

exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

### Conclusion

Based upon its evaluation of the 28 exemption applications, FMCSA exempts Michael W. Anderson, Manassah E. Baker, Thomas H. Barnhart, Jr., Michael R. Bradford, Jeanpierre Brefort, John J. Caricola, Jr., Paul W. Caulfield, Denice M. Engle, John B. Gregory, Gary D. Hallman, Wade M. Hillmer, Michael W. Jensen, Jorge Lopez, Albert E. Marbut, Michael J. McGregan, Willie E. Nichols, John P. Perez, Robert M. Pickett II, Jeffrey W. Pike, Jr., Robert A. Reyna, Scott K. Richardson, Kyle C. Shover, Charles H. Smith, Robert G. Springer, Harry J. Stoeber, Jr., Scott A. Taylor, and John E. Terrell from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 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 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 June 25, 2007.

### Larry W. Minor

Acting Associate Administrator for Policy and Program Development.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2007-27387]

### 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 exempt fifty-seven 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 July 2, 2007. The exemptions expire on July 2, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366-4001, [fmcsmadical@dot.gov](mailto:fmcsmadical@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 through the Document Management System (DMS) at: <http://dmses.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.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:* Anyone may search the electronic form of all comments received into any of DOT's 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, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at <http://dms.dot.gov>.

#### Background

On May 16, 2007, FMCSA published a notice of receipt of Federal diabetes exemption applications from fifty-seven individuals, and requested comments

from the public (72 FR 27625). The public comment period closed on June 15, 2007 and one comment was received.

FMCSA has evaluated the eligibility of the fifty-seven 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).

The Agency would like to publish a correction regarding four applicants whose names were spelled incorrectly in a previous final disposition notice for 74 individuals, published on June 8, 2007, (72 FR 31876). They are Olufemi A. Aruwajoye, Brian C. Brainard, Lucas J. Jordon, and Mark W. Sadowski.

### Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers 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 2003 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 fifty-seven applicants have had ITDM over a range of 1 to 37 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified that the driver has demonstrated willingness to properly monitor and manage their diabetes, 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 May 16, 2007, **Federal Register** Notice (72 FR 27625). Therefore, they will not be repeated in this notice.

#### 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 endocrinologist's medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that 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 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 they are 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.

#### Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

A letter of recommendation was written in favor of granting the Federal Diabetes Exemption to Mr. Richard M. Carey. It was written by his sister, Maureen Carey, who states that Mr. Carey makes his health a top priority and is very responsible in effectively managing his diabetes.

#### Conclusion

After considering the comment to the docket, and based upon its evaluation of the fifty-seven exemption applications, FMCSA exempts, Darrell L. Allen, Jeffery C. Badberg, Kevin W. Bender, Karry J. Benfiet, Ronnie T. Bledsoe, Ricky N. Blankenship, Kevin E. Blythe, Clayton J. Bragg, James A. Broderick, Clifford O. Bull, Richard M. Carey, Cary W. Chase, Robert L. Chestnut, Dino J. Coli, Jr., Larry E. Colson, Elijah N. Craft, Leonard Cunningham, LaVerne A. DeChausse, Jason E. Earlywine, Eddie L. Edwards, Leroy Finn, John E. Fitch, Steven L. Garland, William J. Gerlach, Anthony Giulitto, Francis J. Godwin, Ricky A. Goss, Robert J. Guilford, Lucas C. Hansen, Ryan R. Harris, Dale R. Hass, Robert P. Haight, Troy O. Heathcock, Mark E. Hogmire, Matthew P. Horner, Scott D. Leland, Dennis R. Mace, Elizabeth A. Marsh, Peggy A. Myers, Franklin C. Perrin, Herbert A. Pierce, Douglas F. Reinke, Carlos Rosa, Nicholas F. Santacroce, Timothy S. Seitz, Steven J. Shaw, Donna B. Shehan, Kenneth J. Shifton, Rick G. Skonberg, Stephanie B. Smith, Earl C. Smouse, Randall J. Stoller, Peter A. Storm, Robert H. Thompson, Jr., Robert D. Toland, Mark A. Weber, and Jeffrey A. Withers 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: June 25, 2007.

**Larry W. Minor,**

*Acting Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD 2007 28586]

#### Information Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

**DATES:** Comments should be submitted on or before August 31, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Kenneth Willis, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-2306; or e-mail: [kenneth.willis@dot.gov](mailto:kenneth.willis@dot.gov). Copies of this collection also can be obtained from that office.

#### SUPPLEMENTARY INFORMATION:

*Title of Collection:* Application and Reporting Requirements for Participation in the Maritime Security Program.

*Type of Request:* Extension of currently approved information collection.

*OMB Control Number:* 2133-0525.

*Form Numbers:* None.

*Expiration Date of Approval:* Three years from date of approval by the Office of Management and Budget.

*Summary of Collection of Information:* The Maritime Security Act of 2003 provides for the enrollment of qualified vessels in the Maritime Security Program Fleet. Applications and amendments are used to select vessels for the fleet. Periodic reporting is used to monitor adherence of contractors to program parameters.

*Need and Use of the Information:* The collected information is necessary for MARAD to determine if selected vessels are qualified to participate in the Maritime Security Program.

*Description of Respondents:* Respondents are vessel operators.

*Annual Responses:* 15.

*Annual Burden:* 224 hours.