

49 CFR part 391, subpart E. No Federal authority is transferred to medical examiners.

Similarly, while the relief from regulations provided by 49 CFR 390.23 is often triggered by the declaration of an emergency by a State official, FMCSA has not thereby delegated its exemption authority to the State. On the contrary, § 390.23 represents an FMCSA decision, made in advance of any particular incident, that events serious enough to qualify as an “emergency” justify regulatory exemptions for motor carriers and drivers providing “direct assistance” to supplement the “emergency relief” efforts of State and local governments, as those terms are defined in § 390.5. FMCSA has not delegated its authority to the States; it accepts (with rare exceptions) the factual conclusion of State officials that a given event qualifies as an “emergency” under Federal rules.

The exemption granted the Virginia DMV is of the same type. Because of Virginia’s well-documented training of its personnel to apply FMCSA’s SPE standards and its commitment to maintaining compliance with those standards, the Agency is simply accepting (and ratifying) the State’s conclusions about the applicant’s qualifications in the same way that it accepts the conclusions of medical examiners. But FMCSA retains and will exercise the authority to review Virginia’s adherence to the Federal SPE standards, just as it has undertaken to review the adherence of medical examiners to Federal qualification standards.

With regard to the ATA’s comments, FMCSA believes its oversight of the exemption process would ensure adherence to the terms and conditions of the exemption, and provide for an effective FMCSA-Virginia partnership in streamlining the SPE process for Virginia-licensed drivers. If, for whatever reason, a Virginia-licensed driver would prefer not to opt for the streamlined SPE process, he or she may still apply for an FMCSA-issued SPE. However, FMCSA may still exercise its discretion and call upon the State licensing agency to provide assistance in conducting the road test needed to complete an SPE application, depending on the volume of applications.

In response to the ATA’s question about drivers who fail the SPE certification process, the current regulations do not prohibit drivers from reapplying for SPE certification. In this case, FMCSA would work with the State to reevaluate a driver who fails to obtain a State-issued SPE. FMCSA would consult with the State for any SPE

application from a Virginia-domiciled driver to determine whether the driver had previously applied for an SPE from the State and request the results of that application before making any decision in the matter.

Finally, FMCSA emphasizes that the Agency does not intend its decision to serve as pressure upon other States to take action to implement State-run SPE programs. Virginia is the first State to submit an application on behalf of its drivers to provide an alternative to the Federal SPE process. Other States are welcome to take similar actions if they believe it is appropriate to do so and they have the resources to meet terms and conditions comparable to those provided in this exemption.

FMCSA Decision

Based upon its analysis of the application, FMCSA has determined that there are no safety vulnerabilities associated with Virginia’s request and that the exemption should be granted. The Agency has determined that the exemption will achieve a level of safety equivalent to, or greater than, the level achieved by the current SPE requirements.

As indicated above, Virginia will establish its own SPE program essentially identical to the current FMCSA program. Virginia will establish an application process modeled on the FMCSA process. State personnel who conduct the skill evaluation will complete the same training as FMCSA personnel conducting the test and will follow the same procedures and testing criteria used by FMCSA. And Virginia will maintain records of applications, testing, and certificates issued for periodic review by FMCSA.

Because Virginia’s program will be essentially identical to the current FMCSA program, FMCSA has concluded that the program will achieve the level of safety required by 49 U.S.C. § 31315.

Terms and Conditions of the Exemption

The FMCSA grants an exemption to the Virginia DMV on behalf of drivers who have experienced an impairment or loss of a limb, and are licensed in the Commonwealth of Virginia. The following terms and conditions apply to the State and any drivers who receive a State-issued SPE certificate.

- Virginia must establish and maintain its own SPE program essentially identical to the current FMCSA program.
- The State must establish an application process modeled on the FMCSA process and must submit information concerning the application

process to FMCSA’s Medical Programs Division for review.

- State personnel who conduct the skill test must complete SPE training identical to that of FMCSA personnel currently administering the Federal SPE program.

- The skill evaluation and scoring for the SPE must be done using the same procedures and testing criteria used by FMCSA.

- Virginia must maintain records of applications, testing, and certificates issued for periodic review by FMCSA.

- Virginia must submit a monthly report to FMCSA listing the names and license number of each driver tested by the State and the result of the test (pass or fail).

- Each driver who receives a State-issued SPE must keep a copy of the certificate when driving, for presentation to authorized Federal, State, or local law enforcement officials.

Preemption of State Laws and Regulations

An exemption granted under the authority of 49 U.S.C. 31315(b) preempts State laws and regulations that conflict with or are inconsistent with the exemption. The decision to grant Virginia’s request amounts to automatic Federal ratification of the State issued SPE certificate and therefore prohibits other jurisdictions from requiring a separate FMCSA-issued SPE. The State-issued certificate must be treated as if it had been issued by FMCSA. Virginia-licensed drivers who receive the State-issued SPE are allowed to operate CMVs in interstate commerce, anywhere in the United States.

Issued on: July 1, 2014.

Anne S. Ferro,
Administrator.

[FR Doc. 2014–15958 Filed 7–7–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5578; FMCSA–2004–17195; FMCSA–2005–21254; FMCSA–2006–24015; FMCSA–2010–0082; FMCSA–2011–0379; FMCSA–2012–0106; FMCSA–2012–0159]

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 12 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 August 6, 2014. Comments must be received on or before August 7, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA-1999-5578; FMCSA-2004-17195; FMCSA-2005-21254; FMCSA-2006-24015; FMCSA-2010-0082; FMCSA-2011-0379; FMCSA-2012-0106; FMCSA-2012-0159], 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 acknowledgment page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, 202-366-4001, 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:

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.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Dale W. Coblenz (WA), Hazel L. Hopkins, Jr. (MD), Derek L. Jones, Sr. (GA), Mearl C. Kennedy (OH), William L. Martin (OR), Richard L. Miller (IN), Gerardus C. Molenaar (PA), James R. Morgan (MI), Lance C. Phares (NY), Willard L. Riggle (IN), Richard D. Tucker II (NC), Jay Turner (OH).

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.

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 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 51568; 69 FR 17263; 69 FR 31447; 70 FR 30999; 70 FR 46567; 71 FR 14566; 71 FR 27033; 71 FR 30227; 72 FR 40359; 73 FR 27014; 73 FR 36955; 75 FR 19674; 75 FR 25918; 75 FR 36779; 75 FR 38602; 75 FR 39729; 77 FR 15184; 77 FR 27850; 77 FR 29447; 77 FR 33017; 77 FR 36336; 77 FR 36338; 77 FR 38384; 77 FR 40946; 77 FR 44708; 77 FR 46795). Each of these 12 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.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 7, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

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.

Submitting Comments

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 <http://www.regulations.gov> and in the search box insert the docket numbers FMCSA-1999-5578; FMCSA-2004-17195; FMCSA-2005-21254; FMCSA-

2006-24015; FMCSA-2010-0082; FMCSA-2011-0379; FMCSA-2012-0106; FMCSA-2012-0159 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-1999-5578; FMCSA-2004-17195; FMCSA-2005-21254; FMCSA-2006-24015; FMCSA-2010-0082; FMCSA-2011-0379; FMCSA-2012-0106; FMCSA-2012-0159 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: June 30, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014-15954 Filed 7-7-14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0212]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

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

SUMMARY: FMCSA announces receipt of applications from 8 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which

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 regulation and the associated advisory criteria published in the Code of Federal Regulations as the "Instructions for Performing and Recording Physical Examinations" have resulted in numerous drivers being prohibited from operating CMVs 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 medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before August 7, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2014-0212 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:** 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.

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