

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 15 individuals listed in this notice have requested an exemption from the hearing requirement in 49 CFR 391.41(b)(11). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 3, 1971).

On February 1, 2013, FMCSA announced in a Notice of Final Disposition titled, "Qualification of Drivers; Application for Exemptions; National Association of the Deaf," (78 FR 7479), its decision to grant requests from 40 individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers. Since that time the Agency has published additional notices granting requests from hard of hearing and deaf individuals for exemptions from the Agency's physical qualification standard concerning hearing for interstate CMV drivers.

### III. Qualifications of Applicants

#### Sean Brodacz

Sean Brodacz, 32, holds a class DM driver's license in Illinois.

#### Travis Bunn

Travis Bunn, 42, holds a class D driver's license in Arkansas.

#### Allen Carrasco

Allen Carrasco, 35, holds a class A CDL in California.

#### Matthew Kaschalk

Matthew Kaschalk, 41, holds a class D driver's license in Tennessee.

#### Jennifer Cowan

Jennifer Cowan, 28, holds a class D driver's license in Arkansas.

#### Chad D'Amore

Chad D'Amore, 21, holds a class C driver's license in Pennsylvania.

#### Fawina Dieterich

Fawina Dieterich, 43, holds a class E driver's license in Florida.

#### Kathryn Dych

Kathryn Dych, 34, holds a driver's license in Indiana.

#### Keith Hulse

Keith Hulse, 51, holds a class DM driver's license in Tennessee.

#### Alexander Jones

Alexander Jones, 21, holds a class R driver's license in Mississippi.

#### Claudio Monegro

Claudio Monegro, 32, holds a class C driver's license in Maryland.

#### Erica Muhm

Erica Muhm, 42, holds a class D driver's license in Kentucky.

#### Brett Ripp

Brett Ripp, 37, holds a class E driver's license in Florida.

#### Wayne Todd

Wayne Todd, 62, holds a class A CDL in Nebraska.

#### Christopher Zrimsek

Christopher Zrimsek, 45, holds a class E driver's license in Florida.

### 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.

[FR Doc. 2022-27536 Filed 12-19-22; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0046]

#### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 20 individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before January 19, 2023.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System Docket No. FMCSA-2022-0046 using any of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov/](http://www.regulations.gov/), insert the docket number (FMCSA-2022-0046) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, and click on the "Comment" button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; 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 20590-0001 between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal Holidays.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64-224,

Washington, DC 20590-0001, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov). Office hours are 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. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA-2022-0046), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to [www.regulations.gov/docket?D=FMCSA-2022-0046](http://www.regulations.gov/docket?D=FMCSA-2022-0046). Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click the "Comment" button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. FMCSA will consider all comments and material received during the comment period.

#### B. Viewing Comments

To view comments, go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number (FMCSA-2022-0046) in the keyword box and click "Search." Next, sort the results by "Posted (Newer-Older)," 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 in Room W12-140 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.

#### C. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov). As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), 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

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. 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 20 individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

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 criteria<sup>1</sup> to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication,

<sup>1</sup> 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>.

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 ME 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 has 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 recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have 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.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a notice of final disposition titled, "Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders," (78 FR 3069), its decision to grant requests from 20 individuals for exemptions from the regulatory requirement that interstate 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." Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders

prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

### III. Qualifications of Applicants

#### *Glen Becht*

Glen Becht is a 42-year-old class D license holder in Tennessee. He has a history of grand mal seizure and has been seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since 2016. His physician states that he is supportive of Mr. Becht receiving an exemption.

#### *Cassie Caldera*

Cassie Caldera is a 33-year-old class R license holder in Colorado. She has a history of generalized convulsive epilepsy and has been seizure free since 2012. She has not taken anti-seizure medication since 2013. Her physician states that she is supportive of Ms. Caldera receiving an exemption.

#### *Joseph Carlisle*

Joseph Carlisle is a 42-year-old class A license holder in Illinois. He has a history of juvenile myoclonic epilepsy and has been seizure free over 20 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 6 years. His physician states that he is supportive of Mr. Carlisle receiving an exemption.

#### *Samuel Collins*

Samuel Collins is a 61-year-old class B commercial driver's license (CDL) holder in South Carolina. He has a history of epilepsy and has been seizure free since 2009. He takes anti-seizure medication with the dosage and frequency remaining the same since 2017. His physician states that he is supportive of Mr. Collins receiving an exemption.

#### *Michael Day*

Michael Day is a 47-year-old class A CDL holder in Arizona. He has a history of generalized epilepsy and has been seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since 2002. His physician states that he is supportive of Mr. Day receiving an exemption.

#### *Kevin Finan*

Kevin Finan is a 35-year-old class D license holder in Ohio. He has a history of juvenile myoclonic epilepsy and has been seizure free for over 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same since 2014. His physician states

that he is supportive of Mr. Finan receiving an exemption.

#### *Brian Graham*

Brian Graham is a 47-year-old class A CDL holder in Montana. He has a history of generalized epilepsy and has been seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same since 2014. His physician states that he is supportive of Mr. Graham receiving an exemption.

#### *Andrew Greenawalt*

Andrew Greenawalt is a 24-year-old class C license holder in Pennsylvania. He has a history of seizure disorder and has been seizure free since 2013. He takes anti-seizure medication with the dosage and frequency remaining the same since 2017. His physician states that he is supportive of Mr. Greenawalt receiving an exemption.

#### *Michael McKinlay*

Michael McKinlay is a 36-year-old class F license holder in Missouri. He has a history of epilepsy and has been seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since 2010. His physician states that he is supportive of Mr. McKinlay receiving an exemption.

#### *Roger Moats*

Roger Moats is a 50-year-old class A CDL holder in Oklahoma. He has a history of epilepsy and has been seizure free since 1988. He takes anti-seizure medication with the dosage and frequency remaining the same since 1988. His physician states that he is supportive of Mr. Moats receiving an exemption.

#### *Jordan Moriarty*

Jordan Moriarty is a 40-year-old class D license holder in Vermont. He has a history of epilepsy with generalized seizures and has been seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since 2010. His physician states that he is supportive of Mr. Moriarty receiving an exemption.

#### *Michael Morris*

Michael Morris is a 46-year-old class A CDL holder in Oregon. He has a history of epilepsy and has been seizure free since 2007. He takes anti-seizure medication with the dosage and frequency remaining the same for over 12 years. His physician states that he is supportive of Mr. Morris receiving an exemption.

#### *Keith Pitzen*

Keith Pitzen is a 65-year-old class A CDL holder in Iowa. He has a history of partial epilepsy with secondary generalized seizures and has been seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since 2011. His physician states that he is supportive of Mr. Pitzen receiving an exemption.

#### *Matthew Raymond*

Matthew Raymond is a 34-year-old class B CDL holder in New York. He has a history of epilepsy and has been seizure free since 1999. He takes anti-seizure medication with the dosage and frequency remaining the same since 1999. His physician states that he is supportive of Mr. Raymond receiving an exemption.

#### *Juan Rios*

Juan Rios is a 23-year-old class C license holder in Texas. He has a history of epilepsy and has been seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since 2018. His physician states that he is supportive of Mr. Rios receiving an exemption.

#### *Jason Russell*

Jason Russell is a 49-year-old class B license holder in Iowa. He has a history of seizure disorder and has been seizure free since 2001. He takes anti-seizure medication with the dosage and frequency remaining the same since 2019. His physician states that he is supportive of Mr. Russell receiving an exemption.

#### *Reuben Sheets*

Reuben Sheets is a 44-year-old class DM license holder in New York. He has a history of remote seizure and has been seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since 2017. His physician states that he is supportive of Mr. Sheets receiving an exemption.

#### *Eric Stucky*

Eric Stucky is a 48-year-old class A CDL holder in Utah. He has a history of seizure and has been seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since 2013. His physician states that he is supportive of Mr. Stucky receiving an exemption.

#### *Thomas Weber*

Thomas Weber is a 44-year-old class D license holder in New York. He has

a history of seizure disorder and has been seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since 2010. His physician states that he is supportive of Mr. Weber receiving an exemption.

*Daniel White*

Daniel White is a 46-year-old class A CDL holder in Nebraska. He has a history of seizure disorder and has been seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since 2019. His physician states that he is supportive of Mr. White 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.*

[FR Doc. 2022-27538 Filed 12-19-22; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2022-0045]

#### 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 December 12, 2022. The exemptions expire on December 12, 2024.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@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](http://www.regulations.gov). Insert the docket number, (FMCSA-2022-0045) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” 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 in Room W12-140 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](http://www.regulations.gov). As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), 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 November 1, 2022, 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 (87 FR 65847). The public comment period ended on December 1, 2022, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely 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 criteria<sup>1</sup> 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 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 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

<sup>1</sup> 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>.