

Notice (68 FR 52442) 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-six applicants have had ITDM over a range of 1 to 33 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or that 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 his or her diabetes, received education related to diabetes management, and is on a stable insulin regimen. Each driver reported 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 June 11, 2008, **Federal Register** Notice (73 FR 33144). 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 submits to FMCSA 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 to FMCSA 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 no comments in this proceeding.

Conclusion

After considering the comments to the docket, and based upon its evaluation of the fifty-six exemption applications, FMCSA exempts, Timothy R. Abraham, Mark A. Arndt, David D. Canady, William M. Camp, Scott A. Cary, Eugene W. Clark, Jr., Jeffrey D. Crabtree, David C. Crawford, David W. Dawley, Adam F. Demeter, Henry D. Dyer, Stephen E. Foltz, Randall A. Ford, Larry A. Fritz, Clayton L. Funk, Bruce A. Gay, Jarret L. Gerber, Frederick G. Gillespie, Jose L. Gonzales, Kevin Gumbrell, Danny E. Helton, Robert G. Hemeon, Marcus L. Jackson, Richard S. Jackson, William J. Jackson, Alan L. Johnson, Nathan S. Kelley, Angela M. King, Scott M. Lowry, Ramon A. Mateo, Robert L. Mills, Jr., Richard Murphy, Edward F. Murray, Peter H. Palen, Jr., Travis L. Ploman, Nicholas W. Pomnitz, Thomas G. Riley, Jr., Melvin D. Robertson, Robert A. Roskamp, Brandon M. Ross, Ulysses A. Santiago, Jr., Jeremy S. Samiec, Patrick D. Schiller, Bruce D. Schmoyer, Joseph E. Sobiech, John J. Sorce, Donald J. Stabler, Ronald L. Stigall, Cory C. Struble, James L. Swedenburg, Jr., Lawrence M. Tanner, Robert D. Tarkington, Richard L. Thistle, Travis A. Udulutch, Joshua C. Webb, and Robert C. Whitney, 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: July 18, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-99-5578, FMCSA-99-6156, FMCSA-99-6480, FMCSA-01-10578, FMCSA-01-11426, FMCSA-05-22727, FMCSA-05-23099, FMCSA-05-23238, FMCSA-06-23773, FMCSA-06-24015]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 24 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comment submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (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 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption 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 notice was published on May 12, 2008 (FR 73 27014), and the comment period ended on June 11, 2008.

Discussion of Comments

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

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of 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

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 24 renewal applications, FMCSA renews the Federal vision exemptions for Juan D. Adame, Louis N. Adams, Paul D. Crouch, Thomas G. Danclovic, John M. Doney, Curtis N. Fulbright, Joshua G. Hansen, Daniel W. Henderson, Edward W. Hosier, Burt A. Hughes, Craig T. Jorgensen, Jose A. Lopez, Earl E. Martin, Bobby L. Mashburn, Brian E. Monaghan, William P. Murphy, Roy J. Oltman, Albert K. Remsburg, III, Willard L.

Riggle, Robert H. Rogers, George L. Silvia, Darwin J. Thomas, Kenneth E. Walker, and Frankie A. Wilborn.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal 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.

Issued on: July 21, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8-17189 Filed 7-25-08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-99-5748, FMCSA-99-6480, FMCSA-01-11426, FMCSA-02-11714, FMCSA-05-23099, FMCSA-06-23773]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 17 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comment submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (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 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

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Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption 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 notice was published on May 12, 2008 (FR 73 27017), and the comment period ended on June 11, 2008.

Discussion of Comments

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

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of 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

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 17 renewal applications, FMCSA renews the Federal vision exemptions for Guy M. Alloway, Joe W. Brewer, James D. Coates, Donald D. Dunphy, James W. Ellis, IV., John E. Engstad, David W. Grooms, Walter D. Hague, Jr., David A. Inman, Alfred G. Jeffus, Teddie W. King, Aaron C. Lougher, Lawrence C. Moody, Stanley W. Nunn, Roberto G. Serna, Bobby C. Spencer, and Kevin R. Stoner.