take immediate steps to revoke the exemption of a driver.

**Submitting Comments**

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these methods. 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.


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

**Viewing Comments and Documents**


Larry W. Minor,

Associate Administrator for Policy.
be reviewed at http://www.dot.gov/privacy.

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. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years 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 two-year period.

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 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 two individuals listed in this notice have requested renewal of their exemptions from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. 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. In accordance with 49 U.S.C. § 31136(e) and 31315, each of the two applicants has satisfied the conditions for obtaining an exemption from the Epilepsy and Seizure Disorder requirements and were published in the Federal Register (79 FR 70917, 79 FR 23054). In addition, for Commercial Driver’s License (CDL) holders, the Commercial Driver’s License information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver’s Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver’s ability to continue to safely operate a CMV in interstate commerce.

The two drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. FMCSA has concluded that renewing the exemptions for each of these applicants is likely to achieve a level of safety equal to that existing without the exemption. Therefore, FMCSA has decided to renew each exemption for a two-year period. In accordance with 49 U.S.C. § 31136(e) and 31315, each driver has received a renewed exemption.

As of February 10, 2016, Victor Martinez (ID) has satisfied the renewal conditions for obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), from driving CMVs in interstate commerce (79 FR 70917). This driver was included in FMCSA—2012–0094. The exemption was effective on February 14, 2016, and will expire on February 14, 2018.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (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. 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.

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 two exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the Epilepsy and Seizure Disorders requirement in 49 CFR 391.41(b)(8). 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: October 7, 2016.

Larry W. Minor,
Associate Administrator for Policy.

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