

Timothy B. Jones

Mr. Jones, 49, has a prosthetic in his right eye due to a traumatic incident in 1988. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2019, his ophthalmologist stated, "In my medical opinion, Timothy has sufficient vision to operate a commercial vehicle." Mr. Jones reported that he has driven straight trucks for three years, accumulating 37,500 miles. He holds an operator's license from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

James J. Kyler

Mr. Kyler, 37, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, "Because his vision was sufficient to obtain a commercial license in the past, and his condition has not progressed since that time, he has sufficient vision to operate a commercial vehicle." Mr. Kyler reported that he has driven straight trucks for nine years, accumulating 270,000 miles. He holds a Class B CDL from Oklahoma. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert C. Mock

Mr. Mock, 50, has had degenerative myopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, "In my medical opinion, I certify that Robert has sufficient vision to perform the driving tasks required to operate a commercial vehicle safely while wearing his spectacle correction." Mr. Mock reported that he has driven straight trucks for 13 years, accumulating 58,500 miles. He holds a Class A CDL from Kansas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

David J. Reed

Mr. Reed, 61, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2019, his optometrist stated, "In my medical opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Reed reported that he has driven straight trucks for

seven years, accumulating 210,000 miles, and tractor-trailer combinations for one year, accumulating 40,000 miles. He holds a Class AM CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Derrick A. Robinson

Mr. Robinson, 41, has complete loss of vision in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2019, his ophthalmologist stated, "In my medical opinion, Mr. Robinson has more than sufficient vision to perform the driving test required to operate a commercial vehicle." Mr. Robinson reported that he has driven straight trucks for four years, accumulating 90,000 miles, and tractor-trailer combinations for 17 years, accumulating 1.9 million miles. He holds a Class A CDL from Alabama. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

David A. Simpson

Mr. Simpson, 59, has retinal scars in his right eye due to choroidal neovascularization in 2010. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2019, his optometrist stated, "In my opinion, Mr. Simpson demonstrated no visual limitations other than described above and has no significant risk for operating a commercial vehicle as long as prescribed glasses are worn at all times." Mr. Simpson reported that he has driven straight trucks for 23 years, accumulating 598,000 miles. He holds a Class B CDL from Ohio. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated under the **DATES** section of the notice.

Issued on: December 12, 2019.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA-2019-0035]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt five individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate 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 operate CMVs in interstate commerce.

DATES: The exemptions were applicable on November 22, 2019. The exemptions expire on November 22, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001. 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 Docket Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation***A. 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/docket?D=FMCSA-2019-0035> 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 Operations 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.

B. 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

On October 16, 2019, FMCSA published a notice announcing receipt of applications from five individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (84 FR 55373). The public comment period ended on November 15, 2019, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety 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 criteria¹ to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received one comment in this proceeding. This comment supporting granting the exemptions.

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 statute also allows the Agency to renew exemptions at the end of the 5-year period. 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 the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency conducted 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 for commercial driver's license (CDL) holders, and interstate and intrastate 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 (SDLA). A summary of each applicant's seizure history was discussed in the October 16, 2019, **Federal Register** notice (84 FR 55373) and will not be repeated in this notice.

These five applicants have been seizure-free over a range of 22 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 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 § 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 2-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 ME, as defined by § 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 five exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, § 391.41(b)(8), subject to the requirements cited above:

Jacob Brenwall (WI)
Frederick Costello (NY)
Robert Davidson (ID)
Joshua Pittman (CA)
Philip Stoddard (NY)

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).

Issued on: December 12, 2019.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0206]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

¹ 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>.