

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA–2013–0013]

**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 25 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 April 24, 2013. The exemptions expire on April 24, 2015.

**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 December 29, 2010 (75 FR 82132), or you may visit <http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf>.

**Background**

On March 5, 2013, FMCSA published a notice of receipt of Federal diabetes

exemption applications from 25 individuals and requested comments from the public (78 FR 14406). The public comment period closed on April 4, 2013, and one comment was received.

FMCSA has evaluated the eligibility of the 25 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 25 applicants have had ITDM over a range of 1 to 29 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 5, 2013, **Federal Register** notice and they will not be repeated in this notice.

**Discussion of Comments**

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

The Pennsylvania Department of Transportation is in favor of granting an exemption to Scott A. Carlson after reviewing his driving history.

**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 25 exemption applications, FMCSA exempts Christopher R. Anderson (MN), Brent T. Applebury (MO), Joseph A. Auchterlonie (NH), Brett D. Bertagnolli (IN), Brian T. Bofenkamp (WA), Scott A. Carlson (PA), Craig L. Falck (WI), John Fityere (NJ), Dana R. Griswold (VT), Ronald A. Heaps (OH), Martin A. Houts (IA), Michael T. Kraft (MN), Kris W. Lindsay (KS), Edward M. Lucynski (NJ), Wendell J. Matthews (MO), Patric L. Patten (NH), Darryl G. Rockwell (TX), John E. Ruth (IL), Gregory A. Smith (MO), Dwight E. Sory (CO), James M. Torklidson (WI), Terry R. Washa (NE), Alfred J. Williams (VA), Scott B. Wood (ND), and James L. Zore (IN) 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 1/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: April 12, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Petition for Exemption From the Vehicle Theft Prevention Standard; Maserati North America Inc.

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full Maserati North America Inc.'s, (Maserati) petition for an exemption of the Quattroporte vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard*. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541).

**DATES:** The exemption granted by this notice is effective beginning with the 2014 model year (MY).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, W43-439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366-5222. Her fax number is (202) 493-2990.

**SUPPLEMENTARY INFORMATION:** In a petition dated March 11, 2013, Maserati requested an exemption from the parts-marking requirements of the Theft Prevention Standard (49 CFR Part 541) for the MY 2014 Quattroporte vehicle line. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Maserati provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Quattroporte vehicle line. Maserati stated that all of its vehicles will be equipped with a passive, Sentry Key Immobilizer System (SKIS), a Vehicle Alarm System (VTA) and a Keyless Ignition System as standard equipment beginning with the 2014 model year. Key components of its SKIS antitheft device will include an Engine Power Control Module (ECM), Fuel Delivery, Starter Motor Circuit, and a Shaft Lock Module. Maserati's keyless ignition system will consist of a Key Fob with Remote Keyless Entry (RKE) Transmitter, RFHub and Keyless Ignition Node (KIN). Maserati will provide its VTA system as standard equipment. The VTA will provide perimeter protection by monitoring the vehicle doors, ignition switch and deck lid. The VTA alarm system includes an ultrasonic sensor to defeat motion

within the vehicle and has the ability to be armed without the intrusion sensor. Maserati stated that if unauthorized tampering with any of these protected areas is detected, the system will respond by pulsing the vehicle's horn/siren as an audible deterrent and flashing certain exterior lamps as a visual deterrent. Maserati's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

Maserati stated that the immobilizer device is automatically armed when the ignition is changed from the run position to the off position. Once activated, only the use of a valid key can disable immobilization and allow the vehicle to run. Specifically, Maserati stated that the device is disarmed by performing an unlock actuation via the RKE transmitter or by starting the vehicle with a valid RFHub key. Maserati stated that to start the vehicle, the driver must press and hold the brake pedal while pressing the START/STOP button. The system takes over and engages the starter causing the starter motor to run and disengage automatically when the engine is running. Maserati stated that the RFHub contains and controls the SKIS preventing unauthorized use of the vehicle by preventing the engine from running more than 2 seconds unless a valid FOB key is used to start the engine. Maserati also stated that the vehicle's key fob with RKE transmitter, RFHub and the KIN contains over 50,000 possible electronic key combinations and allows the driver to operate the ignition switch with the push of a button as long as the RKE transmitter is in the passenger compartment.

In addressing the specific content requirements of 543.6, Maserati provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Maserati conducted tests based on its own specified standards. Maserati provided a detailed list of the tests conducted (i.e., temperature and humidity cycling, high and low temperature cycling, mechanical shock, random vibration, thermal stress/shock tests, material resistance tests, dry heat, dust and fluid ingress tests). Maserati also stated that the VTA, including the immobilizer device and its related components, must meet design and durability requirements for full vehicle useful life (10 years/120k miles). Maserati stated that it believes that its device is reliable and durable because it