

The Title VI regulations provide that DOS will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. If the investigation results in a finding of compliance, DOS will inform the recipient in writing of this determination, including the basis for the determination. DOS uses voluntary mediation to resolve most complaints. However, if a case is fully investigated and results in a finding of noncompliance, DOS must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, DOS must secure compliance through the termination of Federal assistance after the DOS recipient has been given an opportunity for an administrative hearing and/or by referring the matter to a DOJ litigation section to seek injunctive relief or pursue other enforcement proceedings. DOS engages in voluntary compliance efforts and provides technical assistance to recipients at all stages of an investigation. During these efforts, DOS proposes reasonable timetables for achieving compliance and consults with and assists recipients in exploring cost-effective ways of coming into compliance. In determining a recipient's compliance with the Title VI regulations, DOS's primary concern is to ensure that the recipient's policies and procedures provide meaningful access for LEP persons to the recipient's programs and activities.

While all recipients must work toward building systems that will ensure access for LEP individuals, DOS acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to federally assisted programs and activities for LEP persons, DOS will look favorably on the intermediate steps recipients take that are consistent with this guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient's activities, and for all potential language minority groups, may reasonably require a series of

implementing actions over a period of time. However, in developing any phased implementation schedule, DOS recipients should ensure that the provision of appropriate assistance for significant LEP populations affected by activities having a significant impact on the health, safety, legal rights, education, economic status or immigration status, or livelihood of beneficiaries is addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to federally assisted programs and activities.

Dated: August 24, 2004.

**Barbara S. Pope,**

*Assistant Secretary of Civil Rights,  
Department of State.*

[FR Doc. 04-19944 Filed 8-31-04; 8:45 am]

**BILLING CODE 4710-10-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending August 20, 2004

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2004-18935.

*Date Filed:* August 20, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:*

PTC31 N&C/CIRC 0278 dated August 20, 2004.

Mail Vote 405 Resolution 010w Special Passenger Amending Resolution, from Korea (Rep. of) to USA/US Territories, Intended effective date: September 10, 2004.

*Docket Number:* OST-2004-18928.

*Date Filed:* August 19, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:*

PTC COMP 1177 dated August 20, 2004.

Mail Vote 404 Resolution 010u Special Amending Resolution, Intended effective date: September 1, 2004.

*Docket Number:* OST-2004-18918.

*Date Filed:* August 18, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:*

PTC COMP 1169 dated August 6, 2004.

Composite Resolutions r1-r9, Minutes: PTC COMP 1176 dated August 20, 2004, Intended effective date: April 1, 2005.

*Docket Number:* OST-2004-18922.

*Date Filed:* August 18, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:*

PTC COMP 1171 dated August 6, 2004.

Composite Resolutions 300 and 301, Minutes: PTC COMP 1176 dated August 20, 2004, Intended effective date: April 1, 2005.

*Docket Number:* OST-2004-18921.

*Date Filed:* August 18, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:*

PTC COMP 1170 dated August 6, 2004.

Composite Resolutions 087aa and 092, Minutes: PTC COMP 1176 dated August 20, 2004, Intended effective date: April 1, 2005.

*Docket Number:* OST-2004-18916.

*Date Filed:* August 17, 2004.

*Parties:* Members of the International Air Transport Association.

*Subject:*

PTC2 ME 0137 dated July 2, 2004.

TC2 Within Middle East Resolutions r1-r14, Minutes: PTC2 ME 0139 dated August 17, 2004, Tables: PTC2 ME Fares 0051 dated July 2, 2004, Intended effective date: January 1, 2005.

**Maria Gulczewski,**

*Supervisory Dockets Officer, Alternate  
Federal Register Liaison.*

[FR Doc. 04-19956 Filed 8-31-04; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2004-18885]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of applications for exemption from the vision standard; request for comments.

**SUMMARY:** This notice publishes the FMCSA's receipt of applications from 29 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

**DATES:** Comments must be received on or before October 1, 2004.

**ADDRESSES:** You may submit comments identified by any of the following

methods. Please identify your comments by the DOT DMS Docket Number FMCSA-2003-18885.

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

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

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

• *Hand Delivery:* 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.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, (202) 366-2990, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Public Participation: The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the "help" section of the DMS Web site. If you want us to notify you 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 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, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

### Background

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a two-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 two-year period. The 29 individuals listed in this notice have recently requested 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 the exemption will achieve the required level of safety mandated by the statute.

### Qualifications of Applicants

#### 1. Paul G. Albrecht

Mr. Albrecht, age 33, has amblyopia in his right eye. The best-corrected visual acuity in his right eye is 20/200 and in the left, 20/20. Following an examination in 2004, his ophthalmologist noted, "In my medical opinion, I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Albrecht reported that he has driven straight trucks for seven years, accumulating 280,000 miles, and tractor-trailer combinations for two years, accumulating 22,000 miles. He holds a Class A commercial driver's license (CDL) from Wisconsin. His driving record for the last three years shows one crash and no convictions for moving violations in a CMV. Mr. Albrecht's vehicle was struck in the rear while he was stopped in traffic. Mr. Albrecht was not cited.

#### 2. David W. Brown

Mr. Brown, 40, had a hemorrhage in his right eye in 2000. His visual acuity in the right eye is 20/200 and in the left, 20/20. Following an examination in 2003, his ophthalmologist certified, "It is my medical opinion that Mr. Brown has sufficient vision to perform the driving tasks that are required to operate a commercial vehicle." Mr. Brown

submitted that he has driven straight trucks and tractor-trailer combinations for 19 years, accumulating 190,000 miles in the former and 855,000 miles in the latter. He holds a Class A CDL from Tennessee. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 3. David J. Caldwell

Mr. Caldwell, 38, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/70. Following an examination in 2004, his optometrist stated, "In my medical opinion, David Caldwell has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Caldwell reported that he has driven tractor-trailer combinations for 12 years, accumulating 168,000 miles. He holds a Class A CDL from New York. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 4. Walden V. Clarke

Mr. Clarke, 62, has had macular degeneration in his right eye for ten years. His best-corrected visual acuity in the right eye is 20/100 and in the left, 20/25. Following an examination in 2004, his optometrist certified, "In my medical opinion, Mr. Clarke has sufficient functional visual acuity and peripheral vision to perform the driving tasks required to operate a commercial vehicle." Mr. Clarke reported that he has driven straight trucks for 25 years, accumulating 625,000 miles. He holds a Class A CDL from Florida. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 5. Donald O. Clopton

Mr. Clopton, 47, has reduced vision in his right eye due to congenital toxoplasmosis. His best-corrected visual acuity in the right eye is 20/225 and in the left, 20/16. His optometrist examined him in 2004 and stated, "In my medical opinion, Mr. Clopton has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Clopton submitted that he has driven tractor-trailer combinations for 20 years, accumulating 1.3 million miles. He holds a Class AM CDL from Alabama. His driving record for the last three years shows one crash and one conviction for a moving violation—speeding—in a CMV. According to the police report for the crash, the other driver involved stated he had tried to avoid a vehicle that entered his lane, forcing him to collide with Mr.

Clopton's vehicle. Neither driver was cited. The violation for speeding occurred at another time, when Mr. Clopton exceeded the speed limit by 10 mph.

#### 6. *Awilda S. Colon*

Ms. Colon, 52, has a corneal scar in her left eye due to a childhood injury. Her best-corrected visual acuity in the right eye is 20/20 and in the left, 20/60. Following an examination in 2004 her optometrist stated, "After careful examination and talking with her I feel she has adequate vision to operate a commercial vehicle." Ms. Colon submitted that she has driven buses for 11 years, accumulating 77,000 miles. She holds a Class B CDL from Tennessee. Her driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 7. *Richard B. Eckert*

Mr. Eckert, 43, has been legally blind in his right eye for four years due to myopic degeneration. The visual acuity in his left eye is 20/30. His optometrist examined him in 2004 and stated, "In my opinion, Richard does have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Eckert reported that he has driven straight trucks for 21 years, accumulating 1.1 million miles. He holds a Class A CDL from New York. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 8. *Charles B. Edwards*

Mr. Edwards, 69, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. Following an examination in 2003, his optometrist noted, "I hereby certify Charles Edwards to be visually able to safely operate a commercial motor vehicle." Mr. Edwards reported that he has driven straight trucks for three years, accumulating 150,000 miles, and tractor-trailer combinations for 30 years, accumulating 3.4 million miles. He holds a Class DA CDL from Kentucky. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 9. *Zane G. Harvey, Jr.*

Mr. Harvey, 44, lost his right eye ten years ago due to trauma. His visual acuity in the left eye is 20/20. Following an examination in 2003, his optometrist certified, "In my opinion, Mr. Harvey has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Harvey

reported that he has driven tractor-trailer combinations for 18 years, accumulating 450,000 miles. He holds a Class A CDL from Virginia. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 10. *Robert T. Hill*

Mr. Hill, 42, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/60 and in the left, 20/20. Following an examination in 2004, his optometrist certified, "It is my opinion that this patient has sufficient vision to perform and continue the driving tasks required to operate a commercial vehicle even though the right eye is slightly less than the full 20/40 presently required." Mr. Hill reported that he has driven straight trucks for nine years, accumulating 936,000 miles, and tractor-trailer combinations for 15 years, accumulating 2.6 million miles. He holds a Class DM driver's license from Alabama, but at the time of his application he held a Class A CDL. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 11. *Dale E. Johnson*

Mr. Johnson, 40, has a congenital central field loss in his right eye. His best-corrected visual acuity in the right eye is 20/400 and in the left, 20/20. Following an examination in 2004, his optometrist certified, "In my medical opinion, I certify that Dale E. Johnson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Johnson reported that he has driven straight trucks for 16 years, accumulating 576,000 miles. He holds a Class C CDL from Georgia. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 12. *Jimmy D. Johnson II*

Mr. Johnson, 32, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/200 and in the left, 20/20. His optometrist examined him in 2004 and stated, "In my medical opinion, Mr. Johnson does have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Johnson reported that he has driven straight trucks for seven years, accumulating 262,000 miles, and tractor-trailer combinations for three years, accumulating 150,000 miles. He holds a Class AM CDL from Tennessee. His driving record for the last three years

shows no crashes or convictions for moving violations in a CMV.

#### 13. *Jeffrey M. Keyser*

Mr. Keyser, 51, has had reduced vision in his right eye since 1987 due to histoplasmosis. His visual acuity in the right eye is 20/200 and in the left, 20/15. His optometrist examined him in 2004 and stated, "It is my medical opinion that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Keyser submitted that he has driven tractor-trailer combinations for 18 years, accumulating 2.1 million miles. He holds a Class A CDL from Ohio. His driving record for the last three years shows no crashes and two convictions for moving violations—speeding—in a CMV. He exceeded the speed limit by 12 mph in one instance and 13 mph in the other.

#### 14. *Donnie A. Kildow*

Mr. Kildow, 51, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/200 and in the left, 20/20. His ophthalmologist examined him in 2004 and certified, "He has a history of amblyopia as a child in his right eye, but it is my opinion that this will not hinder his ability to drive a commercial vehicle." Mr. Kildow submitted that he has driven straight trucks for ten years, accumulating 100,000 miles, and tractor-trailer combinations for 21 years, accumulating 837,000 miles. He holds a Class A CDL from Idaho. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 15. *Carl M. McIntire*

Mr. McIntire, 52, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/70 and in the left, 20/20. Following an examination in 2004, his optometrist certified, "Because Mr. McIntire has 20/20 vision in his better eye with corrective lenses, in my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. McIntire reported that he has driven tractor-trailer combinations for 34 years, accumulating 4.4 million miles. He holds a Class A CDL from Missouri. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 16. *John C. McLaughlin*

Mr. McLaughlin, 40, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/15 and in the left, 20/200. Following an

examination in 2004, his optometrist noted, "In my opinion his vision is sufficient for driving a commercial vehicle." Mr. McLaughlin submitted that he has driven straight trucks for 14 years, accumulating 560,000 miles, and tractor-trailer combinations for nine years, accumulating 576,000 miles. He holds a Class A CDL from South Dakota. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*17. Daniel A. McNabb*

Mr. McNabb, 49, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/70 and in the left, 20/15. Following an examination in 2003, his optometrist stated, "In my opinion, Mr. McNabb has sufficient vision to safely drive a commercial vehicle." Mr. McNabb reported that he has driven tractor-trailer combinations for 28 years, accumulating 2.8 million miles. He holds a Class A CDL from Kansas. His driving record shows no crashes or convictions for moving violations in a CMV during the last three years.

*18. David G. Meyers*

Mr. Meyers, 32, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/70 and in the left, 20/20. Following an examination in 2004, his optometrist certified, "I believe Mr. Meyers does have sufficient vision to operate a commercial vehicle." Mr. Meyers reported that he has driven straight trucks for seven years, accumulating 73,000 miles, and buses for six years, accumulating 285,000 miles. He holds a Class C CDL from New York. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*19. Thomas L. Oglesby*

Mr. Oglesby, 56, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/80 and in the left, 20/20. Following an examination in 2004, his ophthalmologist noted "I can certify in my medical opinion that Mr. Oglesby has the required vision to perform his commercial vehicle tasks." Mr. Oglesby reported that he has driven straight trucks for 30 years, accumulating 2.4 million miles. He holds a Class AM CDL from Georgia. His driving record for the last three years shows no crashes and two convictions for moving violations in a CMV. He exceeded the speed limit by 16 mph in one instance and failed to obey a traffic sign in the other.

*20. Michael J. Paul*

Mr. Paul, 45, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/70. Following an examination in 2004, his optometrist noted, "In my medical opinion, Mr. Paul has sufficient vision to operate a commercial vehicle." Mr. Paul reported that he has driven straight trucks for eight years, accumulating 752,000 miles. He holds a Class D Chauffeur's license from Louisiana. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*21. Russell A. Payne*

Mr. Payne, 54, lost the vision in his right eye 37 years ago due to trauma. His best-corrected visual acuity in the left eye is 20/20. Following an examination in 2004, his ophthalmologist certified, "The visual acuity that you have, combined with your visual field testing, is adequate for driving commercial vehicles." Mr. Payne reported that he has driven straight trucks for 37 years, accumulating 2.2 million miles, and tractor-trailer combinations for ten years, accumulating 300,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*22. Rodney M. Pegg*

Mr. Pegg, 31, lost his left eye 23 years ago due to trauma. His visual acuity in the right eye is 20/20. Following an examination in 2004, his ophthalmologist certified, "In my medical opinion, Rodney Pegg has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Pegg submitted that he has driven straight trucks for four years, accumulating 31,000 miles. He holds a Class B CDL from Pennsylvania. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*23. Raymond E. Peterson*

Mr. Peterson, 53, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/60. Following an examination in 2004, his ophthalmologist certified, "It is my opinion that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Peterson reported that he has driven tractor-trailer combinations for 35 years, accumulating 1.7 million miles. He holds a Class A CDL from Minnesota. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*24. Zbigniew P. Pietranik*

Mr. Pietranik, 35, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/150 and in the left, 20/20. Following an examination in 2003, his ophthalmologist stated, "In my opinion, he has sufficient vision to drive a commercial vehicle." Mr. Pietranik reported that he has driven tractor-trailer combinations for nine years, accumulating 1.0 million miles. He holds a Class A CDL from New Jersey. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*25. Dennis E. Pinkston*

Mr. Pinkston, 62, has had a macular scar in his left eye for 44 years. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. Following an examination in 2004, his optometrist certified, "In my opinion, Mr. Pinkston's vision is sufficient to perform driving tasks required to operate a commercial vehicle." Mr. Pinkston submitted that he has driven tractor-trailer combinations for 30 years, accumulating 3.7 million miles. He holds a driver's license from Indiana, but at the time of his application, he held a Class A CDL. His driving record shows no crashes or convictions for moving violations in a CMV during the last three years.

*26. John C. Rodriguez*

Mr. Rodriguez, 38, has hand motion only vision in his right eye due to corneal opacity. The visual acuity in his left eye is 20/20. His ophthalmologist examined him in 2004 and stated, "In my opinion, he has sufficient vision to perform the driving tasks to operate a commercial vehicle." Mr. Rodriguez reported that he has driven straight trucks for four years, accumulating 73,000 miles. He holds a Class D driver's license from New Jersey. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

*27. Robert B. Schmidt*

Mr. Schmidt, 68, has been blind in his left eye since 1991 due to an injury. His best-corrected visual acuity in the right eye is 20/15. Following an examination in 2004, his optometrist certified, "In my professional opinion, Robert has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Schmidt reported that he has driven straight trucks for 18 years, accumulating 198,000 miles. He holds a Class B CDL from Iowa. His driving record for the last three years shows no

crashes or convictions for moving violations in a CMV.

#### 28. Wesley L. Schoonover

Mr. Schoonover, 66, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/25 and in the left, 20/150. Following an examination in 2004, his ophthalmologist certified, "In my medical opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Schoonover reported that he has driven straight trucks for 34 years, accumulating 680,000 miles. He holds a driver's license from Colorado, but at the time of his application he held a Class B CDL. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### 29. Charles E. Wood

Mr. Wood, 61, has had a choroidal scar in his right eye since 1954. His best-corrected visual acuity in the right eye is 20/400 and in the left, 20/20. Following an examination in 2004, his optometrist certified, "I find Mr. Wood to have sufficient vision to operate a commercial vehicle." Mr. Wood reported that he has driven straight trucks for 16 years, accumulating 320,000 miles. He holds a Class B CDL from Iowa. His driving record for the last three years shows no crashes or convictions for moving violations in a CMV.

#### Request for Comments

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

Issued on: August 26, 2004.

#### Rose A. McMurray,

*Associate Administrator, Policy and Program Development.*

[FR Doc. 04-19914 Filed 8-31-04; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

[Docket No. RSPA-2004-18975, Notice No. 04-5]

#### Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Safety advisory notice.

**SUMMARY:** This is to notify the public that RSPA is investigating the unauthorized marking of high-pressure compressed gas cylinders by New England Ski and Scuba, LLC, 520 Hartford Turnpike, Vernon, CT, 06066. New England Ski and Scuba's approval to requalify DOT specification cylinders was issued by RSPA under the company name, K&B Enterprises. RSPA believes that New England Ski and Scuba marked and certified an undetermined number of high-pressure DOT specification and exemption cylinders as properly tested in accordance with the Hazardous Materials Regulations (HMR), when the cylinders were not hydrostatically retested, or when the cylinders were improperly tested and inspected.

A hydrostatic retest and visual inspection, conducted as prescribed in the HMR, are used to verify the structural integrity of a cylinder. If the hydrostatic retest and visual inspection are not performed in accordance with the HMR, a cylinder with compromised structural integrity may be returned to service when it should be condemned. Extensive property damage, serious personal injury, or death could result from rupture of a cylinder. Cylinders not retested in accordance with the HMR may not be charged or filled with compressed gas or other hazardous material and offered for transportation in commerce.

#### FOR FURTHER INFORMATION CONTACT:

Anthony Lima, Senior Hazardous Materials Enforcement Specialist, Eastern Region, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, U.S. Department of Transportation, 820 Bear Tavern Road, Suite 306, W. Trenton, NJ 08034. Telephone: (609) 989-2252, Fax: (609) 989-2277.

**SUPPLEMENTARY INFORMATION:** Through its investigation of New England Ski and Scuba, RSPA obtained evidence that the company marked and certified an undetermined number of cylinders as properly tested in accordance with the HMR without conducting proper testing of the cylinders. Therefore, all cylinders marked and certified as requalified by New England Ski and Scuba may pose a safety risk to the public and should be considered unsafe for use in hazardous materials service until retested by a DOT-authorized facility. The cylinder types in question are carbon dioxide fire extinguishers, industrial gas cylinders, medical oxygen cylinders, and Self Contained Underwater Breathing Apparatus (SCUBA) tanks.

New England Ski and Scuba's Retester Identification Number (RIN) is C626. The cylinders in question are stamped with RIN C626 in the following pattern:

C 6  
M Y  
6 2

Anyone who has a cylinder serviced by New England Ski and Scuba, and has not retested the cylinder since then, should consider the cylinder potentially unsafe and not fill it with a hazardous material unless the cylinder is first properly retested by a DOT-authorized retest facility. Cylinders described in this safety advisory that are filled with an atmospheric gas should be vented or otherwise safely discharged and then taken to a DOT-authorized cylinder retest facility for proper retest. Cylinders described in this safety advisory that are filled with a material other than an atmospheric gas should not be vented, but instead should be safely discharged. Upon discharge, the cylinders should be taken to a DOT-authorized cylinder retest facility for proper retest to determine compliance with the HMR and to ensure their suitability for continuing service. You may obtain a list of authorized cylinder retesters at the following Web site: <http://hazmat.dot.gov>. Under no circumstance should a cylinder described in this safety advisory be filled, refilled or used for its intended purpose until it is reinspected and retested by a DOT-authorized retest facility.

Issued in Washington, DC on August 27, 2004.

#### Robert A. McGuire,

*Associate Administrator for Hazardous Materials Safety.*

[FR Doc. 04-19964 Filed 8-31-04; 8:45 am]

BILLING CODE 4910-60-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34504]

#### Union Pacific Railroad Company—Lease and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Petition for exemption.

**SUMMARY:** The Board grants an exemption under 49 U.S.C. 10502, from the prior approval requirements of 49