

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2024–0027]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

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

SUMMARY: FMCSA announces receipt of applications from 11 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 8, 2024.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2024–0027 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov/, insert the docket number (FMCSA–2024–0027) in the keyword box and click “Search.” Next, choose the only notice listed, and click on the “Comment” button. Follow the online instructions for submitting comments.

- **Mail:** Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.

- **Hand Delivery:** West Building Ground Floor, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays.

- **Fax:** (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–4001, fmcsamedical@dot.gov. Office hours are

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 Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation***A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2024–0027), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. 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.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2024-0027>. Next, choose the only notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

B. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number (FMCSA–2024–0027) in the keyword box and click “Search.” Next, choose the only notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. 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 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-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 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver’s medical certification.

The 11 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in § 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 (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person’s condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician.

¹ These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy*; § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

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 anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has 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 recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure 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 anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a notice of final disposition titled, "Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders," (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate 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." Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

III. Qualifications of Applicants

Ethan Abbott

Ethan Abbott is a 22-year-old class C license holder in Pennsylvania. They have a history of provoked seizures and have been seizure free since November 2015. They take anti-seizure medication with the dosage and frequency remaining the same since July 25, 2022. Their physician states that they are supportive of Ethan Abbott receiving an exemption.

Blake Bourgeois

Blake Bourgeois is a 40-year-old class A commercial driver's license (CDL) holder in Louisiana. They have a history of epilepsy and have been seizure free since 2015. They take anti-seizure medication with the dosage and frequency remaining the same since March 2015. Their physician states that they are supportive of Blake Bourgeois receiving an exemption.

Richard Henry

Richard Henry is a 58-year-old class F license holder in Missouri. They have a history of epilepsy and have been seizure free since 2003. They take anti-seizure medication with the dosage and frequency remaining the same since 2014. Their physician states that they are supportive of Richard Henry receiving an exemption.

Justin Knall

Justin Knall is a 36-year-old class A CDL holder in Arkansas. They have a history of epilepsy and have been seizure free since February 2016. They take anti-seizure medication with the dosage and frequency remaining the same since March 14, 2022. Their physician states that they are supportive of Justin Knall receiving an exemption.

Mark Merhalski

Mark Merhalski is a 73-year-old class D license holder in Wisconsin. They have a history of epilepsy and have been seizure free since 2016. They take anti-seizure medication with the dosage and frequency remaining the same since 2016. Their physician states that they are supportive of Mark Merhalski receiving an exemption.

Andrew Murphy

Andrew Murphy is a 36-year-old class D license holder in New York. They have a history of seizure disorder and have been seizure free since January 2010. They take anti-seizure medication with the dosage and frequency remaining the same since 2010. Their physician states that they are supportive

of Andrew Murphy receiving an exemption.

Scott Oehlschlaeger

Scott Oehlschlaeger is a 53-year-old class A CDL holder in California. They have a history of epilepsy and have been seizure free since October of 1991. They take anti-seizure medication with the dosage and frequency remaining the same since 1992. Their physician states that they are supportive of Scott Oehlschlaeger receiving an exemption.

Steven Outing

Steven Outing is a 57-year-old class A CDL holder in North Carolina. They have a history of focal left temporal lobe epilepsy and have been seizure free since March 2013. They take anti-seizure medication with the dosage and frequency remaining the same since March 2013. Their physician states that they are supportive of Steven Outing receiving an exemption.

Kristopher Parker

Kristopher Parker is a 37-year-old class R license holder in Mississippi. They have a history of seizure disorder and have been seizure free since 2009. They take anti-seizure medication with the dosage and frequency remaining the same since 2016. Their physician states that they are supportive of Kristopher Parker receiving an exemption.

Nathaniel Price

Nathaniel Price is a 35-year-old class D license holder in Ohio. They have a history of non-intractable epilepsy and have been seizure free since 2007. They take anti-seizure medication with the dosage and frequency remaining the same for over 20 years. Their physician states that they are supportive of Nathaniel Price receiving an exemption.

Ashley Wagner

Ashley Wagner is a 38-year-old class D license holder in Wisconsin. They have a history of generalized convulsive epilepsy and have been seizure free since 2003. They take anti-seizure medication with the dosage and frequency remaining the same since 2013. Their physician states that they are supportive of Ashley Wagner receiving an exemption.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of

business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024-23358 Filed 10-8-24; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0320; FMCSA-2017-0252; FMCSA-2017-0253; FMCSA-2022-0044]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for eight 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 16, 2024. The exemptions expire on September 16, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 366-4001, fmcsamedical@dot.gov. 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 Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number (FMCSA-2015-0320, FMCSA-2017-0252, FMCSA-2017-0253, or FMCSA-2022-0044) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click

“Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

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II. Background

On August 30, 2024, FMCSA published a notice announcing its decision to renew exemptions for eight 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 (89 FR 70685). The public comment period ended on September 30, 2024, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 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

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conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the eight renewal exemption applications and comments received, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of September 16, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (89 FR 70685):

Nathan Dermer (AK)
Bradley Fullmer (UT)
Cole Funk (PA)
Joseph Hammond (OR)
Anthony Kornuszko (PA)
Michael Modica (FL)
David Pamperin (WI)
Dominick Sempervive (NJ)

The drivers were included in docket number FMCSA-2015-0320, FMCSA-2017-0252, FMCSA-2017-0253, or FMCSA-2022-0044. Their exemptions were applicable as of September 16, 2024 and will expire on September 16, 2026.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 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(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2024-23359 Filed 10-8-24; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2019-0090]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice