

III. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the 10 applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The 10 drivers in this notice remain in good standing with the Agency, have maintained their 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. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of August 13, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 10 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Eric J. Barnwell (MI)
John W. Boerth (WI)
Don C. Darbyshire (IA)
Todd A. Davis (WI)
Daniel Dellaserra (CA)
Charles T. Gray (OK)
Eric A. Hilmer (WI)
David Kietzman (WI)
Dennis Klamm (MN)
Brian J. Wiggins (ID)

The drivers were included in docket number FMCSA-2010-0203; FMCSA-2011-0389; FMCSA-2012-0050; FMCSA-2012-0294; FMCSA-2012-0094; FMCSA-2014-0382; FMCSA-2015-0116; FMCSA-2015-0117. Their exemptions are applicable as of August 13, 2017, and will expire on August 13, 2019.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the

stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; 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 of 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 10 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). 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: November 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-27801; FMCSA-2007-28536; FMCSA-2008-0175; FMCSA-2008-0267; FMCSA-2009-0207; FMCSA-2011-0192; FMCSA-2013-0181; FMCSA-2013-0182]

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 99

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 December 27, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202-366-4001, fmcamedical@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.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket Nos. FMCSA-2007-27801; FMCSA-2007-28536; FMCSA-2008-0175; FMCSA-2008-0267; FMCSA-2009-0207; FMCSA-2011-0192; FMCSA-2013-0181; FMCSA-2013-0182 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 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., ET, 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 SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day ET, 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 from the FMCSRs for a five-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 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 99 individuals listed in this notice have requested an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3). 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 statute.

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 Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population.

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 September 3, 2003 (68 FR 52441), **Federal Register** 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.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). 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) Elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) 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 three-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 U.S.C. 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. The 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.

II. Qualifications of Applicants

As of October 3, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 16 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 47291; 76 FR 61139):

Michael J. Alexander (MO)
Dean A. Chamberlin (NE)
Ronald D. Fatka (IA)
Frank B. Hernandez (MN)
Dale A. Iverson (UT)
John H. Krastel, Jr. (MD)
Edward Linhart (MA)
Larry D. Matson (MT)
David W. Payne (KS)
Jim B. Robertson II (KY)
Donald M. Rush, Jr. (GA)
Barry A. Sircy (KY)
John S. Starchevich (IA)
Michael B. Tortora (VT)
Charlotte C. Watson (CA)
Shaun M. Wheeler (CT)

The drivers were included in docket number FMCSA-2011-0192. Their exemptions are applicable as of October 3, 2017, and will expire on October 3, 2019.

As of October 15, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 43 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (72 FR 45480; 72 FR 58360; 73 FR 45519; 73 FR 61188; 78 FR 50486; 78 FR 65031):

Scott M. Aitcheson (MI)
Robert V. Balmes (IL)
Kenneth M. Brinker (SD)
Daniel A. Brown (IN)
Floyd G. Burbach (SD)
Frederick J. Caldarelli III (KS)
Jay P. Cave (IL)
William J. Compton (MI)
Brian R. Current (IA)
Mark A. Davis (AR)
Todd J. Donnelly (IA)
Carmine J. Fossile (MA)
Steven M. French (MI)
Philip P. Gray (VA)
John L. Hansen (MT)
Michael G. Harp (OK)
Darin D. Harries (MN)
James M. Holland (WA)
William E. Hollowell (MI)
Matthew S. Hooker (IN)
Cindy L. Hushin-Brink (PA)
Gregory A. Iverson (IA)
Bradley M. Johnson (ID)
Mark A. Jones (WI)
Michael J. Keating (IL)
Richard D. Knoche (IL)
Jonathan D. Koehn (NE)
Edward M. Mason (KY)
Harold W. McCullough (NE)
Kurt V. Miller (IL)
Tyree L. Murdock II (FL)
Thomas L. Nesbit (PA)
Richard Rodriguez (KS)
Scott D. Schultz (MN)
Mark W. Seem (IN)

Marvin R. Shipman (GA)
Chris W. Smaltz (AZ)
Randy E. Veit (IL)
Edwin C.E. Whitcomb (ND)
Steven S. Whitt, Sr. (MO)
Derek J. Wright (AL)
Donald W. Yeager (PA)
Mick B. Zoske (IA)

The drivers were included in one of the following docket numbers: FMCSA–2007–27801; FMCSA–2008–0175; FMCSA–2013–0182. Their exemptions are applicable as of October 15, 2017, and will expire on October 15, 2019.

As of October 18, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, Justin R. Freeman (ID) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 38435; 78 FR 63294).

This driver was included in docket number FMCSA–2013–0181. The exemption is applicable as of October 18, 2017, and will expire on October 18, 2019.

As of October 19, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 9 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (72 FR 50442; 72 FR 59332; 74 FR 41486; 74 FR 53583):

Jim E. Chester (IN)
Blaine H. Holmes (UT)
James R. Hudson (AZ)
Roger L. Kaufman (KY)
Clifford L. Rayl (IN)
Steven J. Shaw (NV)
Scott L. Stamstad (WI)
Kendell R. Strassman (WI)
Maurice L. Wedel (KS)

The drivers were included in one of the following docket numbers: FMCSA–2007–28536; FMCSA–2009–0207. Their exemptions are applicable as of October 19, 2017, and will expire on October 19, 2019.

As of October 22, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 9 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (73 FR 52451; 73 FR 63041):

Michael B. Bennington, Sr. (PA)
Larry J. Eischens (SD)
David J. Hanzl (NY)
Thomas R. Jones (OH)
John G. Schaible, Jr. (NY)
Rory J. Seleman (IL)
Chase M. Wells (NY)
Laurie E. White (NY)
Craig E. Wolf (IL)

The drivers were included in docket number FMCSA–2008–0267. Their exemptions are applicable as of October 22, 2017, and will expire on October 22, 2019.

As of October 23, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 38435; 78 FR 63294):

Craig W. Blackner (UT)
John L. Fischer (ND)
Douglas E. Gibbs (TX)
Clarence H. Holliman Jr. (MS)
Tracy S. Johnson (FL)
Chad D. Labonte (ID)
Jason J. Marks (LA)
Keith R. McKeever (PA)
Alberto Ramirez (CA)
Brian S. Ruth (AK)
Ronald S. Smith (NJ)
Lawrence E. Starks Sr. (IN)
Calvin C. Wallingford (NY)

The drivers were included in docket number FMCSA–2013–0181. Their exemptions are applicable as of October 23, 2017, and will expire on October 23, 2019.

As of October 28, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, Ricky A. Root (IL) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 50486; 78 FR 65031).

This driver was included in docket number FMCSA–2013–0182. The exemption is applicable as of October 28, 2017, and will expire on October 28, 2019.

As of October 30, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 7 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 50486; 78 FR 65031):

Peter Engel (PA)
Jhon A. Fitzgerald (ME)
Lewis E. Forrester (PA)
Ray Harrison (MD)
Charles LaBruno (PA)
Shawn E. Marks (PA)
Donald G. Staggs (CA)

The drivers were included in docket number FMCSA–2013–0182. Their exemptions are applicable as of October 30, 2017, and will expire on October 30, 2019.

III. 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 dates section of the notice.

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA–2007–27801; FMCSA–2007–28536; FMCSA–2008–0175; FMCSA–2008–0267; FMCSA–2009–0207; FMCSA–2011–0192; FMCSA–2013–0181; FMCSA–2013–0182 and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

IV Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA–2007–27801; FMCSA–2007–28536; FMCSA–2008–0175; FMCSA–2008–0267; FMCSA–2009–0207; FMCSA–2011–0192; FMCSA–2013–0181; FMCSA–2013–0182 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to this notice.

Issued on: November 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

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