

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five 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 five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver’s medical certification.

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 nine 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

In accordance with 49 U.S.C. 31136(e) and 31315, each of the nine applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The nine 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. 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. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of January 21, 2018, 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 epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Thomas A. De Angelo (IL)
Nathan L. Dermer (AK)
Daniel L. Halstead (NV)
Toriano T. Mitchell (OH)
Thomas A. Mitman (NY)
Diana J. Mugford (VT)
Tyler W. Schaefer (ME)
Alvin C. Strite (PA)
Thomas B. Vivirito (PA)

The drivers were included in docket number FMCSA–2012–0050; FMCSA–2015–0119; FMCSA–2015–0320. Their exemptions are applicable as of January 21, 2018, and will expire on January 21, 2020.

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 nine exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition 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: February 8, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–03940 Filed 2–26–18; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0090]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From the Automobile Carriers Conference of the American Trucking Associations

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from the Automobile Carriers Conference (ACC) of the American Trucking Associations (ATA) requesting that motor carriers operating stinger steered automobile transporter equipment be relieved from the requirement to place warning flags on projecting loads of new motor vehicles. The Federal Motor Carrier Safety Regulations (FMCSRs) require any commercial motor vehicle (CMV)

transporting a load that extends more than 4 feet beyond the rear of the vehicle to be marked with a single red or orange fluorescent warning flag at the extreme rear if the projecting load is 2 feet wide or less, and two warning flags if the projecting load is wider than 2 feet. The flags must be located to indicate the maximum width of loads which extend beyond the sides and/or rear of the vehicle. The ACC believes that the reflex reflectors that are required to be installed on the new motor vehicles being transported, in conjunction with the various marking and conspicuity requirements required on the trailer transporting the new vehicles, provide a level of safety that is greater than that achieved by the warning flags required by the FMCSRs.

DATES: Comments must be received on or before March 29, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2018–0090 using any of the following methods:

- *Website:* <http://www.regulations.gov>

Follow the instructions for submitting comments on the Federal electronic docket site.

- *Fax:* 1–202–493–2251.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. 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 for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 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 www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public participation: The <http://www.regulations.gov> website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> website as well as the DOT’s <http://docketsinfo.dot.gov> website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the

effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

ACC Application for Exemption

The ACC has applied for an exemption from 49 CFR 393.87, requesting that motor carriers operating stinger steered automobile transporter equipment be relieved from the requirement to place warning flags on projecting loads of new motor vehicles. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.87 of the FMCSRs requires any commercial motor vehicle transporting a load which extends beyond the sides by more than 4 inches, or more than 4 feet beyond the rear, to have the extremities of the load marked with red or orange fluorescent warning flags. Each warning flag must be at least 18 inches square. There must be a single flag at the extreme rear if the projecting load is 2 feet wide or less, and two warning flags are required if the projecting load is wider than 2 feet. The flags must be located to indicate the maximum width of loads which extend beyond the sides and/or rear of the vehicle.

In its application, the ACC states “With the enactment of the FAST [Fixing America’s Surface Transportation] Act in December 2015, stinger steered automobile transporter equipment are permitted a rear vehicular overhang allowance of not less than six feet. [49 U.S.C. 31111(b)(1)(G)] Prior to the enactment of the FAST Act, the minimum rear overhang allowance for all automobile transporters was a minimum of four feet. [23 CFR Sec. 658.13(e)(ii).”

The ACC states:

The transportation of new motor vehicles poses a dilemma in adhering to the flag requirements. Affixing flags or anything else to the surfaces of the vehicles is not allowed by vehicle manufacturers as it can lead to scratches and other damage to the vehicle. Auto transporters have attempted to adhere to the intent of the regulations by affixing flags at the end of the trailers (see attachments). This in itself can still lead to vehicle damage by virtue of the flag rubbing on the vehicle surface. However, this attempt to comply with the regulatory intent does not adhere to the letter of the regulations and has resulted in carriers receiving numerous citations for being in violation of the flag requirements.

The ACC states that motor vehicles are the only commodity to be transported that must adhere to the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108,

“Lamps, reflective devices and associated equipment,” and that FMCSS No. 108 has required motor vehicles to be equipped with side-facing reflex reflectors in addition to amber reflectors in the front of the vehicle and red reflectors in the rear of the vehicle since 1968. The ACC contends that the reflective devices that are required to be on the vehicles being transported, along with the required lighting and conspicuity treatments on the trailer “more than adequately adhere to the intent of Sec. 383.87 in notifying the motoring public that a load extends more than four feet beyond the rear of the trailer.” In addition, ACC states that FMVSS No. 108 imposes specific performance criteria for the required reflectors, whereas there are no such performance requirements for the flags required by the FMCSRs.

The ACC states that the automobile transporter vehicle population is a fraction of the overall CMV population, consisting of approximately 16,000 units, and that the stinger steered vehicle population is a subset of that. Further, ACC notes that since the enactment of the FAST Act, the industry has not experienced an increase in collisions into the rear end of trucks with the additional 2 feet of allowable overhang. The ACC states that “Statistics show that the accident frequency of collisions into the rear end of auto transporters is minuscule with a rate of less than 0.05%.”

The exemption would apply to all motor carriers operating stinger steered automobile transporter equipment. The ACC believes that the reflex reflectors that are required to be installed on the new motor vehicles being transported, in conjunction with the various marking and conspicuity requirements required on the trailer transporting the new vehicles, provide a level of safety that is greater than that achieved by the warning flags required by the FMCSRs.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on ACC’s application for an exemption from 49 CFR 393.87. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will continue to file,

in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: February 20, 2018.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0120]

Hours of Service of Drivers: Application for Exemption; G4S Secure Solutions (USA), Inc. (G4S)

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

ACTION: Notice of final disposition; denial of application for exemption.

SUMMARY: FMCSA announces its decision to deny the application of G4S Secure Solutions (USA), Inc. (G4S), for an exemption from the requirement that its drivers use electronic logging devices (ELDs) to record their hours of service (HOS). G4S requested the exemption for all its drivers of customer/government-owned vehicles used intermittently to perform passenger transportation. FMCSA analyzed the exemption application and public comments, and determined that the record does not establish that the applicant would not achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemption. FMCSA therefore issued a letter of denial to the applicant on January 5, 2018.

DATES: Application for exemption was denied January 5, 2018.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614–942–6477. Email: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR

381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

FMCSA reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice also must specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

G4S is an international security solutions group, with operations in more than 100 countries and more than 54,000 employees in North America. One component of G4S’s operations is detainee and prisoner transport. Government agencies across the country, including the U.S. Immigration and Customs Enforcement and State/county police departments, contract with G4S to safely and securely transport prisoners, offenders, and illegal aliens. To perform these transportation services, G4S is registered with the FMCSA as a for-hire motor carrier. While the company maintains a relatively small fleet of vehicles, a significant portion of its transportation services are performed by G4S employees operating customer/government-owned equipment (e.g., buses and 15-passenger-vans).

The company had started the process of installing compliant ELDs in its own vehicle fleet. G4S, however, believed an exemption was for instances when its drivers operate customer/government-owned equipment to perform passenger transportation services. In these instances, it is the customer, not G4S, that owns and maintains the vehicles. For its part, G4S provides qualified drivers to operate the vehicles and is explicitly precluded, often by contract, from making any modifications to or installing any equipment in the vehicles.

G4S claimed that, from a safety perspective, its operations are indistinguishable from driveaway-