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To submit your comment online, go to www.regulations.gov and put the docket number, “FMCSA–2019–0048” in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box in 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. 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. FMCSA will consider all comments and material received during the comment period.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit 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., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: DOT solicits comments from the public to better inform its preemption determinations. 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.transportation.gov/privacy.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2018, FMCSA granted petitions filed by the American Trucking Associations, Inc. and the Specialized Carriers and Rigging Association, and determined that the California MRB Rules, as applied to property-carrying CMV drivers subject to FMCSA’s HOS regulations, are preempted under 49 U.S.C. 31141. (Docket No. FMCSA–2018–0304; 83 FR 67470 (December 28, 2018)). On January 10, 2019, the ABA submitted a petition to FMCSA seeking a determination that the same provisions of the California MRB Rules, as applied to passenger-carrying CMV drivers subject to FMCSA’s HOS regulations, are also preempted under 49 U.S.C. 31141.

The ABA’s petition states that the California Labor Code requires employers to “provide employees with a meal break of not less than 30 minutes for every five hours worked.” Petition at

2 (citing Cal. Lab. Code § 512(a); California Code of Regulations (CCR) Section 11090(11)). In addition, the petition states that “every employer is required to ‘authorize and permit’ all employees to take rest periods, which insofar as practicable shall be in the middle of each work period, at the rate of ten minutes net rest time per four hours or major fraction thereof.” *Id.* (quoting 8 CCR 11090(12)). This authorized rest period time must be “counted as hours worked for which there shall be no deduction from wages.” *Id.* The petition further states, “[S]ection 226.7(b) of the California Labor Code states ‘[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission’” *Id.* (quoting Cal. Lab. Code § 226.7(b)).

In its petition, the ABA alleges that the California MRB Rules undermine existing Federal fatigue management rules for passenger carriers and that they conflict with driver attendance needs. Petition at 5–11. The petition also contends that it is difficult for drivers of passenger-carrying CMVs to comply with the MRB Rules due to the lack of adequate parking and due to Federal service and security requirements. *Id.* at 8–10. Lastly, the petition argues that the cost of complying with the MRB Rules creates an unreasonable burden on interstate commerce. *Id.* at 10–11.

Applicable Law

Section 31141 of title 49, United States Code, prohibits States from enforcing a law or regulation on CMV safety that the Secretary of Transportation (Secretary) has determined to be preempted. To determine whether a State law or regulation is preempted, the Secretary must decide whether a State law or regulation: (1) has the same effect as a regulation prescribed under 49 U.S.C. 31136, which is the authority for much of the Federal Motor Carrier Safety Regulations (FMCSRs); (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation 49 U.S.C. 31141(c)(1).

If the Secretary decides that a State law or regulation has the same effect as a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may be enforced. 49 U.S.C. 31141(c)(2). If the Secretary decides that a State law or regulation is less stringent than a regulation prescribed under 49 U.S.C. 31136, the State law or regulation may not be enforced. *Id.* § 31141(c)(3). If the Secretary decides that a State law or

regulation is additional to or more stringent than a regulation prescribed by the Secretary under 49 U.S.C. 31136, the State law or regulation may be enforced unless the Secretary decides that the State law or regulation (1) has no safety benefit; (2) is incompatible with the regulation prescribed by the Secretary; or (3) would cause an unreasonable burden on interstate commerce. *Id.* § 31141(c)(4). In deciding whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the cumulative effect that the State’s law or regulation and all similar laws and regulations of other States will have on interstate commerce. *Id.* § 31141(c)(5). The Secretary’s authority under 49 U.S.C. 31141 is delegated to the FMCSA Administrator by 49 CFR 1.87(f).

Request for Comments

Although preemption under 49 U.S.C. 31141 is a legal determination reserved to the judgment of the Agency, FMCSA seeks comments on any issues raised in the ABA’s petition or otherwise relevant. The Agency has placed the petition in the docket.

Issued on: May 3, 2019.

Raymond P. Martinez,
Administrator.

[FR Doc. 2019–09548 Filed 5–8–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0029]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from six individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) 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 control a commercial motor vehicle (CMV) to drive 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 in interstate commerce.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2019–0029 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online 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., ET, Monday through Friday, except Federal Holidays.

- *Fax:* 1–202–493–2251.

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, (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., 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. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2019–0029), 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 <http://www.regulations.gov>, put the docket number, FMCSA–2019–0029, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” 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. 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.

FMCSA will consider all comments and material received during the comment period.

B. 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–2019–0029, 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.

C. 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 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

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-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 statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver’s medical certification.

The six individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). 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 criteria¹ to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy: § 391.41(b)(8)*, paragraphs 3, 4, and 5.]

The advisory criteria states the following:

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 six-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

¹ See http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a and <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

in interstate commerce if seizure-free and off anti-seizure medication for a five-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.

On January 15, 2013, FMCSA announced in a Notice of Final Disposition titled, Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders, (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate 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.” Since the January 15, 2013 notice, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in 49 CFR 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency’s Medical Expert Panel (MEP) (78 FR 3069).

III. Qualifications of Applicants

Gary Bartels

Mr. Bartels is a 64-year-old class A3 CDL holder in South Dakota. He has a history of epilepsy and has been seizure free since 1994. He takes anti-seizure medication with the dosage and frequency remaining the same since 1994. His physician states that he is supportive of Mr. Bartels receiving an exemption.

Charles E. Davenport

Mr. Davenport is a 66-year-old class D driver in Tennessee. He has a history of a single unprovoked seizure and has been seizure free since 2007. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. His physician states that he is supportive of Mr. Davenport receiving an exemption.

Alan H. Finlayson

Mr. Finlayson is a 40-year-old class D driver in Alabama. He has a history of

epilepsy and has been seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since March 2011. His physician states that he is supportive of Mr. Finlayson receiving an exemption.

Gregory P. Long

Mr. Long is a 38-year-old class D driver in Connecticut. He has a history of epilepsy and has been seizure free since 1995. He takes anti-seizure medication with the dosage and frequency remaining the same since 1995. His physician states that he is supportive of Mr. Long receiving an exemption.

John McFarland

Mr. McFarland is a 39-year-old class D driver in Virginia. He has a history of epilepsy and has been seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since 2015. His physician states that he is supportive of Mr. McFarland receiving an exemption.

Scott Schelske

Mr. Schelske is a 48-year-old class D driver in South Dakota. He has a history of a seizure disorder and has been seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since 2009. His physician states that he is supportive of Mr. Schelske receiving an exemption.

IV. 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 dates section of the notice.

Issued on: April 25, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019-09549 Filed 5-8-19; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0408]

San Francisco International Airport Ground Transportation Rules; Petition for Determination of Preemption

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

ACTION: Notice of petition for determination of preemption; request for comments.

SUMMARY: FMCSA requests comments on a petition submitted by the American Bus Association, Inc. (ABA) and the United Motorcoach Association, Inc. (UMA) requesting a determination that certain vehicle inspection requirements for ground transportation operators imposed by the San Francisco International Airport (SFO) on passenger-carrying motor vehicles in interstate commerce are preempted by Federal law. FMCSA requests comments in response to this petition.

DATES: Comments must be received on or before June 10, 2019.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2018-0408 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the *Public Participation and Request for Comments* section below for further information.
- **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 or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- **Fax:** 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the *Privacy Act* heading below.

FOR FURTHER INFORMATION CONTACT:

Tracy M. White, Enforcement and Litigation Division; FMCSA Office of Chief Counsel; Telephone: (202) 493-0349; Email: Tracy.White@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2018-0408), indicate