

discriminatory. On May 4, 2015, FMCSA published a Notice of Proposed Rulemaking (NPRM) (80 FR 25260) proposed changes to the Diabetes standard and requesting comments from the public. FMCSA is currently evaluating comments received and drafting a Final Rule. Information related to this action can be found in the Docket at FMCSA–2005–23151. Marisol Aguilar stated that she agrees with the decision to grant exemptions to Mark A. Brede, Bradley J. Holmstrom, Delbert E. Holt, and Anthony A. Kronbeck.

#### *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.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the July 27, 2017, **Federal Register** notice (85 FR 35033) and will not be repeated in this notice.

These 47 applicants have had ITDM over a range of one to 42 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (two or more) severe hypoglycemic episodes in the past five years. 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 requirement at 49 CFR 391.41(b)(10).

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

#### **IV. 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 submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two 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) each driver must 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) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in 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.

#### **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 47 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Miguel A. Alicea (CT)  
Ralph W. Boyatt (WA)  
Eduard Braun (AR)  
Mark A. Brede (MN)  
Lawrence P. Butler (CA)  
Keith T. Campbell (TX)  
Larry W. Carruth (AL)  
Dennis R. Carte (MO)  
Steven B. Carter (NC)  
Gregory L. Crawford (MI)  
James D. Duvall (VT)  
Reginald D. Evans (NE)  
Daniel F. Foder (NY)  
Daniel J. Fowler (CT)  
Michael F. Greene (MA)  
Cindy E. Grimes (NE)  
Leo J. Hoffman, Jr. (PA)  
Bradley J. Holmstrom (MN)  
Delbert E. Holt (MN)  
Alexander C. Jennings (NJ)  
Calvin W. Johnson (WI)  
Shannon E. Johnson (AZ)  
Kenneth E. King (IN)  
Anthony A. Kronbeck (MN)  
Charles P. Lane, Jr. (AL)

Gjasi A. Leite (GA)  
Richard V. Madden (PA)  
Landon H. McCuddin (SD)  
Damien R. Mitchell (NC)  
Steven J. Mooney (AL)  
Luther G. Mumaw, Jr. (WV)  
Roberto Noa (FL)  
Benjamin P. Peirce (CA)  
Judah G. Pira (WA)  
Robert E. Racy II (OH)  
Robert P. Rowean, Jr. (MA)  
Wesley R. Schmid (CT)  
Royal J. Schultz (NY)  
Joseph B. Simon (NJ)  
Andrew J. Slionski (NY)  
Samuel L. Smith (NC)  
Terry D. Stumpff (WA)  
Manuel A. Vasquez (NJ)  
Paul O. Verly (CO)  
Alvin G. Welch (NY)  
Damien E. Wiggins (CA)  
Frank R. Woitel (NM)

In accordance with 49 U.S.C. 31136(e) and 31315, 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(e) and 31315.

Issued on: October 2, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910-EX-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2017–0022]

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

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 22 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** The exemptions were applicable on September 12, 2017. The exemptions expire on September 12, 2019. Each group of exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (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 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. 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:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, 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 August 10, 2017, FMCSA published a notice announcing receipt of applications from 22 individuals requesting an exemption from vision requirement in 49 CFR 391.41(b)(10) and requested comments from the public (82 FR 37504). The public comment period ended on September 11, 2017, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting the 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)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person:

Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

##### III. Discussion of Comments

FMCSA received one comment in this proceeding. Vicky Johnson stated Minnesota Driver and Vehicle Services (DVS) has no objections to Ray M. Bliss retaining his CDL with his vision exemption.

##### *Basis for Exemption Determination*

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows applicants to operate CMVs in interstate commerce.

The Agency's decision regarding these exemption applications is based on medical reports about the applicants' vision as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 10, 2017, **Federal Register** notice (82 FR 37504) and will not be repeated in this notice.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 22 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, central retinal vein occlusion, complete loss of vision, fibrosis, macular scarring, phthisis bulbi, prosthetic eye, retinal scarring, and scotoma. In most cases, their eye conditions were not recently developed. Nineteen of the applicants were either born with their vision impairments or have had them since childhood. The three individuals that sustained their vision conditions as adults have had it for a range of five to 23 years. Although each applicant has one eye which does not meet the vision

requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors' opinions are supported by the applicants' possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for three to 38 years. In the past three years, one driver was involved in a crash, and no drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

##### IV. 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 be physically examined 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 certified Medical Examiner who attests that the individual is otherwise

physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) 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 in 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.

#### 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 22 exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:

Eddie S. Bennett (MI)  
 Ray M. Bliss (MN)  
 Gary S. Boryk (VA)  
 Jonathan E. Burt (VT)  
 David A. Cooper (WV)  
 Nicholas M. Deschepper (SD)  
 Frank J. Devitz (PA)  
 John F. Ferguson, Jr. (PA)  
 Dominick P. Fittipaldi (PA)  
 Alvin H. Horgdal (IA)  
 Louis R. LeMonds, Jr. (WA)  
 Jonathan Marin (NJ)  
 Mark E. McNaughton (IA)  
 Louis Neofotistos (MA)  
 Josue M. Rodriguez-Espinoza (CA)  
 James R. Rupert (CA)  
 Christopher J. Schmidt (WI)  
 Brandon L. Siebe (KY)  
 Greg C. Stilson (WY)  
 Paul M. Wooton (KY)  
 Willie C. Young (TX)  
 Eloy Zuniga (TX)

In accordance with 49 U.S.C. 31136(e) and 31315, 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: October 2, 2017.

Larry W. Minor,

Associate Administrator for Policy.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0180]

#### 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 exemptions for four individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) 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 exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on September 2, 2017. The exemptions expire on September 2, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, 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., ET, 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. Electronic Access

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9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, 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 August 2, 2017, FMCSA published a notice announcing its decision to grant exemptions for four individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (82 FR 36072). The public comment period ended on September 1, 2017, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that granting these exemptions 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 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.]

#### III. Discussion of Comments

FMCSA received no comments in this preceding.

#### IV. Conclusion

Based upon its evaluation of the four exemption applications and comments received, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41 (b)(8):

As of September 2, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the conditions for