

symptoms in the past 5 years (with one year of stability following any such episode). 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 standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the May 21, 2010, **Federal Register** Notice and they will not be repeated in this Notice.

#### Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard 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 standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

#### 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.

#### Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

The Pennsylvania Department of Transportation stated that it had reviewed the driving record for Scott A. Yon and was in favor of granting a Federal diabetes exemption to this individual.

#### Conclusion

Based upon its evaluation of the thirty-seven exemption applications, FMCSA exempts, Billy Banks, Joseph P. Beagan, John M. Charlton, Stuart A. Dietz, Marie C. Eddy, Michael G. Eikenberry, Francisco K. Gallardo, John P. Gould, David B. Graef, Jason C. Green, Kimmy D. Hall, Bruce G. Hammill, Jr., Edward G. Harbin, Timothy R. Hefling, Christopher M. Hultman, Michael R. Jackson, Gerald A. Johnson, Jay T. Kirschmann, Duane K. Kohls, John F. Lohmuller, Rodney A. Markham, Christopher P. Martin, H. Alan Miller, Andrew D. Monson, Cheryl T. Murphy, Kurt D. Oertelt, Joseph M. Pirrello, Audrey R. Roddy, Theodore J. Rolfe, Ross R. Romano, Max S. Sklarski, Gerald J. Solwey, Darren G. Steil, Jason D. Sweet, Robert M. Thomson, Kevin R. Welch and Scott A. Yon, from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" 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. 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(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: June 28, 2010.

**Larry W. Minor,**

*Associate Administration for Policy and Program Development.*

[FR Doc. 2010-16225 Filed 7-1-10; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0203]

#### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

**ACTION:** Notice of applications for exemption, request for comments.

**SUMMARY:** FMCSA announces receipt of applications from seventeen individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy (or any other condition which 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. If granted, the exemptions would enable these individuals with seizure disorders to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before August 2, 2010.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2010-0203 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *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., Monday through Friday, except Federal Holidays.

- *Fax:* 1-202-493-2251.

*Instructions:* Each submission must include the Agency name and the docket No. for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

*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., 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 on-line.

*Privacy Act:* Any person may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78; Apr. 11, 2000). This information is also available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Room W64-224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 31315 and 31136(e), 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 statutes also allow the Agency to renew exemptions at the end of the 2-year period. The seventeen individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle 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 commercial motor vehicle.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate commercial motor vehicles in intrastate commerce. The advisory criteria indicates that if an individual has had a sudden episode of

a nonepileptic seizure or loss of consciousness of unknown cause which 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 commercial motor vehicle should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and antiseizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an 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 fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers with 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 with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

**Summary of Applications**

*Bruce B. Baum*

Mr. Baum is a CMV driver in the state of New Mexico. He experienced a single episode of a seizure in 1999, and is currently taking anti-seizure medication Dilantin. His neurologist states that he has been seizure-free for five years. Mr. Baum believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has remained seizure free and compliant on medication since 1999.

*Todd A. Davis*

Mr. Davis is a CMV driver in the state of Wisconsin. He experienced a single episode of a seizure in 2007, and is currently taking anti-seizure medication Lamictal. His neurologist certified that he has been seizure-free for three years. Mr. Davis believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation

because he has remained seizure free and compliant on medication since 2007.

*James Dyer*

Mr. Dyer is a CMV driver in the state of Texas. He experienced a single seizure like event in 2008 and was placed on anti-seizure medication but discontinued use in 2009. His neurologist states that he is stable, has a low risk of future seizures, and has been seizure free for one year and 6 months. Mr. Dyer believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he experienced a "seizure-like" event, discontinued use of anti-seizure medication, and has remained seizure-free for years.

*Richard R. Gurda*

Mr. Gurda is a CMV driver in the state of Wisconsin. He experienced a single seizure event in 2005, and is currently taking anti-seizure medication Lamictal. His neurologist certified that he has been seizure-free for four years since the single event and remains stable on his current dose of medication. Mr. Gurda believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has maintained good medication control and has remained seizure-free for four years. Mr. Gurda currently has a CDL exemption issued by the state to operate municipal/government vehicle in intrastate.

*Christian E. Henry*

Mr. Henry is a CMV driver in the state of Pennsylvania. He has a history of seizures during medical procedures when he was a juvenile. His doctor states that he has been seizure-free for nine years on his current dose of medication and is stable to drive. Mr. Henry believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has remained seizure-free since 1998, has a safe driving record, and he's compliant with his medication.

*Denton L. Hinline*

Mr. Hinline is a CMV driver in the state of Florida. He has a history of nocturnal seizures and was diagnosed with epilepsy in 1978, and is currently taking anti-seizure medication Dilantin. His doctor certified that he has been seizure-free for twenty-nine years on his current dose of medication. Mr. Hinline believes that he would achieve a level of safety that is equivalent to the

level of safety obtained by complying with the regulation because he has remained seizure-free since 1979 and he's compliant with his medication.

*Henrietta M. Ketcham*

Ms. Ketcham is a CMV driver in the state of New York. She has a history of seizure disorder since 1992. She experienced her last seizure in 2001, and is currently taking anti-seizure medication Topomax. Her doctor states that she has been seizure-free for seven years on her current dose of medication and remains stable. Ms. Ketcham believes that she would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because she has maintained good medication control and has remained seizure-free for seven years.

*Danny Lingle*

Mr. Lingle is a CMV driver in the state of Iowa. He states that he had a stroke from a brain hemorrhage and not a seizure in 2006. He did not take an anti-seizure medication after the event. He has not experienced another episode. His neurologist states that he is safe to drive without restrictions. Mr. Lingle believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he did not experience a seizure and is a safe driver.

*James C. Loiodice*

Mr. Loiodice is a CMV driver in the state of New York. He experienced an isolated seizure episode in 2001, and is currently taking anti-seizure medication Carbatrol. His neurologist certified that he has been seizure-free for 8 years, is well controlled and has an extremely low risk of a breakthrough seizure. Mr. Loiodice believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has remained seizure-free on anti-seizure medication for eight years.

*Leo J. Lombardio*

Mr. Lombardio is a CMV driver in the state of California. He experienced a single seizure episode in 2007, and is currently taking anti-seizure medication Phenytoin. His doctor states that he has been stable with no seizure activity on medication since 2007. His medication was changed from Keppra to Phenytoin in 2008 due to side effects. He believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he continues to take

his medication as directed by his doctor and has remained seizure free.

*Mike D. Rafalski*

Mr. Rafalski is a CMV driver in the state of Michigan. He was diagnosed with epilepsy in 2002, and is currently taking anti-seizure medications Keppra and Trileptal. He experienced his last seizure in 2006. Mr. Rafalski believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has remained seizure-free on anti-seizure medication for four years.

*Phillip S. Sage*

Mr. Sage is a CMV driver in the state of Michigan. He developed seizures after a motor vehicle accident in 2007. He experienced his last seizure in 2008, and was taking anti-seizure medication Keppra. He has since discontinued anti-seizure medication in 2008. He believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has a history of safe driving and has discontinued the medication and has remained seizure-free.

*Floyd R. Strader Jr.*

Mr. Strader is a CMV driver in the state of North Carolina. He was diagnosed with a childhood seizure disorder. His last seizure was in 2000, he was thirteen years old at this time. He discontinued the use of anti-seizure medication in 2001 when he was fourteen. Mr. Strader experienced a motor vehicle collision which resulted in head-trauma. He did not experience a seizure; however, he was treated for migraine headaches. Mr. Strader believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has remained seizure-free for nine years and off anti-seizure medication for eight years.

*Joseph A. Suhy*

Mr. Suhy is CMV driver in the state of Pennsylvania. He was diagnosed with a seizure disorder after a head injury in 1986. His last seizure was in 1991 at the time he was taking Tegretol. Subsequently his anti-seizure medication was changed to Valproic acid and he remains on this medication to date. His doctor states that he has been seizure-free for seventeen years. Mr. Suhy believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation

because he has remained seizure free and is compliant with treatment.

*Paul C. Warren*

Mr. Warren is a CMV driver in the state of Maine. He was diagnosed with epilepsy in 2000. He experienced his last seizure in 2002, and is currently taking anti-seizure medication Keppra. His neurologist states that he has been seizure free for seven years and is compliant with treatment. Mr. Warren believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has a history of safe driving in CMVs and has remained seizure free for seven years.

*Jeffery P. Weis*

Mr. Weis is a CMV driver in the state of Illinois. He experienced seizures in 2006 caused by metabolic derangement related to stress and alcohol use. He was placed on Dilantin but discontinued use per doctor's orders after 6 months. He has remained seizure and medication free for three years. Mr. Weis believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has a history of safe driving, decreased alcohol consumption and has discontinued anti-seizure medication and has remained seizure-free.

*Brian H. Wetzel*

Mr. Wetzel is a CMV driver in the state of Missouri. He was diagnosed with a seizure disorder after brain surgery in 1976. He experienced his last seizure in 1995, and is currently taking anti-seizure medication Carbamazepine. His neurologist's medical opinion is that he has been seizure free for fourteen years and is safe to drive. Mr. Wetzel believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because he has been seizure free for fourteen years and is compliant with treatment.

**Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption application described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: June 25, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010-16216 Filed 7-1-10; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-1999-5578; FMCSA-1999-6480; FMCSA-2001-11426; FMCSA-2003-14223; FMCSA-2003-16564; FMCSA-2004-17195; FMCSA-2006-24015; FMCSA-2006-24783; FMCSA-2008-0021]

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

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

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 13 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective August 1, 2010. Comments must be received on or before August 2, 2010.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-1999-5578; FMCSA-1999-6480; FMCSA-2001-11426; FMCSA-2003-14223; FMCSA-2003-16564; FMCSA-2004-17195; FMCSA-2006-24015; FMCSA-2006-24783; FMCSA-2008-0021, using any of the following methods.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *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 or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5

p.m., Monday through Friday, except Federal Holidays.

- *Fax:* 1-202-493-2251.

**Instructions:** Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

**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., 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 on-line.

**Privacy Act:** Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto: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. Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

#### Exemption Decision

This Notice addresses 13 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 13 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are: Manuel A. Almeida, Ronald B. Brown, Thomas L. Corey, Lawrence M. Daley, Brian G. Hagen, Alfred G. Jeffus, Christopher P. Lefler, Michael G. Martin, Charles R. Murphy, Willard L. Riggle, Robert H. Rogers, Jose M. Suarez, Barney J. Wade.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination 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 provides 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 and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded 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(e) and 31315.

#### Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 13 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR