



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0294; FMCSA-2011-0326; FMCSA-2011-0327; FMCSA-2011-0367; FMCSA-2013-0192]

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 the exemptions of 36 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. FMCSA has statutory authority to exempt individuals from this rule if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals 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: Each group of renewed exemptions are effective from the dates stated in the discussions below. Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: **Docket No. FMCSA-2009-0294; FMCSA-2011-0326; FMCSA-2011-0327; FMCSA-2011-0367; FMCSA-2013-0192**, 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, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., 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 number 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, S.E., 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 Federal Docket Management System (FDMS) published in the Federal Register on January 17, 2008 (73 FR 3316).

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

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the Federal Motor Carrier Safety Regulations 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 36 individuals listed in this notice have recently become eligible for a renewed exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. The drivers remain in good standing with the Agency, have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period.

Exemption Decision

This notice addresses 36 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. These 36 drivers remain in good standing with the Agency, have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. Therefore, FMCSA has decided to extend each exemption for a renewable two-year period. Each individual is identified according to the renewal date.

The exemptions are renewed subject to the following conditions: (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 submit an annual ophthalmologist's or optometrist's report; 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.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. The following groups of drivers received renewed exemptions in the month of February and are discussed below.

As of February 6, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 6 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 79756; 77 FR 5873):

Howard A. Betz (OH)	Kevin J. Coppens (ME)	Frank H. Ford, Jr. (PA)
Daniel R. Harris (TX)	Joseph L. Owings (AL)	Jerry H. Small (NC)

The drivers were included in Docket No. FMCSA-2011-0326. Their exemptions are effective as of February 6, 2016 and will expire on February 6, 2018.

As of February 10, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 6 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 78720; 77 FR 7232):

Steve R. Fortunat (NJ)	Kenneth J. Hill (OH)	Cecil T. Keith (GA)
Frank E. Ray (KS)	Stanley L. Rybarczyk (IL)	Gene A. Willias (WV)

The drivers were included in Docket No. FMCSA-2011-0327. Their exemptions are effective as of February 10, 2016 and will expire on February 10, 2018.

As of February 12, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual, Guy B. Mayes (WA) has satisfied the renewal conditions for

obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 78479; 79 FR 13086).

The driver was included in Docket No. FMCSA-2013-0192. The exemption is effective as of February 12, 2016 and will expire on February 12, 2018.

As of February 22, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (77 FR 533; 77 FR 10607):

Garry L. Camden (IN)	Loren A. Cox (NY)	Darryl F. Gilbertson (WI)
Alfred Gutierrez II (OK)	Matthew D. Hulse (KS)	Neil E. Karvonen (WA)
Damon A. Kruger (CO)	Earl T. Morton, Jr. (VA)	Richard A. Norstebon (ND)
Donald J. Olbinski (IL)	Kevin E. Risley (IN)	

The drivers were included in Docket No. FMCSA-2011-0367. Their exemptions are effective as of February 22, 2016 and will expire on February 22, 2018.

As of February 24, 2016, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 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 68092; 79 FR 8182):

Daniel C. Druffel (WA)	Gregory J. Godley (WA)	Troy A. Gortmaker (SD)
Charles M. Griswold (MA)	Justin R. Henneinke (CA)	William R. Huntley (MI)
Joseph I. Kulp (PA)	Kevin R. Mooney (WA)	Daniel D. Neale (CA)
Richard L. Sulzberger (IL)	Dirk Vanstralen (CA)	

The drivers were included in Docket No. FMCSA-2009-0294. Their exemptions are effective as of February 24, 2016 and will expire on February 24, 2018.

As of February 27, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual, Charles R. Clayton (NJ) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 78479; 79 FR 13086).

The driver was included in Docket No. FMCSA-2013-0192. The exemption is effective as of February 27, 2016 and will expire on February 27, 2018.

Each of the 36 drivers in the aforementioned groups qualifies for a renewal of the exemption. They have maintained their required medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of the 36 drivers for a period of two years is likely to achieve a level of safety equal to that existing without the exemption. The drivers were included in docket numbers FMCSA-2009-0294; FMCSA-2011-0326; FMCSA-2011-0327; FMCSA-2011-0367; FMCSA-2013-0192.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested

parties with specific data concerning the safety records of these drivers submit comments by [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 36 individuals from rule prohibiting persons with ITDM from operating CMVs in interstate commerce in 49 CFR 391.41(b)(3). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the medical condition of each applicant for an exemption from rule prohibiting persons with ITDM from operating CMVs in interstate commerce. That information is available by consulting the above cited Federal Register publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

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 e-mail 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 numbers FMCSA-2009-0294; FMCSA-2011-0326; FMCSA-2011-0327; FMCSA-2011-0367; FMCSA-2013-0192 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 material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2009-0294; FMCSA-2011-0326; FMCSA-2011-0327; FMCSA-2011-0367; FMCSA-2013-0192 and click “Search.” Next, click “Open Docket

Folder” and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 29, 2015

Larry W. Minor
Associate Administrator for Policy

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