

Jaxon Krisko

Jaxon Krisko is a 41-year-old class D license holder in Ohio. They have a history of generalized epilepsy and psychogenic non-epileptic seizures and have been seizure free since November 2016. They take anti-seizure medication with the dosage and frequency remaining the same since 2014. Their physician states that they are supportive of Jaxon Krisko receiving an exemption.

Justin McGinnis

Justin McGinnis is a 49-year-old class A commercial driver's license (CDL) holder in Kansas. They have a history of a single unprovoked seizure and have been seizure free since October 10, 2017. They take anti-seizure medication with the dosage and frequency remaining the same since 2016. Their physician states that they are supportive of Justin McGinnis receiving an exemption.

Dalton Nicodemus

Dalton Nicodemus is a 28-year-old class E license holder in West Virginia. They have a history of myoclonic seizures and have been seizure free since March 2014. They take anti-seizure medication with the dosage and frequency remaining the same since January 18, 2019. Their physician states that they are supportive of Dalton Nicodemus receiving an exemption.

Zachary Pfister

Zachary Pfister is a 24-year-old class A CDL holder in Indiana. They have a history of absence seizures and have been seizure free since 2009. They take anti-seizure medication with the dosage and frequency remaining the same since September 11, 2016. Their physician states that they are supportive of Zachary Pfister receiving an exemption.

Daniel Richey

Daniel Richey is a 53-year-old class A CDL holder in Texas. They have a history of seizure disorder and have been seizure free since 1987. They take anti-seizure medication with the dosage and frequency remaining the same since 2008. Their physician states that they are supportive of Daniel Richey receiving an exemption.

Jessica Schmit

Jessica Schmit is a 49-year-old class C license holder in Pennsylvania. They have a history of seizure disorder and have been seizure free since 1993. They take anti-seizure medication with the dosage and frequency remaining the same since 2019. Their physician states that they are supportive of Jessica Schmit receiving an exemption.

Teri Smieja

Teri Smieja is a 60-year-old class BCD CDL holder in Wisconsin. They have a history of epilepsy and have been seizure free since 1998. They take anti-seizure medication with the dosage and frequency remaining the same since 2018. Their physician states that they are supportive of Teri Smieja receiving an exemption.

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 received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

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

[Docket No. FMCSA-2024-0022]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 13 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 August 3, 2024. The exemptions expire on August 3, 2026.

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

SUPPLEMENTARY INFORMATION:**I. Public Participation***A. Viewing Comments*

To view comments go to www.regulations.gov. Insert the docket number, (FMCSA-2024-0022) in the keyword box and click "Search." Next, sort the results by "Posted (Older-Newer)," choose the first notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. 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 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

II. Background

On June 28, 2024, FMCSA published a notice announcing receipt of applications from 13 individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (89 FR 54145). The public comment period ended on July 29, 2024, and one comment was received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is 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. The commenter stated they believe persons who have a history of seizures or have a diagnosis of epilepsy should not be permitted to hold an exemption based on an increased risk for a car accident. They indicated that they would consider supporting the exemption if a significant amount of time has passed since the applicant's last seizure but still remain cautious due to the increased risk of these applicants.

As stated below in the next section of this notice, the Agency conducts an individualized assessment of each applicant considering multiple medical factors to include the length of time since the applicant's last seizure and the stability of their condition overall.

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 statutes allow the Agency to renew exemptions at the end of the 5-year period. However, 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. 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. A summary of each applicant's seizure history was discussed in the June 28, 2024, **Federal Register** notice (89 FR 54145) and will not be repeated in this notice.

These 13 applicants have been seizure-free over a range of 32 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 further that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) would likely achieve a level of safety equal to that existing without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and include 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 § 390.5T; 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 13 exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition in § 391.41(b)(8), subject to the requirements cited above:

Joshua Amos (OH)
 Kyle Batts (CT)
 Roberto DeLeon (CO)
 Jonathan Heaps (UT)
 Dale Koehler (CO)
 Demon Lowe (NC)
 Lamar Mapp (OH)
 Todd Medsker (ID)
 John Pyne (FL)
 William Santini (TN)
 Mitchell Secrist (CA)
 Joseph Tembo (MD)
 Joseph Travagliato (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, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0109; FMCSA-2015-0116; FMCSA-2015-0323; FMCSA-2015-0326; FMCSA-2018-0050; FMCSA-2018-0051; FMCSA-2019-0206; FMCSA-2020-0046; FMCSA-2020-0047; FMCSA-2022-0043]

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ACTION: Notice of final disposition.

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>.