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**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2015-0322]**

**Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders**

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

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

**SUMMARY:** FMCSA announces receipt of applications from 27 individuals for an exemption from the prohibition 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 operate a commercial motor vehicle (CMV) 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 for up to 2 years in interstate commerce.

**DATES:** Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2015-0322 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.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

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

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (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:**

**I. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for up to 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 27 individuals listed in this notice have requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs in interstate commerce. 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 49 CFR 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 criteria to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. The advisory criteria found in Appendix A to 49 CFR 391.41, 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 medical examiner 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 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 medical examiners 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 medical examiner based on the physical qualification standards and medical best practices.

## **II. Qualifications of Applicants**

### Hamilton Barnard

Mr. Barnard is a 38 year-old driver in California. He has a history of a seizure disorder and has remained seizure free since 2005. He takes anti-seizure medication with

the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Barnard receiving an exemption.

William E. Beaver

Mr. Beaver is a 50 year-old class A CDL holder in Minnesota. He has a history of a single seizure in January 2015, likely secondary to cyclosporine use and posterior reversible encephalopathy syndrome. He discontinued taking anti-seizure in May 2015. His physician states that he is supportive of Mr. Beaver receiving an exemption.

Paul V. Carlson

Mr. Carlson is a 38 year-old driver in Minnesota. He has a history of a single seizure following brain surgery for treatment of an obstructive hydrocephalus ventricular colloid cyst in 2015. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Carlson receiving an exemption.

Edward J. Carder Jr.

Mr. Carder is a 37 year-old driver in Ohio. He has a history of a single seizure in 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Carder receiving an exemption.

Timothy M. Crampton

Mr. Crampton is a 24 year-old driver in Connecticut. He has a history of epilepsy and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Crampton receiving an exemption.

Henry Dennis Counts Jr.

Mr. Counts is a 39 year-old driver in Maryland. He has a history of a seizure disorder and has remained seizure free since 2003. He takes anti-seizure medication with the dosage and frequency remaining the same since 2006. His physician states that he is supportive of Mr. Counts receiving an exemption.

Tommy Joe Cox

Mr. Cox is a 53 year-old class B CDL holder in Kentucky. He has a history of epilepsy and has remained seizure free since 2014. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Cox receiving an exemption.

Michael D. Davis

Mr. Davis is a 47 year-old class A CDL holder in Maine. He has a history of a seizure disorder and has remained seizure free since 1998. He takes anti-seizure medication with the dosage and frequency remaining the same since 2002. His physician states that he is supportive of Mr. Davis receiving an exemption.

William Garvin

Mr. Garvin is a 38 year-old driver in New Hampshire. He has a history of a seizure in 2015. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that she is supportive of Mr. Garvin receiving an exemption.

Charlie E. Getchell

Mr. Getchell is a 57 year-old class B CDL holder in Wisconsin. He has a history of a single seizure and has remained seizure free since 1986. He takes anti-seizure

medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Getchell receiving an exemption.

Dennis R. Giles

Mr. Giles is a 56 year-old class B CDL holder in Indiana. He has a history of a single seizure in 2010 and has remained seizure free since that time. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Giles receiving an exemption.

Jeremiah Gonzales

Mr. Gonzales is a 34 year-old class A CDL holder in Colorado. He has a history of a seizure disorder and has remained seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since 2013. His physician states that he is supportive of Mr. Gonzales receiving an exemption.

Robert W. Goddard

Mr. Goddard is a 53 year-old class B CDL holder in New Hampshire. He has a history of a seizure disorder and has remained seizure free since 2006. He takes anti-seizure medication with the dosage and frequency remaining the same since 2013. His physician states that he is supportive of Mr. Goddard receiving an exemption.

Roderick L. Haslip

Mr. Haslip is a 54 year-old class A CDL holder in New York. He has a history of a seizure disorder and has remained seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Haslip receiving an exemption.

Larry G. Hediger

Mr. Hediger is a 59 year-old class A CDL holder in Illinois. He has a history of epilepsy and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since 2006. His physician states that he is supportive of Mr. Hediger receiving an exemption.

Martin Lancaster

Mr. Lancaster is a 51 year-old driver in Maine. He has a history of a seizure disorder and has remained seizure free since 2001. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Lancaster receiving an exemption.

Philip A. Logan

Mr. Logan is a 35 year-old driver in South Carolina. He has a history of a seizure disorder and has remained seizure free since 1998. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Logan receiving an exemption.

Eric J. McVetty

Mr. McVetty is a 29 year-old class B CDL holder in New Hampshire. He has a history of a seizure disorder and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. McVetty receiving an exemption.

Doug William Outfleet

Mr. Outfleet is a 55 year-old driver in California. He has a history of a seizure disorder and has remained seizure free since 2010. He takes anti-seizure medication with

the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Outfleet receiving an exemption.

David J. Parris

Mr. Parris is a 22 year-old driver in Illinois. He has a history of a seizure disorder and has remained seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Parris receiving an exemption.

Donald John Richmond

Mr. Richmond is a 63year-old driver in South Carolina. He has a history of a seizure disorder and has remained seizure free since 1980. He takes anti-seizure medication with the dosage and frequency remaining the same since 2001. His physician states that he is supportive of Mr. Richmond receiving an exemption.

Shawn E. Sands

Mr. Sands is a 32 driver in Illinois. He has a history of epilepsy and has remained seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Sands receiving an exemption.

Robert B.Skinner

Mr. Skinner is a 43 year-old driver in Ohio. He has a history of a brain tumor and has remained seizure free since 2007. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Skinner receiving an exemption.

Shaen Smith

Mr. Smith is a 47 year-old driver in Minnesota. He has a history of epilepsy and has remained seizure free since 1998. He takes anti-seizure medication with the dosage and frequency remaining the same since 2013. His physician states that he is supportive of Mr. Smith receiving an exemption.

Kevin Lee Sprinkle

Mr. Sprinkle is a 35 year-old class A CDL holder in North Carolina. He has a history of juvenile epilepsy and has remained seizure free since 2005. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Sprinkle receiving an exemption.

Patrick Trimbo

Mr. Trimbo is a 53 year-old class A CDL holder in Minnesota. He has a history of a seizure disorder and has remained seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. His physician states that he is supportive of Mr. Trimbo receiving an exemption.

Alan Washabaugh

Mr. Washabaugh is a 57 year-old class A CDL holder in Pennsylvania. He has a history of a seizure disorder and has remained seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. His physician states that he is supportive of Mr. Washabaugh receiving an exemption.

**III. Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, 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 in the date section of the notice.

#### **IV. 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 e-mail 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 number “FMCSA-2015-0322” 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 materials received during the comment period.

FMCSA may issue a final determination any time after the close of the comment period.

## **V. Viewing Comments and Documents**

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2015-0322 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

**Issued on: April 29, 2016**

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Larry W. Minor  
Associate Administrator for Policy

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