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 requirement 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 20 applicants listed in the notice of October 11, 2016 (81 FR 70253).

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 20 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 requirement 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 have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received 1 comment in this proceeding. Deb Carlson stated that the state of Minnesota has no concerns with granting Randal Aukes and Timothy Dougherty vision exemptions.

IV. Conclusion

Based upon its evaluation of the 20 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b):

- Randal D. Aukes (MN)
- Joseph A. Baker (KS)
- Keith D. Blackwell (TX)
- Gerald D. Bowser (PA)
- Kathy J. Brown (OH)
- Louis J. Cullen, Jr. (NJ)
- Edwin P. Davis (OR)
- Timothy J. Dougherty (MN)
- Stephen R. Ehlenburg (IL)
- Stanley W. Goble, Jr. (IA)
- William R. Guida (PA)
- Thomas H. Gysbers (WI)
- Jerry L. Hayden, Jr. (IA)
- John T. Mahry (FL)
- Peter E. McDonnell (MA)
- George P. Mendiola (CA)
- Norman D. Mosely (NJ)
- Joe W. Restine (OK)
- Greg D. Schneckloth (IA)
- Allen J. Stolz (WI)

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 19, 2016.

Larry W. Minor,
Associate Administrator for Policy.

[FR Doc. 2016–31560 Filed 12–28–16; 8:45 am]
In addition to the regulations, FMCSA has published advisory criteria 1 to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H, Epilepsy: §391.41(b)(8), paragraphs 3, 4, and 5] The advisory criteria state the following:

If an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person’s condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the Medical Examiner in consultation with the treating physician. Prior to considering certification, it is suggested there be a waiting period that is not less than six months following the last episode.

Those individuals who have had a seizure or episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers who have had a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for five years or more. As a result of Medical Examiners misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified Medical Examiner based on the physical qualification standards and medical best practices.

On January 15, 2013, in a Notice of Final Disposition entitled, “Qualification of Drivers: Exemption Applications; Epilepsy and Seizure Disorders,” (78 FR 3069), FMCSA announced its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate CMV drivers have “no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.” Since the January 15, 2013, notice, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in 49 CFR 391.41(b)(8).

To be considered for an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency’s Medical Expert Panel (MEP) (78 FR 3069).

II. Qualifications of Applicants

Ryan D. Babler
Mr. Babler is a 38 year-old driver in Wisconsin. He has a history of epilepsy and his last seizure was in October 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Babler receiving an exemption.

Craig M. Lasecki
Mr. Lasecki is a 38 year-old driver in Wisconsin. He has a history of a single seizure in 2000. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Lasecki receiving an exemption.

Larry Dean Nicholson
Mr. Nicholson is a 44 year-old driver in North Carolina. He has a history of a seizure disorder and his last seizure was in 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Nicholson receiving an exemption.

Ralph Edward Parrish, Jr.
Mr. Parrish is a 50 year-old class B CDL holder in Pennsylvania. He has a history of a seizure disorder and his last seizure was in 1980. He has been off of anti-seizure medication since 1998. His physician states that he is supportive of Mr. Parrish receiving an exemption.
Mr. Woebkenberg is a 74 year-old driver in Indiana. He has a history of a seizure disorder and his last seizure was in 1998. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Woebkenberg receiving an exemption.

Daniel Zielinski

Mr. Zielinski is a 55 year-old driver in Oregon. He has a history of epilepsy and his last seizure was in 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Zielinski receiving an exemption.

III. Request for Comments

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

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to http://www.regulations.gov and in the search box insert the docket number “FMCSA–2016–0011” and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to http://www.regulations.gov and in the search box insert the docket number FMCSA–2016–0011 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

Issued on: December 21, 2016. Larry W. Minor, Associate Administrator for Policy.

DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration
[FR Doc. 2016–31547 Filed 12–28–16; 8:45 am]
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