

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 46 applicants, four of the applicants were convicted for a moving violation and five of the applicants were involved in a crash. 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 standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without

the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 46 applicants listed in the notice of November 26, 2010 (75 FR 72863).

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 46 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

#### Discussion of Comments

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

The Pennsylvania Department of Transportation stated that it was in favor of granting Federal vision exemptions to Terry L. Anderson and Scott C. Geiter.

#### Conclusion

Based upon its evaluation of the 46 exemption applications, FMCSA exempts, Charles H. Akers, Jr., David B. Albers, Sr., Kurtis A. Anderson, Terry L. Anderson, Grover h. Baelz, Sammy J. Barada, Kenneth L. Bowers, Jr., Timothy Bradford, Donald G. Brock, Jr., Anthony D. Buck, Cody W. Cook, Marvin R. Daly, Douglas R. Duncan, Douglas K. Esp, Roger C. Evans, II, Jevont D. Fells, Steven C. Fox, Scott C. Geiter, Gary Golson, Donald L. Hamrick, Eugene W. Harnisch, Ronnie E. Henderson, Clinton L. Hines, Jr., Steve D. James, Matthew C. Kalebaugh, Keith A. Larson, Brent E. Lewis, Timothy R. McCullugh, Marcus

McMillin, George C. Milks, Daniel R. Murphy, Joseph M. Palmer, Garrick D. Pitts, Gary W. Robey, Jonathan C. Rollings, Preston S. Salisbury, Victor M. Santana, Kevin W. Schaffer, Gerald E. Skalitzy, Allen W. Smith, Robert B. Steinmetz, George A. Teti, Calvin J. Wallace, II, David W. Ward, Ralph W. York, Richard L. Zacher 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: December 30, 2010.

**Larry W. Minor,**

*Associate Administrator, Office of Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### Release of Waybill Data

The Surface Transportation Board has received a request from Saul Ewing LLP on behalf of Trinity Industries, Inc. (WB605-7-09/20/10) for permission to use certain data from the Board's 2009 Carload Waybill Sample. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Scott Decker, (202) 245-0330

**Andrea Pope-Matheson,**

*Clearance Clerk.*

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