



4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-24210; FMCSA-2010-0162; FMCSA-2012-0162; FMCSA-2012-0163; FMCSA-2014-0018]

Qualification of Drivers; Exemption Applications; Diabetes

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 94 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.

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, SE, Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5:30 p.m., ET, 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.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, **FMCSA-2006-24210; FMCSA-2010-0162; FMCSA-2012-0162; FMCSA-2012-0163; FMCSA-2014-0018**, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 USC 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 www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

II. Background

On July 17, 2018, FMCSA published a notice announcing its decision to renew exemptions for 94 individuals from the insulin-treated diabetes mellitus prohibition in 49 CFR 391.41(b)(3) to operate a CMV in interstate commerce and requested comments from the public (71 FR 32177; 71 FR 45097; 75 FR 36775; 75 FR 50797; 77 FR 36333; 77 FR 40941;

77 FR 46791; 77 FR 51845; 79 FR 41723; 79 FR 56105; 81 FR 91242). The public comment period ended on August 16, 2018, and one comment was received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions 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).

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.

III. Discussion of Comments

FMCSA received one comments in this preceding. Henry Duke submitted a comment supporting evaluation of commercial drivers with ITDM, at minimum by a physician familiar with the Medical Qualifications for Commercial Drivers. The commenter voiced disagreement with the current regulation regarding insulin use, and suggested that ITDM should not be a disqualifying condition. Finally, the commenter voiced the concern that drivers may not disclose their insulin use to the certifying Medical Examiner.

On September 19, 2018, FMCSA published the Qualifications of Drivers; Diabetes Standard final rule, removing the blanket prohibition of insulin use and adopting a revised physical qualification standard for operators of CMV with ITDM (83 FR 47448). The revised regulation eliminates the need for a Federal diabetes exemption and allows certified medical examiners, in consultation with the individual's treating clinician and use of the new Insulin

Treated Diabetes Mellitus Form, MCSA-5870, to evaluate and determine whether to grant an ITDM individual a medical examiner’s certificate (MEC). Federal exemptions are currently being granted to individuals that applied prior to the publication date, such as those in this notice, to ensure that they can continue to drive until the final rule is effective on November 19, 2018.

IV. Conclusion

Based on its evaluation of the 94 renewal exemption applications and comments received, FMCSA confirms its’ decision to exempt the following drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce in 49 CFR 391.41(b)(3):

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

As of August 6, 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 36333; 77 FR 46791; 81 FR 91242):

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|-----------------------------|-------------------------|--------------------------|
| Bruce R. Bennett (MN) | Stephen W. Best (PA) | Steven D. Hancock (IN) |
| Michael A. Hendrickson (OR) | James B. Hills (KS) | Charles Keegan, Jr. (NJ) |
| Londell W. Luther (MD) | Darrell L. Meadows (TX) | Allyn E. Smith (SD) |
| Jason R. Zeorian (NE) | | |

The drivers were included in docket number FMCSA-2012-0162. Their exemptions are applicable as of August 6, 2018, and will expire on August 6, 2020.

As of August 8, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 23 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (71 FR 32177; 71 FR 45097; 81 FR 91242):

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|---------------------------|-----------------------------|------------------------------|
| Scott R. Anderson (WI) | Robert R. Chase (NE) | Todd A. Dean (WV) |
| Dale R. Gansz (IL) | Donald W. Havourd, Sr. (CT) | Jeffrey M. King (OR) |
| Jeffrey S. Knight (WA) | Edward V. Kruse (IA) | Lee P. Lembke (WI) |
| Dominick T. Mastroni (KS) | Derril W. Nunnally (GA) | Robert L. Pflugler, Jr. (PA) |
| Ronald B. Purdum (IL) | Wilbert C. Rasely, Jr. (PA) | Ron R. Rawson (AZ) |
| Duane C. Rieger (ND) | Gregory A. Rigg (MI) | Vernon L. Small (CO) |
| Walter D. Stowman (NJ) | Henry B. Walker-Waltz (OR) | Arthur C. Webber (PA) |
| Scott A. Wertz (ND) | Danny R. Wood (MO) | |

The drivers were included in docket number FMCSA-2006-24210. Their exemptions are applicable as of August 8, 2018, and will expire on August 8, 2020.

As of August 17, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (75 FR 36775; 75 FR 50797; 81 FR 91242):

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|------------------------|-----------------------------|---------------------------|
| Gary L. Alexander (MO) | Daniel E. Bergstresser (NY) | Stephen F. Clendenin (NY) |
| Pradip B. Desai (PA) | Howard M. Galton (IL) | Steve Gumienny (CA) |
| Hubert S. Paxton (KY) | | |

The drivers were included in docket number FMCSA-2010-0162. Their exemptions are applicable as of August 17, 2018, and will expire on August 17, 2020.

As of August 19, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 45 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (79 FR 41723; 79 FR 56105; 81 FR 91242):

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|---------------------------|----------------------------|-------------------------------|
| Charles Ackerman Jr. (NJ) | William J. Applebee (WI) | Benjamin L. Baxter (MI) |
| Stephen M. Berggren (MN) | Patrick J. Burns (MN) | Robert L. Caudill (OH) |
| Charles L. Cran (WI) | Kevin W. Elder (NC) | Michael J. Eldridge, Sr. (IA) |
| Kevin D. Erickson (WI) | Dale A. Godejohn (ND) | Robert R. Gonzales (CA) |
| Norman D. Groves (MO) | Kenneth F. Gwaltney (IN) | Mathew R. Hale (KS) |
| Donald K. Hamilton (FL) | John L. Holtzclaw (MO) | Christopher H. Horn (NH) |
| Kip J. Kauffman (WI) | Christopher J. Kittoe (WI) | Joshua L. Kroetch (MN) |
| Salvador Lopez (AZ) | Joseph M. Macias (NM) | Robert J. Marino (NJ) |
| David J. McCoy (UT) | William E. Medlin (MN) | Carlos A. Napoles, Jr. (NJ) |
| Kathryn J. Nelms (KS) | Antonio C. Oliveira (PA) | Christopher P. Overton (IL) |
| Stephen J. Pelton (PA) | Bryant S. Perry (NC) | Kenneth R. Perschon (IL) |
| Joseph R. Polhamus (LA) | Rodney B. Roberts (MS) | Mark J. Rone (IL) |
| John J. Steigauf (MN) | William L. Thompson (MN) | Robert D. Watts (TX) |
| Cindy L. Wells (NY) | Charles W. White (IN) | Michael G. Worl (MT) |
| Tommy W. Wornick (TX) | Robert T. Yeftich (IN) | Chad C. Yerkey (PA) |

The drivers were included in docket number FMCSA-2014-0018. Their exemptions are applicable as of August 19, 2018, and will expire on August 19, 2020.

As of August 27, 2018, and in accordance with 49 U.S.C. 31136(e) and 31315, the following nine 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 40941; 77 FR 51845; 81 FR 91242):

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| Randall W. Amtower (WV) | Steven Brickey (CO) | Randall L. Corrick (ND) |
| Raymond G. Gravesandy (NY) | Gregory M. Harris (TX) | Kelly M. Keller (ND) |
| Joseph L. Miska (MN) | Jacob D. Oxford (ID) | Ramon I. Zamora-Ortiz (WA) |

The drivers were included in docket number FMCSA-2012-0163. Their exemptions are applicable as of August 27, 2018, and will expire on August 27, 2020.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date 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 exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: October 17, 2018.

Larry W. Minor,
Associate Administrator for Policy.

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