

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****[Docket No. FMCSA–2012–0050]****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 5 individuals for an exemption 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 operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. If granted, the exemptions would enable these individuals with seizure disorders to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before March 30, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2012–0050 using any of the following methods:

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

- **Fax:** 1–202–493–2251.

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

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or 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., Monday through Friday, except Federal holidays. The FDMS 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 19477–78; Apr. 11, 2000). This information is also available at <http://Docketinfo.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Elaine Papp, Chief, Medical Programs Division (202) 366–4001, or via email at [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), or by letter FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., 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 statutes also allow the Agency to renew exemptions at the end of the 2-year period. The five 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 who operate CMVs as defined in 49 CFR 390.5, 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 commercial motor vehicles in intrastate commerce. The advisory criteria indicates that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which 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 6-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 fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers with 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 in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

**Summary of Applications***Todd Brock*

Mr. Brock is a 53-year-old driver in the state of Colorado. He previously drove delivery trucks for UPS. He was diagnosed with a seizure disorder and given anti-seizure medication. He continues to take anti-seizure medication with the dosage and frequency remaining the same for 3 years. Mr. Brock has been seizure-free for 9 years, having his last seizure January 2003. If granted the exemption, he would return to driving a delivery truck for UPS.

*Darren Carroll*

Mr. Carroll is a 37-year-old CMV driver in the state of Virginia. Mr. Carroll had a single seizure event in March 2008 following a blow to the back of his head. He has never been on anti-seizure medication, remaining seizure-free since the single seizure. His last seizure was March 2008.

*Charles Johnson*

Mr. Johnson is a 36-year-old CMV driver in the state of Kansas. Mr. Johnson was diagnosed with petite mal

seizures as an infant. These seizures last only a few seconds, and he has not had any grand mal seizures. His last seizure was in April 2011. He has been on anti-seizure medication with the dosage and frequency remaining the same for 4 months. If granted the exemption, he would return to driving a school bus. His physician has released him to return to driving.

*Diana Mugford*

Ms. Mugford is a 44-year-old CDL driver in the state of Vermont. She was diagnosed with complex partial seizures and given anti-seizure medication. Her last seizure was in 2004. She continues to take anti-seizure medication with the dosage and frequency remaining the same for 8 years. She has remained seizure-free for 8 years. If granted the exemption, she would return to driving tractor trailer trucks in interstate commerce. Her physician endorses her receiving an exemption and states he feels "she would be among the safer drivers on the highway."

*James Wiggins*

Mr. Wiggins is a 57-year-old CMV driver in the state of Florida. Mr. Wiggins had a single seizure in March 2008 and was diagnosed with a brain tumor. He had the tumor removed in April 2008 and put on anti-seizure medication. He has been off of any anti-seizure medication for 3 years and has remained seizure free for 4 years. If granted the exemption, he would return to driving tractor trailer trucks.

#### 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: February 22, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[4910-EX-P]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of denials.

**SUMMARY:** FMCSA announces its denial of 115 applications from individuals who requested an exemption from the Federal vision standard applicable to interstate truck and bus drivers and the reasons for the denials. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions does not provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

#### FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, 202-366-4001, U.S. Department of Transportation, FMCSA, 1200 New Jersey Avenue SE., Room W64-224, 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. 31136(e) and 31315, FMCSA may grant an exemption from the Federal vision standard for a renewable 2-year period if it finds "such an exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such an exemption." The procedures for requesting an exemption are set forth in 49 CFR part 381.

Accordingly, FMCSA evaluated 115 individual exemption requests on their merit and made a determination that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption program. Each applicant has, prior to this notice, received a letter of final disposition on the exemption request. Those decision letters fully outlined the basis for the denial and constitute final Agency action. The list published in 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.

One applicant, Donald Dickerson, lacked sufficient driving experience during the 3-year period prior to the date of his application.

The following 21 applicants had no experience operating a CMV:

Michael Meke-Eze  
David M. Krause  
Michael R. Morgan

Alexander D. Avery  
Alan J. Chmielews  
Kevie D. Clark  
Shatisha Y. Tharrinton  
Garn J. Hickam  
Mohamed Sannoh  
Daniel Ponce  
Amanda Upchurch  
David W. Cox  
Dean A. Saarinen  
David L. Stout  
Kasey L. Tanner  
James J. Perkins  
William N. Wheeler  
Glen Stryker  
Donald F. Evans  
Frank Ferrara  
Michael B. Timmins

The following 28 applicants did not have 3 years of experience driving a CMV on public highways with their vision deficiencies:

Russell Burden  
Norvan Brown  
Eddie R. Del Angel  
George E. Gross  
Wayne Figroid  
Darrell E. Graumann  
Heidi J. Morse  
Ian D. Holbin  
Boyd M. Kinzer, Jr.  
Michael Hamm  
Kenneth P. Nichols  
Nicholas E. Lemaster  
Terry Kenne  
Brandon R. Ferguson  
Dennis Yost  
Alex P. Makhanov  
Lonnie L. Tincher  
Jessie A. Tanner  
Gabriel A. Natale  
Martin C. Baschab  
Donald Hooper  
Gregory Chiropoulos  
Ronnie G. Lynn  
Malinda N. Parks  
Mark Smith  
Stephen C. Linardos  
Dani A. Alvarez  
Shawn L. Smith

The following 12 applicants did not have 3 years of recent experience driving a CMV with the vision deficiency:

Joshua H. Boatright  
Domingo V. Perez  
James F. Blush  
Dean L. Christenson  
George R. Boutin  
Eugene P. Fournier  
Rudolph J. McPhearson  
Saint Marc Louis  
Edgar Daye  
Anthony Bartel  
Ronald Bounds  
Paul L. Baker

The following 7 applicants did not have sufficient driving experience