

visual fields in each eye as well as normal color vision. His best corrected visual acuity in his right eye is 20/20 and in his left eye 20/400. Following an examination in 2011, his optometrist noted, "In my opinion, the above mentioned findings qualify Mr. Pena to operate a commercial vehicle safely." Mr. Garcia-Pena reported that he has driven straight trucks for 14 years, accumulating 280,000 miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows two crashes; he was cited for one of the crashes, and no convictions for moving violations in a CMV.

*John M. Riley*

Mr. Riley, 34, has had amblyopia in his left eye since childhood. The best corrected visual acuity in right eye is 20/20 and in his left eye, 20/150. Following an examination in 2011, his optometrist noted, "In my medical opinion, I believe Mr. Riley has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Riley reported that he has driven straight trucks for 15 years, accumulating 750,000 miles and tractor-trailer combinations for 15 years, accumulating 675,000 miles. He holds a Class A CDL from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Jeffrey A. Sheets*

Mr. Sheets, 29, has aphakia in his right eye due to a traumatic injury sustained at age 3. The best corrected visual acuity in right eye is count-finger vision and in his left eye, 20/20. Following an examination in 2011, his optometrist noted, "In my opinion, Mr. Sheets does have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Sheets reported that he has driven straight trucks for 7 years, accumulating 525,000 miles and tractor-trailer combinations for 1 year, accumulating 20,000 miles. He holds a Class A CDL from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Scotty W. Sparks*

Mr. Sparks, 37, has had amblyopia in his left eye since birth. The best corrected visual acuity in right eye is 20/20 and in his left eye, 20/200. Following an examination in 2011, his optometrist noted, "It is my opinion that despite the poor visual acuity in Mr. Sparks left eye, he does have normal acuity in the right eye and normal visual fields in both eyes, allowing for

sufficient vision to perform the driving tasks required to operate a commercial motor vehicle in interstate commerce." Mr. Sparks reported that he has driven straight trucks for 12 years, accumulating 288,000 miles. He holds a Class B CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Scottie Stewart*

Mr. Stewart, 57, has had amblyopia in his right eye since childhood. The best corrected visual acuity in right eye is hand motion vision and in his left eye, 20/20. Following an examination in 2011, his ophthalmologist noted, "Patient has sufficient vision to perform said tasks required to operate a commercial vehicle." Mr. Stewart reported that he has driven tractor-trailer combinations for 23 years, accumulating 1.7 million miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

*Charles E. Stokes*

Mr. Stokes, 59, has complete loss of vision in his right eye. The best corrected visual acuity in right eye is hand motion vision and in his left eye, 20/25. Following an examination in 2011, his ophthalmologist noted, "Although both conditions can potentially be progressive, currently his monocular status and intact visual field would not prohibit him from operating a commercial vehicle." Mr. Stokes reported that he has driven straight trucks for 16 years, accumulating 1.5 million miles and tractor-trailer combinations for 18 years, accumulating 1.1 million miles. He holds a Class A CDL from Michigan. His driving record for the last 3 years shows two crashes in a CMV, for which he was cited, and no convictions for moving violations in a CMV.

*Timothy J. Sullivan*

Mr. Sullivan, 60, has complete loss of vision in his left eye due to a traumatic injury sustained in 1998. The best corrected visual acuity in right eye is 20/20 and in his left eye, light perception. Following an examination in 2011, his ophthalmologist noted, "In my medical opinion, I feel Mr. Sullivan has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Sullivan reported that he has driven straight for 18 years, accumulating 1.4 million miles. He holds a Class E operator's license from Florida. 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 April 23, 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: March 16, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2012-7088 Filed 3-22-12; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2012-0042]

**Qualification of Drivers; Exemption Applications; Diabetes Mellitus**

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

**ACTION:** Notice of applications for exemption from the diabetes mellitus requirement; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from nineteen 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 April 23, 2012.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0042 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:* Anyone may search the electronic form of all comments received into any of our 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, etc.). You may review DOT's Privacy Act Statement for the 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>.

**FOR FURTHER INFORMATION CONTACT:**

Elaine M. Papp, 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., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety

Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The nineteen individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

**Qualifications of Applicants**

*Joseph A. Bailey*

Mr. Bailey, age 60, has had ITDM since 2008. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bailey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a Commercial Motor Vehicle (CMV) safely. Mr. Bailey meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class B Commercial Driver's License (CDL) from Virginia.

*Patrick J. Beasley*

Mr. Beasley, 39, has had ITDM since 2011. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Beasley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beasley meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Tounce H. Gaskin*

Mr. Gaskin, 48, has had ITDM since 2004. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 2 years. His endocrinologist certifies that Mr. Gaskin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gaskin meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Connecticut.

*Joel Gonzalez*

Mr. Gonzalez, 23, has had ITDM since 2007. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gonzalez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gonzalez meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

*John G. Hager, Jr.*

Mr. Hager, 57, has had ITDM since 2011. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hager understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hager meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have

diabetic retinopathy. He holds a Class B CDL from New Jersey.

*Brian R. Hallisey*

Mr. Hallisey, 36, has had ITDM since 1988. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hallisey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hallisey meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Massachusetts.

*Charles C. Karver*

Mr. Karver, 60, has had ITDM since 2008. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Karver understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Karver meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Benjamin Kimbrough, Jr.*

Mr. Kimbrough, 50, has had ITDM since 2006. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kimbrough understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kimbrough meets the vision requirements of 49 CFR 391.41(b)(10).

His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

*Kevin T. Kruchan*

Mr. Kruchan, 26, has had ITDM since 1989. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kruchan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kruchan meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

*Jeffrey J. Lawrie*

Mr. Lawrie, 49, has had ITDM since 2012. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lawrie understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lawrie meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

*Raymond Pittman, Jr.*

Mr. Pittman, 52, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pittman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pittman meets the vision requirements of 49 CFR 391.41(b)(10).

His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Illinois.

*Christopher M. Reiman*

Mr. Reiman, 30, has had ITDM since 1985. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Reiman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Reiman meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Daniel J. Russell*

Mr. Russell, 39, has had ITDM since 2006. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Russell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Russell meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

*Donald L. Russell, Jr.*

Mr. Russell, 52, has had ITDM since 2009. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Russell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Russell meets the vision requirements of 49 CFR 391.41(b)(10).

His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

*Robert J. Smith*

Mr. Smith, 51, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

*Robert J. Socha*

Mr. Socha, 58, has had ITDM since 2010. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Socha understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Socha meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

*Brian A. Tatum*

Mr. Tatum, 39, has had ITDM since 1991. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Tatum understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tatum meets the vision requirements of 49 CFR 391.41(b)(10).

His ophthalmologist examined him in 2012 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Mississippi.

*Thomas C. Torbett*

Mr. Torbett, 38, has had ITDM since 1976. His endocrinologist examined him in 2012 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Torbett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Torbett meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2011 and certified that he does not have diabetic retinopathy. He holds a Class E operator's license from Missouri.

*Terry R. Wilker*

Mr. Wilker, 52, has had ITDM since 2009. His endocrinologist examined him in 2011 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wilker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wilker meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2011 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Minnesota.

### 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. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR

52441).<sup>1</sup> The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: March 16, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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<sup>1</sup> Section 4129(a) refers to the 2003 notice as a "final rule." However, the 2003 notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.