

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 14 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

#### *Ryheem Brown*

Mr. Brown, 31, holds a class C license in Texas.

#### *Kevin Cooley*

Mr. Cooley, 47, holds a class D license in Montana.

#### *Adrian Cortez*

Mr. Cortez, 40, holds a class D license in New Mexico.

#### *Michael Cover*

Mr. Cover, 40, holds a regular operator's license in Michigan.

#### *Gregory Crane*

Mr. Crane, 53, holds a class D license in Arizona.

#### *Stephen Daniels*

Mr. Daniels, 61, holds a class A license in Kansas.

#### *Daniel Darnall*

Mr. Darnall, 50, holds a class O license in Nebraska.

#### *Adam Day*

Mr. Day, 40, holds a class E license in Florida.

#### *Michael Derenick*

Mr. Derenick, 33, holds a class C license in Pennsylvania.

#### *Gabriel Garza*

Mr. Garza, 28, holds a class C license in Texas.

#### *Scott Gentry*

Mr. Gentry, 49, holds a class E license in Florida.

#### *Rod Lagasse*

Mr. Lagasse, 54, holds a class D license in New York.

#### *Robert Rollins*

Mr. Rollins, 51, holds a class A CDL in North Carolina.

#### *John Statler*

Mr. Statler, 44, holds a class R license in Colorado.

### 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. 2022-06860 Filed 3-31-22; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0085]

### Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillator (ICD)

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

**ACTION:** Notice of denials.

**SUMMARY:** FMCSA announces its decision to deny the applications from three individuals treated with an ICD who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting operation of a commercial motor vehicle (CMV) in interstate commerce 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 (transient loss of consciousness), dyspnea (shortness of breath), collapse, or congestive heart failure.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, DOT, 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 materials in 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-2021-0085, 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 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 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

## II. Background

On July 28, 2021, FMCSA published a **Federal Register** notice (86 FR 40677) announcing receipt of applications from three individuals treated with ICDs and requested comments from the public. The individuals requested an exemption from 49 CFR 391.41(b)(4) which prohibits operation of a CMV in interstate commerce 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 heart failure. The public comment period closed on August 27, 2021, and eight comments were received.

FMCSA has evaluated the eligibility of the applicants and concluded that granting an exemption would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with § 391.41(b)(4). A summary of each applicant's medical history related to their ICD exemption request was discussed in the July 28, 2021, **Federal Register** notice and will not be repeated here.

The Agency's decision regarding this exemption application is based on information from the Cardiovascular Medical Advisory Criteria, an April 2007 evidence report titled "Cardiovascular Disease and Commercial Motor Vehicle Driver Safety,"<sup>1</sup> and a December 2014 focused research report titled "Implantable Cardioverter Defibrillators and the Impact of a Shock in a Patient When Deployed." Copies of these 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.<sup>2</sup> The advisory criteria for

§ 391.41(b)(4) indicates that coronary artery bypass surgery and pacemaker implantation are remedial procedures and thus, not medically disqualifying. ICDs are disqualifying due to risk of syncope.

## III. Discussion of Comments

FMCSA received eight comments in this proceeding. Each of the eight comments supported Mr. Willard Drysdale's request for an ICD exemption. Mr. Drysdale's cardiologist stated that the chance of Mr. Drysdale experiencing an appropriate ICD discharge in the next 5 years is approximately 2 to 3 percent. Mr. Drysdale's cardiac rehabilitation program attested to his excellent progress with his rehabilitation and maintenance program and noted that he was asymptomatic during his rehabilitation. The Minnesota Department of Public Safety commented that it has no objection to Mr. Drysdale's exemption request. Four private citizens familiar with Mr. Drysdale, attested to his years of successful CMV driving experience, his good physical condition, and that his ICD has not discharged since it was implanted. One of the four private citizens also commented on each key question in the April 2007 and December 2014 ICD Evidence Reports regarding how they relate to Mr. Drysdale's circumstances and his ICD exemption request. Regarding the April 2007 report, the commenter's opinion was that for two of the most relevant studies, one was done in Canada where ICDs are not addressed, and that the other study did not find evidence supporting the contention that CMV drivers are at an increased risk for a crash in a motor vehicle. The commenter further opined that the study was very limited and therefore the commenter believed a more comprehensive and current study should be implemented. The commenter noted with respect to the key questions in the December 2014 report, that Mr. Drysdale's ICD had never discharged and offered that Mr. Drysdale would be willing to participate in a group study involving ICDs if granted an exemption. The applicant, Mr. Drysdale also commented and questioned why he is not permitted to cross state lines and go more than 150 miles with a CMV yet is permitted to drive across the State of Minnesota to deliver exempt agricultural commodities.

FMCSA evaluates each ICD exemption application received to

determine whether an equivalent or greater level of safety can be achieved by the applicant. FMCSA acknowledges that the existing evidence is not conclusive concerning the impact of ICD treatment on the safe operation of CMVs and that more studies are needed prior to permitting individuals with ICDs to operate CMVs in interstate commerce. Regarding Mr. Drysdale's comments, the provisions referenced are handled under two separate sections in the FMCSRs. Specifically, transportation of agricultural commodities is handled under § 390.39 and does not require the driver to have a physical qualification examination, meet the physical qualification standards in § 391.41(b)(1) through (13), and receive a Medical Examiner's Certificate, Form MCSA-5876.

## 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 Agency's decision regarding these exemption applications is based on an individualized assessment of the applicants' medical information, available medical and scientific data concerning ICDs, and any relevant 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 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. The December 2014 focused research report referenced previously upholds the findings of the April 2007 report and 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.

## 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 three applicants have been denied an exemption from the physical qualification standards in § 391.41(b)(4):

<sup>1</sup> The report is available on the internet at <https://rosap.nsl.bts.gov/view/dot/16462>.

<sup>2</sup> These criteria may be found in 49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section D. Cardiovascular: § 391.41(b)(4), paragraph 4, which is available on

the internet at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol15/pdf/CFR-2015-title49-vol15-part391-appA.pdf>.

Willard Drysdale (MN)  
William Edwards (NY)  
Francisco Garcia (NJ)

The applicants have, prior to this notice, received a letter of final disposition regarding their exemption request. The decision letter fully outlined the basis for the denial and constitute final action by the Agency. The names of these individuals published in this notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4).

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2022-0002-N-4]

#### Proposed Agency Information Collection Activities; Comment Request

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

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

**DATES:** Interested persons are invited to submit comments on or before May 31, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed ICR should be submitted on *regulations.gov* to the docket, Docket No. FRA-2022-0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**FOR FURTHER INFORMATION CONTACT:** Ms. Hodan Wells, Information Collection Clearance Officer, at email: [hodan.wells@dot.gov](mailto:hodan.wells@dot.gov) or telephone: (202) 493-0440.

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. See 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a "user-friendly" format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* Inquiry into Blocked Highway-Rail Grade Crossings throughout the United States.

*OMB Control Number:* 2130-0630.

*Abstract:* In 2020, FRA created a dedicated website allowing the public and law enforcement personnel to use web-based forms to voluntarily submit information about blocked crossings to FRA.<sup>1</sup> Under the currently approved information collection request, users provide information regarding the location, date, time, duration, and immediate impacts of highway-rail grade crossings blocked by slow-moving or stationary trains. FRA uses the data

collected to gain a more complete picture of where, when, for how long, and what impacts result from reported blocked crossing incidents.<sup>2</sup> Additionally, FRA uses the information to respond to congressional inquiries so that congressional staff can respond to their constituents. Furthermore, FRA uses the information gathered to facilitate meetings, outreach, and other solutions for stakeholders to reduce or eliminate blocked crossing concerns.

Upon accessing these web-based forms, users are notified there are no Federal laws or regulations that specifically address the length of time a train may occupy a highway-rail grade crossing. Users are also notified that information submitted will not be forwarded to a railroad, State, or local agency, and will only being used for data collection purposes to determine the locations, times, and impacts of blocked crossings.

On November 15, 2021, the Infrastructure Investment and Jobs Act of 2021 (Pub. L. 117-58) "Bipartisan Infrastructure Law (BIL)" was enacted. In addition to mandating that FRA establish an online portal and corresponding database to receive information regarding blocked highway-rail grade crossings, section 22404 of BIL "encourages each complainant to report the blocked crossing to the relevant railroad." Therefore, in preparation for this new statutory mandate, FRA proposes to modify the existing web-based forms by adding one question, "have you contacted the railroad?" Otherwise, the rest of the questions on the web-based forms will remain the same.<sup>3</sup>

Currently, there are no Federal laws or regulations that specifically address how long a train may occupy a crossing, whether stationary or operating at slow speeds. Some States and local municipalities have laws that vary in how long trains are permitted to occupy crossings.

There are potential safety concerns with crossings that are blocked by trains. For instance, pedestrians may crawl under or through stationary trains. Also, emergency response vehicles and first responders may be delayed when responding to an incident or transporting persons to a hospital. In addition, drivers may take more risks, such as driving around lowered gates at

<sup>2</sup> The data collection is not designed to provide a representative sample or create generalizable statistics. Additionally, the data gathered from this collection is not suitable for use in budgetary requests or regulatory proposals.

<sup>3</sup> The average time per response will be remain at 3 minutes per response since the modification made under BIL requirement is *de minimis*.

<sup>1</sup> Access to the web-based form used by the public is unrestricted. Access to the web-based form used by law enforcement personnel is restricted to law enforcement personnel with usernames and passwords managed by FRA.