



This document is scheduled to be published in the Federal Register on 08/02/2012 and available online at <http://federalregister.gov/a/2012-18937>, and on FDsys.gov

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA- 2012-0164]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

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

SUMMARY: FMCSA announces receipt of applications from 19 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 [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0164 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, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., 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>, 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, S.E., 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 Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, S.E., 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 19 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

Kevin M. Brown

Mr. Brown, 31, has had ITDM since 2001. His endocrinologist examined him in 2012 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. Brown understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brown meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Colorado.

Alvin J. Chandler

Mr. Chandler, 54, has had ITDM since 2011. His endocrinologist examined him in 2012 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. Chandler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chandler meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Vernon V. Cromartie

Mr. Cromartie, 60, has had ITDM since approximately 1 year ago. His endocrinologist examined him in 2012 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. Cromartie understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cromartie meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Eric C. Fuller

Mr. Fuller, 55, has had ITDM since 2005. His endocrinologist examined him in 2012 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. Fuller understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Fuller meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

Kevin M. Klevecz

Mr. Klevecz, 32, has had ITDM since 2000. His endocrinologist examined him in 2012 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. Klevecz understands diabetes management and

monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Klevecz meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Virginia.

Matthew R. Lanciault

Mr. Lanciault, 33, has had ITDM since 1990. His endocrinologist examined him in 2012 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. Lanciault understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lanciault meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he has stable proliferative diabetic retinopathy. He holds an operator's license from New Hampshire.

Steven L. Leslie

Mr. Leslie, 42, has had ITDM since 2012. His endocrinologist examined him in 2012 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. Leslie understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV

safely. Mr. Leslie meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Anthony J. Lesmeister

Mr. Lesmeister, 29, has had ITDM since 1990. His endocrinologist examined him in 2012 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. Lesmeister understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lesmeister meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from North Dakota.

Lawrence C. Mace

Mr. Mace, 64, has had ITDM since 2011. His endocrinologist examined him in 2012 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. Mace understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Mace meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Del A. Meath

Mr. Meath, 33, has had ITDM since 2003. His endocrinologist examined him in 2012 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. Meath understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Meath meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

David D. Nelson

Mr. Nelson, 48, has had ITDM since 2009. His endocrinologist examined him in 2012 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. Nelson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Nelson meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class B CDL license from North Dakota.

Benny D. Puck

Mr. Puck, 53, has had ITDM since 2003. His endocrinologist examined him in 2012 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. Puck understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Puck meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Bob F. Rice

Mr. Rice, 56, has had ITDM since approximately 1990. His endocrinologist examined him in 2012 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. Rice understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Rice meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Thomas P. Ropiak

Mr. Ropiak, 60, has had ITDM since 2008. His endocrinologist examined him in 2012 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. Ropiak understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Ropiak meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Wisconsin.

Larry L. Smith

Mr. Smith, 69, has had ITDM since 2011. His endocrinologist examined him in 2012 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. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the vision requirements of 49 CFR 391.41(b)(10). His

optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A operator's license from Indiana.

William G. Smith

Mr. Smith, 65, has had ITDM since 2008. His endocrinologist examined him in 2012 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. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arkansas.

Larry D. Way

Mr. Way, 63, has had ITDM since 2011. His endocrinologist examined him in 2012 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. Way understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Way meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined

him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Ohio.

Paul E. Williams, Jr.

Mr. Williams, 22, has had ITDM since 2006. His endocrinologist examined him in 2012 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. Williams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williams meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Georgia.

Quintin E. Williams

Mr. Williams, 52, has had ITDM since 2012. His endocrinologist examined him in 2012 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. Williams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williams meets the vision requirements of 49 CFR 391.41(b)(10). His

optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

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

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.

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: July 25, 2012

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2012-18937 Filed 08/01/2012 at 8:45 am; Publication Date: 08/02/2012]