



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0059]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from 32 individuals who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) 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.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@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., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2018-0059, in the keyword box, and click “Search.” Next, click the “Open Docket Folder”

button and choose the document 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., ET, Monday through Friday, except Federal holidays.

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

II. Background

FMCSA received applications from 32 individuals who requested an exemption from the FMCSRs 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 CMV from operating CMVs in interstate commerce.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8).

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption. FMCSA grants

exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

IV. Conclusion

The Agency has determined that these applicants do not satisfy the eligibility criteria or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8). Therefore, the 32 applicants in this notice have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(8).

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following 31 applicants do not meet the minimum time requirement for being seizure-free, either on or off of anti-seizure medication:

| | |
|----------------------------|-------------------------|
| Van D. Allen (VT) | Lance Bacile (LA) |
| Joseph W. Benton (LA) | William C. Berkley (NJ) |
| Joseph A. Burckhalter (NC) | Francisco Burila (ME) |
| Victor Cox (NC) | Larry A. Giese (WI) |

| | |
|-------------------------|-----------------------------|
| John Giraldo-Palau (NJ) | Martin Glipsie (OH) |
| David Gunzenhauser (NJ) | Cynthia Harris (IN) |
| Christopher Jurich (PA) | Mark L. Kaiser (CO) |
| David Kerr (NM) | Ashley Liebler (CA) |
| Dan Liners (MN) | Alexandria R. Lockhart (PA) |
| Luis Lozado (NJ) | Victor Martinez (CA) |
| Matthew Nelson (NV) | Lance Payne (NV) |
| Bryan Peterson (OR) | Robert Polsifer Jr. (CA) |
| Monico Ramirez (IL) | Greg Reninger (IL) |
| Daniel Ricker (OR) | Devyn Roberts (KY) |
| Trenton A. Romig (PA) | Dewitt Stafford (WI) |
| Joshua Trainum (PA) | |

The following applicant does not meet the minimum time requirement for a stable anti-seizure medication dosage: Scott McElmury (MN)

Issued on: February 8, 2019.

Larry W. Minor,
Associate Administrator for Policy.

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