

Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.” The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible.

The September 3, 2003 (68 FR 52441) **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These thirty-three applicants have had ITDM over a range of 1 to 38 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the August 4, 2011, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comment

FMCSA did not receive any comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes standard in 49 CFR

391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual report within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the thirty-three exemption applications, FMCSA exempts, Michael J. Alexander, Larry E. Baumgartner, Stanley R. Boots, Carl D. Braddock, Dean A. Chamberlin, Michael E. Conner, Edna R. Contreras, Craig E. Cusick, Ronald D. Fatka, Robert M. Fleming, David W. Hammons, Frank B. Hernandez, Jeffrey D. Horsey, Dale A. Iverson, John H. Krastel, Joshua L. Kroetch, Larry D. Lilley, Edward J. Linhart, Larry D. Matson, Michael L. O'Clair, David W. Payne, Matthew B. Rhodes, Jim B. Robertson, II, Donald M. Rush, Jr., Barry A. Sircy, Andre M. St. Pierre, John S. Starchevich, Michael B. Tortora, Gregory J. Vigil, Charlotte C. Watson, Wayne W. Wenzel, Shaun M. Wheeler and James J. Wolf, Jr. from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under “Conditions and Requirements” above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than

was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 26, 2011.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2011-25328 Filed 9-30-11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2011-0194]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of applications for exemption from the diabetes mellitus standard; request for comments.

SUMMARY: FMCSA announces receipt of applications from 16 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before November 2, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2011-0194 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Docket Management Facility; 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., Monday through Friday, except Federal holidays.

- *Fax:* 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>

www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or 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., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs, (202) 366-4001, 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., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-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 2-year period. The 16 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. 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 the statutes.

Qualifications of Applicants

Mark D. Andersen

Mr. Andersen, age 40, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Andersen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Andersen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Iowa.

David A. Basher

Mr. Basher, 55, has had ITDM since 2006. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Basher understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Basher meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Brian H. Berthiaume

Mr. Berthiaume, 44, has had ITDM since 1994. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Berthiaume understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Berthiaume meets the

requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Vermont.

Eric D. Blocker, Sr.

Mr. Blocker, 56, has had ITDM since before September 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blocker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blocker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from North Carolina.

Barry W. Campbell

Mr. Campbell, 45, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Campbell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Campbell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

Kevin M. Donohue

Mr. Donohue, 27, has had ITDM since 2005. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Donohue understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Donohue meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New Jersey.

Milton T. Gardiner

Mr. Gardiner, 43, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gardiner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gardiner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class 10 operator's license from Rhode Island.

Raymond A. Jack

Mr. Jack, 52, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 3 years. His endocrinologist certifies that Mr. Jack understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jack meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Washington.

Quency T. Johnson

Mr. Johnson, 47, has had ITDM since 2004. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or

more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Johnson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Kenny B. Keels, Jr.

Mr. Keels, 27, has had ITDM since 1997. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Keels understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Keels meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from South Carolina.

Gene A. Michaels

Mr. Michaels, 67, has had ITDM since 1985. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Michaels understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Michaels meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Michigan.

Jason M. Pritchett

Mr. Pritchett, 39, has had ITDM since 1990. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pritchett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pritchett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Michigan.

Steven R. Sibert

Mr. Sibert, 42, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sibert understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sibert meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Cassie J. Silbernagel

Mr. Silbernagel, 33, has had ITDM since 2011. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Silbernagel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Silbernagel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Dakota.

Lewis B. Taylor

Mr. Taylor, 39, has had ITDM since 2011. His endocrinologist examined him

in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Taylor understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Taylor meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

James A. Terilli

Mr. Terilli, 61, has had ITDM since 2008. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Terilli understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Terilli meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New York.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, 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 in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).¹ The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section

4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: September 26, 2011.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2011-0142]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 17 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency

has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective October 3, 2011. The exemptions expire on October 3, 2013.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs, (202) 366-4001, fmcamedical@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. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or 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., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Background

On August 10, 2011, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (76 FR 49528). That notice listed 17 applicants' case histories. The 17 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-

¹ Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.