FMCSA announces its decision to exempt nine individuals from the requirement in the Federal Motor Carrier Safety Administration’s (FMCSA) medical advisory criteria. These individuals are allowed to continue driving CMVs in interstate commerce for an additional two years. The exemption is based on the certainty that the drivers can maintain a stable treatment during the period and continue to demonstrate their ability to operate CMVs safely. Each driver is subject to the same conditions as before the exemption, including the need for annual medical examinations and seizure-free status. The exemption can be revoked if there is evidence of a deterioration in health or a failure to comply with the terms of the exemption. The purpose of the exemption is to balance safety concerns with the potential for increased productivity and economic benefits.
Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (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.” The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were effective on December 21, 2016. The exemptions will expire on December 21, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. 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 from 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. e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 552a (d), 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 November 17, 2016, FMCSA published a notice announcing receipt of applications from nine individuals requesting an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (81 FR 81233). The public comment period ended on December 19, 2016, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting 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)(8).

The physical qualification standard for drivers requesting an exemption from the epilepsy prohibition found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

- Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria 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.)

III. Discussion of Comments

FMCSA received one comment from Shenella Carlisle, in this preceding, who cited information from a 2004 article from the American Academy of Neurology regarding the relative low crash risk of individuals who have seizures or epilepsy. She believes that an individual’s primary care provider, who is familiar with the individual’s history and treatment plan, is best suited to decide his or her vehicle crash risk.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) 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.

In reaching the decision to grant these exemption requests, FMCSA 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 grant seizure exemptions.

IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical
Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver’s qualification file, or keep a copy of his/her driver’s qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the nine exemption applications, FMCSA exempts the following drivers from the prescribed vision requirement in 49 CFR 391.41(b)(8), subject to the requirements cited above:

Mark Beery (PA)
Douglas Cantwell (TN)
Mark McDaniel (IL)
Ronnie Moody (NC)
Tye Moore (IN)
Jack Porcellini (PA)
Jeffrey Rathman (CO)
Douglas Simms Jr. (NC)
Tara Van Horn (PA)

In accordance with 49 U.S.C. 31136(b)(1), each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The individual 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 prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.


Larry W. Minor,
Associate Administrator for Policy.

[FR Doc. 2017–04643 Filed 3–8–17; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0213]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 18 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before April 10, 2017. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0213 using any of the following methods:

- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to http://www.regulations.gov at any time 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., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

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.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, fmcsm medial@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, 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. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations 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.” FMCSA can renew exemptions at the end of each 2-year period. The 18 individuals listed in this notice have each requested such 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 an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

James M. Demgard

Mr. Demgard, 49, has a prosthetic left eye due to a traumatic incident in 1996. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2016, his optometrist stated, “I can certify James has a perfectly normal right eye in all aspects to perform the visual tasks required for commercial vehicle.” Mr. Demgard reported that he has driven straight trucks for 29 years, accumulating 536,500 miles. He holds an operator’s license from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David L. Erickson

Mr. Erickson, 66, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/70, and in