



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0294; FMCSA-2011-0326; FMCSA-2011-0327; FMCSA-2011-0367; FMCSA-2013-0192; FMCSA-2015-0340; FMCSA-2015-0341]

Qualification of Drivers; Exemption Applications; Diabetes

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for 53 individuals from its prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, 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 5:30 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2009-0294; FMCSA-2011-0326; FMCSA-2011-0327; FMCSA-2011-0367; FMCSA-2013-0192; FMCSA-2015-0340; FMCSA-2015-0341 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online 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., e.t., Monday through Friday, except Federal Holidays.
- **Fax:** 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket number(s) 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., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day e.t., 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 online.

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 <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years 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 five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver’s medical certification.

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

The 53 individuals listed in this notice have requested renewal of their exemptions from the diabetes standard in 49 CFR 391.41(b)(3), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 53 applicants has satisfied the renewal conditions for obtaining an exemption from the diabetes requirement (74 FR 68092; 75 FR 8182; 76 FR 78720; 76 FR 79756; 77 FR 533; 77 FR 5873; 77 FR 7232; 77 FR 10607; 78 FR 78479; 79 FR 13086; 80 FR 81415; 81 FR 1281; 81 FR 1987; 81 FR 36378; 81 FR 45213). They have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of February and are discussed below:

As of February 1, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 81415; 81 FR 45213): Douglas E. Hensley, (MO); John K. Moorhead, (KY); Hugh S. Wacker, (IL).

The drivers were included in docket number FMCSA-2015-0340. Their exemptions are applicable as of February 1, 2018, and will expire on February 1, 2020.

As of February 6, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following six individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 79756; 77 FR 5873; 81 FR 1281):

Howard A. Betz (OH)	Kevin J. Coppens (ME)	Frank H. Ford, Jr. (PA)
Daniel R. Harris (TX)	Joseph L. Owings (AL)	Jerry H. Small (NC)

The drivers were included in docket number FMCSA-2011-0326. Their exemptions are applicable as of February 6, 2018, and will expire on February 6, 2020.

As of February 10, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following two individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 78720; 77 FR 7232; 81 FR 1281): Kenneth J. Hill, (OH); Frank E. Ray, (KS).

The drivers were included in docket number FMCSA-2011-0327. Their exemptions are applicable as of February 10, 2018, and will expire on February 10, 2020.

As of February 12, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, Guy B. Mayes (WA) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (78 FR 78479; 79 FR 13086; 81 FR 1281).

This driver was included in docket number FMCSA-2013-0192. The exemption is applicable as of February 12, 2018, and will expire on February 12, 2020.

As of February 17, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 26 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (81 FR 1987; 81 FR 36378):

Kevin D. Aaron (PA)	Juan Acevedo (FL)	Eugene O. Carr, Jr. (DE)
Tracy R. Clark (KY)	Jerry L. Coward (NC)	Wesley N. Cubby (NJ)
Michael G. Deschenes (MN)	James C. Detwiler (PA)	Jay E. Diller (PA)
Jose N. Escobar (MD)	Frank J. Gogno (PA)	Michael D. Hashem (MA)
George W. Hauck (LA)	Aseneka K. Igambi (TX)	Hayward G. Jinright (AL)
James S. Kauffman (PA)	Kevin M. Kemp (NJ)	Carlos A. Montano (NY)
Michael J. Payne (MD)	Christopher M. Seals (MS)	Robert Sienkiewicz (MI)
Craig A. Sines (OR)	Joel K. Spencer (AL)	Kendall W. Unruh (MO)
Daniel R. Vilart (WA)	Logan D. Yoder (IN)	

The drivers were included in docket number FMCSA-2015-0341. Their exemptions are applicable as of February 17, 2018, and will expire on February 17, 2020.

As of February 22, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following ten individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (77 FR 533; 77 FR 10607; 81 FR 1281):

Garry L. Camden (IN)	Loren A. Cox (NY)	Daryl F. Gilbertson (WI)
Alfred Gutierrez, II (OK)	Matthew D. Hulse (KS)	Neil Karvonen (WA)
Earl T. Morton, Jr. (VA)	Richard A. Norstebon (ND)	Donald J. Olbinski (IL)
Kevin E. Risley (IN)		

The drivers were included in docket number FMCSA-2011-0367. Their exemptions are applicable as of February 22, 2018, and will expire on February 22, 2020.

As of February 24, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following five individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (74 FR 68092; 75 FR 8182; 81 FR 1281):

Daniel C. Druffel (WA)	Gregory J. Godley (WA)	Justin R. Henneinke (CA)
Richard L. Sulzberger (IL)	Dirk Vanstralen (CA)	

The drivers were included in docket number FMCSA-2009-0294. Their exemptions are applicable as of February 24, 2018, and will expire on February 24, 2020.

IV. Conditions and Requirements:

The exemptions are extended subject to the following conditions: (1) each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two 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) each driver must submit an annual ophthalmologist's or optometrist's report; and (4) each driver must 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 exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded 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.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 53 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the rule prohibiting drivers with ITDM from

driving CMVs in interstate commerce. In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: February 7, 2018.

Larry W. Minor,
Associate Administrator for Policy.

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