

*Frequency:* The information will be collected annually.

*Estimated Total Number Burden Hours:* 678,986.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for DOT's performance; (b) the accuracy of the estimated burden; (c) ways for the DOT to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on July 8, 2013.

Dated: July 8, 2013.

**Patrice M. Kelly,**

*Deputy Director, Office of Drug and Alcohol Policy and Compliance.*

[FR Doc. 2013-16789 Filed 7-11-13; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0030]

#### 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 32 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 August 12, 2013.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2013-0030 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 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., 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 DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

#### FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, (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 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 32 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.

#### Qualifications of Applicants

##### Steven L. Albert

Mr. Albert, age 46, has had aphakia in his right eye since 1991. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, "His vision is sufficient to perform driving tasks to operate a commercial vehicle." Mr. Albert reported that he has driven straight trucks for 15.5 years, accumulating 69,750 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows two crashes for which he was cited and no additional convictions for moving violations in a CMV.

##### Manassah E. Baker

Mr. Baker, 60, has had a prosthetic right eye since 1977. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, "The patient has sufficient vision to perform driving tasks that are required to operate a commercial vehicle." Mr. Baker reported that he has driven straight trucks for 9 months, accumulating 15,588 miles, and tractor-trailer combinations for 42 years, accumulating 4.2 million miles. He holds a Class A Commercial Driver's License (CDL) from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

##### Carl H. Block

Mr. Block, 44, has had a central retinal artery occlusion in his right eye since 2009. The visual acuity in his right eye is 20/200, and in his left eye, 20/15. Following an examination in 2012, his ophthalmologist noted, "It is my medical opinion that Mr. Block has sufficient vision to perform the driving

tasks required to operate a commercial vehicle." Mr. Block reported that he has driven straight trucks for 14 years, accumulating 84,000 miles, and tractor-trailer combinations for 10 years, accumulating 20,000 miles. He holds a Class AM CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Christopher W. Brim*

Mr. Brim, 26, has had a prosthetic right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, "I feel he has sufficient vision to operate a commercial vehicle." Mr. Brim reported that he has driven straight trucks for 4.5 years, accumulating 79,799 miles. He holds an operator's license from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*John W. Camp*

Mr. Camp, 52, has had strabismic amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/250. Following an examination in 2013, his optometrist noted, "In my medical opinion, I feel M. John Camp [sic] had sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Camp reported that he has driven tractor-trailer combinations for 30 years, accumulating 4.5 million miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Ralph Carr*

Mr. Carr, 55, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "I certify that Ralph Carr has sufficient vision to operate a commercial vehicle according to current standards." Mr. Carr reported that he has driven straight trucks for 34 years, accumulating 397,800 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Juan Carranco*

Mr. Carranco, 56, has had refractive amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, 20/100.

Following an examination in 2013, his optometrist noted, "My opinion is that Mr. Carranco has sufficient vision to perform the driving tasks required to operate a commercial vehicle and should be considered for a Federal Vision Exemption through the Federal Motor Carrier Safety Administration." Mr. Carranco reported that he has driven tractor-trailer combinations for 37 years, accumulating 2.2 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*William Chisley*

Mr. Chisley, 32, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/25. Following an examination in 2012, his optometrist noted, "Examination today reveals that Mr. Chisley has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Chisley reported that he has driven straight trucks for 5 years, accumulating 2400 miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Westcott G. Clarke*

Mr. Clarke, 63, has had optic neuropathy in his left eye since 2003. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2012, his optometrist noted, "It is my opinion that Mr. Clarke functions very well visually to operate commercial vehicles on public roads. He is corrected to 20/20 and is quite able to perform required driving tasks." Mr. Clarke reported that he has driven straight trucks for 40 years, accumulating 600,000 miles. He holds an operator's license from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jerrald A. Crabtree*

Mr. Crabtree, 39, has had complete loss of vision in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist noted, "In my professional opinion, Mr. Crabtree has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Crabtree reported that he has driven straight trucks for 19 years, accumulating 950,000 miles. He holds a Class B CDL

from Washington. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 15 mph.

*John A. Dilts*

Mr. Dilts, 62, has had anisometropic amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/60, and in his left eye, 20/15. Following an examination in 2013, his optometrist noted, "In my professional opinion, Mr. Dilts does have sufficient vision to perform the driving tasks that would be required to operate a commercial vehicle." Mr. Dilts reported that he has driven straight trucks for 40 years, accumulating 330,000 miles. He holds a Class B CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Phyllis Dodson*

Ms. Dodson, 55, has had amblyopia in her right eye since childhood. The visual acuity in her right eye is counting fingers, and in her left eye, 20/20. Following an examination in 2012, her optometrist noted, "I certify that in my medical opinion, Ms. Dodson has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Ms. Dodson reported that she has driven buses for 18 years, accumulating 576,000 miles. She holds a Class B CDL from Indiana. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Donnie H. Eagle*

Mr. Eagle, 60, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, "It is my medical opinion that Mr. Eagle has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Eagle reported that he has driven straight trucks for 37 years, accumulating 370,000 miles, and tractor-trailer combinations for 37 years, accumulating 3.7 million miles. He holds a Class A CDL from West Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Phillip L. Ergovich*

Mr. Ergovich, 60, has had a toxoplasmosis scar in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "In my medical opinion, he has sufficient vision to

perform the driving tasks required to operate a commercial vehicle.” Mr. Ergovich reported that he has driven straight trucks for 16 years, accumulating 624,000 miles. He holds an operator’s license from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Udum Khamsoksavath*

Mr. Khamsoksavath, 38, has had complete loss of vision in his right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, “Based on his ability to compensate for his vision loss and his overall visual field in his left eye, he meets the DOT requirements. I certify he meets the requirements to drive a commercial vehicle.” Mr. Khamsoksavath reported that he has driven tractor-trailer combinations for 7 years, accumulating 350,000 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Michael A. Lancette*

Mr. Lancette, 63, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/25. Following an examination in 2013, his ophthalmologist noted, “In my opinion, Mr. Lancette has sufficient vision to operate a commercial vehicle.” Mr. Lancette reported that he has driven straight trucks for 40 years, accumulating 4 million miles, and tractor-trailer combinations for 20 years, accumulating 2.5 million miles. He holds a Class ABCD CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Alex P. Makhanov*

Mr. Makhanov, 25, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2012, his optometrist noted, “I certify, in my opinion, that Alex has sufficient vision to perform driving tasks required to operate a commercial vehicle.” Mr. Makhanov reported that he has driven straight trucks for 3 years, accumulating 24,000 miles. He holds a Class B CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Mitchell Malcolm*

Mr. Malcolm, 58, has had a retinal detachment in his left eye since 1985. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2012, his optometrist noted, “In my medical opinion, Mr. Malcolm would have sufficient vision to perform driving tasks required to operate a commercial vehicle.” Mr. Malcolm reported that he has driven straight trucks for 42 years, accumulating 42,000 miles, and tractor-trailer combinations for 19 years, accumulating 95,000 miles. He holds an operator’s license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Vincent E. Marsee, Sr.*

Mr. Marsee, 55, has had a corneal scar in his left eye since 1979. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2013, his optometrist noted, “Has sufficient vision to drive commercial vehicle.” Mr. Marsee reported that he has driven tractor-trailer combinations for 13 years, accumulating 1.3 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Phillip P. Mazza*

Mr. Mazza, 40, has had a retinal scar in his right eye since 1993. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, “It is my professional opinion that Mr. Mazza’s vision is more than sufficient to perform the driving tasks required to operate a commercial vehicle.” Mr. Mazza reported that he has driven straight trucks for 20 years, accumulating 300,000 miles, and tractor-trailer combinations for 18 years, accumulating 144,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Brandin D. Meester*

Mr. Meester, 28, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, “In my opinion this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Meester reported that he has driven straight trucks for 3 years, accumulating 180,000 miles. He holds

an operator’s license from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Charles Moen*

Mr. Moen, 57, has had optic neuropathy in his left eye since 2008. The visual acuity in his right eye is 20/25, and in his left eye, 20/60. Following an examination in 2013, his optometrist noted, “Patient has sufficient vision to perform driving tasks required to operate a commercial vehicle.” Mr. Moen reported that he has driven straight trucks for 5 years, accumulating 100,000 miles, and tractor-trailer combinations for 29 years, accumulating 3.2 million miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Jerome M. Paintner*

Mr. Paintner, 60, has had strabismic amblyopia in his right eye since birth. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, “In my medical opinion, Mr. Paintner has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Paintner reported that he has driven straight trucks for 15 years, accumulating 45,000 miles. He holds an operator’s license from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Louis A. Pence*

Mr. Pence, 64, has had a corneal scar in his right eye since 2007. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, “I believe that Louis Pence has sufficient vision to perform driving tasks required to operate a commercial vehicle.” Mr. Pence reported that he has driven straight trucks for 20 years, accumulating 600,000 miles. He holds an operator’s license from Wyoming. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

#### *Jeffrey T. Sanders*

Mr. Sanders, 45, has had refractive amblyopia in his left eye since 2002. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, “He has a full field of vision in both eyes 160 degrees horizontally. His color vision is within

normal limits and he is approved to operate a commercial vehicle." Mr. Sanders reported that he has driven straight trucks for 7 years, accumulating 182,000 miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Michael Schott*

Mr. Schott, 63, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/300, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, "In my opinion, Mike has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Schott reported that he has driven straight trucks for 4 years, accumulating 200,000 miles, and tractor-trailer combinations for 28 years, accumulating 2.2 million miles. He holds a Class A CDL from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Steven C. Sheeder*

Mr. Sheeder, 55, has had complete loss of vision in his left eye since 1990. The visual acuity in his right eye is 20/20. Following an examination in 2012, his optometrist noted, "He has excellent vision and should have no problems operating a commercial vehicle." Mr. Sheeder reported that he has driven straight trucks for 36 years, accumulating 360,000 miles, and tractor-trailer combinations for 36 years, accumulating 7.2 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes.

*Larry C. Smoot, Jr.*

Mr. Smoot, 37, has had a traumatic cataract in his right eye since childhood. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "In my professional opinion, Mr. Larry Smoot Jr. has sufficient vision to drive and operate commercial vehicle." Mr. Smoot reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.2 million miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit.

*David Snellings*

Mr. Snellings, 63, has had a macular pucker in his left eye since 2011. The

visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2013, his ophthalmologist noted, "In my medical opinion, I do believe Mr. Snellings has sufficient vision to perform his driving tasks of operating a commercial vehicle." Mr. Snellings reported that he has driven tractor-trailer combinations for 40 years, accumulating 4 million miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Edward A. Spakousky*

Mr. Spakousky, 51, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, "I believe that Edward does have sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Spakousky reported that he has driven straight trucks for 13 years, accumulating 6,500 miles, and tractor-trailer combinations for 13 years, accumulating 780,000 miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jose L. Torres-Perales*

Mr. Torres-Perales, 44, has had a cataract in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2012, his optometrist noted, "I see no reason that Mr. Torres' vision should limit his safety while operating a commercial vehicle." Mr. Torres-Perales reported that he has driven straight trucks for 12 years, accumulating 288,000 miles. He holds an operator's license from Kansas. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 15 mph.

*Adam J. Zappetta*

Mr. Zappetta, 33, has had coloboma in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2013, his optometrist noted, "All current testing confirms he can meet the visual demands required by the department of transportation to operate a commercial vehicle. It is my opinion that Mr. Zappetta should wear corrective lenses while driving commercial vehicles."

Mr. Zappetta reported that he has driven buses for 9 years, accumulating

27,000 miles. He holds an operator's license from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

**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. The Agency will consider all comments received before the close of business August 12, 2013. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

**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-2013-0030 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 material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

## Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA–2013–0030 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to the proposed rulemaking.

Issued On: July 8, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–16680 Filed 7–11–13; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0355; FMCSA–2011–0389, FMCSA–2012–0050, FMCSA–2012–0094, FMCSA 2012–0294]

### 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 grant requests from 24 individuals for exemptions from the regulatory requirement 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 regulation and the associated advisory criteria published in the Code of Federal Regulations as the “Instructions for Performing and Recording Physical Examinations” have resulted in numerous drivers being prohibited from operating CMVs 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. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these 24 individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

**DATES:** The exemptions are effective July 12, 2013. The exemptions expire on July 13, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Division Chief, Physical Qualifications, Office of Medical Programs, (202) 366–4001, [fmcamedical@dot.gov](mailto:fmcamedical@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.

### SUPPLEMENTARY INFORMATION:

#### A. 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:* Anyone may search the electronic form of all comments received into any of DOT’s 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, or other entity). You may review DOT’s complete Privacy Act Statement in the **Federal Register** (73 FR 3316, January 17, 2008). This statement is also available at <http://Docketinfo.dot.gov>.

#### B. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the 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.” The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants 24 individuals an exemption from the regulatory requirement in § 391.41(b)(8) allowing individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency’s decision on these exemption applications is based on an individualized assessment of each applicant’s medical information, including the root cause of the respective seizure(s); the length of time elapsed since the individual’s last seizure; and each individual’s treatment

regimen. In addition, the Agency reviewed the applicant’s driving record found in the CDLIS,<sup>1</sup> for CDL holders, and interstate and intrastate inspections recorded in MCMIS.<sup>2</sup> The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency’s Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation by conducting a comprehensive review of scientific literature that was compiled into the “*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*” (*Evidence Report*) [CD-ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report*. The *Evidence Report* and the MEP recommendations are published on-line at <http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm>, under Seizure Disorders, and are in the docket for this notice.

#### MEP Criteria for Evaluation

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.<sup>3</sup> The MEP recommendations are included in an appendix at the end of this notice and in each of the previously published dockets.

<sup>1</sup> *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

<sup>2</sup> *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

<sup>3</sup> Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., “Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,” FMCSA, October 15, 2007.