

is listed in the **ADDRESSES** section. During the meeting, public oral comments will be accepted for 45 minutes (2:15 p.m. to 3 p.m.). Individual comments may be limited depending on the number of persons who wish to comment. Oral comments will be accepted on a first come, first serve basis as requestors register at the meeting. The comments must directly address relevant medical and scientific issues on the MRB meeting agenda. For more information, please view the following Web site: <http://www.fmcsa.dot.gov/mrb>.

Issued on: October 6, 2006.

John H. Hill,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-24278]

Qualification of Drivers; Exemption Requests; Epilepsy and Seizure Disorders

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

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from four individuals for exemptions from the prohibition against persons with a clinical diagnosis of epilepsy (or any other condition which is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV)), operating trucks and buses in interstate commerce. If granted, the exemptions would enable these individuals with seizure disorders to operate CMVs in interstate commerce. All records associated with these requests are available in the public docket.

DATES: Comments must be received on or before November 13, 2006.

ADDRESSES: You may submit comments identified by Department of Transportation (DOT) Docket Management System (DMS) Docket Number FMCSA-2006-24278 using any of the following methods:

- Web site: <http://dmses.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building,

Room PL-401, Washington, DC 20590-0001.

- **Hand Delivery:** Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

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

Instructions: All submissions must include the Agency name and docket number for this notice. Note that all comments received will be posted without change to <http://dms.dot.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://dms.dot.gov> at any time or Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366-4001, maggi.gunnels@dot.gov, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-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 2-year period. The individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers of CMVs in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle 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 commercial motor vehicle.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in interstate commerce. Currently, FMCSA's medical advisory criteria includes a recommendation that individuals diagnosed with epilepsy and taking anticonvulsant medication to reduce the likelihood of seizures are at high risk for further episodes and should not be considered for medical certification. Drivers diagnosed with epilepsy and taking anticonvulsant medication which helps them control their seizures may be at low risk, however, these individuals are exposed to conditions which place them at increased risk for loss of consciousness and therefore increased risk for seizure occurrence, and the acquisition of replacement anti-seizure medication if drugs are lost or forgotten, place such individuals at some increase in risk. These individuals should not be authorized to drive commercial vehicles. Drivers diagnosed with epilepsy, seizure free and off medication for 10 years may be medically certified to operate CMVs.

FMCSA further notes that individuals who experience a single unprovoked seizure, but do not have epilepsy, per se, are clearly at a higher risk than the general population to have further seizures. Individuals with a single unprovoked seizure, seizure-free for a 5-year period and off medications, should not be restricted from obtaining a license to operate a CMV. The history of the occurrence of febrile seizures in childhood should not be a restriction to licensing to operate a CMV. Seizures, in the context of a systemic metabolic dysfunction, should not be a primary reason for restriction from medical certification to operate a CMV. Any restriction should be based upon the risk of recurrence of the primary condition. There are several conditions in which the risk for unprovoked seizures is sufficiently high, even in the absence of the occurrence of acute

seizures, that medical certification should be restricted for variable periods following these incidents (head injury, surgical procedures involving dural penetration, cerebrovascular disease and infections of the nervous system).

Summary of Applications

Anthony P. Besch

Mr. Besch has a history of epilepsy since childhood, and he currently uses anti-seizure medications to prevent seizures. Mr. Besch does not currently operate a CMV on public roads. Mr. Besch has stated in his application that "there would be no negative impacts on safety as I am seizure free, have excellent vision, and reflexes." Mr. Besch's physician further states that, "he does have a history of seizures only in sleep and none during the day; therefore, Tony is legally able to drive due to his seizures being in good control." Mr. Besch holds a Class A CDL from Illinois.

Charles D. Gant

Mr. Gant is a hazardous material (HM) CMV driver who experienced slurred speech, drooling and numbness in his left upper extremity for approximately 15 minutes on August 20, 1999. On August 23, 1999, he was examined at a hospital emergency room, and subsequently referred to a neurologist who diagnosed him as having a stroke (cerebrovascular accident). He was prescribed Coumadin which he stopped taking against medical advice of the prescribing physician. On October 1, 2002, his physician reported that Mr. Gant had a left temporal headache with a reduction in left visual field, but no abnormal sensation, numbness, weakness or loss of speech. On June 27, 2004, "he awakened with involuntary movements of his left upper extremity followed by spastic movements of his left lower extremity lasting for about 20 minutes." His family physician stated that this represented his third minor cerebral vascular accident (CVA) or "quite probably a seizure". The physician performed Magnetic Resonance Imaging (MRI) on June 30, 2004 which revealed a subacute CVA in the right frontoparietal junction. Mr. Gant was examined by his physician on February 25, 2005 who diagnosed him as follows: controlled hypertension; history of at least three (3) previous CVAs. He was prescribed Coumadin, Dilantin (an anti-seizure medication) and Diovan/Hydrochlorothiazide to prevent seizures.

John W. Morris, Jr.

Mr. Morris is a CMV driver who lost consciousness while driving on March 20, 2004, and was then hospitalized for three days. Mr. Morris was examined by a neurologist while he was hospitalized. The neurologist determined that he had experienced a seizure. Mr. Morris was placed on Carbatrol (an anti-seizure medication) and subsequently, in August 2004, a medical examiner refused to certify him as meeting FMCSA's requirements. On September 23, 2004, Mr. Morris consulted another neurologist and his test results (Electroencephalography and MRI) were normal, and he was told to gradually discontinue the Carbatrol. Mr. Morris states he has had no additional seizures after March 20, 2004, and has not taken Carbatrol since November 1, 2004. Mr. Morris states that two neurologists have concluded that his seizures were likely induced by alcohol. He states that his medical test results are normal and he has been seizure free for one year and three months.

Wayne C. Sorenson

Mr. Sorenson is a CMV driver who completed a commercial driving course to ensure safe operation of a semi tractor-trailer and was awarded a certificate in May 2004. He states that he had seizures 11 years ago while sleeping which was the result of an adverse reaction to medication. He has remained on Tegretol (an anti-seizure medication) for the last 11 years, and has maintained therapeutic levels of the medication and, subsequently, reports that he has had no seizures. Mr. Sorenson states that he has no other diagnosed conditions, physical or psychological impairment, no history of strength, sensory or coordination impairment that would interfere with safe driving. Mr. Sorenson indicated that a medical examiner refused to certify him as meeting FMCSA's physical qualifications requirements because of the seizures he experienced in 1994 and because he continues to take anti-seizure medication.

These four drivers were not granted medical certification based on 49 CFR 391.41(b)(8) which states: "A person has no established medical history or clinical diagnosis of epilepsy or other condition which is likely to cause loss of consciousness or any loss of ability to control a commercial vehicle."

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in

this Notice. We will consider all comments received before the close of business on the closing date indicated earlier in the Notice.

Issued on: October 3, 2006.

John H. Hill,

Administrator.

[FR Doc. E6-17032 Filed 10-12-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34911]

Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant overhead trackage rights¹ to Montana Rail Link, Inc. (MRL) over BNSF's rail lines extending from approximately milepost 51.07 at or near Garrison, MT, to approximately milepost 21.5, a location south of Warm Springs, MT, a distance of approximately 29.57 miles.

The transaction was scheduled to be consummated on or before October 2, 2006. The purpose of the trackage rights is to allow for the movement of sediment from the Clark Fork River between Garrison and Missoula, MT (Milltown Dam Area), near Bonner, MT, to Opportunity Ponds, MT.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34911, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Troy Garris,

¹ On September 25, 2006, MRL filed a petition for exemption in STB Finance Docket No. 34911 (Sub-No. 1), *Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company*, wherein MRL and BNSF request that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on or about December 31, 2010. That petition will be addressed by the Board in a separate decision.