

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 6, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23139 Filed 10-14-04; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3634]

#### Commonwealth of Puerto Rico; Amendment #2

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective September 29, 2004, the above numbered declaration is hereby amended to include the Municipality of Fajardo as a disaster area due to damages caused by Tropical Storm Jeanne. All other municipalities contiguous to the above named primary municipality have previously been declared.

In addition, Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Arecibo, Arroyo, Barceloneta, Caguas, Camuy, Cayey, Cidra, Comerio, Corozal, Culebra, Guaynabo, Hatillo, Hormigueros, Humacao, Jayuya, Las Marias, Las Piedras, Luquillo, Manati, Maricao, Maunabo, Morovis, Naguabo, Orocovi, Patillas, Quebradillas, Rincon, Santa Isabel, Trujillo Alto Municipalities, Utuado, Vieques, Villalba, and Yabucoa Municipalities in the Commonwealth of Puerto Rico are also eligible under Public Assistance and our disaster loan program is available for private non-profit organizations that provide essential services of a governmental nature in those municipalities.

The Public Assistance number assigned to Puerto Rico is P06308.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 22, 2004 and for economic injury the deadline is June 21, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

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*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23140 Filed 10-14-04; 8:45 am]

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## DEPARTMENT OF STATE

### [Public Notice 4861]

#### Unclassified; National Interest Determination and Waiver of Section 620(q) of the Foreign Assistance Act of 1961, as Amended, Relating to Assistance to Ethiopia

Pursuant to the authority vested in me, *inter alia*, by section 620(q) of the Foreign Assistance Act of 1961, as amended, (FAA) (22 U.S.C. 2370) and Executive Order 12163, I hereby determine that assistance to Ethiopia is in the national interest of the United States and waive, with respect to that country, the application of section 620(q) of the FAA.

This determination shall be reported to Congress and published in the **Federal Register**.

Dated: September 29, 2004.

**Colin L. Powell,**

*Secretary of State, Department of State.*

[FR Doc. 04-23172 Filed 10-14-04; 8:45 am]

BILLING CODE 4710-26-P

## DEPARTMENT OF STATE

### [Public Notice 4850]

#### In the Matter of the Designation of Jam'at al Tawhid wa'al-Jihad, Also Known as the Monotheism and Jihad Group, Also Known as the al-Zarqawi Network, Also Known as al-Tawhid, as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the Attorney General and the Secretary of the Treasury, the Secretary of State has concluded that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (8 U.S.C. 1189, hereinafter "INA"), exist with respect to Jam'at al Tawhid wa'al-Jihad.

Therefore, effective October 15, 2004, the Secretary of State hereby designates that organization as a foreign terrorist organization pursuant to section 219(1) of the INA.

Dated: October 8, 2004.

**Ambassador Cofer Black,**

*Coordinator for Counterterrorism, Department of State.*

[FR Doc. 04-23173 Filed 10-14-04; 5:00 pm]

BILLING CODE 4710-10-P

## DEPARTMENT OF STATE

### [Public Notice 4851]

#### Determination Pursuant to Section 1(b) of Executive Order 13224 Relating to the Designation of Jam'at al Tawhid wa'al-Jihad, Also Known as the Monotheism and Jihad Group, Also Known as the al-Zarqawi Network, Also Known as al-Tawhid

Acting under the authority of section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13286 of July 2, 2002, and Executive Order 13284 of January 23, 2003, and in consultation with the Secretary of the Treasury, the Attorney General, and the Secretary of Homeland Security, I hereby determine that the organization known as Jam'at al Tawhid wa'al-Jihad, also known as the Monotheism and Jihad Group, also known as the al-Zarqawi Network, also known as al-Tawhid, has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that "prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously," I determine that no prior notice need be provided to any person subject to this determination who might have a constitutional presence in the United States because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: September 27, 2004.

**Colin L. Powell,**

*Secretary of State, Department of State.*

[FR Doc. 04-23174 Filed 10-14-04; 5:00 pm]

BILLING CODE 4710-10-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2004-17984]

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

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

**ACTION:** Notice of final disposition.

**SUMMARY:** The FMCSA announces its decision to exempt 30 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). 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:** October 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Maggi Gunnels, Office of Bus and Truck Standards and Operations, (202) 366-2987, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

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

**Background**

On June 17, 2004, the FMCSA published a notice of receipt of exemption applications from 30 individuals, and requested comments from the public (69 FR 33997). The 30 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. They are: Robert L. Aurandt, Harry R. Brewer, Wilford F. Christian, Timothy A. DeFrance, Terry G. Dickson, Sr., Clarence N. Florey, Jr., Bobby C. Floyd, Steve H. Garrison, Ronald A. Gentry, Scott D. Goalder, Raymond P. Gonzales, David M. Hagadorn, Donald R. Hiltz, James L. Hooks, Francisco J. Jimenez, Kelly R. Konesky, Gregory T. Lingard, Hollis J. Martin, Truman J. Mathis, Robert E. Moore, Kevin C. Palmer, Charles O. Rhodes, Einar H. Rice, Gordon G. Roth, Manuel Sanchez, Chris H. Schultz, Halman Smith, Norman K. Stepleton, LaLanne Taylor, and James A. Walker.

Under 49 U.S.C. 31315 and 31136(e), the 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, the FMCSA has evaluated the 30 applications on their merits and made a determination to grant exemptions from the vision requirements to all of them. The comment period closed on July 19,

2004. Two comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the exemptions.

**Vision and Driving Experience of the Applicants**

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a CMV 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 standard red, green, and amber (49 CFR 391.41(b)(10)).

Since 1992, the agency has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., Visual Requirements and Commercial Drivers, October 16, 1998, filed in the docket, FHWA-98-4334.) The panel's conclusion supports the agency's view that the present visual acuity standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 30 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular and retinal scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but eight of the applicants were either born with their vision impairments or have had them since childhood. The eight individuals who sustained their vision conditions as adults have had them for periods ranging from 8 to 37 years.

Although each applicant has one eye which does not meet the vision standard 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. The

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 performance tests designed to evaluate their qualifications to operate a CMV. All of these applicants satisfied the testing standards 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 30 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 52 years. In the past 3 years, five of the drivers have had convictions for traffic violations. Five of these convictions were for speeding and one was for "traffic turn/signal violation." One of the drivers was involved in a crash but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the June 17, 2004, notice (69 FR 33997). Since there were no substantial docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants is supported by the information published on June 17, 2004 (69 FR 33997).

**Basis for Exemption Determination**

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard 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 are able to drive only in intrastate commerce. With the exemption, applicants could also drive in interstate commerce. Thus, our analysis focuses on whether allowing these drivers to drive in interstate commerce will achieve an equal or greater level of safety as exists under current conditions.

To evaluate the effect of these exemptions on safety, the 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, the 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 or her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA-98-3637.

We believe we can properly apply the principle to monocular drivers, because data from a former FMCSA waiver study program clearly demonstrates that 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 with good driving records in the waiver program demonstrated their ability to drive safely 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 30 applicants receiving an exemption,

we note that the applicants have had only one crash and six traffic violations in the last 3 years. The applicants achieved this 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, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe 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 or she has been performing in intrastate commerce. Consequently, the 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. 31315 and 31136(e) to the 30 applicants listed in the notice of June 17, 2004 (69 FR 33997).

We recognize that the vision of an applicant may change and affect his or her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 30 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 or her driver's qualification file if he or 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

The FMCSA received two comments in this proceeding. The comments were considered and are discussed below.

An anonymous responder believes the qualifications presented for each applicant should include: (1) A standardized statement from an ophthalmologist, including peripheral vision and any other measurement of ability to see, guaranteeing there is absolutely no danger to any other driver; and (2) observations of driving behavior reported to the DOT by other drivers. Although this comment was introduced into the docket without attribution and, thus, would not ordinarily receive consideration, we will address the issues raised because they relate to matters of general applicability to the vision waiver process and are not specific to this comment. In regard to the first issue presented, the FMCSA does not rely solely on the vision examination and the eye specialist's statement to determine whether a driver should be exempted. In the agency's overall determination of whether exempting an applicant from the vision standard is likely to achieve a level of safety equal to that existing without the exemption, as required by statute, the medical information it receives is combined with information on the experience and driving record of the applicant. The opinions of the vision specialists on whether a driver has sufficient vision to perform the tasks associated with operating a CMV are made only after a thorough vision examination, including formal field of vision testing to identify any medical condition which may compromise the visual field, such as glaucoma, stroke or brain tumor. The FMCSA believes it can rely on medical opinions regarding whether a driver's visual capacity is sufficient to enable safe operations. In regard to the second requirement suggested by the responder, the FMCSA believes using official driving records

from the States and providing the public an opportunity to comment on each applicant's qualifications allows the public to have input while avoiding the use of unproven allegations.

Advocates for Highway and Auto Safety (Advocates) expresses continued opposition to the FMCSA's policy to grant exemptions from the FMCSRs, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which the 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. §§ 31315 and 31136(e)); 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

After considering the comments to the docket and based upon its evaluation of the 30 exemption applications, the FMCSA exempts Robert L. Aurandt, Harry R. Brewer, Wilford F. Christian, Timothy A. DeFrange, Terry G. Dickson, Sr., Clarence N. Florey, Jr., Bobby C. Floyd, Steve H. Garrison, Ronald A. Gentry, Scott D. Goalder, Raymond P. Gonzales, David M. Hagadorn, Donald R. Hiltz, James L. Hooks, Francisco J. Jimenez, Kelly R. Konesky, Gregory T. Lingard, Hollis J. Martin, Truman J. Mathis, Robert E. Moore, Kevin C. Palmer, Charles O. Rhodes, Einar H. Rice, Gordon G. Roth, Manuel Sanchez, Chris H. Schultz, Halman Smith, Norman K. Stepleton, LaLanne Taylor, and James A. Walker 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. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the 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. 31315 and 31136.

If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: October 12, 2004.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

[FR Doc. 04-23162 Filed 10-14-04; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34553]

#### **Idaho & Sedalia Transportation Company, LLC—Lease Exemption—Idaho Northern & Pacific Railroad Company**

Idaho & Sedalia Transportation Company, LLC (I&S), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Idaho Northern & Pacific Railroad Company (INPR) and operate 5 miles of rail line between milepost 94.68, near Cascade, and milepost 99.68, at Cascade, ID.

I&S certifies that its projected revenues as a result of this transaction will not result in I&S becoming a Class II or Class I rail carrier, and further certifies that its projected revenues will not exceed \$5 million. The transaction was scheduled to be consummated on or shortly after September 22, 2004.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34553, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, Suite 225, 1455 F Street, NW., Washington, DC 20005.

Board decisions and notices are available on its Web site at <http://www.stb.dot.gov>.

Decided: October 7, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-23050 Filed 10-14-04; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### **Office of International Affairs; Treasury International Capital (TIC) Form D: Report of Holdings of, and Transactions in, Financial Derivatives Contracts With Foreign Residents**

**AGENCY:** Departmental Offices, Department of the Treasury.

**ACTION:** Notice of reporting requirements.

**SUMMARY:** By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory quarterly collection of information on holdings and transactions in financial derivatives contracts undertaken between foreign resident counterparties and major U.S.-resident participants in derivatives markets. This Notice constitutes legal notification to all United States persons who are in the reporting panel set forth in this Notice that they must respond to this collection of information. Copies of the Form D report and instructions may be printed from the Internet at: <http://www.treas.gov/tic/forms.html>.

**Who Must Report:** The reporting panel consists of all U.S.-resident participants in derivatives markets, where each reporter holds derivatives having a total notional value in excess of \$100 billion, measured on a consolidated-worldwide accounting basis, at the end of the calendar quarter being reported. The worldwide total includes all derivatives contracts with both U.S. and foreign residents, and all contracts in the accounts of both the reporter and the reporter's customers.

**What to Report:** This report will collect information on all over-the-counter (OTC) and exchange-traded derivatives contracts with foreign residents that meet the definition of a derivatives contract in FASB Statement No. 133, as amended.

**How to Report:** Copies of Form D report and instructions, which contain complete information on reporting procedures and definitions, may be obtained at the Web site address given above in the **SUMMARY**, or by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720-6300. The mailing address is: Federal Reserve Bank of New York, Statistics Function, 4th Floor, 33 Liberty Street, New York, NY 10045-0001. Inquiries also may be made to Dwight Wolkow at (202) 622-1276, e-mail: [dwight.wolkow@do.treas.gov](mailto:dwight.wolkow@do.treas.gov).

**When to Report:** Data must be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, no later