

prohibition in the FMCSRs for interstate CMV drivers (87 FR 73392):

Thomas Avery (NY)
 Scott Baggarley (WA)
 Kevin Beamon (NY)
 Joshua Cirilo (MN)
 Paul Gomez (CA)
 Jesse Hansen (MN)
 Donald Horst (MD)
 Keith Hubbard (WV)
 Billy Hunter (KY)
 Chad Knott (MD)
 Louis Lerch (IA)
 Rick Morrison (NC)
 Thomas Ork (NY)
 Curtis Palubicki (MN)
 Devyn Roberts (KY)

The drivers were included in docket number FMCSA–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051. Their exemptions were applicable as of November 27, 2022 and will expire on November 27, 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(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–00446 Filed 1–11–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0442; FMCSA–2015–0116; FMCSA–2015–0323; FMCSA–2016–0007; FMCSA–2018–0053]

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 six 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 stated in the discussions below. Comments must be received on or before February 13, 2023.

ADDRESSES: You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2013–0442, Docket No. FMCSA–2015–0116, Docket No. FMCSA–2015–0323, Docket No. FMCSA–2016–0007, or Docket No. FMCSA–2018–0053 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov/, insert the docket number (FMCSA–2013–0442, FMCSA–2015–0116, FMCSA–2015–0323, FMCSA–2016–0007, or FMCSA–2018–0053) 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 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. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2013–0442, Docket No. FMCSA–2015–0116, Docket No. FMCSA–2015–0323, Docket No. FMCSA–2016–0007, or Docket No. FMCSA–2018–0053), 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/, insert the docket number (FMCSA–2013–0442, FMCSA–2015–0116, FMCSA–2015–0323, FMCSA–2016–0007, or FMCSA–2018–0053) in the keyword box and click “Search.” 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–2013–0442, FMCSA–2015–0116, FMCSA–2015–0323, FMCSA–2016–0007, or FMCSA–2018–0053) 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. However, 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 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 criteria¹ to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The six individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

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>.

III. Request for Comments

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(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the six applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The six drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, for commercial driver's license (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

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

As of December 3, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Ricky Alegre (NJ)
Michael Grant (SC)
Thomas Mitchell (MS)
Joseph Thomas (MD)

The drivers were included in docket number FMCSA–2013–0442, FMCSA–2016–0007, or FMCSA–2018–0053. Their exemptions were applicable as of

December 3, 2022 and will expire on December 3, 2024.

As of December 16, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Charles Gray (OK) and Kyle Loney (WA).

The drivers were included in docket number FMCSA–2015–0116 or FMCSA–2015–0323. Their exemptions were applicable as of December 16, 2022 and will expire on December 16, 2024.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. 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(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based on its evaluation of the six exemption applications, FMCSA renews the exemptions of the aforementioned 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), each exemption will be

valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023-00442 Filed 1-11-23; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0135]

Entry Level Driver Training: Railsback HazMat Safety Professionals, LLC; Application for Exemption

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the application submitted by Rex Railsback, Owner, Railsback HazMat Safety Professionals, LLC (Railsback HMSP), for an exemption from the theory instructor qualification requirements in the entry-level driver training (ELDT) regulations. The exemption will allow Mr. Railsback to conduct theory (*i.e.*, classroom) training for driver trainees seeking to obtain a hazardous materials endorsement on their commercial driver's license (CDL). The exemption excuses Mr. Railsback from the requirement that a driver training instructor must possess a CDL with all applicable endorsements to perform ELDT theory instruction and meet applicable state qualification requirements for commercial motor vehicle (CMV) instructors. FMCSA concluded that granting the exemption is likely to achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: The exemption is effective from January 12, 2023 through January 12, 2028.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202) 366-2722; richard.clemente@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number "FMCSA-2022-0135" in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click "View Related Comments."

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number "FMCSA-2022-0135" in the keyword box, click "Search," and chose the document to review.

If you do not have access to the internet, you may view the docket 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, 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

The ELDT regulations, implemented on February 7, 2022, and set forth in 49 CFR 380, subparts F and G, established

minimum training standards for individuals applying for certain CDLs and defined curriculum standards for theory and behind-the-wheel (BTW) training. The ELDT regulations also established an online training provider registry (TPR), eligibility requirements for providers to be listed on the TPR, and requirements for instructors. Under 49 CFR 380.713, a training provider must use instructors who meet the definition of "theory instructor" in 49 CFR 380.605. The definition requires that the instructor hold a CDL of the same (or higher) class, with all endorsements necessary to operate the commercial motor vehicle (CMV) for which training is to be provided, and have either: (1) a minimum of 2 years of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement; or (2) at least two years of experience as a BTW CMV instructor. In addition, the instructor must meet applicable state qualification requirements for CMV instructors. The definition also includes an exception to the requirement that a theory instructor currently possess an applicable CDL, if the instructor previously held a CDL and meets the other qualification requirements. The regulations were based in part on consensus recommendations from the Agency's ELDT Advisory Committee (ELDTAC), a negotiated rulemaking committee.

Applicant's Request

Rex Railsback, Owner, Railsback HazMat Safety Professionals, LLC, requests an exemption from the requirement that a driver training instructor must possess a CDL with all applicable endorsements to perform ELDT theory instruction. Mr. Railsback would perform theory (*i.e.*, classroom) training of 49 CFR parts 100-185 relating to the transportation of hazardous materials (HM) for driver trainees seeking to obtain a hazardous materials endorsement on their CDL.

IV. Method To Ensure an Equivalent or Greater Level of Safety

Mr. Railsback states that his experience and expertise in the HM field would be equal to or supersede theory training offered by others and would enhance the safety of HM transportation for prospective driver trainees. Mr. Railsback provided the following list of his credentials in his application for exemption to the Agency:

- Over 24 years' experience as a certified truck inspector holding certifications in Commercial Vehicle Safety Alliance (CVSA) NAS Inspection Part A and B, General Hazardous