

research report “Implantable Cardioverter Defibrillators and the Impact of a Shock in a Patient When Deployed.” Copies of the reports are included in the docket.

FMCSA has published advisory criteria to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [Appendix A to Part 391—Medical Advisory Criteria, section D, paragraph 4]. The advisory criteria for 49 CFR 391.41(b)(4) indicates that coronary artery bypass surgery and pacemaker implantation are remedial procedures and thus, not medically disqualifying. Implantable cardioverter defibrillators are disqualifying due to risk of syncope.

### 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, FMCSA may grant an exemption 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 Agency’s decision regarding these exemption applications is based on an individualized assessment of each applicant’s medical information provided by the applicant, available medical and scientific data concerning ICD’s, and public comments received.

In the case of persons with ICDs, the underlying condition for which the ICD was implanted places the individual at high risk for syncope (a transient loss of consciousness) or other unpredictable events known to result in gradual or sudden incapacitation. ICDs may discharge, which could result in loss of ability to safely control a CMV. See the April 2007 Evidence Report on Cardiovascular Disease and Commercial Motor vehicle Driver Safety, April 2007.<sup>1</sup> A focused research report on Implantable Cardioverter Defibrillators and the Impact of a Shock on a Patient When Deployed completed for the FMCSA December 2014 indicates that the available scientific data on persons with ICDs and CMV driving does not support that persons with ICDs who operate CMVs are able to meet an equal or greater level of safety and upholds the findings of the April 2007 report.

<sup>1</sup> Now available at [http://ntl.bts.gov/lib/30000/30100/30123/Final\\_CVD\\_Evidence\\_Report\\_v2.pdf](http://ntl.bts.gov/lib/30000/30100/30123/Final_CVD_Evidence_Report_v2.pdf).

### V. Conclusion

The Agency has determined that the available medical and scientific literature and research provides insufficient data to enable the Agency to conclude that granting these exemptions would achieve a level of safety equivalent to, or greater than, the level of safety maintained without the exemption. Therefore, the following four applicants have been denied exemptions from the physical qualification standards in 49 CFR 391.41(b)(4):

David Christiansen (IL)  
Christopher G. Harville (SC)  
Terry W. Meredith (TN)  
Grady C. Stone (GA)

Each applicant has, prior to this notice, received a letter of final disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitutes final action by the Agency. The list published today summarizes the Agency’s recent denials as required under 49 U.S.C. 31315(b)(4).

Issued on: November 9, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018–25281 Filed 11–19–18; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0213; FMCSA–2015–0323]

#### 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 12 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:** Each group of renewed exemptions were applicable on the

dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before December 20, 2018.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0213; FMCSA–2015–0323 using any of the following methods:

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

- *Fax:* 1–202–493–2251.

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, 202–366–4001, [fmcamedical@dot.gov](mailto: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 Services, telephone (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 Nos. FMCSA–2015–0323; FMCSA–2014–0213), 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 <http://www.regulations.gov>, put the

docket numbers, FMCSA–2014–0213; FMCSA–2015–0323, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” 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. 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.

FMCSA will consider all comments and material received during the comment period.

### *B. 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>. Insert the docket numbers, FMCSA–2014–0213; FMCSA–2015–0323, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button 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 Management Facility 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.

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

## **II. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for up to five years 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 physical qualification standard for drivers regarding epilepsy found in 49 CFR 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 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 H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5).

The 12 individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

## **III. Request for Comments**

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

## **IV. Basis for Renewing Exemptions**

In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The 12 drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. In addition, for Commercial Driver’s License (CDL) holders, the Commercial Driver’s License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver’s

Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver’s ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of September and are discussed below:

As of September 9, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Mark D. Anderson (NC)  
Jeremy N. Bradford (AL)  
Jeffrey B. Green (CA)  
Stephen M. Harmon (WV)  
Donald A. Horst (MD)  
Kyle P. Loney (WA)  
Leigh P. Mallory (VT)  
Raymond H. VanDeMark (NJ)

The drivers were included in docket number FMCSA–2015–0323. Their exemptions are applicable as of September 9, 2018, and will expire on September 9, 2020.

As of September 16, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Lee H. Anderson (MA)  
Gary A. Combs, Jr. (KY)  
Roland K. Mezger (PA)  
Robert Thomas, Jr. (NC)

The drivers were included in docket number FMCSA–2014–0213. Their exemptions are applicable as of September 16, 2018, and will expire on September 16, 2020.

## **V. Conditions and Requirements**

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-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 Medical Examiner, as defined by 49 CFR 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. The exemption will be rescinded if: (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 before it was 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.

#### 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 on its evaluation of the 12 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41 (b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: November 9, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2018-0037; Notice No. 2; Safety Advisory 2018-02]

#### Safety Advisory Related to Temporary Signal Suspensions

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of Safety Advisory.

**SUMMARY:** FRA is issuing this Safety Advisory addressing railroad operations under temporary signal suspensions. This Safety Advisory recommends the use of industry best practices when planning and implementing temporary signal suspensions, including when conducting rail operations under temporary signal suspensions. This Safety Advisory also recommends that railroads develop and implement procedures and practices consistent

with the identified best practices and that railroads take certain other actions to ensure the safety of railroad operations during temporary signal suspensions. FRA believes that actions consistent with this Safety Advisory will reduce the risk of serious injury or death both to railroad employees and members of the public.

**FOR FURTHER INFORMATION CONTACT:** Douglas Taylor, Staff Director, Operating Practices, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493-6255; or Carolyn Hayward-Williams, Staff Director, Positive Train Control/Signal & Train Control Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493-6399.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 23, 2018, FRA published a notice of a draft Safety Advisory in the **Federal Register** addressing railroad operations during temporary signal suspensions. 83 FR 17701. As stated in the draft Safety Advisory, a review of FRA's accident/incident data shows that overall, rail transportation, both passenger and freight, is safe. However, recent rail accidents occurring in areas where a railroad has temporarily suspended the signal system, typically for purposes of maintenance, repair, or installation of additional components for a new or existing system, demonstrate that rail operations during signal suspensions present increased safety risks. In the draft Safety Advisory, FRA specifically noted the February 4, 2018 accident in Cayce, South Carolina, in which the engineer and conductor of National Railroad Passenger Corporation (Amtrak) Train P09103 were killed and 115 passengers injured,<sup>1</sup> when their train collided head-on with a CSX Transportation, Inc. freight train (Train F77703). As noted in the draft Safety Advisory, while the cause of this accident has not yet been determined, FRA's preliminary investigation indicates that despite the CSX train crew reporting to the train dispatcher that the switch was lined correctly, the crew did not restore the main track switch to its normal position as required by Federal regulation (Title 49 Code of Federal Regulations (CFR) 218.105) and CSX's own operating rules. The misaligned switch diverted the next train to traverse the location (the Amtrak train) into the siding and into

the standing CSX train parked on the siding.

In the draft Safety Advisory, FRA also noted the March 14, 2016 accident near Granger, Wyoming, which occurred when a Union Pacific Railroad (UP) freight train traveled from the main track through a misaligned switch into a controlled siding and collided head-on with another UP freight train standing on the siding.

Notably, both the Cayce and Granger accidents occurred while the operating railroads were installing and testing positive train control (PTC) technology and while the railroads had temporarily suspended the signals in the accident areas to perform installation and testing activities. In the Granger accident, while the signals were suspended, UP established absolute blocks intended to provide for the safe movement of trains through the area without signals. In the Cayce accident, the Amtrak train was operating on a track warrant and at the time of the accident, signal personnel had stopped working for the day, yet the temporary signal suspension remained in place.

As explained in the draft Safety Advisory, the National Transportation Safety Board (NTSB) determined that the probable cause of the Granger accident was the employee-in-charge incorrectly using information from a conversation with the train dispatcher as authorization to send a train into the area where the signal system suspension was in effect. The NTSB also found that a contributing factor was the conductor pilot's failure to check the switch position before authorizing the train to enter the area. Both FRA and the NTSB's investigations into the Cayce accident are ongoing and while neither agency has yet issued any formal findings, on February 13, 2018, the NTSB issued a Safety Recommendation Report<sup>2</sup> to FRA regarding train operations during signal suspensions. In its report, the NTSB recommended that FRA issue an emergency order directing railroads to require train crews to approach switches at restricted speed when signal suspensions are in effect and a switch has been reported relined for a main track (NTSB Safety Recommendation R-18-005). The NTSB further recommended that after the switch position is verified, train crews should be required to report to the dispatcher that the switch is correctly lined for the main track before

<sup>1</sup> Including 92 individuals who were transported to medical facilities for treatment and 23 people who received first aid at a triage area established near the accident site.

<sup>2</sup> NTSB, Safety Recommendation Report: Train Operation During Signal Suspension, Report No. RSR-18/01, Recommendation No. R-18-005 (Feb. 13, 2018), <https://www.ntsb.gov/investigations/AccidentReports/Reports/RSR1801.pdf>.