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Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2016-0034]

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 74 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 April 16, 2016. The exemptions expire on April 16, 2018.

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

II. Background

On March 16, 2016, FMCSA published a notice of receipt of Federal diabetes exemption applications from 74 individuals and requested comments from the public (81 FR 14179). The public comment period closed on April 15, 2016, and 3 comments were received.

FMCSA has evaluated the eligibility of the 74 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 74 applicants have had ITDM over a range of 1 to 36 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 March 16, 2016, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received 3 comments in this proceeding. Jill Lewis believes exemptions should not be granted to those over the age of 70. Irene Medina and Daniel Adams believe exemptions should be granted to all listed in the notice. FMCSA’s response to Jill Lewis’s comment; “All drivers that are granted exemptions from the diabetes standard must be examined by a certified medical examiner, endocrinologist, and eye doctor, who determine if the driver is medically qualified to operate a CMV in interstate commerce. Therefore, if applicants over the age of 70 are determined to be medically qualified, there is no basis for denying them exemptions.”

IV. 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.

V. 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.

VI. Conclusion

Based upon its evaluation of the 74 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b):

Daniel S. Adams (ME)
Harold E. Adams, Sr. (IL)
Albert L. Alexander (IN)
Jerry J. Altenburg (WI)
Chris L. Austin (AL)
Cory M. Besette (NY)
Daryl K. Birr (WI)
Jerry L. Brown (TN)
James R. Burch, II (NC)
Anthony K. Bush (OH)
Walter L. Butcher, IV (PA)
Russell E. Cadman (CO)
Mary L. Carr (NC)
Alexander W. Coleman (WA)
Earl J. Collier, Jr. (MA)
Carolyn J. Conover (TN)
Gary R. Craig (PA)
Sebastian Dacruz, Jr. (NJ)
Scott D. Davis (KS)
Richard W. Dentler (ID)
Troy A. Epps (MA)
Joel R. Farmer (ID)
Joseph A. Figueroa (MD)
Ronald Floyd (NY)
Donald W. Fowler, Jr. (NY)
Leonel E. Garcia-Bejar (TX)
William A. Garrett (GA)
Tyrone B. Gary, Sr. (PA)
Hardy D. Glanzer (ND)
David Guerrero (IL)
Bruce T. Hanson (MN)
Darrell E. Holtsoi (NM)
Roger J. Huffsmith (WA)
Joseph P. Hurston (MA)
Raymond W. James (AZ)
Kevin E. Johnson (TX)
Thomas A. Johnson (MN)
Calvin E. Jones, Jr. (VA)
Russell D. Koehler (WI)

Richard A. Lange (IL)
John K. Long (MA)
Russell J. Luedecker (NJ)
Eugene D. Maessner (ND)
Leroy A. Maines (PA)
Brady T. Mart (IA)
Kevin R. Martin (MO)
Jack L. McClintock (PA)
Luis A. Medina (CA)
Jimmie L. Melton (FL)
Robert J. Miller (VA)
Kirk A. Mosier (IA)
Daniel A. Neuens (WI)
Ephraim K. Njoroge (MA)
Mark C. Overbaugh (NY)
Mario A. Papa (RI)
Joseph F. Puliafico (NY)
James N. Rice III (SC)
Noble E. Risley (IL)
Jacob C. Rojan (IN)
Vincent Romeo (FL)
Marilyn Segarra (CT)
Jeffrey J. Smith (VA)
Ronald D. Smith (IN)
Kenneth W. Swisher (IL)
Melissa Tell (NY)
Jeremy N. Thompson (NY)
Charles R. Thompson, Jr. (KY)
William O. Wallen (IL)
Steven G. Wehrle (MO)
James H. Wilkey (ID)
Dion Williams, Jr. (ND)
Joseph M. Wilson, II (WA)
Scottie J. Wood (VA)
Jefferson Yazzie (NM)

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.

Dated: June 16, 2016.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA- 2016-0042]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

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

SUMMARY: FMCSA announces receipt of applications from 58 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 July 28, 2016.

ADDRESSES: You may submit comments to the Federal Docket Management System (FDMS) Docket No. FMCSA-2016-0042 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: 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