

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 were applicable on August 31, 2024. The exemptions expire on August 31, 2026.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 366-4001, [fmcsamedical@dot.gov](mailto: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. Viewing Comments

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number (FMCSA-2013-0109, FMCSA-2013-044, or FMCSA-2022-0044) 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 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.

#### B. 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](http://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

On August 7, 2024, FMCSA published a notice announcing its decision to renew exemptions for seven individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (89 FR 64532). The public comment period ended on September 6, 2024, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

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 criteria<sup>1</sup> to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

### III. Discussion of Comments

FMCSA received no comments in this proceeding.

### IV. Conclusion

Based on its evaluation of the seven renewal exemption applications and comments received, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

As of August 31, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (89 FR 64532):

Cody Baker (IN)  
David P. Crowe (VA)  
Michael Curtis Gibson (SC)  
Raymond Lobo (NJ)  
Alexis Roldan (IL)  
William Smith (NC)  
Yoon Song (CA)

The drivers were included in docket number FMCSA-2013-0109, FMCSA-

<sup>1</sup> 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>.

2013-044, or FMCSA-2022-0044. Their exemptions were applicable as of August 31, 2024 and will expire on August 31, 2026.

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.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0012]

#### Qualification of Drivers; Exemption Applications; Hearing

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 10 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable August 13, 2024. The exemptions expire August 13, 2026.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 366-4001, [fmcsamedical@dot.gov](mailto: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. Viewing Comments

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket

number (FMCSA–2024–0012) in the keyword box and click “Search.” Next, sort the results by “Posted (Older—Newer),” 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 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.

### B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://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

On July 9, 2024, FMCSA published a notice announcing receipt of applications from 10 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (89 FR 54672). The public comment period ended on August 8, 2024, and three comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

## III. Discussion of Comments

FMCSA received three comments in this proceeding. Two of the commenters stated that they support FMCSA in granting exemptions for individuals who are hard of hearing and deaf. However, one of these two commenters also stated that they do not believe drivers who hold the exemption should have to renew the hearing exemption after a monitoring period, if the driver abides by the standard rules, regulations, and wears their appropriate hearing aids. The third commenter disagrees with FMCSA’s decision to grant the exemptions indicating that it is safety risk to not be able to hear and operate a CMV.

In response to these comments, the Agency acknowledges the concerns regarding the requirement for an exemption holder to renew their exemption every two years. However, the Federal hearing exemption may be granted not only to individuals who are hard of hearing utilizing hearing aids but also individuals who are deaf and may not use hearing aids. Although under 49 U.S.C. 31136(e) and 31315(b), FMCSA is able to grant a medical exemption for no longer than a 5-year-period, they Agency grants medical exemptions for a 2-year period to be aligned with the maximum duration of a driver’s medical certification. In addition, FMCSA found that the drivers granted hearing exemptions have demonstrated that they do not pose a risk to public safety based on an individual assessment of each applicant’s prior experience operating motor vehicles on public roads. The Agency considered applicants prior driving experience as a factor in determining whether an equal or greater level of safety would likely be achieved by permitting them to drive in interstate commerce.

## IV. Basis for Exemption Determination

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 Agency’s decision regarding these exemption applications is based on relevant scientific information and literature, and the 2008 Evidence Report, “Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety.” The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) no studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver’s license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant’s driving record found in the Commercial Driver’s License Information System, for commercial driver’s license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver’s Licensing Agency. Each applicant’s record demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety would likely be achieved by permitting each of these drivers to drive in interstate commerce, the Agency finds the drivers granted this exemption have demonstrated that they do not pose a risk to public safety.

Consequently, FMCSA finds further that in each case exempting these applicants from the hearing standard in § 391.41(b)(11) would likely achieve a level of safety equal to that existing without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

## V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: (1) each driver must report any crashes or accidents as defined in § 390.5T; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does

not exempt the individual from meeting the applicable CDL testing requirements.

## 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 upon its evaluation of the 10 exemption applications, FMCSA exempts the following drivers from the hearing standard; in § 391.41(b)(11), subject to the requirements cited above:

Carl Afroilan (MD)  
Kevin Camper (IN)  
Anthony Cline (OH)  
Dwain Coppernoll (OR)  
Adrian Crutchfield (MO)  
Jonathan Hornberger (MI)  
Scott Prewara (MN)  
Gregory Rosa (NY)  
Barney Toussaint (GA)  
Terrell Williams (OH)

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

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2024-0059]

### Denial of Motor Vehicle Defect Petition, DP22-003

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Denial of a petition for a defect investigation.

**SUMMARY:** This notice sets forth the reasons for the denial of a defect petition (DP22-003) jointly submitted by a consulting firm and four automotive associations requesting that the Agency initiate a safety defect

investigation into the loss of motive power incidents attributed to oil drain pan assembly failures on certain Hyundai Motor America, Inc. and Kia America, Inc. vehicles spanning Model Years (MY) 2005–2021. After conducting a technical review of the petition and other information, NHTSA's Office of Defects Investigation has concluded that the issues raised by the petition do not warrant a defect investigation at this time. Accordingly, the Agency has denied the petition.

#### FOR FURTHER INFORMATION CONTACT:

Joseph Teitelman, Vehicle Defect Division C, Office of Defects Investigation, NHTSA, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 366-3243. Email: [joseph.teitelman@dot.gov](mailto:joseph.teitelman@dot.gov).

#### SUPPLEMENTARY INFORMATION:

#### Introduction

Interested persons may petition NHTSA requesting that the Agency initiate an investigation to determine whether a motor vehicle or an item of replacement equipment does not comply with an applicable motor vehicle safety standard or contains a defect that relates to motor vehicle safety. 49 U.S.C. 30162(a)(2); 49 CFR 552.1. Upon receipt of a properly filed petition, the Agency conducts a technical review of the petition, material submitted with the petition, and any additional information. 49 U.S.C. 30162(a)(2); 49 CFR 552.6. The technical review may consist solely of a review of information already in the possession of the Agency or it may include the collection of information from a motor vehicle manufacturer and/or other sources. After conducting the technical review and considering appropriate factors, which may include, but are not limited to, the nature of the complaint, allocation of Agency resources, Agency priorities, the likelihood of uncovering sufficient evidence to establish the existence of a defect, and the likelihood of success in any necessary enforcement litigation, the Agency will grant or deny the petition. *See* 49 U.S.C. 30162(a)(2); 49 CFR 552.8.

#### Background Information

On September 12, 2022, the Office of Defects Investigation (ODI) opened a Defect Petition (DP22-003) to evaluate the petition, which was jointly submitted by a consulting firm<sup>1</sup> and four automotive associations<sup>2</sup>

<sup>1</sup> Johnson Policy Associates, Inc.

<sup>2</sup> Automotive Oil Change Association, Auto Care Association, Service Station Dealers Association & Allied Trades, and Automotive Service Association.

(collectively, the "Petitioners") to NHTSA (the "Agency") on July 13, 2022. The Petitioners requested that NHTSA initiate a safety defect investigation into the oil drain pan assemblies of multiple Hyundai and Kia vehicles. The following Hyundai and Kia vehicles were referenced in the petition, representing an estimated combined population of more than 7.5 million vehicles and 83 total model/model year vehicles: 2006–2019 Hyundai Sonata, 2013–2018 Hyundai Santa Fe Sport, 2010–2012 and 2019–2020 Hyundai Santa Fe, 2010–2015 and 2018–2019 Hyundai Tucson, 2011–2021 Kia Sportage, 2005–2020 Kia Optima, 2011–2020 Kia Sorento, 2010–2013 Kia Forte, 2010–2013 Kia Forte Coup, and 2007–2010 Kia Rondo. The Petitioners submitted four supplemental letters to the Agency on January 31, 2023, March 21, 2023, May 23, 2023, and August 4, 2023. NHTSA's technical review of the petition included a review of the material cited by the Petitioners, consumer complaint information in NHTSA's databases, and related dealer communications.

#### Summary of Petition

The Petitioners assert that the subject vehicles manufactured by Hyundai Motor America, Inc. ("Hyundai") and Kia America, Inc. (collectively, "H/K") are equipped with oil drain pan assemblies that "have experienced unprecedented allegations of mid-interval plug-outs thousands of miles after service without malfunction indicator lights or the leakage associated with under-tightening an oil drain plug, or a plug or pan with damaged threads." Additionally, the Petitioners allege that the defective oil pan assemblies are causing engines to seize and experience a loss of motive power while being operated, often at highway speeds. The specific failure mode detailed in the petition is the engine oil drain plug "backing out" while the vehicle is being operated following an oil change. The "backing out" of the drain plug results in the sudden and rapid draining of engine oil, thereby leading to loss of motive power. The Petitioners assert that the oil drain plug gaskets are "paint-camouflaged" and "fused to either the plug or pan." It is alleged that when the oil of the subject vehicles is being changed, there is an increased likelihood of failing to remove the existing drain plug gasket before applying a new one, an act commonly referred to as either *double-gasketing* or *stacking gaskets*. The Petitioners indicate that the absence of necessary technical information for changing oil in H/K vehicles' owner's manuals