

- Subjective sleepiness ratings, using the Karolinska Sleepiness Scale (KSS),<sup>4</sup> to measure drivers' perceptions of their fatigue levels.

- Sleep logs, in which drivers will document when they are going to sleep, when they wake up, and whether they are using the sleeper berth. For split-sleep days, drivers will record how and why they chose to split their sleep.

Other information that may be needed, such as vehicle miles traveled (VMT), will also be collected through the participating carrier. Every effort will be made to reduce the burden on the carrier in collecting and reporting this data.

### III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520) prohibits agencies from conducting information collection (IC) activities until they analyze the need for the collection of information and how the collected data will be managed. Agencies must also analyze whether technology could be used to reduce the burden imposed on those providing the data. The Agency must estimate the time burden required to respond to the IC requirements, such as the time required to complete a particular form. The Agency submits its IC analysis and burden estimate to OMB as a formal ICR; the Agency cannot conduct the information collection until OMB approves the ICR.

### IV. Summary of Public Comments Received

On June 27, 2017, FMCSA published a notice in the **Federal Register** (82 FR 29145) with a 60-day public comment period to announce this proposed information collection. As of the closing date of August 28, 2017, the agency received five comments in response to this notice.

One comment questioned the need for a pilot program given that the proposal is similar to the HOS rules prior to 2003. This commenter expressed an opinion that the HOS rules should just be reverted to the prior to 2003 HOS rules. While FMCSA understands the commenter's frustration with the process, our commitment to public safety requires us to conduct a pilot program to collect scientific data and achieve statistically significant findings before considering any revision to our current regulations.

Another commenter expressed a similar opinion regarding the HOS

rules, which he felt should never have been changed in 2003. He felt that the HOS needed to be changed and re-evaluated for every different division of CMVs, but did express support of flexibility in sleeper berth times. FMCSA appreciates this commenter taking the time to provide feedback on the HOS rules, but felt that this comment went beyond the scope of this pilot program; however, the Agency appreciates his support of allowing a flexible sleeper berth pilot program to move forward.

The remaining three commenters were supportive of the proposed Pilot Program and proposed information collection, and expressed an opinion that this would make the roads safer and allow drivers to manage their duty hours more efficiently and use common sense to not drive when tired. FMCSA appreciates this support for the program, and has not made any changes or revisions to the design of the study based on these comments.

Additionally, a **Federal Register** notice announcing the Pilot Program was published on June 6, 2017, to allow for 60-days of public comment regarding the proposed program. The comment period closed on August 7, 2017, and has received 232 unique (233 total, one duplicate) public comments to date. The vast majority (over 175) of these comments were positive in nature. Several commenters expressed a desire to participate in the study, and several wanted the study expanded to incorporate other exemptions. While FMCSA understands the desire from drivers to re-open the HOS rules, specifically the 14-hour rule, the Pilot Program is designed to look at only Flexible Sleeper Berth times in order to achieve statistically significant results without the potential for introducing confounding variables into the study.

Approximately 40 commenters responded in a negative manner to the 14-hour rule, or having too many regulations in place, but were not specific to the Flexible Sleeper Berth Program. The majority of commenters who responded agreed that the NAFMP should be recommended, not mandatory. One commenter felt the NAFMP should be mandatory; however, FMCSA felt that the majority of commenters agreeing with the current study design showed that we should move forward without changing the design. One commenter felt that the cameras in the vehicle were too burdensome, however, several others expressed that the data collection was reasonable for the scope of the study.

**Public Comments Invited:** You are asked to comment on any aspect of this

information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87 on October 20, 2017.

**G. Kelly Regal,**

*Associate Administrator for Office of Research and Information Technology.*

[FR Doc. 2017–23350 Filed 10–26–17; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2017–0039]

### 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 89 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on September 12, 2017. The exemptions expire on September 12, 2019.

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

<sup>4</sup> The KSS is a 9-point Likert-type scale ranging from “extremely alert” to “extremely sleepy” and has been widely used in the literature as a subjective assessment of alertness.

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., e.t., 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 <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

## II. Background

On August 10, 2017, FMCSA published a notice announcing receipt of applications from 89 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (82 FR 37486). The public comment period ended on September 11, 2017, and three comments were received.

FMCSA has evaluated the eligibility of these 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).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person:

Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

## III. Discussion of Comments

FMCSA received three comments in this proceeding. An anonymous commenter stated that they are in favor of granting "Greg" an exemption because he properly manages his diabetes. There are four Gregory's listed in this **Federal Register** and there was no distinction of which Gregory this comment supported. An anonymous commenter stated that they believe hypoglycemia is a risk and they are against allowing Diabetic CDL drivers an exemption without the use of a glucose sensing pump. Currently, the insulin method of delivery is a decision between the driver and their treating physician. Vicky Johnson stated that Minnesota DVS is in favor of granting exemptions to Bruce A. Freiermuth and Edward R. Gitz, both of whom are drivers from Minnesota.

## Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard 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.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 10, 2017 **Federal Register** notice (82 FR 37486) and will not be repeated in this notice.

These 89 applicants have had ITDM over a range of one 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 (two or more) severe hypoglycemic episodes in the past five 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).

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.

## IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must report within two 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) each driver must 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) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VI. Conclusion

Based upon its evaluation of the 89 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

James W. Ackerson (AZ)  
Harry R. Albright (PA)  
Pablo Alduende (NJ)  
Abe C. Applewhite (VA)  
William L. Bacon (WA)  
Eric M. Ballard (IN)  
Thomas R. Bingham (MT)  
Harley E. Boone (ID)  
Raymond P. Boskat, Sr. (NY)  
Kevin M. Bruton, Jr. (NY)  
Dylan J. Bryan (IL)  
Vincente Burciaga (TX)  
Roger E. Burkholder (IL)  
James M. Butcher (IA)  
Dino Chapman (TN)  
Glen C. Davis (TN)  
Glenn W. Davis (VA)  
Jimmy D. Davis (MO)  
Michael J. Dunnuck (CA)  
Billy R. Edge (AL)  
Craig Elgard (NJ)  
Filiberto Espinoza (CA)  
Julianne Estes (NH)  
Burl W. Fant (TX)  
Grant E. Featherly (NY)  
Ross G. Fogg, Jr. (NJ)  
Damon M. Free (GA)  
Raymond J. Freeman (TX)  
Bruce A. Freiermuth (MN)  
Alvin Frith (PA)  
Eric T. George (TX)  
Edward R. Gitz (MN)  
William E. Glaster (NM)  
Gregory C. Habel (ID)  
Kevin O. Hansen (ID)  
Richard A. Hanson (NJ)  
John J. Hoeke (SD)  
Howard R. Hudson (IL)

Michael T. Ilk (IN)  
 Ronald A. Jessop (RI)  
 Patrick A. Kelly (NC)  
 Vera M. Kipper (MO)  
 William A. Kitchens (GA)  
 Jerry R. Knight (WY)  
 Dick R. Kobayashi, Jr. (OR)  
 Roger P. Kukowski (WI)  
 Robert E. Lay (WA)  
 Gregory N. Lorenzi (WA)  
 Jake P. Mahoney (NY)  
 Ignatius Martin (NJ)  
 Ricky L. McCloskey (NE)  
 Carroll L. McCraw (NC)  
 Micah L. McDowell (NC)  
 Lonnell K. McKee (MO)  
 Kevin M. McKenna (MA)  
 Timothy S. Miller (WI)  
 Sammy Mouzone, Jr. (MI)  
 Timothy J. Mulvihill (SD)  
 Gregory J. Nixon (IN)  
 Anthony J. Njoroge (GA)  
 Robert N. Oakliff (CT)  
 Radame Perez (NY)  
 Gordon M. Peterson (IA)  
 Larry R. Predmore (PA)  
 Eric E. Ray (RI)  
 Angelo A. Reynoso (NJ)  
 Donald V. Rhoten, Jr. (MD)  
 William Rosado (NY)  
 Ryan M. Rosane (NE)  
 Solomon Rosenberg (NY)  
 James M. Roth (IN)  
 Robert J. Schlachter (IN)  
 D.S. Schneeberger (NY)  
 Robert F. Seiple (PA)  
 David M. Sheeran (NY)  
 John F. Smith (RI)  
 Mark E. Smith (PA)  
 Harley T. Steck (MO)  
 Ross M. Stirling (NV)  
 Dennis W. Thompson (WI)  
 Jose F. Toledo (OR)  
 Wayne A. Toms, Sr. (PA)  
 Gregory D. Vang (NE)  
 Charles H. Wainwright (NC)  
 Wayne G. Warren, Jr. (PA)  
 John G. Weinhofer (PA)  
 Grant E. Whetzel (SD)  
 Roger W. Yellow Boy (SD)  
 Richard L. Zelesket (MI)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date 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 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(e) and 31315.

Issued on: October 18, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2017-23345 Filed 10-26-17; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2016-0383]

#### 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 41 individuals from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** The exemptions were applicable on April 8, 2017. The exemptions expire on April 8, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-224, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., 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. 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., e.t., 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 <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

## II. Background

On March 8, 2017, FMCSA published a notice announcing receipt of applications from 41 individuals requesting an exemption from diabetes requirement in 49 CFR 391.41(b)(3) and requested comments from the public (82 FR 13050). The public comment period ended on April 7, 2017, and four comments were received.

FMCSA has evaluated the eligibility of these 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).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person:

Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

## III. Discussion of Comments

FMCSA received four comments in this proceeding. Janet Sandoval and two anonymous commenters stated that they are against granting Mr. Ta Canunpa W. Banks the exemption. Ms. Sandoval stated that she does not believe Mr. Banks is under sufficient medical care for diabetes and that all drivers should be required to regularly see an endocrinologist to ensure their diabetes is under control. Quarterly and annual monitoring by an endocrinologist and eye doctor is a stipulation of the exemption. Drivers are required to submit these reports to the Agency on a continuing basis while they hold an exemption. The first anonymous commenter stated that Mr. Banks provided falsified information in order to obtain a medical card. The second anonymous commenter did not provide a reason for their objection to granting Mr. Banks an exemption. A third anonymous commenter stated that they were in favor of granting the exemptions to all drivers listed in this notice, and that the previous three comments appear to be a "smear campaign" directed towards Mr. Banks as they have no documentation to support their claims. FMCSA investigated the claim that Mr. Banks provided falsified information in order to obtain a medical card. Mr. Banks did not disclose insulin use to his Medical Examiners on exams dated January 27, 2017 and February 14, 2017 based on his fear of losing his livelihood. However, he did disclose it in the exam submitted as part of his exemption application on November 11,