

Dated: February 7, 2019.

**Sherry A. Quirk,**

*General Counsel.*

[FR Doc. 2019-02137 Filed 2-8-19; 11:15 am]

BILLING CODE 8120-08-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0147]

#### Qualification of Drivers; Skill Performance Evaluation; Virginia Department of Motor Vehicles Application for Renewal Exemption

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew the exemption for the Commonwealth of Virginia, Virginia Department of Motor Vehicles (DMV) from the requirement that the Skill Performance Evaluation (SPE) Certificate be issued to interstate truck and bus drivers by the FMCSA. The exemption enables interstate commercial motor vehicle (CMV) drivers who are licensed in Virginia and are subject to the Federal SPE requirements, *Alternative physical qualification standards for the loss or impairment of limbs*, to continue to fulfill the Federal requirements with a State-issued SPE Certificate, and to operate CMVs in interstate commerce anywhere in the United States.

**DATES:** This exemption was applicable on July 8, 2018. The exemption expires July 8, 2023.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, 202-366-4001, [fmcsamedical@dot.gov](mailto: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 5:30 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. 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 number, FMCSA 2013-0147, 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.

##### B. 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

On July 30, 2018, FMCSA published a notice announcing its decision to renew the Commonwealth of Virginia Department of Motor Vehicles (DMV) exemption, allowing them to issue SPE Certificates on behalf of FMCSA, and requested comments from the public (83 FR 36666). The public comment period ended on August 29, 2018, and no comments were received.

As stated in the previous notice, FMCSA has completed the evaluation of Virginia DMV's eligibility for exemption renewal and determined that renewing the exemption would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation that requires SPE Certificates to be issued by FMCSA.

##### III. Discussion of Comments

FMCSA received no comments in this proceeding.

##### IV. Conclusion

In accordance with 49 U.S.C. 31136(e) and 31315, this exemption will be valid for five years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) Virginia does not establish and maintain its own SPE program that is essentially identical to the current FMCSA program; (2) The State does not maintain an application process modeled on the FMCSA process and submit information concerning the application process to FMCSA's Medical Programs Division for review, as required; (3) State personnel who conduct the skill performance test do not complete SPE training identical to that of FMCSA personnel currently administering the Federal SPE program;

(4) The skill evaluation and scoring for the SPE is not completed using the same procedures and testing criteria used by FMCSA; (5) Virginia does not maintain records of applications, testing, and certificates issued for periodic review by FMCSA; (6) Virginia does not submit a monthly report to FMCSA listing the names and license number of each driver tested by the State and the result of the test (pass or fail); and (7) Each driver who receives a State-issued SPE does not carry a copy of the certificate when driving for presentation to authorized Federal, State, or local law enforcement officials.

Issued on: February 1, 2019.

**Raymond P. Martinez,**  
*Administrator.*

[FR Doc. 2019-01995 Filed 2-11-19; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0319]

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

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

**ACTION:** Notice of denials.

**SUMMARY:** FMCSA announces its decision to deny applications from four individuals treated with Implantable Cardioverter Defibrillators (ICDs) 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, dyspnea, 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, 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. Viewing Documents and Comments

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## II. Background

On November 14, 2018, FMCSA published a FR notice (83 FR 56896) announcing receipt of applications from four individuals treated with ICDs and requested comments from the public. These four 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 December 14, 2018, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions 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 the regulation 49 CFR 391.41(b)(4). A summary of each applicant’s medical history related to their ICD exemption request was discussed in the November 14, 2018, **Federal Register** notice and will not be repeated in this notice.

In reaching the decision to deny these exemption requests, the Agency considered information from the Cardiovascular Medical Advisory

Criteria, an April 2007 Evidence Report titled “Cardiovascular Disease and Commercial Motor Vehicle Driver Safety, and a December 2014 focused research report titled “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 in December of 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.

## 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):

Herman L. Bolton (LA)  
Robert A. Crawley (MD)  
Paul J. Hill (SD)  
Johnny L. Walls (AL)

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: February 1, 2019.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2019–01991 Filed 2–11–19; 8:45 am]

**BILLING CODE 4910–EX–P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–28043]

### Hours of Service (HOS) of Drivers; American Pyrotechnics Assn. (APA); Request To Add New Members to Current APA Exemption

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

**ACTION:** Notice of final disposition.

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**SUMMARY:** FMCSA announces its decision to grant an exemption to three additional member companies of the American Pyrotechnics Association (APA)—Artisan Pyrotechnics Inc., Montana Display Fireworks, Inc., and ZY Pyrotechnics, LLC dba Skysooter Displays, Inc.—from the prohibition on driving commercial motor vehicles (CMVs) after the 14th hour after the driver comes on duty. During the 2017 Independence Day period 51 APA members held such an exemption, effective during the period June 28 through July 8 each year through 2020. APA advised FMCSA of the

<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).