

the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### III. Background

#### *Current Regulatory Requirements*

The regulations in 49 CFR 383.3 require that every individual operating a commercial motor vehicle (CMV) in interstate, foreign, or intrastate commerce hold a valid CDL. Under 49 CFR 383.5, a CMV includes a motor vehicle or combination of motor vehicles used in commerce to transport passengers if the motor vehicle is a small vehicle that does not meet Group A or B requirements but is designed to transport 16 or more passengers, including the driver.

#### *Applicant's Request*

The applicants requested an exemption from the CDL requirements for a driver operating empty passenger CMVs ("minibuses") with seating capacities ranging from 6 to 33, and sometimes more. In all cases, however, the GVWR and GVW of these vehicles are less than 26,001 pounds. The applicants state that they have experienced challenges finding CDL drivers and that bus manufacturers may not be able to move minibuses to distributors and customers.

### IV. Method To Ensure an Equivalent or Greater Level of Safety

To ensure an equivalent level of safety, the applicants emphasize that the drivers would transport empty passenger CMVs with a GVW less than 26,001 pounds, would remain subject to the driver qualification standards in 49 CFR part 391, and would hold a valid operators' license.

### V. Public Comments

On July 14, 2021, FMCSA published notice of the application and requested public comments (86 FR 37207). The Agency received comments from the Advocates for Highway and Auto Safety (Advocates) and an individual; both opposed the exemption request. Advocates stated: "The current application must be denied as it fails to meet the statutory requirements for such

a petition and the exemptions sought would significantly degrade public safety. Notably, Petitioners fail to indicate any alternative solutions they have attempted to implement to address these issues before filing the current Application. The current application would result in a needless threat to public safety by permitting an untold number of CMVs to be transported by individuals without a valid CDL. This would be a drastic departure from current established federal regulations. Further, the applicant has failed to provide FMCSA with the required analysis and supporting information necessitated by statute and thus, should be denied." The individual commenter stated that the applicant failed to mention the increased safety issues that come with driving larger and longer vehicles.

### VI. FMCSA Safety Analysis and Decision

FMCSA has evaluated the joint application and the public comments and decided to deny the exemption. Driving a CMV requires a higher level of knowledge, experience, skills, and physical abilities than that required to drive a non-commercial vehicle. In order to obtain a CDL, an applicant must pass both skills and knowledge tests geared to these higher standards. Additionally, CDL holders are held to a higher standard when operating any type of motor vehicle on public roads. Serious traffic violations committed by a CDL holder can affect their ability to maintain their CDL certification. CDL operators must adhere to a strict and comprehensive set of regulations to keep themselves and other drivers safe on the road.

As Advocates and the individual commenter indicated, the application does not meet the statutory requirements for such a petition, and the requested exemptions sought would significantly degrade public safety. An exemption from the CDL requirements in part 383 would also automatically exempt the drivers from the drug and alcohol testing regulations in 49 CFR part 382. The applicants do not provide countermeasures to be undertaken to ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations. Furthermore, the applicants fail to provide the required analysis and supporting information required by statute for submitting this application for exemption.

The Agency cannot ensure that the exemption would achieve the requisite

level of safety and therefore must deny the application.

**Robin Hutchesson,**

*Deputy Administrator.*

[FR Doc. 2022-08936 Filed 4-26-22; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0083]

#### **Qualification of Drivers; Exemption Applications; Implantable Cardioverter Defibrillators (ICDs)**

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

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

**SUMMARY:** FMCSA announces receipt of applications from three 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 (transient loss of consciousness), dyspnea (shortness of breath), collapse, or congestive heart failure. If granted, the exemptions would enable these individuals with ICDs to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before May 27, 2022.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket ID FMCSA-2022-0083 using any of the following methods:

- **Federal eRulemaking Portal:** Go to [www.regulations.gov/](http://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 on the "Comment" button. Follow the online instructions for submitting comments.

- **Mail:** Dockets Operations, 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:* (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, [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 or submitting material to the docket, contact Dockets Operations, (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 No. FMCSA–2022–0083), 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 [www.regulations.gov](http://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, click the “Comment” 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 Comments*

To view comments go to [www.regulations.gov](http://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.

#### *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.transportation.gov/privacy](http://www.transportation.gov/privacy).

### **II. Background**

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 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 three individuals listed in this notice have requested an exemption from § 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 § 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<sup>1</sup> to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. The advisory criteria states that ICDs are disqualifying due to risk of syncope.

### **III. Qualifications of Applicants**

#### *Timothy Broome*

Mr. Broome is a CMV driver in South Carolina. A January 18, 2022, letter from Mr. Broome’s cardiologist reports that his ICD was initially implanted in December 2004 for paroxysmal ventricular tachycardia. His cardiologist’s letter reports that on October 27, 2011, Mr. Broome’s ICD was explanted and replaced with a different model, and on August 13, 2019, that model was explanted and replaced with his current model. His letter also reports that Mr. Broome was treated in January 2018 with a ventricular tachycardia ablation, that he has experienced no ICD shocks or therapies since December 2017, his underlying heart condition is NYHA Class 1—functional status, he is asymptomatic, and his left ventricular ejection fraction was 25 to 30 percent on his last echocardiogram in 2018.

#### *Bryce Alyn Norman*

Mr. Norman of California does not operate but intends to operate a CMV if granted an exemption. A November 4, 2021, letter from his cardiologist reports that Mr. Norman has catecholaminergic polymorphic ventricular tachycardia, that he had a cardiac arrest in 2019 and now has an ICD and is taking medication. The cardiologist’s letter states that he sees no contraindications for Mr. Norman to drive a CMV as long as he is compliant with his medication. A letter of March 9, 2022, from a second cardiologist provides the same diagnosis, stating that Mr. Norman has had no other events since 2019, his ICD has never deployed, he is asymptomatic, and his current heart condition is stable.

#### *Abiud Ortuno*

Mr. Ortuno is a CMV driver in the Florida. A February 18, 2022, letter from Mr. Ortuno’s cardiologist reports that an ICD was implanted in December 2020 for Brugada syndrome. His cardiologist’s letter reports that Mr. Ortuno has not experienced shocks from the device, that he has stable cardiac functioning,

<sup>1</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/jdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

and indicates that that he may operate a CMV from a cardiac standpoint.

#### 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. 2022-08989 Filed 4-26-22; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0032]

#### Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America

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

**ACTION:** Notice of final disposition; granting of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant an exemption to Daimler Trucks North America (Daimler) for nine of its commercial motor vehicle (CMV) drivers, identified below. Under this exemption, the nine drivers are not subject to the commercial driver's license (CDL) requirements and therefore are exempt from the requirements of the Agency's drug and alcohol regulations. This exemption will permit the Daimler drivers to test-drive Daimler vehicles on U.S. roads to better understand product requirements in "real world" environments, and verify results. FMCSA reviewed the drivers' commercial license records provided by Daimler, and believes the requirements for a German commercial license, the work restrictions imposed on Daimler drivers because of nonimmigrant visa requirements, and the terms and conditions set forth below will ensure that Daimler's operation, under this exemption, will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

**DATES:** The exemption is effective April 27, 2022 and expires April 27, 2027.

**ADDRESSES:** *Docket:* For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov)

at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, 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.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente; FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202) 366-4325; [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

###### *Viewing Comments and Documents*

To view comments, as well as documents mentioned in this notice as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov) and insert the docket number, "FMCSA-2012-0032" 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 Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

##### II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision

from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### III. Current Regulatory Requirements

Under 49 CFR 383.23, no person subject to the CDL requirements shall operate a CMV unless such person has taken and passed certain knowledge and driving skills tests. Such drivers are also subject to the controlled substances and alcohol testing requirements of 49 CFR part 382, including the Drug and Alcohol Clearinghouse (Clearinghouse) requirements set forth in 49 CFR part 382, subpart G.

The Clearinghouse is a central repository of drivers' drug and alcohol program violations. Under the Clearinghouse regulations in 49 CFR part 382, subpart G, employers are required to query the system to determine whether current and prospective employees have incurred a drug or alcohol program violation that would prohibit them from performing safety-sensitive functions as defined in 49 CFR 382.107. Additionally, employers are required to report driver drug and alcohol program violations to the Clearinghouse.

##### IV. Applicant's Request

Daimler has requested an exemption from 49 CFR 383.23, which states that no person may operate a CMV, as defined in 49 CFR 383.5, until passing the applicable knowledge and skills test necessary to obtain a Commercial Learner's Permit (CLP) or CDL. Daimler further requested an exemption for the nine drivers from the Clearinghouse requirements of 49 CFR part 382, subpart G, stating that, for a driver to register and for a motor carrier to conduct full/limited queries and/or report violations to the Clearinghouse, a valid State-issued CDL number is required.

The following drivers would be covered by the exemption: Manfred Wilhelm Guggolz, Thorsten Sascha Kugel, Steffen Keppeler, Lars Nock, Jorg Wolfgang Spielvogel, Frank-Michael Kircher, Jochen Hans Horwath, Dominik Cammerer, and Carsten Schewe. Each of these drivers has a valid German commercial license. The exemption would allow these nine drivers to operate CMVs in interstate commerce to support Daimler field tests to meet future vehicle safety and environmental regulatory requirements, and to promote the development of technology advancements in vehicle safety systems and emissions reductions. Daimler