

FMCSA does not find any of the evidence or contentions presented by UPS persuasive enough to cause it to rescind Mr. Murphy's exemption. It also finds that CVTA's concerns about the supposed difficulties of training CDL drivers with a hearing exemption do not warrant denying any of the renewal applications for such exemptions. Finally, there is a basis to renew Mr. Queen's exemption because he has been examined by a medical examiner and found to satisfy FMCSA's physical qualification standards, except for the hearing standard.

IV. Conclusion

Based upon its evaluation of the 24 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirements in § 391.41(b)(11).

As of August 22, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 24 individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Mataio Brown (MS)
Robert Burnett (AZ)
Barry Carpenter (SD)
Lyle Eash (VA)
Buddy Gann (IN)
Jeremy Lampard (SC)
Michael McCarthy (MN)
Quinton Murphy (WI)
Michael Murrah (GA)
Karl Ortiz (MO)
Christopher Poole (OH)
Ricardo Porras-Payan (TX)
Kelly Pulvermacher (WI)
James Queen (FL)
James Redmond (IL)
Willine Smith (GA)
Brandon Soto (MO)
Darren Talley (NC)
Michael Tayman (ME)
Carlos Torres (FL)
Joshua Weaver (GA)
James Weir (AZ)
Joseph Woodle (KY)
Paul Wentworth (WA)

The drivers were included in docket numbers FMCSA–2012–0332, FMCSA–2013–0122, FMCSA–2013–0123, FMCSA–2013–0124, FMCSA–2015–0326, FMCSA–2015–0328, FMCSA–2015–0329, FMCSA–2016–0004, FMCSA–2017–0058, FMCSA–2017–0059, FMCSA–2017–0060, FMCSA–2017–0061, FMCSA–2018–0135, or FMCSA–2018–0138. Their exemptions were applicable as of August 22, 2022 and will expire on August 22, 2024.

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, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0047]

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 15 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 February 23, 2023.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2022–0047 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov/, insert the docket number (FMCSA–2022–0047) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first 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, Room W12–140, Washington, DC 20590–0001.

- **Hand Delivery:** West Building Ground Floor, Room W12–140, 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, Room W64–224, 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–2022–0047), 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 www.regulations.gov/docket?D=FMCSA-2022-0047. Next, sort the results by “Posted (Newer-Older),” choose the first 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–2022–0047, 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.

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 15 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. 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

Andrew Briggs

Andrew Briggs is a 43-year-old class A, B, C, and D commercial driver's license (CDL) holder in Wisconsin. They have a history of focal epilepsy and have been seizure free since 2010. They take anti-seizure medication with the dosage and frequency remaining the same since December 2011. Their physician states that they are supportive of Andrew Briggs receiving an exemption.

Joel Clapper

Joel Clapper is a 49-year-old class C license holder in Michigan. They have a history of seizure disorder and have been seizure free since 2005. They take anti-seizure medication with the dosage and frequency remaining the same since November 2005. Their physician states that they are supportive of Joel Clapper receiving an exemption.

Trent Clark

Trent Clark is a 38-year-old class C license holder in Pennsylvania. They have a history of seizure and have been seizure free since 2007. They take anti-seizure medication with the dosage and frequency remaining the same since 2015. Their physician states that they are supportive of Trent Clark receiving an exemption.

John Girdley

John Girdley is a 42-year-old class D license holder in Kentucky. They have a history of epilepsy and have been seizure free since September 2012. They take anti-seizure medication with the dosage and frequency remaining the same since November 2014. Their physician states that they are supportive of John Girdley receiving an exemption.

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>.

Larry Kirby

Larry Kirby is a 36-year-old class A CDL holder in Missouri. They have a history of epilepsy and have been seizure free since 2010. They take anti-seizure medication with the dosage and frequency remaining the same since May 2019. Their physician states that they are supportive of Larry Kirby receiving an exemption.

Matthew Lynch

Matthew Lynch is a 31-year-old class C license holder in Pennsylvania. They have a history of seizure disorder and have been seizure free since 2013. They take anti-seizure medication with the dosage and frequency remaining the same since 2013. Their physician states that they are supportive of Matthew Lynch receiving an exemption.

Edward Malicki

Edward Malicki is a 49-year-old class D license holder in New York. They have a history of generalized epilepsy and have been seizure free since 2002. They take anti-seizure medication with the dosage and frequency remaining the same since 2003. Their physician states that they are supportive of Edward Malicki receiving an exemption.

Jared Meyers

Jared Meyers is a 30-year-old class R license holder in Mississippi. They have a history of cryptogenic seizures and have been seizure free since November 2007. They take anti-seizure medication with the dosage and frequency remaining the same since November 2007. Their physician states that they are supportive of Jared Meyers receiving an exemption.

James Niemoller

James Niemoller is a 45-year-old class C license holder in Maryland. They have a history of epilepsy and have been seizure free since May 1990. They take anti-seizure medication with the dosage and frequency remaining the same since June 2013. Their physician states that they are supportive of James Niemoller receiving an exemption.

Joshua Pattyn

Joshua Pattyn is a 47-year-old class A CDL holder in Oregon. They have a history of seizure disorder and have been seizure free since 1995. They take anti-seizure medication with the dosage and frequency remaining the same since 1995. Their physician states that they are supportive of Joshua Pattyn receiving an exemption.

Joe W. Porath

Joe W. Porath is a 51-year-old class A CDL holder in Idaho. They have a history of sequelae of cerebral infraction, unprovoked seizure and have been seizure free since July 2017. They take anti-seizure medication with the dosage and frequency remaining the same since October 2017. Their physician states that they are supportive of Joe W. Porath receiving an exemption.

Jon Rollins

Jon Rollins is a 52-year-old class D license holder in Ohio. They have a history of grand mal seizure disorder and have been seizure free since 2006. They take anti-seizure medication with the dosage and frequency remaining the same since 2006. Their physician states that they are supportive of Jon Rollins receiving an exemption.

Garrett Sager

Garrett Sager is a 25-year-old class C license holder in Iowa. They have a history of epilepsy generalized tonic-clonic seizure and have been seizure free since 2012. They take anti-seizure medication with the dosage and frequency remaining the same since April 2019. Their physician states that they are supportive of Garrett Sager receiving an exemption.

Colin Trummer

Colin Trummer is a 19-year-old class D license holder in Ohio. They have a history of benign Rolandic seizure and have been seizure free since 2011. They have not taken anti-seizure medication since 2013. Their physician states that they are supportive of Colin Trummer receiving an exemption.

Shawn Vanliew

Shawn Vanliew is a 65-year-old class D license holder in Minnesota. They have a history of epilepsy and have been seizure free since 1992. They take anti-seizure medication with the dosage and frequency remaining the same since 1992. Their physician states that they are supportive of Shawn Vanliew 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.

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

[Docket No. FMCSA-2010-023; FMCSA-2013-0109; FMCSA-2013-0444; FMCSA-2014-0215; FMCSA-2016-0008; FMCSA-2018-0053; FMCSA-2018-0056, FMCSA-2019-0036]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

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

SUMMARY: FMCSA announces its decision to renew exemptions for nine 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 are applicable on February 3, 2023. The exemptions expire on February 3, 2025. Comments must be received on or before February 23, 2023.

ADDRESSES: You may submit comments identified by the Federal Docket Management System, Docket No. FMCSA-2010-0203, Docket No. FMCSA-2013-0109, Docket No. FMCSA-2013-0444, Docket No. FMCSA-2014-0215, Docket No. FMCSA-2016-0008, Docket No. FMCSA-2018-0053, Docket No. FMCSA-2018-0056, or Docket No. FMCSA-2019-0036, using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov/, insert the docket number (FMCSA-2010-0203, FMCSA-2013-0109, FMCSA-2013-0444, FMCSA-2014-0215, FMCSA-2016-0008, FMCSA-2018-0053, FMCSA-2018-0056, or FMCSA-2019-0036) in