

for extension, received input from only one dealer.

Also, MBUSA did not make it possible for NHTSA to evaluate its suggested claims of potential safety benefits of its flashing stop lamp system because its application for renewal and the data provided to NHTSA to date does not clearly identify how it will appropriately track applicable rear end collisions in the United States, and does not include an explanation of the comparisons cited in its application. Without definitions of the comparison groups, raw data, and a description of the calculations made, the MBUSA claim of potential safety benefits is not supported.

Moreover, even if MBUSA were to develop a more robust evaluation program, it is not clear how the additional vehicles produced as a result of an extended exemption would provide significant additional data on safety benefits of flashing stop lamps. As indicated above, MBUSA stated in its recent comments that the data available in the United States cannot, due to the limited numbers of vehicles that can be sold under a temporary exemption, statistically support in just a few years an analysis showing the number of crashes avoided because drivers were alerted to an emergency situation through flashing stop lamps.

The petitioner argued that the agency's decision should not be based on whether the exemption would create a database that can conclusively demonstrate a statistical benefit, but NHTSA should instead base its decision on being able to contribute to the growing body of international data with experience from the United States. It stated that while the data set will be necessarily small because of the regulatory limitations, the experience is necessary to show that the limited exposure in the United States remains consistent with the more robust experience found in other markets.

However, MBUSA has already sold approximately 4700 vehicles with flashing stop lamps in the United States during the pendency of the existing exemption, and it has not provided any specific explanation as to how a two year extension resulting in potentially up to 5000 additional vehicles in this country would result in significant additional meaningful data concerning safety benefits of flashing brake lamps. Also, it is unclear how extending the exemption in this country would facilitate the analysis of the German data, especially given the difference in the sizes of the relevant vehicle populations.

MBUSA also mentioned the fact that the flashing stop lamp signaling system is permitted in Europe in support of an extension of its temporary exemption from S5.5.10 of FMVSS No. 108. While NHTSA is always interested in actions taken in other parts of the world, there is nothing presented in MBUSA's request for renewal relating to safety benefits and crash reduction data provided to the European regulatory authorities. We note the data from Germany referenced in MBUSA's renewal request is not any more effective in shedding light on the effectiveness of the flashing stop lamp signaling system in preventing rear end collisions. The request notes that the "GIDAS database", which includes "about 1,000 in depth crash investigations each year" thus far has not included investigations of vehicles equipped with the flashing stop lamp signaling system. No conclusion can be drawn from this fact. The request indicated that crash statistics have been received for 2005 and 2006 from the Federal Statistical Office. The crash data is "subject to a significant degree of statistical scatter," MBUSA says, but maintains the data "shows a decrease of rear impacts compared to other Mercedes-Benz passenger cars, and an experience for 2006 that shows a slight increase in rear impacts but which is also comparable to the experience with the control group without the feature."

Again, this information is inconclusive. There is no indication of the sample size involved and the number of crashes on which MBUSA makes its assertions as to the impact of the flashing stop lamp signaling system. The agency does not know what MBUSA means when it says the crash data is subject to a "significant degree of statistical scatter" and the impact it has on the conclusion suggested by MBUSA or the likelihood that the larger sample will be enough for statistically significant conclusions.

MBUSA also argued that flashing stop lamps can contribute to the reduction of crashes associated with distracted driving, and that continuing the exemption would contribute to this objective. However, while NHTSA is interested in potential safety benefits of enhanced rear signaling, MBUSA has not shown how extending the exemption would result in significant meaningful data concerning safety benefits of flashing stop lamps.

After considering the available information, we have concluded that MBUSA has not provided adequate justification for renewal of the exemption. It has not shown that the additional field data that would be

obtained as a result of a renewed exemption would enhance, in a meaningful way, NHTSA's ability to make more informed decisions concerning anticipated benefits of flashing brake lamps. Moreover, as noted earlier, some of the benefits associated with signal lamps relate to standardization. We have therefore concluded that it would not be in public interest to renew this exemption, and we are denying the application.

In order to allow MBUSA adequate time to make the necessary production changes, we are making this decision to deny the request effective 60 days after publication of this notice.

Issued: May 17, 2010.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket ID FMCSA-2010-0115]

#### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Notice of applications for exemptions from the diabetes mellitus standard; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 37 individuals for exemptions 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 June 21, 2010.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2010-0115 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, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington,

DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* 1-202-493-2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

*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, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The 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 the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto: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:**

**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 37 individuals listed in this notice have recently requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMV 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**

*Billy Banks*

Mr. Banks, age 45, has had ITDM since 1999. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Banks meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable proliferative diabetic retinopathy. He holds a Class E operator's license from New York which allows him to operate a vehicle with a gross vehicle weight rating (GVWR) of 26,000 lbs.

*Joseph P. Beagan*

Mr. Beagan, 45, has had ITDM since 1979. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Beagan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class 10 operator's license from Rhode Island, which allows him to operate any motor vehicle except a motorcycle and a vehicle that weighs more than 26,000 pounds.

*John M. Charlton*

Mr. Charlton, 34, has had ITDM since 1990. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a

CMV safely. Mr. Charlton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Utah.

*Stuart A. Dietz*

Mr. Dietz, 60, has had ITDM since 2005. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Dietz meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

*Marie C. Eddy*

Ms. Eddy, 50, has had ITDM since 1991. Her endocrinologist examined her in 2009 and certified that she has had no 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 5 years; understands diabetes management and monitoring; and has stable control of her diabetes mellitus using insulin, and is able to drive a CMV safely. Ms. Eddy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2009 and certified that she has stable nonproliferative diabetic retinopathy. She holds a Class D operator's license from Vermont.

*Michael G. Eikenberry*

Mr. Eikenberry, 55, has had ITDM since 2008. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Eikenberry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2009 and

certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*Francisco K. Gallardo*

Mr. Gallardo, 50, has had ITDM since 2005. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Gallardo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Arizona.

*John P. Gould*

Mr. Gould, 44, has had ITDM since 1982. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Gould meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Alaska.

*David B. Graef*

Mr. Graef, 44, has had ITDM since 2009. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Graef meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*Jason C. Green*

Mr. Green, 35, has had ITDM since 2008. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Green meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class R operator's license from Mississippi, which allows him to drive any non-commercial vehicle except motorcycles.

*Kimmy D. Hall*

Mr. Hall, 51, has had ITDM since 1983. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Hall meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Arkansas.

*Bruce G. Hammill, Jr.*

Mr. Hammill, 32, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Hammill meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

*Edward G. Harbin*

Mr. Harbin, 29, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no

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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Harbin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

*Timothy R. Hefling*

Mr. Hefling, 48, has had ITDM since 2009. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Hefling meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Indiana.

*Christopher M. Hultman*

Mr. Hultman, 29, has had ITDM since 1993. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Hultman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Wisconsin.

*Michael R. Jackson*

Mr. Jackson, 48, has had ITDM since 1998. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus

using insulin, and is able to drive a CMV safely. Mr. Jackson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class 2 operator's license from Connecticut.

*Gerald A. Johnson*

Mr. Johnson, 48, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

*Jay T. Kirschmann*

Mr. Kirschmann, 32, has had ITDM since 1985. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Kirschmann meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from North Dakota.

*Duane K. Kohls*

Mr. Kohls, 55, has had ITDM since 1997. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Kohls meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable

nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

*John F. Lohmuller*

Mr. Lohmuller, 55, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Lohmuller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

*Rodney A. Markham*

Mr. Markham, 54, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Markham meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

*Christopher P. Martin*

Mr. Martin, 31, has had ITDM since 1990. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Martin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class OPR-MC operator's license from New Hampshire, which allows him to drive any non-commercial vehicle.

*H. Alan Miller*

Mr. Miller, 54, has had ITDM since 2009. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Miller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Oregon.

*Andrew D. Monson*

Mr. Monson, 36, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Monson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Cheryl T. Murphy*

Ms. Murphy, 50, has had ITDM since 2008. Her endocrinologist examined her in 2010 and certified that she has had no 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 5 years; understands diabetes management and monitoring; and has stable control of her diabetes mellitus using insulin, and is able to drive a CMV safely. Ms. Murphy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2009 and certified that she does not have diabetic retinopathy. She holds a Class D operator's license from Washington, DC.

*Kurt D. Oertelt*

Mr. Oertelt, 59, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Oertelt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

*Joseph M. Pirrello*

Mr. Pirrello, 56, has had ITDM since 2008. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Pirrello meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New Jersey.

*Audrey R. Roddy*

Ms. Roddy, 44, has had ITDM since 2001. Her endocrinologist examined her in 2009 and certified that she has had no 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 5 years; understands diabetes management and monitoring; and has stable control of her diabetes mellitus using insulin, and is able to drive a CMV safely. Ms. Roddy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2009 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Michigan.

*Theodore J. Rolfe*

Mr. Rolfe, 42, has had ITDM since 2006. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus

using insulin, and is able to drive a CMV safely. Mr. Rolfe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

*Ross R. Romano*

Mr. Romano, 23, has had ITDM since 2000. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Romano meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class O operator's license from Michigan, which allows him to drive any non-commercial vehicle except motorcycles

*Max S. Sklarski*

Mr. Sklarski, 61, has had ITDM since 2007. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Sklarski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Mexico.

*Gerald J. Solwey*

Mr. Solwey, 63, has had ITDM since 2009. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Solwey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009

and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Dakota.

*Darren G. Steil*

Mr. Steil, 41, has had ITDM since 1986. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Steil meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

*Jason D. Sweet*

Mr. Sweet, 34, has had ITDM since 2007. His endocrinologist examined him in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Sweet meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

*Robert M. Thomson*

Mr. Thomson, 37, has had ITDM since 2002. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Thomson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Illinois.

*Kevin R. Welch*

Mr. Welch, 50, has had ITDM since 2009. His endocrinologist examined him

in 2009 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Welch meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

*Scott A. Yon*

Mr. Yon, 44, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no 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 5 years; understands diabetes management and monitoring; and has stable control of his diabetes mellitus using insulin, and is able to drive a CMV safely. Mr. Yon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

#### 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 (SAFETEA-LU) requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).<sup>1</sup> 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) The elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2)

the 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 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. 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: May 13, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-12186 Filed 5-20-10; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket ID. FMCSA-2010-0050]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 19 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

**DATES:** The exemptions are effective May 21, 2010. The exemptions expire on May 21, 2012.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, [fmcsamedical@dot.gov](mailto: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>.

**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, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The 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 online.

**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 the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476). This information is also available at <http://www.regulations.gov>.

##### Background

On March 26, 2010, FMCSA published a Notice of receipt of exemption applications from certain individuals, and requested comments from the public (75 FR 14656). That notice listed 19 applicants' case histories. The 19 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

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

<sup>1</sup> 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.