

Legacy for Users (SAFETEA-LU) requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).¹ 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) The elimination of the requirement for three years of experience operating CMVs while being treated with insulin; and (2) the 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.

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.

Dated: June 4, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of denials.

SUMMARY: FMCSA announces its denial of 330 applications from individuals who requested an exemption from the Federal vision standard applicable to interstate truck and bus drivers and the reasons for the denials. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions does not provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, 202-366-4001, U.S. Department of Transportation, FMCSA, 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 vision standard for a renewable two-year period if it finds "such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption." The procedures for requesting an exemption are set out in 49 CFR part 381.

Accordingly, FMCSA evaluated 330 individual exemption requests on their merits and made a determination that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption program. Each applicant has, prior to this notice, received a letter of final disposition on his/her exemption request. Those decision letters fully outlined the basis for the denial and constitute final Agency action. The list published today summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denials.

The following 38 applicants lacked sufficient driving experience during the three-year period prior to the date of their application.

Atkinson, Ray C.,
Bivens, Mark C.,
Chance, Thomas A.,
Christian, Travis M.,
Chupp, John,
Davis, Clayton T.,
Edler, III, John E.,
Engelen, Patricia,
Evertson, Jess C.,
Gilbert, Ron,
Goldman, Gary E.,
Gordy, David L.,
Haltiwanger, Ivory,
Haubrich, Eugene,
Kauffman, Herman,
Kaul, Bruce,
Kell, William B.,
Kelly, Thomas B.,
Law, Stevie J.,
Lettenberger, Steven A.,
Logan, Timothy R.,
Martin, Donald,
Merckling, Doyle W.,
Mullen, David A.,
Nelson, Roger L.,
Ottaway, David,
Reinhard, James,
Roeder, Michael A.,
Runde, Faber A.,
Salazar, Carlos E.,
Sarphe, Jeffery E.,
Seamster, Robert W.,
Suess, Richard A.,
Tallon, Thomas,
Tye, Charles L.,
Weiderhold, Russell S.,
Wenger, Jeff B.,
Wright, Jason D.

The following 52 applicants do not have any experience operating a CMV.

Bailey, Ryan B.,
Beach, Steven W.,
Berglund, Stanley K.,
Bowermaster, Tammy L.,
Broadstock, Donald R.,
Bushard, Eric P.,
Clifton, Richard T.,
Davidson, Larry A.,
Finnegan, Patrick J.,
Garza, Aaron F.,
Gomez, Roberto F.,
Gossett, Timothy M.,
Hammock, Jr., John W.,
Happ, Michael A.,
Harper, Kendrick L.,
Harris, Charles,
Hartzheim, Matthew L.,
Hirdes, Cary,
Hodo, Dustin M.,
Holliday, Jr., William A.,
Holloway, Jamie W.,
Homan, Brandon M.,
Irons, Jr., James S.,
Jones, Austin R.,

¹ 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.

Jones, Deborah A.,
 Lackey, John D.,
 Lockett, Antonio D.,
 Madrigal, Daniel S.,
 Maldonado, Edgardo L.,
 Malone, Michael E.,
 McCartney, Carlton L.,
 Merrill, Beau R.,
 Mickelson, Shane A.,
 Milton, Robert E.,
 Morris, Timothy J.,
 Morrison, Kevin A.,
 Murphy, Marvis L.,
 Plunkett, Thomas B.,
 Pollard, Todd J.,
 Ramos, Arturo C.,
 Roberts, William E.,
 Servatius, Randy P.,
 Shannon, Patrick L.,
 Silva, Jr., Juan M.,
 Spivey, Daniel L.,
 Sprague, Brian W.,
 Sullivan, Shannon S.,
 Theis, Glenn R.,
 Torres, Jr., Ramon,
 Tyler, Jr., Raymond E.,
 White, William S.,
 Williams, Aloysious L.

The following 70 applicants do not have 3 years of experience driving a CMV on public highways with the vision deficiency.

Bader, Lisa A.,
 Ballot, Frederick R.,
 Boice, Frederick A.,
 Brock, Richard W.,
 Brown, Robert L.,
 Burcham, Jimmy L.,
 Cockrum, William R.,
 Covert, LyDale M.,
 Davis, Kelly J.,
 Dellar, Andrew D.,
 Delossantos, Felicia,
 Derr, Gregory E.,
 Doran, Edward T.,
 Dukes, David,
 Espinoza, Jr., Ralph,
 Estrada, Sr., Henry,
 Flores, Alvaro,
 Frasier, Milan D.,
 Fulkerson, Gerald E.,
 Garvin, Sean T.,
 Gibson, Omar,
 Gragg, Danny L.,
 Gutierrez, Jr., Vicente,
 Gregerson, Paul A.,
 Harrison, David,
 Hayes, Patricia D.,
 Hill, Robert C.,
 Ingram, III, Warren H.,
 Janke, Edward R.,
 Jaso, Sr., Joe H.,
 Johnson, Artie E.,
 Johnson, Walter S.,
 Jones, Donald S.,
 Kelly, David L.,
 Kimkowski, Kevin M.,
 Knaack, Roger A.,

Lajoie, Daniel,
 Macias, Tom,
 Mancera, Carlos A.,
 O'Keeffe, Kevin C.,
 Painter, Ralph L.,
 Pierce, Patricia H.,
 Pineda, Louis A.,
 Pitts, Douglas,
 Rasmussen, Wesley J.,
 Ratcliff, Donna S.,
 Rice, Robert C.,
 Rosenthal, Donald A.,
 Rehnke, Jerald W.,
 Russell, Christopher O.,
 Shepherd, David F.,
 Siron, Percival C.,
 Smith, Sr., Richard A.,
 Sosa, Oscar A.,
 Statler, Randall C.,
 Stockwell, Kenneth D.,
 Susi, Jeffrey W.,
 Tonkinson, Greg M.,
 Truong, Quoc T.,
 Vanderpool, Jr., George F.,
 Varnum, Joseph K.,
 Vaughn, Joseph L.,
 Watkins, Sean M.,
 Watts, Anthony J.,
 Wiles, Kevin B.,
 Wiley, Larry R.,
 Williams, Jr., Olen L.,
 Williams, Reggie,
 Zanassi, Eric C.,
 Zitzmann, Timothy G.

The following 40 applicants do not have 3 years of recent experience driving a CMV with the vision deficiency.

Angeles, Joseph,
 Barnett, Jameson L.,
 Barragan, Omar,
 Blankenship, III, John L.,
 Bolbat, Thomas L.,
 Busby, James E.,
 Carroll, Michael J.,
 Davis, Robert Z.,
 DeMaster, Jason D.,
 Everett, Jr., Edward J.,
 Frederick, Douglas R.,
 Hachett, Jimmy E.,
 Hanson, Ronald M.,
 Hays, Michael L.,
 Holley, Terry C.,
 Hunt, Jefferson J.,
 Johnson, Jr., Deward,
 Johnson, Katie J.,
 Martin, Neville,
 Meyer, Douglas S.,
 Mikulcik, Stephen W.,
 Montoya, Pablo,
 Moss, Charles,
 Nabeshima, Erick G.,
 Neil, Harry S.,
 Peace, Anthony W.,
 Probst, Rick L.,
 Rossbach, Kenneth B.,
 Salter, Johnny,
 Skeete, Dana,

Snook, John T.,
 Spooner, Tom L.,
 Taylor, Richard E.,
 Treinen, Michael J.,
 Trosky, George R.,
 Trupia, Larry,
 Urscher, Eric A.,
 Whitney, Terry B.,
 Williams Jr., Robert L.,
 Zagorica, Osman

The following 7 applicants do not have verifiable proof of commercial driving experience over the past three years under normal highway operating conditions:

Broadway, Herman A.,
 Grantham, Anthony S.,
 Lowery, Michael W.,
 White, Jeffrey A.,
 Whitehead, Wayne A.,
 Lilly, Steven,
 Parrott, Jr., Bobby L.

The following 44 applicants do not have sufficient driving experience over the past 3 years under normal highway operating conditions.

Araya, Christian G.,
 Baxter, Roger D.,
 Benna, Robert A.,
 Bonillas, Mark S.,
 Borne, Robert L.,
 Botkins, David L.,
 Casey, John K.,
 Chaffee, Ryan C.,
 Coburn, Sr., Curtis G.,
 Cox, Bobby,
 Davidson, Dwayne S.,
 Fuentes, Henry U.,
 Garcia, Rogelio,
 Grison, Geno,
 Hall, Julian R.,
 Handzel, Michael J.,
 Harmer, Scott M.,
 Hartsell, Steven D.,
 Haslam, Grant L.,
 Holiday, Michael B.,
 Johnson, Van G.,
 Kinney, Kenneth L.,
 Maxwell, Brian D.,
 Mix, James A.,
 Nideiwodin, Victor,
 Nieves, Julio,
 Osborn, Clinton E.,
 Perez, Fernando,
 Pomerleau, Frank W.,
 Reyes, Angelo,
 Richart, Herman D.,
 Rothove, Melvin,
 Sastre, Jaime F.,
 Stewart, Ricky A.,
 Thomas, Charles R.,
 Turley, Charles E.,
 Urmston, Donald L.,
 VanBooven, Harold J.,
 Vann, Robert C.,
 White, Kirk J.,
 Williams, Matthew M.,
 Willson, Wilbur,

Wilson, Keith B.,
Winkley, Michael S.

The following 14 applicants had commercial driver's licenses suspensions during the three-year review period in relation to a moving violation. Applicants do not qualify for an exemption with a suspension during the three-year period.

Adair, William L.,
Bales, Jimmy,
Christensen, Ryan J.,
Demessa Michael D.,
Douglas, Bobby R.,
Figaro, Juan F.,
Foster, Jeramie P.,
Head, Jr., Clifton E.,
Lockley, Robert,
Malone, Emanuel N.,
Martin, Jr., Edward H.,
Ramirez, Ricardo,
Sanford, Willie J.,
Timmerman, David E.

The following 7 applicants do not hold a license which allowed operation of vehicles over 10,000 pounds for all or part of the three-year period.

Acrey, Sammy T.,
George, Gerry A.,
Helle, Kalen G.,
Phipps, Donald R.,
Routin, Kevin L.,
Stabeno, Lawrence E.,
Turner, Nickalous R.

The following 30 applicants were denied for miscellaneous/multiple reasons.

Bates, Danny K.,
Bauer, Jeffery A.,
Beauchamp, Robert O.,
Bolton, Sarah D.,
Bush, Arnold E.,
Chapman, Edward C.,
Coffin, Roland C.,
Davenport, Timothy A.,
Davis, David L.,
Delamarter, Kenneth G.,
Drevetzki, Mark P.,
Elsesser, Barry L.,
Estrella, Cliserio J.,
Farnsworth, Gary P.,
Field, Roy M.,
Green, Billy D.,
Haines, Thomas E.,
Harrison, David,
Harrison, Ernest L.,
Hasty, Brett K.,
Ladd, Harry A.,
Llamas, Martin,
Mariner, Mikeal W.,
McVicker, James R.,
Savely, Danny W.,
Scholz, Duane R.,
Sherfield, Sr., Timothy J.,
Sneath, Larry D.,
Taylor, Jessie J.,
Turner, Roy W.

Two applicants, William R. Cummings and Francis Popp, had more than 2 serious CMV violations within a three-year period. Each applicant is allowed a total of 2 moving violations, one of which can be serious.

Three applicants, Christopher L. Kervin, Jose P. Martinez and Robert G. Springer, were charged with a moving violation in conjunction with a CMV accident, which is a disqualifying offense.

One applicant, John C. Towner, contributed to an accident while operating a CMV. Applicants do not qualify for an exemption if they have contributed to an accident during the three-year review period.

Two applicants, James Peltier and Inocensio Patino, did not have sufficient peripheral vision in the better eye to qualify for an exemption.

One applicant, Patrick Leahy, had other medical conditions making him otherwise unqualified under the Federal Motor Carrier Safety Regulations.

One applicant, Allen L. Blackwell, Sr., did not submit all of the required documentation and therefore presented no verifiable evidence that he met the terms and conditions of the Federal vision exemption program.

One applicant, Dale E. St. Germaine, was disqualified because his vision was not stable for the entire three-year review period.

Finally, the following 17 applicants met the current federal vision standards. Exemptions are not required for applicants who meet the current regulations for vision.

Acierno, Luigi,
Benton, Thomas F.,
Davis, Jeff,
Forsberg, Ernest D.,
Furan, Robert D.,
Gonzalez, Juan C.,
Frach, Jeff,
Green, Billy D.,
Hilliard, David H.,
Horner, Charles,
Lambert, Charles W.,
Ports, Donald,
Pyle, David T.,
Lange, Royce E.,
Stubrich, Dennis W.,
Wade, Wayne L.,
Yancey, Keith.

Issued on: June 5, 2008.

Charles A. Horan,
Acting Associate Administrator for Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA-01-11426, FMCSA-03-16564, FMCSA-05-21711, FMCSA-05-22194, FMCSA-05-23099, FMCSA-06-23773]

Qualification of Drivers; Exemption Renewals; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA, in an earlier notice, announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 13 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has reviewed the comments submitted in response to the previous announcement and concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, 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:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption 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 notice was published on March 21, 2008 (FR 73 15254), and the comment period ended on April 21, 2008.

Discussion of Comments

FMCSA received no comments in this proceeding.