

**ACTION:** Notice of Joint Subcommittee of the Meeting of Motor Carrier Safety Advisory Committee (MCSAC) and Medical Review Board (MRB).

**SUMMARY:** FMCSA announces that MCSAC and MRB will hold a joint subcommittee meeting on Wednesday–Thursday, January 4–5, 2012. Both days of the meeting will be open to the public.

**Time and Dates:** The joint MCSAC–MRB subcommittee meeting will be held on Wednesday–Thursday, January 4–5, 2012, from 8:30 a.m. to 5 p.m., Eastern Time (E.T.). The meeting will be held at the Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314 in the Washington and Jefferson Rooms on the 2nd floor. The Hilton Alexandria Old Town is located across the street from the King Street Metro station.

**Matters To Be Considered:** The MCSAC–MRB subcommittee will consider ideas and concepts the Agency should consider for potential regulatory changes to the current physical qualifications standards to address the medical certification process for truck and bus drivers that have been diagnosed with OSA or are believed to suffer from the disease but have not been diagnosed at the time of the medical examination. The subcommittee will make its recommendations to the MCSAC and MRB for their deliberation at a joint meeting of the two bodies in February 2012. Upon approval by the MCSAC and MRB, the recommendations will be submitted to FMCSA for consideration. Copies of Task Statement 11–05 and an agenda for the 2-day meeting will be made available on the MCSAC and MRB Web sites at <http://mcsac.fmcsa.dot.gov> and <http://mrb.fmcsa.dot.gov>, respectively.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385–2395, [mcsac@dot.gov](mailto:mcsac@dot.gov).

#### **Services for Individuals with Disabilities:**

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Elizabeth Turner at (617) 494–2068, [elizabeth.turner@dot.gov](mailto:elizabeth.turner@dot.gov), by Wednesday, December 28, 2011.

#### **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### **MCSAC**

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Public Law 109–59, 119 Stat. 1144, August 10, 2005) required the Secretary of Transportation to establish the MCSAC. The MCSAC provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and regulations, and operates in accordance with the Federal Advisory Committee Act (FACA, 5 U.S.C. App 2).

#### **MRB**

Section 4116 of the SAFETEA–LU requires the Secretary of Transportation, with the advice of the MRB, to “establish, review, and revise medical standards for operators of CMVs that will ensure that the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely.” On November 2, 2010, the Secretary of Transportation announced the five medical experts who serve on the MRB. FMCSA is planning revisions to the physical qualification regulations of CMV drivers, and the MRB will provide the necessary science-based guidance to establish realistic and responsible medical standards. The MRB operates in accordance with FACA.

#### **Obstructive Sleep Apnea**

The MCSAC and the MRB met jointly on December 7, 2011, to discuss ideas and concepts the Agency should consider for regulatory guidance and, potentially, for future rulemaking on OSA. The MCSAC and MRB completed their joint recommendation on regulatory guidance on OSA and issued a letter report at the end of the meeting. As a result of these discussions, a joint subcommittee was formed to develop ideas and concepts the Agency should consider for a potential notice-and-comment rulemaking to address the issue of OSA.

### **II. Meeting Participation**

Oral comments from the public will be heard during the last half-hour of the meeting on Wednesday and Thursday. Members of the public may submit written comments on the topics to be considered during the meeting by Wednesday, December 28, 2011, to Federal Docket Management System (FDMS) Docket Number FMCSA–2006–26367 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the

online instructions for submitting comments.

- **Fax:** 202–493–2251.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.
- **Hand Delivery:** U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., E.T. Monday through Friday, except Federal holidays.

Issued on: December 13, 2011.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2011–32444 Filed 12–16–11; 8:45 am]

**BILLING CODE 4910–EX–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA–2011–0277]

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

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt twenty-one 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 December 19, 2011. The exemptions expire on December 19, 2013.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@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 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> 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 Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

### Background

On October 17, 2011, FMCSA published a notice of receipt of Federal diabetes exemption applications from twenty-one individuals and requested comments from the public (76 FR 64165). The public comment period closed on November 16, 2011 and no comments were received.

FMCSA has evaluated the eligibility of the twenty-one 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).

### Diabetes Mellitus and Driving Experience of the Applicants

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. 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 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.

These twenty-one applicants have had ITDM over a range of 1 to 26 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, 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 requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the October 17, 2011, **Federal Register** notice and they will not be repeated in this notice.

### Discussion of Comment

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

An anonymous individual indicated that he was not convinced that Mr. Randy Voss was qualified to receive a vision exemption.

In response to this comment, FMCSA's exemption process supports drivers with ITDM who seek to operate in interstate commerce. In addition, FMCSA relies on the expert medical opinion of the endocrinologist and the medical examiner, who are required to analyze individual ability to control and manage the diabetic condition, including the individual ability and willingness of the driver to monitor blood glucose level on an ongoing basis. FMCSA will grant exemptions only to those applicants who meet the specific conditions and comply with all the requirements of the exemption.

### Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement 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 endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement 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 it is 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.

### Conclusion

Based upon its evaluation of the twenty-one exemption applications, FMCSA exempts, Norman Billie (Utah); Jeffrey L. Bromby (California); Glenn W. Burke (New York); David P. Charest (New Hampshire); Donald N. Ellis (New Jersey); Timothy J. Flynn (Iowa); Michael T. Heath (Georgia); Edward L. Keith (Illinois); Thomas J. Kelley (Virginia); Jackie L. Lane (Texas); Michael J. Miller (Illinois); Jeremy R. Pendergrass (Utah); Cory J. Rickerl (Arizona); Phillip D. Ross (Texas); Dennis R. Scheel (South Dakota); Andrew P. Shirk (Michigan); Jerry L. Smit (Minnesota); Charles R. Tomassi (New York) and Randy J. Voss (Illinois) from the ITDM requirement 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: December 12, 2011.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2011-32441 Filed 12-16-11; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2011-0327]

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

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

**ACTION:** Notice of applications for exemption from the diabetes mellitus requirement; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from fifteen individuals for exemption 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 January 18, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2011-0327 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.

**Instructions:** Each submission must include the Agency name and the docket numbers 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., Monday through Friday, except Federal holidays. The Federal Docket Management System (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 DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

#### FOR FURTHER INFORMATION CONTACT:

Elaine M. Papp, Chief, Medical Programs Division, (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 from the Federal Motor Carrier Safety Regulations 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 fifteen individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3),

which applies to drivers of CMVs 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

##### *Mathew B. Bartlett*

Mr. Bartlett, age 22, has had ITDM since 2006. His endocrinologist examined him in 2011 and certified that he has had no severe 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 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bartlett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely.

Mr. Bartlett meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B Commercial Driver's License (CDL) from Iowa.

##### *Colby S. Blank*

Mr. Blank, 26, has had ITDM since 2005. His endocrinologist examined him in 2001 and certified that he has had no severe 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 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blank understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blank meets the vision requirement of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Nebraska.

##### *Gene J. Bottger*

Mr. Bottger, 63, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe 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 12 months and no recurrent (2 or more) severe hypoglycemic episodes in