

1312, 1537, Dec. 4, 2015], amended 49 U.S.C. 31315(b) by adding a new paragraph (2) which permits exemptions for no longer than 5 years from their dates of inception, instead of the previous 2 years. This statutory provision will be codified in 49 CFR part 381 in a forthcoming rulemaking.

III. Request for Exemption

On behalf of Henning Oeltjenbruns, Daimler has applied for a 5-year exemption from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Mr. Oeltjenbruns is unable to obtain a CDL in any of the States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA-2012-0032.

The exemption would allow Mr. Oeltjenbruns to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. Mr. Oeltjenbruns needs to drive Daimler vehicles on public roads to better understand “real world” environments in the U.S. market. According to Daimler, Mr. Oeltjenbruns will typically drive for no more than 6 hours per day, and 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Mr. Oeltjenbruns would be required to comply with all applicable Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350-399) except the CDL provisions described in this notice.

Mr. Oeltjenbruns holds a valid German commercial license, and as explained by Daimler in its exemption request, the requirements for that license ensure that the same level of safety is met or exceeded as if this driver had a U.S. CDL. Furthermore, according to Daimler, Mr. Oeltjenbruns is familiar with the operation of CMVs worldwide.

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22,

2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)].

Public Comments

On May 4, 2016, FMCSA published notice of this application and requested public comments (81 FR 26865). No comments were submitted.

FMCSA Decision

Based upon the merits of this application, including Mr. Oeltjenbruns' extensive driving experience and safety record, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

Terms and Conditions for the Exemption

FMCSA grants Daimler and Henning Oeltjenbruns an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Oeltjenbruns to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350-399); (2) the driver must be in possession of this notice or an equivalent signed letter, and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Daimler; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Oeltjenbruns fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR

381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: August 31, 2016.

T.F. Scott Darling, III,
Administrator.

[FR Doc. 2016-21827 Filed 9-9-16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-[2016-0042]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 58 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on July 28, 2016. The exemptions expire on July 28, 2018.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-113, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/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.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these

comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

II. Background

On June 28, 2016, FMCSA published a notice of receipt of Federal diabetes exemption applications from 58 individuals and requested comments from the public (81 FR 42044). The public comment period closed on July 28, 2016, and one comment was received.

FMCSA has evaluated the eligibility of the 58 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 58 applicants have had ITDM over a range of one to 40 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe

hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the June 28, 2016, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received one comment in this proceeding. An anonymous commenter stated that they believe drivers should not have to be placed in the comment period before receiving the exemptions. As discussed in the initial request for comments published on June 28, 2016, all exemptions that the Agency considers granting must be put forth in a 30 day public comment period, as required by law.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant

complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) 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 (4) 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.

VI. Conclusion

Based upon its evaluation of the 58 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b):

Scott D. Allen (NE)
 Timothy K. Beal (NJ)
 Casey G. Bergman (MN)
 Chad B. Bramblett (NC)
 Robert J. Brearley, Jr. (AL)
 Gary R. Butts (NY)
 Carey P. Cole (PA)
 John W. Cyrus (VA)
 Paul J. Dematas (NY)
 Tara DiPierri (NY)
 William G. Edgell (OH)
 Robert M. Flory (OH)
 Jason L. Garrett (TX)
 Faustino P. Garza (TX)
 Robert D. Golding (NM)
 Bruce E. Gusler (NH)
 Seth R. Hamilton (NY)
 Travis L. Handy (DE)
 Paul D. Hollenbeck (UT)
 Larry J. Huisman (NE)
 Brian J. Hurley (IL)
 Jarmone W. Johnson (MD)
 Dan M. Kirk (OR)
 Sung Y. Kong (NJ)
 Kevin M. Krug (IN)
 Brian C. Link (NY)
 Timothy J. Loeschen (TX)
 Bruce A. Mattison (WA)
 Brian K. McGowan (AR)
 James K. Medeiros (RI)
 Brian C. Moffett, Jr. (MD)
 Gregory S. Montierth (CA)
 Daniel M. Mulligan (NJ)
 John N. Mulready, Jr. (MA)
 Jerry L. Niichel (IA)
 Donald S. Oakes (PA)
 Ardell Parks (IL)
 Terry D. Paxton (PA)
 Lawrence C. Powers (MI)
 Reynier Prieto (FL)

Charles V. Radford, Jr. (NC)
 Manuel A. Samayo (GA)
 Malcolm D. Small (TX)
 Russell F. Smith (PA)
 Trenton W. Socha (TX)
 Edward D. Sprague (WI)
 Carla J. Stafford (TN)
 Jennifer N. Stout (TX)
 Virgil W. Sykes (WI)
 Luis M. Torres (CT)
 Lyle D. Tunink (IA)
 Fasitupe Tupuola (CA)
 Christa VanHook (KY)
 Saverio Verre (NJ)
 Raymond R. Webker (OH)
 James A. Wiggins (OK)
 Reed R. Wilken (IL)
 Abraham K. Yohannan (NY)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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(e) 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: August 25, 2016.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0116]

Denial of Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of denial.

SUMMARY: FMCSA announces its decision to deny applications from 11 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical

Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/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.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

II. Background

On July 13, 2015, FMCSA published a notice announcing receipt of applications from 21 individuals requesting an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to operate a CMV in interstate commerce and requested comments from the public (80 FR 40127). The public comment period closed on August 12, 2015, and 10 comments were received.

FMCSA has evaluated the eligibility of these applicants and concluded that granting 11 of the 21 exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). A final notice announcing the decision to grant nine of 21 exemptions and providing a response to the 10 comments received was published on September 14, 2015 (80 FR 55170). One of the applicants in this notice withdrew his request for an exemption.

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the Federal epilepsy standard for a renewable two-year period if it finds “such exemption is likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.”

The Agency’s decision regarding these exemption applications is based on an individualized assessment of each applicant’s medical information, including the root cause of the respective seizure(s) and medical information about the applicant’s seizure history, the length of time that has elapsed since the individual’s last seizure, the stability of each individual’s treatment regimen and the duration of time on or off of anti-seizure medication. The Agency considered the 2007 recommendations of the Agency’s Medical Expert Panel (MEP). The January 15, 2013 **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to make decisions regarding seizure exemptions.

IV. Conclusion

The Agency has determined that these 11 applicants do not satisfy the criteria eligibility or meet the terms and conditions for a Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). Therefore, the applicants listed in this notice have been denied an exemption from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. This notice summarizes the Agency’s recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial. The following drivers were listed previously in **Federal Register** Notice FMCSA-2015-0116 published on July 13, 2015:

Leo Arnold Burns—Mr. Burns has a history of a seizure disorder. His last seizure was in 2010. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Rodney Lee Ericson—Mr. Ericson has a history of epilepsy. His last seizure was in 2010. He takes anti-seizure