

proposes to extend the Utilization Factor to carriers that drive up to 250,000 VMT per PU in the Unsafe Driving and Crash Indicator safety categories to more accurately account for carriers with increased exposure.

Other Changes Considered and Not Proposed

FMCSA analyzed other potential changes to SMS and determined that they would not improve safety, as described below.

Geographic Variation

A consistent criticism of SMS has been that differences among State enforcement agencies in commercial motor vehicle (CMV) inspection and violation rates may lead to unfair SMS results for carriers that operate primarily in States with higher-than-average enforcement rates. During the IRT model design, FMCSA explored a statistical model to better account for enforcement variation among States. That model is detailed in the report titled "Development and Evaluation of an Item Response Theory (IRT) Model for Motor Carrier Prioritization," which is available in the docket for this notice.

FMCSA determined that incorporating a model to account for geographic variation would not improve the Agency's ability to identify high risk carriers and would run contrary to the goals of the Motor Carrier Safety Assistance Program (MCSAP), the Agency's grant program to support State and local efforts to reduce crashes involving CMVs. States face varying challenges to reducing crashes due to different road types, congestion, topography, and weather conditions, among other factors. Through MCSAP, FMCSA encourages States to tailor their crash reduction strategies by addressing local conditions and challenges. Applying a model that de-emphasizes enforcement in certain States would disincentivize FMCSA's MCSAP partners from undertaking enforcement initiatives that are intended to address particular safety issues in their States. FMCSA believes that it should encourage all States to continually raise the bar for safety rather than discounting the safety efforts of certain States.

Crash Indicator

The Crash Indicator BASIC applies severity weights to reportable crashes and places more weight on crashes involving an injury or fatality and crashes involving the release of HM than on tow-away crashes. FMCSA analyzed whether removing severity weights to simplify the calculation

would improve this BASIC. Because removing the severity weights from the Crash Indicator BASIC has a minimal impact on the group of carriers identified for intervention, FMCSA does not propose to make this change.

FMCSA also studied the impact of raising the minimum number of crashes required to assign a percentile in the Crash Indicator BASIC from two to three. FMCSA's ET results, however, showed that carriers with exactly two crashes have a future crash rate that is more than twice the national average future crash rate. Approximately two-thirds of those carriers were not prioritized in another BASIC, meaning they would not receive any safety interventions from FMCSA if the data sufficiency standard in the Crash Indicator BASIC were increased from two to three crashes. FMCSA has concluded that raising the minimum number of crashes from two to three in the Crash Indicator BASIC would not improve safety. Crashes that are reviewed through FMCSA's Crash Preventability Determination Program and found to be Not Preventable will continue to be excluded from the prioritization methodology.

Preview

With the February 2023 SMS update, the Agency provided a preview opportunity of the system before implementation, as it has historically done with SMS implementation and enhancements, to allow motor carriers, law enforcement, and other interested stakeholders to see the impacts of these proposed changes on measures, percentiles, and alerts. Motor carriers can log in to the preview at <https://csa.fmcsa.dot.gov/prioritizationpreview/> or through the CSA website or the FMCSA Portal to see how the proposed methodology may impact their prioritization results. The public can view the new methodology using an example carrier. To support the preview, FMCSA will hold a series of question and answer (Q&A) sessions for the industry and the public, where participants will be able to ask questions about the proposed changes and receive real-time responses. All sessions will have closed captioning. The dates and times for these sessions will be announced on the Agency's website. Before the Q&A sessions, participants have the opportunity to view the preview website and additional resources at <https://csa.fmcsa.dot.gov/prioritizationpreview/> where they can learn more about the proposed changes and review their results under the proposed methodology. FMCSA encourages all

stakeholders to participate in these Q&A sessions.

FMCSA requests comments on the above proposed enhancements, as well as the changes that were considered but are not proposed. In addition, input is requested on other changes that should be considered. Submitters should provide data to support their recommendations.

Robin Hutcheson,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0323; FMCSA-2016-0008; FMCSA-2018-0056; FMCSA-2019-0035]

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 seven 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: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64-224, 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–2015–03023, FMCSA–2016–0008, FMCSA–2018–0056, or FMCSA–2019–0035) 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 in Room W12–140 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.

B. 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

On January 5, 2023, FMCSA published a notice announcing its decision to renew exemptions for seven 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 (88 FR 904). The public comment period ended on February 6, and five 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 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 seven renewal exemption applications and the fact that no comments were received, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of January and are discussed below.

As of January 1, 2023, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following six individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (88 FR 904):

Robert Davidson (ID)
Jordan Hyster (OH)
Everett Letourneau (ND)
Douglas Simms (NC)
Donald Smith (NY)
Ronald Wagner (OH)

The drivers were included in docket number FMCSA–2015–03023, FMCSA–2016–0008, FMCSA–2018–0056, or FMCSA–2019–0035. Their exemptions were applicable as of January 1, 2023 and will expire on January 1, 2025.

As of January 11, 2023, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Robert Schauer (IA) has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (88 FR 904).

This driver was included in docket number FMCSA–2016–0008. Their exemption was applicable as of January 11, 2023 and will expire on January 11, 2025.

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.

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DEPARTMENT OF TRANSPORTATION**Pipeline and Hazardous Materials Safety Administration****Hazardous Materials: Notice of Applications for New Special Permits**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before March 17, 2023.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT:

Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the “Nature of Application” portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

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>.