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 100 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above. In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: July 12, 2018.

Larry W. Minor,
Associate Administrator for Policy.

[FR Doc. 2018–15554 Filed 7–19–18; 8:45 am]
BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2018–0051]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt eight individuals from the requirement in the Federal 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.


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

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**Drivers' Information**: The drivers were included in docket number FMCSA–2016–0014. Their exemptions are applicable as of August 12, 2018, and will expire on August 12, 2020.

As of August 12, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (71 FR 14567; 71 FR 30228; 73 FR 28187; 73 FR 35195; 73 FR 35196; 73 FR 35197; 73 FR 35198; 73 FR 35199; 73 FR 35200; 73 FR 35201; 73 FR 38498; 73 FR 38499; 73 FR 48273; 73 FR 48275; 75 FR 25919; 75 FR 39729; 75 FR 44051; 77 FR 46153; 79 FR 46153; 81 FR 90050).

**Drivers' Information**: The drivers were included in docket number FMCSA–2012–0160. The exemption is applicable as of August 27, 2018, and will expire on August 27, 2020.

As of August 27, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, Rickey W. Goins (TN) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (77 FR 41879; 77 FR 51846; 79 FR 41740; 81 FR 90050).

**Drivers' Information**: The drivers were included in docket number FMCSA–2012–0161. The exemption is applicable as of August 29, 2018, and will expire on August 29, 2020.

As of August 29, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 22 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (71 FR 14567; 71 FR 30228; 73 FR 28187; 73 FR 35195; 73 FR 35196; 73 FR 35197; 73 FR 35198; 73 FR 35199; 73 FR 35200; 73 FR 35201; 73 FR 38498; 73 FR 38499; 73 FR 48273; 73 FR 48275; 75 FR 25919; 75 FR 39729; 75 FR 44051; 77 FR 46153; 79 FR 46153; 81 FR 90050):

- Donald L. Carman (OH)
- Christopher R. Cone (GA)
- Walter O. Connelly (WA)
- Roger D. Elders (MI)
- Lucious J. Erwin (TX)
- Riche Ford (CO)
- Matthew D. Hormann (MN)
- Andrew C. Kelly (WV)
- Jason W. King (MT)
- Billy J. Lewis (LA)
- Robert W. McMillian (MA)
- Richard A. Peterson (OR)
- Carroll G. Quisenberry (KY)
- Ryan J. Reimann (WI)
- Brandon J. See (IA)
- Ricky L. Shepler (PA)
- John L. Stone (PA)
- Nils S. Thornberg (OR)
- Daniel W. Toppings (NV)
- Christopher R. Whitson (NC)
- Aaron E. Wright (MI)


As of August 18, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (79 FR 41737; 79 FR 56102; 81 FR 90050):

- Leamon V. Manchester (LA)
- Leverme F. Schulte, Jr. (OH)

The drivers were included in docket number FMCSA–2014–0008. Their exemptions are applicable as of August 19, 2018, and will expire on August 19, 2020.

As of August 27, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, Gregory S. Smith (AR) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (77 FR 38381; 77 FR 51846; 79 FR 41740; 81 FR 90050).
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. 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 April 24, 2018, FMCSA published a notice announcing receipt of applications from eight individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (83 FR 17879). The public comment period ended on May 24, 2018, and no comments were 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 regarding epilepsy 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 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.]

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy and seizure disorder prohibition 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.

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. In addition, the Agency reviewed the treating clinician’s medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant’s driving record found in the Commercial Driver’s License Information System (CDLIS) for commercial driver’s license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver’s Licensing Agency (SDLA). A summary of each applicant’s seizure history was discussed in the April 24, 2018 Federal Register notice (83 FR 17879) and will not be repeated in this notice.

These eight applicants have been seizure-free over a range of 23 years while taking anti-seizure medication and maintained a stable medication treatment regime for the last two years. In each case, the applicant’s treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) 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 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.

VI. 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.

VII. Conclusion

Based upon its evaluation of the eight exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, 49 CFR 391.41(b)(8), subject to the requirements cited above: Steven H. Ford (WI) Scott Habeck (SD) Nathan E. Kanouff (GA) Richard L. Kiel Jr. (GA) Joe L. King, Jr. (NC) Daniel L. Martin (IA) Phillip Moore (CT) Joshua Thomas (MN)

In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for two years from the effective date.

1 See http://www.ecfr.gov/cgi-bin/text-idx?SID=e471b46eab42d67c899246e23bb797587&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two 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) each driver must 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) each driver must provide a copy of the annual medical certification to the employer for retention in the driver’s qualification file, or keeping a copy in his/her driver’s qualification file if he/she is self-employed.