

M. Schulz, Jason P. Smith, Joel C. Smith, Dean A. Sullivan, James O. Teague, Lawrence W. Thomas, Jack D. Thorpe, Robert J. Vance, John R. Watson, John A. Witt, John J. Wojcik, Jr., and Raymond W. Zimmerman, Jr., 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: December 3, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2008-0355]

#### 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 fifteen 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 January 9, 2009.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-

2008-0355 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.

Each submission must include the Agency name and the docket ID 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 acknowledgment 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 19477-78; Apr. 11, 2000). This information is also available at <http://Docketinfo.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcamedical@dot.gov](mailto:fmcamedical@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 fifteen 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 antiseizure 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 antiseizure medication.

Drivers with a history of epilepsy/seizures off antiseizure 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 antiseizure medication for a 5-year period or more.

### Summary of Application

#### *Daniel Beeson*

Mr. Beeson is a CMV driver in the state of Indiana. He was diagnosed with epilepsy in 1988, and is currently taking anti-seizure medication (Dilantin). He was put on Dilantin when first diagnosed and has been on it ever since. His neurologist certified that he has maintained good medication control and is monitored frequently for Dilantin levels. Mr. Beeson 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 17 years.

#### *Terrance W. Clawson*

Mr. Clawson is a CMV driver in the state of West Virginia. He states that he was diagnosed with epilepsy in 1970 and has been off anti-seizure medication since 2002. His neurologist certified that he has been seizure-free for thirty-four years and is clearly safe to drive. Mr. Clawson 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 35 years and has been off anti-seizure medication since 2002.

#### *John M. Dobrowski*

Mr. Dobrowski is a CMV driver in the state of Delaware. He states that he has a seizure disorder and is currently taking anti-seizure medication (Keppra). His doctor certified that he has been seizure-free for twenty-two years on his current dose of medication. Mr. Dobrowski 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 1985 and has an excellent driving record. Mr. Dobrowski currently has a state waiver from Delaware.

#### *Daniel Forth*

Mr. Forth is a CMV driver in the state of New York. He was diagnosed with seizure disorder in 1979 disorder, and is currently taking anti-seizure medication (Tergretol). His doctor certified that he has been seizure-free for 27 years on his current dose of medication. Mr. Forth 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 28 years.

#### *Garry A. Gantle*

Mr. Gantle is a CMV driver in the state of New York. He was diagnosed with epilepsy in 1980 and is currently taking anti-seizure medication (Zonegran). His neurologist certified that his seizure is well controlled. Mr. Gantle 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 8 years.

#### *Steve L. Hunsaker*

Mr. Hunsaker is a CMV driver in the state of Idaho. He has a history of nocturnal seizures and is currently taking anti-seizure medication (Dilantin). His doctor certified that he has been seizure-free for eighteen years on his current dose of medication. Mr. Hunsaker 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 18 years.

#### *Eric Jedrewski*

Mr. Jedrewski is a CMV driver in the state of Ohio. He was diagnosed with epilepsy in 1972, and is currently taking anti-seizure medication (Dilantin and Phenobarbital). His neurologist certified that he is extremely stable and there is no need for restrictions in any potential job duties. Mr. Jedrewski 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 32 years.

#### *Shane Klementis*

Mr. Klementis is a CMV driver in the state of New York. He was diagnosed with epilepsy in 1982 and is currently taking anti-seizure medication (Dilantin). His neurologist certified that his seizure disorder is well controlled. Mr. Klementis 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 17 years.

#### *Humberto Ortiz*

Mr. Ortiz is an electrician in the state of Illinois. He was diagnosed with epilepsy in 2001 and is currently taking

anti-seizure medication (Topamax). His neurologist certified that his seizure disorder is well controlled. Mr. Ortiz 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 7 years.

#### *Austin Prince, Jr.*

Mr. Prince is a CMV driver in the state of Ohio. He was diagnosed with epilepsy in 1974 and is currently taking anti-seizure medication (Dilantin). His neurologist certified that he has been under good control and continues to follow up for frequent monitoring of Dilantin levels; he also states that Mr. Prince is safe to drive commercially. Mr. Prince 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 16 years.

#### *Jerry L. Reeder*

Mr. Reeder is a CMV driver in the state of Texas. He was diagnosed with epilepsy in 1994 and is currently taking anti-seizure medication (Carbamazepine). His neurologist certified that he has not had a seizure since 1998 and has maintained good compliance with taking the medication. Mr. Reeder 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 10 years.

#### *Scott M. Rohlinger*

Mr. Rohlinger is a CMV driver in the state of Wisconsin. He was diagnosed in 1987 and took anti-seizure medication (Dilantin) for twenty one years. Twenty years ago, Mr. Rohlinger was involved in a motor vehicle accident that was linked to a possible seizure episode. His doctor certified that there were no seizure experiences prior to that, or following that event. Mr. Rohlinger 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 21 years. His doctor has certified that he may have never experienced a seizure.

#### *Anthony Ross*

Mr. Ross is a CMV driver in the state of Illinois, trying to acquire a CDL. He has a history of nocturnal seizures; diagnosed in 2001. He is currently on anti-seizure medication (Dilantin). According to his neurologist, his last

seizure was in 2004. Mr. Ross believes that he would achieve a level of safety that is equivalent to the level of safety obtained by complying with the regulation because his seizure disorder is well controlled with his current medication. His doctor certified that while on medication, he is medically fit to drive.

#### Travis Williams

Mr. Williams is a CMV driver in the state of Louisiana. He was diagnosed with epilepsy in 1996 and is currently taking anti-seizure medication (Depakote). His neurologist certified that his seizure disorder is well controlled. Mr. Williams 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 12 years.

#### John B. Yates

Mr. Yates is a CMV driver in the state of West Virginia. He has a history of seizures diagnosed in 1976. He is currently on anti-seizure medication (Depokota). According to his neurologist, his last seizure was in 1982. Mr. Yates 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 not had a seizure in 26 years while on medication.

#### 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: December 3, 2008.

#### Larry W. Minor,

Associate Administrator for Policy and Program Development.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44

U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. Each ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the collection of information listed below was published on October 2, 2008 (See 73 FR 57404).

**DATES:** Comments must be submitted on or before January 9, 2009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493-6292), or Ms. Nakia Jackson, Office of Information Technology, RAD-20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6073). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On October 2, 2008, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 73 FR 57404. FRA received one letter in response to this notice.

The letter came from Mr. Freddie Simpson, President of the Brotherhood of Maintenance of Way Employees Division (BMWED). The BMWED is a labor organization representing approximately 35,000 railroad workers who build, maintain, inspect, and repair railroad tracks, bridges, and related railroad infrastructure throughout the United States. In his comments, Mr. Simpson noted the following:

BMWED is a charter member of the Rail Safety Advisory Committee (RSAC) and a voting member of the RSAC Railroad Bridge Working Group (RBWG). The RBWG is tasked by FRA to "report to the Federal Railroad Administration on the current state of Railroad bridge safety management, updating the findings and conclusions of the 1993 Summary Report of the FRA Railroad Bridge Safety Survey, including recommendations for further action."

BMWED believes the information collection activities outlined in the *OMB Control Number 2130—New* are necessary for FRA and RBWG to properly execute its functions. BMWED also believes the information collection activities will have practical utility in assessing the current state of railroad bridge safety management and that the anticipated surveys and evaluations of selected railroad bridge management programs is vital to such assessment. Finally, BMWED believes FRA's estimates of the burden of such information collection activities are reasonable, sound, and minimally burdensome.

The information to be collected and weighting factors to be applied thereupon are presently being reviewed by the American Short Line and Regional Railroad Association (ASLRRA) Bridge Committee. This committee is composed of the chief bridge engineers from the seven Class I railroads and Amtrak, representatives of Class II regional and Class III short line railroads, consulting engineers, and industry suppliers. FRA will consider the recommendations of the ASLRRA Bridge Committee in this regard.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The proposed requirements are being submitted for clearance by OMB as required by the PRA.

**Title:** Factors for Selection of Railroads for Evaluation of Bridge Management Practices.

**OMB Control Number:** 2130—New.  
**Type of Request:** Regular approval of a proposed collection of information.

**Affected Public:** Railroads.

**Form(s):** FRA F 6180.129.

**Abstract:** The Federal Railroad Administration (FRA) has conducted a Railroad Bridge Safety Program at various levels of effort ever since the enactment of the Railroad Safety Act of