

the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

FMCSA provides medical advisory criteria in the Medical Examination Report at 49 CFR 391.43 for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate commercial motor vehicles in interstate commerce. The advisory criteria for 49 CFR 391.41(b)(8), indicates that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication.

The advisory criteria for 49 CFR 391.41(b)(9), indicates that a variety of functional disorders can cause drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving.

Summary of Applications

Jeremy Joseph Mertens

Mr. Mertens is a 26 year old Class B CDL holder in Pennsylvania. An October 6, 2015 report from his sleep medicine physician says (Mr. Martens) was diagnosed with narcolepsy in 2011. His physician report further states that Mr. Mertens is treated with Nuvigil daily and has no problems with daytime somnolence. He has never had any history of sleepiness while driving, cataplexy or loss of consciousness. He understands that he has to continue to have adequate total sleep time and take his Nuvigil as prescribed every single day. His employer provided a letter stating that throughout his eight years of employment he has never had any

problem performing his job duties because of his narcolepsy.

Michael Vaughn

Mr. Vaughn is a 31 year old non-CDL holder from Georgia. An August 27, 2015 letter from his neurologist reports that as recently as July 13, 2015, Mr. Vaughn's sleep apnea is managed on CPAP and he is on medication to help him maintain wakefulness during the daytime. His neurologist supports Mr. Vaughn's request for an exemption which would allow him to operate commercial motor vehicles as he is on medication. Mr. Vaughn reports that he takes the medication Nuvigil.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31316(e), FMCSA requests public comment from all interested persons on the applications for exemption described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: January 19, 2016.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2015-0069]

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 41 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 November 17, 2015. The exemptions expire on November 17, 2017.

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 October 15, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 41 individuals and requested comments from the public (80 FR 632155). The public comment period closed on November 16, 2015, and no comments were received.

FMCSA has evaluated the eligibility of the 41 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 41 applicants have had ITDM over a range of 1 to 39 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 October 15, 2015, **Federal Register** notice and they will not be repeated in this notice.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

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 41 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)):

David V. Bartel (MN)
Derwin M. Beckles (NJ)
John H. Bell Jr. (FL)
Robert G. Chadwick (UT)
Brian D. Correll (PA)
Stephen V. Danczak (OH)
Thomas W. Freeley (NY)
Jeffrey S. Gurcik (NJ)
Robert Hackney, Jr. (NJ)
Lawrence D. Hastings (WI)
Michael P. Haun (RI)
Anthony G. Hill (GA)
Charles H. Hillman (OR)
Alan L. Hodge (MN)
Hans G. Horschig (NM)
Nicholas C. Huber (IA)
Joseph S. Hurlburt (NY)
Robert J. Johnson (WA)
Christopher E. Jones (NY)
Roger L. Killion (NC)
Robert L. Lawson (SC)
Leroy Madison (SC)
Mark L. Martin (WA)
Wendell J. Matthews (MO)
Peter G. Mattos (VT)
Randy G. Moody (TN)

Michael J. Murray, Jr. (CA)
Joseph K. Neisen (IL)
Manuel Pereira (CT)
Herman Powell, Jr. (TX)
William H. Riley, Jr. (IL)
James W. Smith (SC)
Thomas H. Smith (WI)
Michael J. Swanson (IL)
Patrick J. Sweeney (NJ)
Richard T. Tabeling (KY)
David Tellez (MT)
Mark A. Turley (PA)
Kristi L. Turner (TX)
Jon T. Webster (MN)
Owen E. Whetzel (WV)

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: January 19, 2016.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2015-0068]

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 November 21, 2015. The exemptions expire on November 21, 2017.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200