
As of September 23, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following nine individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 51568; 66 FR 48504; 68 FR 19598; 68 FR 33570; 68 FR 37197; 68 FR 48989; 68 FR 54775; 70 FR 30999; 70 FR 42615; 70 FR 46567; 70 FR 53412; 72 FR 39879; 72 FR 52419; 72 FR 62896; 74 FR 43221; 76 FR 53708; 78 FR 78477). Their exemptions are applicable as of September 23, 2017, and will expire on September 23, 2019.


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 27, 2017, FMCSA published a notice announcing receipt of applications from two individuals requesting an exemption from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) and requested comments from the public 82 FR 56108. The public comment period ended on December 27, 2017, and zero 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 criteria¹ 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 CRITERIA, section H. Epilepsy; §391.41(b)(8), paragraphs 3, 4, and 5.]

III. Discussion of Comments

FMCSA received zero 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 holders 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 November 27, 2017 Federal Register notice 82 FR 56108 and will not be repeated in this notice.

These two applicants have been seizure-free over a range of 11 years while taking anti-seizure medication and maintained a stable medication treatment regimen 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 two 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: David W. Pamperin (WI); Sury L. Seijas (CT).

In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 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.

Issued on: January 19, 2018.
Larry W. Minor,
Associate Administrator for Policy.
[FR Doc. 2018–01933 Filed 1–30–18; 8:45 am]
BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration
[Docket No. FMCSA–2016–0407]

Agency Information Collection Activities; Approval of a New Information Collection Request; National Consumer Complaint Database

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