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SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number, FMCSA-2022-0026, 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Background

On February 17, 2022, FMCSA published a **Federal Register** notice (87 FR 9101) announcing receipt of applications from two 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 March 21, 2021, and 13 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 February 17, 2022, **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,"¹ 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.² 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.

II. Discussion of Comments

FMCSA received 13 comments in this proceeding. All comments received were from private citizens and employers in support of Kelly Lemus and focused on her experience and skill as a CMV driver, her stable health, and that her ICD has not deployed. No adverse comments were received in this proceeding.

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

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

² 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>.

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 individuals with ICDs and CMV driving does not support that individuals with ICDs who operate CMVs are able to meet an equal or greater level of safety.

III. 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 applicants have been denied an exemption from the physical qualification standards in § 391.41(b)(4): Michael Bianculli (MA); Kelly Lemus (WA)

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 today summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2022-14225 Filed 7-1-22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0083]

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, 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. Insert the docket number, FMCSA-2022-0083, 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Background

On April 27, 2022, FMCSA published a **Federal Register** notice (87 FR 25079) 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 May 27, 2022, and one comment was 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 April 27, 2022, **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,"¹ 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.² 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.

II. Discussion of Comments

FMCSA received 109 comments in this proceeding. All of the comments were from private citizens. The majority of the comments were in support of Mr. Abiud Ortuno. The remaining comments were not attributed to a specific applicant. All of the comments were supportive of granting ICD

exemptions to the applicants. No adverse comments were received in this proceeding. Several commenters felt that FMCSA should rely on the authority of a cardiologist's clearance to receive an ICD exemption to drive a CMV. In one commenter's opinion, CMV operators and other people in general without ICDs suffer cardiac arrest in greater numbers than those with ICDs, and whether younger or older, one cannot predict when this could happen. The commenter believes that texting and other medical conditions were more of a risk to safety while driving a CMV than the possibility of having a cardiac arrest and encouraged FMCSA to grant the exemptions due to the shortage of CMV drivers. Another commenter stated that FMCSA should revise its regulations in accordance with current medical standards and with 49 U.S.C. 31136(e) and 31315. One commenter referred to two research studies, one from the American College of Cardiology that supported statistically low fatality rates from road accidents among individuals with ICDs than fatality rates of the general population, and a second study of a subgroup analysis of the AVID trial, in which the annual incidence of accidents in the ICD population was estimated to be 3.4 percent per year, significantly lower than the 7.1 percent per year accident rate in the general driving population in the USA."

Regarding the comment concerning medical clearance by a cardiologist to grant ICD exemptions, while FMCSA does not rely solely on a cardiologist's medical clearance or opinion to determine whether to grant an ICD exemption, FMCSA does consider the cardiologist's medical documentation and opinions received as a part of the applicant's exemption request in evaluating whether to grant an exemption. In response to the comments that other safety risks are greater than the risk of ICD deployment due to a cardiac arrest, and that FMCSA should update our standards and revise them in accordance with 49 U.S.C. 31136(e) and 31315, FMCSA is concerned about all safety risks concerning CMVs. FMCSA engages in research, and partners with the Agency's Medical Review Board, medical experts, and our stakeholders to provide evidence-based rulemaking and guidance with the ultimate goal of keeping our roadways safe. FMCSA's exemption process is consistent with the current requirements of 49 U.S.C. 31136(e) and 31315 as further discussed in the Basis for Exemption Determination section that follows in the next section. In response to the

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

² 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>.

comment regarding the two research studies, the studies do not appear to have a clear relevance to ICDs and CMV-related crashes. The commenter did not include specific citations for the study information that was referenced. The Antiarrhythmics Versus Implantable Defibrillators study appears to evaluate the efficacy of cardiac medication treatment over treatment with an ICD rather than ICD crash risk.

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 individuals with ICDs and CMV driving does not support that individuals with ICDs who operate CMVs are able to meet an equal or greater level of safety.

III. 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 applicants have been denied an exemption from the physical qualification standards in § 391.41(b)(4): Timothy Broome (SC); Bryce A. Norman (CA); Abiud J. Ortuno (FL)

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 today 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-13]

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 September 6, 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 (2130-0017) 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: Mr. John Purnell, Information Collection Clearance Officer, at email: *john.purnell@dot.gov* or telephone: (202) 713-0246, or Ms. Hodan Wells, Information Collection Clearance Officer, at email: *hodan.wells@dot.gov* or telephone: (202) 868-9412.

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: U.S. DOT Crossing Inventory.

OMB Control Number: 2130-0017.

Abstract: On January 6, 2015, FRA published in the **Federal Register** a final rule that requires railroads that operate one or more trains through highway-rail or pathway crossings to submit information to the U.S. DOT National Highway-Rail Crossing Inventory about the crossings through which they operate.¹ These amendments, mandated by section 204 of the Rail Safety Improvement Act of 2008, require railroads to submit information about previously unreported and new highway-rail and pathway crossings to the U.S. DOT National Highway-Rail Crossing Inventory, and to periodically update existing crossing data.

In this 60-day notice, FRA made multiple adjustments which increased the previously approved burden hours from 8,293 hours to 8,663 hours. For instance:

¹ This final rule was subsequently amended on June 10, 2016, in response to a petition for reconsideration submitted by the Association of American Railroads. See 81 FR 37521.