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#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

You may see all the comments online through the Document Management System (DMS) at <http://dmses.dot.gov>.

##### Background

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. The comment period ended on February 2, 2007.

##### Discussion of Comments

FMCSA received two comments in these proceedings. The comments were considered and discussed below.

Ms. Sachau believes that the approval or renewal of vision exemptions make the roads much more dangerous.

A review of each record for safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 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-98-3637.

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in

which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

##### Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 8 renewal applications, FMCSA renews the Federal vision exemptions for David D. Bungori, Jr., David R. Cox, Timothy A. DeFrangé, Robert T. Hill, Francisco J. Jimenez, Robert B. Schmitt, Rick N. Ulrich, and Larry D. Wedekind.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal 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.

Issued on: March 7, 2007.

##### Larry W. Minor,

*Office Director, Bus and Truck Standards Operations.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Product Development

Although not required, notice is hereby given that the Federal Railroad Administration (FRA) has received a Notice of Product Development (NPD) from the Union Pacific Railroad Company (UP), pursuant to Title 49 Code of Federal Regulations (CFR) Section 236.913(d)(1) for Phases 1 and 2 of the development of a

Communications Based Train Control (CBTC) system. A brief summary of the NPD, including the party submitting it, and the requisite docket number are as follows.

#### Union Pacific Railroad Company

[Waiver Docket Number FRA-2007-27322]

UP submitted an NPD of its CBTC system for Phases 1 and 2. The proposed CBTC system is a safety-critical, microprocessor-based system, designed to provide the enforcement of movement authorities and speed restrictions for CBTC-equipped locomotives, and provide the locomotive engineer an assist function to optimize train handling. Phase 1 of the CBTC is a non-vital safety overlay based on BNSF's Electronic Train Management System, previously approved under Docket Number FRA-2006-23687. Phase 2 of the CBTC implements the functionality of Phase 1 using a vital onboard architecture.

Interested parties are invited to review the notification and associated documents at the following locations:

- *Web site:* <http://dms.dot.gov>. Follow the instructions for a simple search on the DOT electronic docket site; and/or
- DOT Central Docket Management Facility, Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site, <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC, on March 7, 2007.

#### Grady C. Cothen, Jr.,

*Deputy Associate Administrator for Safety Standards and Program Development.*

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