

*Thomas R. Toews*

Mr. Toews, 71, has had ITDM since 2011. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Toews understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Toews meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

*James E. Waller, III*

Mr. Waller, 41, has had ITDM since 2011. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Waller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Waller meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

**Request for Comments**

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

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).<sup>1</sup> The revision must provide for individual assessment of drivers with

diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Dated: Issued on: April 2, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2012-8385 Filed 4-5-12; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2012-0039]

**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 13 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions would enable these individuals to

qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the Federal vision requirement.

**DATES:** Comments must be received on or before May 7, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0039 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.

*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>.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical

<sup>1</sup> Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

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:**

##### **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." FMCSA can renew exemptions at the end of each 2-year period. The 13 individuals listed in this notice have each 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 will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

##### **Qualifications of Applicants**

###### *Juan Castanon*

Mr. Castanon, age 46, has complete loss of vision in his right eye due to a traumatic injury sustained at age 9. The visual acuity in his left eye is 20/20. Following an examination in 2011, his optometrist noted, "I feel that Mr. Castanon is able to drive a commercial vehicle without glasses safely." Mr. Castanon reported that he has driven straight trucks for 6 years, accumulating 2,304 miles. He holds a Class D operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a Commercial Motor Vehicle (CMV).

###### *Donald F. Erke*

Mr. Erke, 70, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, "It is my medical opinion that Mr. Erke has sufficient vision to perform any and all driving tasks required to operate a commercial vehicle." Mr. Erke reported that he has driven straight trucks for 17 years, accumulating 1.5 million miles and tractor-trailer combinations for 25 years, accumulating 2.3 million miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows

no crashes and no convictions for moving violations in a CMV.

###### *Ronald D. Flanery*

Mr. Flanery, 44, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2011, his ophthalmologist noted, "Based upon my findings and medical expertise, I Daniel Ewen, MD hereby certify Ronald Flanery to be visually able to safely operate a commercial motor vehicle." Mr. Flanery reported that he has driven straight trucks for 15 years, accumulating 465,000 miles and tractor-trailer combinations for 5 years, accumulating 1,250 miles. He holds a Class A CDL from Kentucky. His driving record for the last 3 years shows one crash, for which he was not cited and no convictions for moving violations in a CMV.

###### *Mark G. Kleinheider*

Mr. Kleinheider, 48, has a detached retina in his left eye due to a traumatic injury sustained in 1989. The best corrected visual acuity in his right eye is 20/20. Following an examination in 2011, his ophthalmologist noted, "It is my medical opinion that Mark has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle." Mr. Kleinheider reported that he has driven straight trucks for 3 years, accumulating 60,000 miles and tractor-trailer combinations for 3 years, accumulating 15,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

###### *Joseph C. Powell*

Mr. Powell, 57, has complete loss of vision in his right eye due to a traumatic injury sustained 10 years ago. The visual acuity in his left eye is 20/20. Following an examination in 2011, his optometrist noted, "I certify that, in my medical opinion, Mr. Powell has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Powell reported that he has driven straight trucks for 15 years, accumulating 150,000 miles and tractor-trailer combinations for 35 years, accumulating 1.12 million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 12 mph.

###### *David L. Schachle*

Mr. Schachle, 40, has a prosthetic right eye due to a traumatic injury

sustained at 8 months old. The best corrected visual acuity in his left eye is 20/20. Mr. Schachle reported that he has driven straight trucks for 4 years, accumulating 120,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a Commercial Motor Vehicle (CMV).

###### *Michael E. See*

Mr. See, 55, has complete loss of vision in his right eye due to a traumatic injury sustained at age 3. The best corrected visual acuity in his left eye is 20/15. Following an examination in 2011, his optometrist noted, "I believe you have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. See reported that he has driven straight trucks for 30 years, accumulating 1.2 million miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

###### *James A. Settlemyre*

Mr. Settlemyre, 59, has had esotropia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2011, his optometrist noted, "In my medical opinion, I feel James Settlemyre has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Settlemyre reported that he has driven straight trucks for 8 years, accumulating 1 million miles. He holds a chauffeur's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

###### *Steven K. Simone*

Mr. Simone, 61, has had keratoconus in his left eye for 30 years. The best corrected visual acuity in his right eye is 20/40, and in his left eye 20/400. Following an examination in 2011, his optometrist noted, "I feel Steve is sufficient to perform the driving tasks required to operate a commercial vehicle." Mr. Simone reported that he has driven straight trucks for 42 years, accumulating 3.4 million miles. He holds a Class C operator's license from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

###### *Mark J. Sobczyk*

Mr. Sobczyk, 25, has had amblyopia in his left eye since childhood. The best corrected visual acuity in his right eye is 20/20, and in his left eye, 20/200.

Following an examination in 2011, his ophthalmologist noted, "I certify that Mark Sobczyk's ocular condition is satisfactory for operating commercial vehicles." Mr. Sobczyk reported that he has driven straight trucks for 5½ years, accumulating 206,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Richard D. Sparkman*

Mr. Sparkman, 62, has complete loss of vision in his right due to a traumatic injury sustained as a child. The best corrected visual acuity in his left eye is 20/20. Following an examination in 2011, his ophthalmologist noted, "Based on the above information, I believe the patient has sufficient vision to perform the driving tasks required by his current commercial vehicle." Mr. Sparkman reported that he has driven straight trucks for 10 years, accumulating 520,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Joshua A. Wheaton*

Mr. Wheaton, 30, has a detached retina in his left due to a traumatic injury sustained in 1997. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2011, his optometrist noted, "I feel that Joshua has more than adequate vision to perform any driving tasks required to operate a commercial vehicle." Mr. Wheaton reported that he has driven straight trucks for 5 years, accumulating 225,000 miles. He holds a Class C operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John K. Wright*

Mr. Wright, 47, has had amblyopia in his right eye since birth. The best corrected visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, "This meets the vision requirement to perform the driving tasks required to operate a commercial vehicle." Mr. Wright reported that he has driven straight trucks for 3½ years, accumulating 105,000 miles and tractor-trailer combinations for 6 months, accumulating 30,000 miles. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

### Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business May 7, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: April 2, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0087]

#### Unified Carrier Registration Plan Board of Directors; Request for Nominations

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

**ACTION:** Notice: Request for Nominations from the Motor Carrier Industry to the Board of Directors.

**SUMMARY:** FMCSA solicits nominations and applications for appointment to the Board of Directors of the Unified Carrier Registration Plan (UCR Plan) of interested persons to serve as representatives of the motor carrier industry. The Agency will appoint five members from the motor carrier industry. The UCR Plan is responsible for the administration of the UCR Agreement. The UCR Agreement governs the registration and the collection and distribution of fees paid by for-hire and private motor carriers, brokers, freight forwarders, and leasing companies. The UCR Plan and Agreement replaced the Single State Registration System (SSRS), which was repealed as of January 1, 2008.

**DATES:** Nominations or expressions of interest for appointment to the Board of Directors must be received on or before May 7, 2012.

**ADDRESSES:** You may submit comments to this notice, identified by docket number FMCSA-2012-0087, by any of the following methods—Internet, facsimile, regular mail, or hand-delivery.

**Federal eRulemaking Portal:** Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov>. The FDMS is the preferred method for submitting comments, and we urge you to use it. In the "Comment" or "Submission" section, type Docket ID Number "FMCSA-2012-0087", select "Go", and then click on "Send a Comment or Submission." You will receive a tracking number when you submit a comment.

**Fax:** 1-202-493-2251.

**Mail, Courier, or Hand-Deliver:** U.S. Department of Transportation, Docket Operations (M-30), West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

**Docket:** Comments and material received from the public, as well as background information and documents mentioned in this preamble, are part of docket FMCSA-2012-0087, and are available for inspection and copying on the Internet at <http://www.regulations.gov>. You may also view and copy documents at the U.S. Department of Transportation's Docket Operations Unit, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC.

**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 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>.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Jose M. Rodriguez, Office of Research and Information Technology, (202) 366-3517, FMCSA, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590 or by email at: [jose.rodriguez@dot.gov](mailto:jose.rodriguez@dot.gov). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### Background

Section 4305(b) of the Safe, Accountable, Flexible, Efficient