

hours of supervised operating experience and no fewer than two landings.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2015-0338]

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

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA confirms its decision to exempt 44 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on January 14, 2016. The exemptions expire on January 14, 2018.

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-113, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### I. 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:** 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 [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

##### II. Background

On December 14, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 44 individuals and requested comments from the public (80 FR 77408). The public comment period closed on January 13, 2016.

FMCSA has evaluated the eligibility of the 44 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).

##### III. 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 44 applicants have had ITDM over a range of 1 to 37 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 December 14, 2015, **Federal Register** notice and they will not be repeated in this notice.

##### IV. Discussion of Comments

FMCSA received no comments in this proceeding.

##### V. 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.

##### VI. 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.

## VII. Conclusion

Based upon its evaluation of the 44 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b).

Shannon M. Anfindsen (GA)  
 Jessie L. Arrant, Jr. (GA)  
 Joseph M. Benech (RI)  
 Mark L. Birch (WI)  
 Shane M. Burgard (MN)  
 Jonathan W. Cottom (PA)  
 David J. Davenport (WA)  
 Wesley O. Davis (SC)  
 Steven P. DelPizzo (PA)  
 Saverio F. Demiter (PA)  
 Brandon A. Dipasquale (NY)  
 Gregory P. Doyle (CO)  
 Scott A. Fetner (AL)  
 Alfredo Flores (KS)  
 Timothy D. Funk (IL)  
 James D. Gage (MI)  
 Leslie G. Goodwin (KS)  
 Diane M. Greenberg (VA)  
 Brent P. Griswold (NY)  
 Earl E. Hudson, III (SC)  
 Gregory A. Huffman (TX)  
 Donald R. Kuehn (MN)  
 Robert D. Lair, Jr. (AR)  
 Mark A. Leman (IL)  
 Terry D. Leuthold (MT)  
 Michael S. Massa (PA)  
 Jordan L. Moss (GA)  
 Ted A. Moyer (FL)  
 Lynette A. Occhipinti (WA)  
 Derek D. Patrick (MI)  
 Joseph M. Petrucci (NH)  
 James W. Prather (OH)  
 Edward O. Prosser (RI)  
 Dennis L. Ruff (WA)  
 William J. Shrader (CA)  
 Ronald L. Smith (KS)  
 Wayne D. Smith (VT)  
 Carnell A. Taite (MI)  
 Garrett J. Tousignant (IL)  
 Franklin G. Towell (IN)  
 Robert S. Townsend (NH)  
 Zachary C. Warrick (NE)  
 Zachary C. White (CA)  
 Mark K. Wittig (NY)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with

the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 29, 2016.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0177]

#### Crash Weighting Analysis

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

**ACTION:** Notice; response to public comments.

**SUMMARY:** On January 23, 2015, FMCSA announced the results of the Agency's study on the feasibility of using a motor carrier's role in crashes in the assessment of the company's safety. This study assessed (1) whether Police Accident Reports (PARs) provide sufficient, consistent, and reliable information to support crash weighting determinations; (2) whether a crash weighting determination process would offer an even stronger predictor of crash risk than overall crash involvement and how crash weighting would be implemented in the Agency's Safety Measurement System (SMS); and (3) how FMCSA might manage a process for making crash weighting determinations, including the acceptance of public input.

Based on the feedback received in response to the January 23, 2015, Federal Register notice, FMCSA conducted additional analysis to improve the effectiveness of the Crash Indicator Behavior Analysis and Safety Improvement Category (BASIC). In addition, the Agency will develop and implement a demonstration program to determine the efficacy of a program to conduct preventability determinations on certain types of crashes that generally are less complex.

**ADDRESSES:** Docket: For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit 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 on-line

Federal document management system 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: 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 [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** For information contact Mr. Catterson Oh, Compliance Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202-366-2247 or by email: [Catterson.Oh@dot.gov](mailto:Catterson.Oh@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Compliance, Safety, Accountability (CSA) program is FMCSA's enforcement model that allows the Agency and its State partners to identify and address motor carrier safety problems before crashes occur. The Agency's SMS quantifies the on-road safety performance of motor carriers to prioritize enforcement resources. FMCSA first announced the implementation of the SMS in the **Federal Register** on April 9, 2010 (75 FR 18256) (Docket No. FMCSA-2004-18898). Violations are sorted into BASICS, which include a Crash Indicator BASIC.

Since its implementation in 2010, the SMS has used recordable crash records involving commercial motor vehicles (CMVs) that are submitted by the States through the Agency's Motor Carrier Management Information System, in addition to compliance and safety performance in other BASICS, to prioritize carriers for safety interventions. The Agency uses the definition of "accident" in 49 CFR 390.5, which means an occurrence involving a CMV operating on a highway in interstate or intrastate commerce that results in: (i) A fatality; (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (iii) one or more motor vehicles incurring disabling damage as a result of the accident,