



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0320]

Denial of Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of denial.

SUMMARY: FMCSA announces its decision to deny applications from nine 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: 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 8:30 a.m. to 5 P.M., e.t., 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. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12-140 on the ground level of the West

Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 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 of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

II. Background

On December 21, 2015, FMCSA published a notice announcing receipt of applications from 17 individuals requesting 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 CMV in interstate commerce and requested comments from the public (80 FR 79397). The public comment period closed on January 20, 2016, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and concluded that granting nine of the 17 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). A final notice announcing the decision to grant eight of the 17 exemptions was published on May 9, 2016 (FR 81 28134).

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the Federal epilepsy standard for a renewable two-year period if it finds “such exemption

is likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.”

The Agency’s decision regarding these exemption applications is based on an individualized assessment of each applicant’s medical information, including the root cause of the respective seizure(s) and medical information about the applicant’s seizure history, the length of time that has elapsed since the individual’s last seizure, the stability of each individual’s treatment regimen and the duration of time on or off of anti-seizure medication. The Agency considered the 2007 recommendations of the Agency’s Medical Expert Panel (MEP). The January 15, 2013 Federal Register notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to make decisions regarding seizure exemptions.

IV. Conclusion

The Agency has determined that these nine applicants do not satisfy the criteria eligibility or meet the terms and conditions for a 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 applicants in this notice have been denied an exemption 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 drivers were listed previously in Federal Register Notice FMCSA-2015-0320 published on December 21, 2015:

Richard Bailey – Mr. Bailey has a history of a seizure disorder. His last seizure was in 2009. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

James P. Murphy – Mr. Murphy has a history of seizure related to a brain tumor. His last seizure was in 2011. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Jason Christopher Nikolas – Mr. Nikolas has a history of epilepsy. His last seizure was in 2012. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Curtis Joseph Palubicki – Mr. Palubicki has a history of epilepsy. His last seizure was September 2008. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Franklin Prettyman – Mr. Prettyman has a history of a seizure disorder. His last seizure was in 2012. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Chad Riemenschneider – Mr. Riemenschneider has a history of a seizure disorder. His last seizure was in 2011. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Isaac E. Rogers – Mr. Rogers has a history of a seizure disorder. His last seizure was in 2009. He takes anti-seizure medication. He not meet the MEP guidelines at this time.

Kenneth P. Schmitt – Mr. Schmitt has a history of a seizure disorder. He did not provide sufficient medical documentation to determine the date of his last seizure. He does not meet the MEP guidelines at this time.

Alfonso Valdivieso – Mr. Valdivieso has a history of seizures. His last seizure was in 2011. He takes anti-seizure medication. He does not meet the MEP guidelines at this time.

Issued on: August 26, 2016

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2016-21717 Filed: 9/8/2016 8:45 am; Publication Date: 9/9/2016]