DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2013–0181]

Qualification of Drivers; Exemption
Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its
decision to exempt 24 individuals from
its rule prohibiting persons with
insulin-treated diabetes mellitus (ITDM)
from operating commercial motor
vehicles (CMVs) in interstate commerce.
The exemptions will enable these
individuals to operate CMVs in
interstate commerce.

DATES: The exemptions are effective
October 23, 2013. The exemptions expire on October 23, 2015.

FOR FURTHER INFORMATION CONTACT:
Elaine M. Papp, Chief, Medical
Programs Division, (202) 366–4001,
fmcsamedical@dot.gov, FMCSA, Room
W64–224, Department of
Transportation, 1200 New Jersey
Avenue SE, 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
together 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 and/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.

Privacy Act Statement for the Federal
Docket Management System (FDMS)
published in the Federal Register on
January 17, 2008 (73 FR 3316).

Background

On June 26, 2013, FMCSA published
a notice of receipt of Federal diabetes
exemption applications from 24
individuals and requested comments
from the public (78 FR 38435). The
public comment period closed on July
26, 2013, and no comments were
received.

FMCSA has evaluated the eligibility
of the 24 applicants and determined that
granting the exemptions to these
individuals would achieve a level of
safety equivalent to or greater than the
level that would be achieved by
complying with the current regulation
49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving
Experience of the Applicants

The Agency established the current
requirement for diabetes in 1970
because several risk studies indicated
that drivers with diabetes had a higher
rate of crash involvement than the
general population. The diabetes rule
provides that “A person is physically
qualified to drive a commercial motor
vehicle if that person has no established
medical history or clinical diagnosis of
diabetes mellitus currently requiring
insulin for control” (49 CFR
391.41(b)(3)).

FMCSA established its diabetes
exemption program, based on the
Agency’s July 2000 study entitled “A
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
6777), Federal Register notice provides
the current protocol for allowing such
drivers to operate CMVs in interstate
commerce.

These 24 applicants have had ITDM
over a range of 1 to 23 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
recent 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
requirement at 49 CFR 391.41(b)(10).
The qualifications and medical
condition of each applicant were stated
and discussed in detail in the June 26,
2013, Federal Register notice and they
will not be repeated in this notice.

Discussion of Comments

FMCSA received no 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 requirement 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 requirement 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 reports 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 24 exemption applications, FMCSA exempts Wayne A. Beebe (ID), Craig W. Blackner (UT), Clifford R. Brown (GA), Daniel W. Eggebraaten (SD), Peter J. Ferguson, Jr. (MA), John L. Fischer (ND), Christopher E. Franklyn (CO), Justin R. Freeman (ID), Douglas E. Gibbs (TX), Clarence H. Holliman, Jr. (MS), Steve P. Hoppe (ND), Tracy S. Johnson (FL), Chad D. Labonte (OR), Jason J. Marks (LA), Keith R. McKeever (PA), Alberto Ramirez (CA), Donald G. Reed, Sr. (PA), Brain S. Ruth (AK), Carl L. Saxton (IA), Michael R. Sheedan (TN), Ronald S. Smith (NJ), Lawrence E. Starks, Sr. (IN), Lloyd K. Steinkamp (WV), and Calvin C. Wallingford (NY) from the ITDM requirement 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 the following occurs: (1) The person fails to comply with the terms and conditions of the 1/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: October 7, 2013.

Larry W. Minor,
Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0189]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 15 individuals for exemptions 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 22, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0189 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.

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 15 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 statute.

Qualifications of Applicants
Steven R. Auger

Mr. Auger, 50, has had ITDM since 2013. His endocrinologist examined him in 2013 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. Auger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Auger meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator’s license from New Hampshire.

James L. Barnes

Mr. Barnes, 61, has had ITDM since 2013. His endocrinologist examined him...