DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration

[Docket No. FMCSA–FMCSA–2017–0326]

Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillators

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

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

SUMMARY: FMCSA announces receipt of applications from seven individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against operation of a commercial motor vehicle (CMV) by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure. If granted, the exemptions would enable these individuals with implantable cardioverter defibrillators (ICDs) to operate CMVs in interstate commerce.

DATES: Comments must be received on or before March 2, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–FMCSA–2017–0326 using any of the following methods:

• Federal eRulemaking Portal: Go to http://www.regulations.gov. Follow the online instructions for submitting comments.


• Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

• Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below for further information.

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 http://www.regulations.gov, as described in the system records notice (DOT/ALL–14 FDMS), which can be reviewed at http://www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, fmcsamedical@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., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-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 five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver’s medical certification.

The seven individuals listed in this notice have requested an exemption from 49 CFR 391.41(b)(4). 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 found in 49 CFR 391.41(b)(4) states that a person is physically qualified to drive a CMV if that person has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

In addition to the regulations, FMCSA has published advisory criteria\(^1\) to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section D. Cardiovascular: § 391.41(b)(4), paragraph 4.] The advisory criteria state that ICDs are disqualifying due to risk of syncope.

II. Qualifications of Applicants

Frank D’Ercole

Mr. D’Ercole is a 77 year old CDL holder in New Jersey. An October 30, 2017 letter from his cardiologist states that his ICD was implanted in June 2017 and that since that time he has had no event on his AICD implant. His exercise test in May 2017 showed good exercise capacity.

Myles Goodwin

Mr. Goodwin is a 54 year old driver in New Hampshire. A May 2017 letter from his cardiologist states that his ICD was implanted in February 2015 and at the time of the letter had not deployed.

As of February 2017, his cardiac issues were well controlled.

**Cody Hairr**

Mr. Hairr is a 23 year old driver in North Carolina. Medical documentation from his cardiologist dated September 2017 and a cardiologist letter without a date indicates that his ICD was implanted in 2013 and has not discharged since it was implanted. The letter states that he has no dizziness, lightheadedness, palpitations, chest pain, undue shortness of breath, exercise intolerance or syncope since ICD placement. His cardiologist states that from a cardiac standpoint, we have not limited [him] from any activities or concerns related to syncope.

**Terry Stephens**

Mr. Stephens is a 54 year old driver in Michigan. A December 20, 2017 letter from his cardiologist states that Mr. Richardson underwent ICD implant in February 2017 and has not deployed since that time. His cardiologist states that Mr. Pickett has not reported any syncopal episodes and that he plans to follow up visits for him every three months.

**Dennis R. Pickett**

Mr. Pickett is a 78 year old Class A CDL holder in Indiana. An April 2017 letter from his cardiologist indicates that his permanent pacemaker was upgraded to a biventricular automatic implantable cardioverter defibrillator in February 2017 and has not deployed since that time. His cardiologist states that Mr. Pickett has not reported any syncopal episodes and that he plans to follow up visits for him every three months.

**Jeffrey A. Weiner**

Mr. Weiner is a 56 year old driver in Minnesota. A May 2017 letter from his cardiologist states that his ICD was implanted in July 2014, has not deployed since it was implanted, and is now asymptomatic. The letter states that his current underlying heart condition is well compensated.

**III. Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31135, 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 in the dates section of the notice.

**IV. Submitting Comments**

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 http://www.regulations.gov and in the search box insert the docket number FMCSA–2017–0326 and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination any time after the close of the comment period.

**V. Viewing Comments and Documents**

To view comments, as well as any documents mentioned in this preamble, go to http://www.regulations.gov and in the search box insert the docket number FMCSA–2017–0326 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

Issued on: January 25, 2018.

**Larry W. Minor,**

Associate Administrator for Policy.

/BILLING CODE 4910–EX–P/

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**


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

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

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for six 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 continue to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on December 16, 2017. The exemptions expire on December 16, 2019.

Comments must be received on or before March 2, 2018.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, fmcsamedical@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., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket Nos. FMCSA–2014–0382; FMCSA–2015–0115; FMCSA–2015–0119 using any of the following methods:

- Federal eRulemaking Portal: Go to http://www.regulations.gov. Follow the online instructions for submitting comments.
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington,