

conveyance instruments must abide by similar obligations included in property deeds. The Airport and Airway Improvement Act of 1982 (AIA) (Pub. L. 97–248), as amended and recodified at 49 U.S.C. 47107(a)(1), as implemented by Sponsor Assurance 22, *Economic Nondiscrimination*, requires that “the airport will be made available for public use on reasonable conditions and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.” The FAA defines aeronautical activities as any activity that involves, makes possible, is required for the operation of an aircraft/vehicle, or that contributes to or is required for the safety of such operations (FAA Order 5190.6B, *Airport Compliance Manual*, Appendix Z, (2009)). The order lists examples of aeronautical activities.

The FAA’s definition has evolved over time, primarily in response to emerging technologies and increased interest in locating certain activities at public use airports not previously contemplated or subject to FAA oversight. This updated definition serves to accommodate commercial space transportation, UAS, and AAM activities, as well as supports Congressional interest in integrating new technology into the array of services and capabilities offered by federally funded airports. As a result, the FAA believes that commercial space activities, UAS, and AAM operations should be considered aeronautical activities for the purposes of access to a federally-obligated airport.

However, some types of commercial space, UAS, or AAM operations may affect the safety of existing airport facilities, airport operations, or the efficiency of the airspace. Consistent with and in support of the airport sponsor’s obligation not to introduce or permit unsafe conditions at the airport, and to mitigate such conditions if they arise, the FAA uses its planning approval, safety review, and/or risk assessment processes to make a determination on (1) whether a particular activity can be safely accommodated at the airport and, if so, (2) the terms and conditions to mitigate risk to an acceptable level for that activity at the airport. In that regard, Congress has made the FAA the final arbiter regarding aviation safety (49 U.S.C. 40101 and 47101.)

## II. The Proposed Policy

The updated definition of aeronautical activity in FAA Order 5190.6B, *FAA Airport Compliance*

*Manual*, Appendix Z will be the following:

Any activity that involves, makes possible, or is required for the operation of an aircraft, launch or reentry vehicle, or that contributes to or is required for the safety of such operations. It includes but is not limited to: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, aerial application of agricultural agents, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation fuel products, repair and maintenance of aircraft, repair and maintenance of launch or reentry vehicles, construction of amateur-built/recreational aircraft, sale of aircraft, sale of launch or reentry vehicle parts, parachute or ultralight activities, certain unmanned aircraft systems (UAS), advanced air mobility (AAM) operations, commercial space vehicle operations, and any other activities that because of their direct relationship to the operation of aircraft, UAS, or commercial space launch and re-entry vehicles can appropriately be regarded as aeronautical activities.

Activities such as aircraft and parts manufacturing and storage, aerospace design, research and development, flight simulation/training/management facilities, and/or engine testing facilities that are not associated with the final assembly of an aircraft or commercial space vehicle are not considered aeronautical activities for the purposes of airport access. Model rocket, model aircraft, and recreational UAS operations are not aeronautical activities for the purposes of airport access.

Issued in Washington, DC, on November 7, 2023.

**Kevin C. Willis,**

*Director, Office of Airport Compliance and Management Analysis.*

[FR Doc. 2023–25198 Filed 11–14–23; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0043]

### 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 two individuals treated with an Implantable Cardioverter Defibrillator (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, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov). 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–2023–0043) 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 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 requests. 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 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

## II. Background

On September 28, 2023, FMCSA published a notice announcing receipt of applications from two individuals treated with ICDs and requested comments from the public (88 FR 66932). 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 ended on October 30, 2023, and no 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 September 28, 2023 **Federal Register** notice (88 FR 66932) 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 no comments in this proceeding.

<sup>1</sup> The report is available on the internet at <https://rosap.ntl.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-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

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

Dean Cece (NC); and Donald Roach (KY).

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. 2023–25113 Filed 11–14–23; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0186]

### Hours of Service: Clym Environmental; Application for Exemption

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

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

**SUMMARY:** FMCSA announces that Clym Environmental Services LLC (Clym) has requested an exemption from the hours-of-service (HOS) regulations to allow its drivers up to 14 hours of drive time within the work shift or, in the alternative, up to 12 hours. Clym indicates that, due to the nature of its operations, complying with the 11-hour driving time limit in the HOS regulations places a strain on the company's drivers and its overall operating costs. Clym asserts that the exemption would allow additional flexibility while maintaining an equivalent level of safety. FMCSA requests public comment on the applicant's request for exemption.

**DATES:** Comments must be received on or before December 15, 2023.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2023–0186 by any of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). See the Public Participation and Request for Comments section below for further information.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2023–0186) for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

*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 the ground level of the West Building, 1200 New Jersey Avenue