

was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 13, 2019.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2001-9800]

Qualifications of Drivers; Exemption Applications; Diabetes; Withdrawal of Notices of Final Disposition

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

ACTION: Notice of withdrawal of 2003 and 2005 final disposition notices for the diabetes exemption program.

SUMMARY: FMCSA withdraws its September 3, 2003, notice concerning exemptions for certain individuals with insulin-treated diabetes mellitus (ITDM) and its November 8, 2005, revision. This action is in response to the Qualifications of Drivers; Diabetes Standard final rule, published on September 19, 2018, which revised the physical qualifications standard for ITDM individuals who wish to operate commercial motor vehicles (CMVs) in interstate commerce. The revised standard allows certified medical examiners, in consultation with the treating clinician, to evaluate and determine whether to grant an ITDM individual a medical examiner's certificate (MEC) to drive a CMV in interstate commerce. FMCSA has determined, therefore, that an exemption program for ITDM individuals is no longer necessary.

DATES: This notice is applicable February 21, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, Chief, Medical Programs Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, by telephone at (202) 366-4001, or by email at fmcsamedical@dot.gov. If you have questions on viewing material in the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1970, 49 CFR 391.41(b)(3) prohibited ITDM individuals from operating CMVs. On September 3, 2003, FMCSA announced that the Agency would begin authorizing exemptions from 49 CFR 391.41(b)(3) for certain ITDM individuals (68 FR 52441). Section 31315(b)(2) of 49 U.S.C. allows the Agency to grant exemptions for a 2-year period and to renew them at the end of the period.¹ The 2003 notice of final disposition outlined the requirements for ITDM individuals to apply for an exemption, and the considerations FMCSA would apply in determining whether to grant such applications in accordance with the statute and the provisions of 49 CFR part 381, subpart C. It addressed the requirements to renew exemptions and the considerations that would be used by the Agency to determine whether to renew an exemption once issued. It also set out the circumstances that would require revocation of an exemption.

In response to the enactment of section 4129(a) through (c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144, 1742, Aug. 10, 2005), the Agency revised certain considerations for such exemptions on November 8, 2005 (70 FR 67777).

On September 19, 2018, the Agency published a final rule revising the physical qualification standard for operators of CMVs with ITDM (83 FR 47486). As of September 19, 2018, there were 4,719 ITDM drivers who held Federal diabetes exemptions. While the exemption program provides a pathway to medical certification for ITDM individuals who otherwise meet the physical qualifications standards of 49 CFR 391.41(b), the amended diabetes standard provides a less burdensome approach that emphasizes individualized assessment and utilizes the treating clinician of the ITDM individual to assist the certified medical examiner in making the certification determination. Detailed explanations of the process for complying with the new physical qualification requirements are included in the preamble to the final rule published on September 19, 2018.

II. Transition From Exemption Program to the New Standard

The withdrawal of the 2003 and 2005 program notices is applicable February

¹ At the time, the statute limited exemptions to 2 years. The statute was subsequently amended to allow exemptions for up to 5 years, but, as a practical matter, diabetes exemptions have been limited to 2 years.

21, 2019. Individuals could begin the process of obtaining MECs following the new streamlined process on November 19, 2018.

A. Existing Diabetes Exemption Holders

Diabetes exemptions under the program are issued for 2 years, but exemption holders must be medically certified by a certified medical examiner and issued an MEC annually. Any MEC that was obtained under an exemption and was in effect when the final rule became effective on November 19, 2018, will remain in effect until the MEC expires or is replaced by an MEC issued under the new standard. Prior to its expiration, a new MEC must be issued under the new standard to operate a CMV. FMCSA will direct certified medical examiners to cease issuing MECs under the exemption program on or after the date of this withdrawal notice.

Beginning November 19, 2018, exemption holders could begin the process of obtaining certification under the new standard. This requires being evaluated by a treating clinician who must complete an Insulin-Treated Diabetes Mellitus Assessment Form, MCSA-5870, which is available on the Agency's website, and then obtaining a medical certification examination by a certified medical examiner. Existing diabetes exemption holders should have adequate time to comply with the provisions of the final rule before their current MECs expire. Obtaining certification under the new standard should be much less burdensome in terms of both time and resources than the lengthy process of applying for and maintaining an exemption.

B. State Driver Licensing Agencies and Variances

When an ITDM individual obtains an MEC under the new standard, it will not be necessary for the certified medical examiner to indicate on the MEC that certification is made consistent with the terms of an exemption (unless other exemptions are involved) because a diabetes exemption is no longer required to operate a CMV. Therefore, in the case of an ITDM individual holding a commercial driver's license or a commercial learner's permit, it will not be necessary for a State Driver Licensing Agency to receive and post the information about such a medical variance on the individual's Commercial Driver's License Information System (CDLIS) record (see 49 CFR 383.73(o)).

Issued on: February 13, 2019.

Raymond P. Martinez,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0004]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 12 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before March 25, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA-2019-0004 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.

To avoid duplication, please use only one of these four methods. See the "Public Participation" portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64-224, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 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.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA-2019-0004), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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>, put the docket number, FMCSA-2019-0004, in the keyword box, and click "Search." When the new screen appears, click on the "Comment Now!" button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

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.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2019-0004, in the keyword box, and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

C. 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

II. 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 12 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the