

### III. Discussion of Comments

FMCSA received no comments in this proceeding.

### IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

In reaching the decision to grant these exemption requests, FMCSA 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 grant seizure exemptions.

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. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). A summary of each applicant's seizure history was discussed in the February 14, 2018 **Federal Register** notice (83 FR 6718) and will not be repeated in this notice.

These six applicants have been seizure-free over a range of 31 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the

drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

### V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-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 Medical Examiner, as defined by 49 CFR 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.

### 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 six exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, 49 CFR 391.41(b)(8), subject to the requirements cited above:

Eriki M. Galloway (TN)  
 Aaron J. Harms (MO)  
 Matthew M. Heinen (MN)  
 Grant M. Johnson (OR)  
 Derick R. Pendergrass (NC)  
 Paul D. Vitous (WA)

In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for two 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 and 31315.

Issued on: April 18, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0073]

#### Agency Information Collection Activities; Revision of a Currently-Approved Information Collection Request: Annual Report of Class I and Class II Motor Carriers of Property

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests approval to revise and extend the "Annual Report of Class I and Class II Motor Carriers of Property" ICR, OMB Control No. 2126-0032. This ICR is necessary to ensure that motor carriers comply with FMCSA's financial and operating statistics requirements at chapter III of title 49 CFR part 369 titled "Reports of Motor Carriers." This ICR is being revised to incorporate the OMB approved "Annual Report of Class I Motor Carriers of Passengers" ICR, OMB Control No. 2126-0031, for use of the MP-1 form, the "Annual Report Form (Motor Carriers of Passengers)," which resulted in only two respondents and one burden hour per year. Through the proposed merger of the two ICRs, FMCSA would rename the 2126-0032 ICR as the "Annual Report of Class I and Class II For-Hire Motor Carriers" ICR. And such a merger with the new title will clarify that the combined ICR addresses both for-hire property and passenger carriers, but not private motor carriers. Additionally, after the merger of the ICRs, FMCSA intends to request withdrawal of the previously approved "Annual Report of Class I Motor Carriers of Passengers" ICR, OMB Control No. 2126-0031.

**DATES:** We must receive your comments on or before June 25, 2018.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket Number FMCSA-2018-0073 by using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, 20590-0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-794.pdf>.

*Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Secrist, Office of Registration and

Safety Information, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Telephone: 202-385-2367; email [jeff.secrist@dot.gov](mailto:jeff.secrist@dot.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* 49 U.S.C. 14123 requires certain for-hire motor carriers of property, passengers, and household goods to file annual financial reports. The annual reporting program was implemented on December 24, 1938 (3 FR 3158), and it was subsequently transferred from the Interstate Commerce Commission (ICC) to the U.S. Department of Transportation's (DOT) Bureau of Transportation Statistics (BTS) on January 1, 1996. The Secretary of DOT delegated to BTS the responsibility for the program on December 17, 1996 (61 FR 68162). Responsibility for collection of the reports was transferred from BTS to FMCSA on August 17, 2004 (69 FR 51009), and the regulations were redesignated as 49 CFR part 369 on August 10, 2006 (71 FR 45740). Annual financial reports are filed on Form M (for-hire property carriers, including household goods carriers) and Form MP-1 (for-hire passenger carriers). On December 17, 2013, FMCSA eliminated a quarterly financial reporting requirement for certain for-hire motor carriers of property (former form QFR) and for-hire motor carriers of passengers (former Form MP-1) (78 FR 76241).

FMCSA has continued to collect carriers' annual reports and to furnish copies of the reports requested under the Freedom of Information Act. For-hire motor carriers (including interstate and intrastate) subject to the Federal Motor Carrier Safety Regulations are classified on the basis of their gross carrier operating revenues.<sup>1</sup> Under the Financial and Operating Statistics (F&OS) program, FMCSA collects from Class I and Class II for-hire motor carriers their balance sheet and income statement data along with information on safety needs, tonnage, mileage, employees, transportation equipment, and other related data. FMCSA may also ask carriers to respond to surveys concerning their operations. The data

<sup>1</sup> For purposes of the Financial and Operating Statistics (F&OS) program, carriers are classified into the following two groups: (1) Class I carriers are those having annual carrier operating revenues (including interstate and intrastate) of \$10 million or more after applying the revenue deflator formula as set forth in Note A of 49 CFR 369.2; and (2) Class II carriers are those having annual carrier operating revenues (including interstate and intrastate) of at least \$3 million, but less than \$10 million after applying the revenue deflator formula as set forth in 49 CFR 369.2.

and information collected would be made publicly available and used by FMCSA to determine a motor carrier's compliance with the F&OS program requirements prescribed at 49 CFR part 369. FMCSA has created electronic forms that may be prepared, signed electronically, and submitted to FMCSA via <https://ask.fmcsa.dot.gov/app/ask/> in accordance with the Agency's April 28, 2014 (79 FR 23306), rulemaking proposal in RIN 2126-AB47, Electronic Signatures and Documents.

*Title:* Annual Report of Class I and Class II For-Hire Motor Carriers.

*OMB Control Number:* 2126-0032.

*Type of Request:* Revision and extension of a currently-approved information collection.

*Respondents:* Class I and Class II Motor Carriers of Property, Passengers, and Household Goods.

*Estimated Number of Respondents:* 98 [96 Class I and Class II motor carriers of property (Form M) + 2 Class I motor carriers of passengers (Form MP-1)].

*Estimated Time per Response:* Varies [9 hours (Form M); 18 minutes (Form MP-1)].

*Expiration Date:* December 31, 2018.

*Frequency of Response:* Annually.

*Estimated Total Annual Burden:* 865 hours [96 respondents × 9 hours to complete form M-1 + 2 respondents × 0.3 = 0.6 rounded to 1 hour to complete form MP-1].

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the agency to perform its mission; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued on: April 18, 2018.

**G. Kelly Regal,**

*Associate Administrator for Office of Research and Information Technology.*

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