of the seven exemption applications, FMCSA exempts Charles S. Amyx, Jr. (LA), Giovanni B. Cerino, Jr. (FL), Randall L. Mathis (AL), Shane N. Maul (IN), Michael E. McAfee (KY), Dennis D. Pimley (CA) and James E. Sikkink (IL) 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 20, 2012.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0160]

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 10 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye.

DATES: Comments must be received on or before July 27, 2012.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0160 using any of the following methods: