

is 20/15. Following an examination in 2011, his optometrist noted, "I do find that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Parmelee reported that he has driven straight trucks for 25 years, accumulating 390,000 miles. He holds a Class C operator's license from Oregon. His driving record for the last 3 years shows one crash, which he was not cited for, and no convictions for moving violations in a CMV.

*Ronald H. Sieg*

Mr. Sieg, 41, has loss of vision in his right eye due to trauma sustained in childhood. The best corrected visual acuity in his right eye is light perception only, and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "Therefore, in my professional opinion Mr. Sieg has the ability to perform the driving tasks required to operate a commercial vehicle." Mr. Sieg reported that he has driven straight trucks for 19 years, accumulating 316,198 miles, and tractor-trailer combinations for 19 years, accumulating 32,186 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Ted L. Smeltzer*

Mr. Smeltzer, 59, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "I certify that this patient has sufficient vision to operate a commercial vehicle." Mr. Smeltzer reported that he has driven straight trucks for 10 years, accumulating 100,000 miles, and tractor-trailer combinations for 10 years, accumulating 100,000 miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Gregory S. Smith*

Mr. Smith, 38, has complete loss of vision in his right eye since birth. The best corrected visual acuity in his right eye is light perception only, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, "I feel that Mr. Smith has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Smith reported that he has driven straight trucks for 5 years, accumulating 120,000 miles. He holds a Class D operator's license from Arkansas. His driving record for the last

3 years shows no crashes and no convictions for moving violations in a CMV.

**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. The Agency will consider all comments received before the close of business July 27, 2012. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: June 20, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[FMCSA Docket No. FMCSA-2012-0107]**

**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 23 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 June 27, 2012. The exemptions expire on June 27, 2014.

**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 May 11, 2012, FMCSA published a notice of receipt of Federal diabetes exemption applications from 23 individuals and requested comments from the public (77 FR 27842). The public comment period closed on June 11, 2012, and no comments were received.

FMCSA has evaluated the eligibility of the 23 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 23 applicants have had ITDM over a range of 1 to 34 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 May 11, 2012, **Federal Register** notice and they will not be repeated in this notice.

#### Discussion of Comments

FMCSA did not receive any comments in this proceeding.

#### 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 23 exemption applications, FMCSA exempts, Christopher M. Anderson (AR), Matthew R. Bagwell (NY), Gary L. Bradburn (VA), Eric J. Bright (IL), Jeffrey M. Burgess, (MT), Robert Castaneda (CA), Kyle D. Dale. (MO), Frank Glenn (IL), Timothy T. Googleye, (MN), Jose D. Gonzalez (CA), Patrick J. Hempel (TN), Matthew M. Horgan, (MO), Mark C. Lucy (IA), Richard M. McMahon (GA), Kevin N. Mitchell (GA), Christopher J. Parr (IN), Gerald Perkins (CA), Donald L. Philpott (WA), John Randolph (OK), Courtney R. Schiebout, Barry L. Schwab (MI), Charles L. Spencer (NY), and Curtis W. Stanley (NE) 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 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 20, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-1999-6156; FMCSA-2000-7006; FMCSA-2001-9561; FMCSA-2001-10578; FMCSA-2001-11426; FMCSA-2002-11714; FMCSA-2002-13411; FMCSA-2003-16241; FMCSA-2003-16564; FMCSA-2004-17195; FMCSA-2005-21711; FMCSA-2005-22194; FMCSA-2005-23099; FMCSA-2005-23238; FMCSA-2006-23773; FMCSA-2006-24015; FMCSA-2006-24783; FMCSA-2008-0021]

#### Qualification of Drivers; Exemption Applications; Vision

**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 from the vision requirement in the Federal Motor Carrier Safety Regulations for 45 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement 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 commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective July 20, 2012. Comments must be received on or before July 27, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. FMCSA-1999-6156; FMCSA-2000-7006; FMCSA-2001-9561; FMCSA-2001-10578; FMCSA-2001-11426; FMCSA-2002-11714; FMCSA-2002-13411; FMCSA-2003-16241; FMCSA-2003-16564; FMCSA-2004-17195; FMCSA-2005-21711; FMCSA-2005-22194; FMCSA-2005-23099; FMCSA-2005-23238; FMCSA-2006-23773; FMCSA-2006-24015; FMCSA-2006-