

copy of the denial letter is in the docket of this matter.

Issued on: June 17, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2001-9258; FMCSA-2005-20560; FMCSA-2006-24015; FMCSA-2007-27333; FMCSA-2009-0121; FMCSA-2010-0354; FMCSA-2011-0024; FMCSA-2011-0092; FMCSA-2011-0102; FMCSA-2013-0021]

### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 23 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective July 22, 2015. Comments must be received on or before July 24, 2015.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA-2001-9258; FMCSA-2005-20560; FMCSA-2006-24015; FMCSA-2007-27333; FMCSA-2009-0121; FMCSA-2010-0354; FMCSA-2011-0024; FMCSA-2011-0092; FMCSA-2011-0102; FMCSA-2013-0021], 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 or Courier:* 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.

*Instructions:* Each submission must include the Agency name and the docket number 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 Federal Docket Management System (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 acknowledgement page that appears after submitting comments on-line.

*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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

#### FOR FURTHER INFORMATION CONTACT:

Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 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. Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

##### II. Exemption Decision

This notice addresses 23 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 23 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Juan D. Adame, Jr. (TX), Stanley C. Anders (SD), David W. Bennett (NC), Joel A. Cabrera (FL), Sherman W. Clapper (ID), John L. Elder, III (DE), Eric Esplin (UT), Ronald R. Fournier (NY), Anthony Hall (LA), Ronald D. Jackman II (NV), Thomas W. Kent (IN), Gerald Kortessmaki (MN), John W. Locke (TX), Robert J. MacInnis (MA), Steve J. Morrison (ID), Ellie L. Murphree (AL), Steven A. Proctor (TX), Adolph L. Romero (FL), Jose Sanchez-Sanchez (KS), Robert B. Steinmetz (OR), Rodney W. Sukalski (MN), Larry D. Warneke (WA), Lonnie D. Wendinger (MN).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. 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.

##### III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 23 applicants has

satisfied the entry conditions for obtaining an exemption from the vision requirements (66 FR 17743; 66 FR 33990; 68 FR 35772; 70 FR 17504; 70 FR 30997; 70 FR 33937; 71 FR 14566; 71 FR 30227; 72 FR 12666; 72 FR 25831; 72 FR 27624; 72 FR 32705; 73 FR 27014; 74 FR 19270; 74 FR 26461; 74 FR 26464; 74 FR 34630; 75 FR 50799; 75 FR 72863; 76 FR 2190; 76 FR 17481; 76 FR 25766; 76 FR 28125; 76 FR 29022; 76 FR 34135; 76 FR 37168; 76 FR 37173; 76 FR 37885; 76 FR 44082; 78 FR 10251; 78 FR 20379; 78 FR 24300; 78 FR 34140; 78 FR 37270; 78 FR 51268; 78 FR 51269; 78 FR 57679). Each of these 23 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely 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.

#### IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

##### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2001–9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021), 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and put the docket number, “FMCSA–2001–

9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in 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. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

##### Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and in the search box insert the docket number, “FMCSA–2001–9258; FMCSA–2005–20560; FMCSA–2006–24015; FMCSA–2007–27333; FMCSA–2009–0121; FMCSA–2010–0354; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2013–0021” in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: June 17, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0115]

#### Denial of Exemption Applications; Epilepsy and Seizure Disorders

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

**ACTION:** Notice of denial of applications for seizure exemptions.

**SUMMARY:** FMCSA announces the denial of 8 individuals' applications for exemptions from the rule prohibiting 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 operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The reason for each of the denials is listed after the individual's name.

#### FOR FURTHER INFORMATION CONTACT:

Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, or via email at [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), or by letter to FMCSA, Room W64–113, 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 allow the Agency to renew exemptions at the end of the 2-year period. The 8 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorder standard 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 qualified physically 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 order to make an evidence-based decision, FMCSA conducted a comprehensive review of scientific literature and convened a panel of medical experts in the field of neurology to evaluate key questions regarding seizure and anti-seizure medication related to the safe operation of a CMV. Previously, the Agency gathered evidence for decision making concerning potential changes to the regulation by conducting a comprehensive review of scientific literature that was compiled into a report entitled, “*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*” (Evidence Report) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a MEP in the