

FILE

PUCO EXHIBIT FILING

Date of Hearing: August 15th 2018

Case No. 17-2556-TR-CVF

PUCO Case Caption: IMO: Midwest Logistics
Systems, Ltd., Notice of Apparent
Violation and intent to Assess
Forfeiture.

STAFF EXHIBITS

- 1 - Notice of Preliminary Determination
- 2 - Case Review Report
- 3 - Part 391 Documentation, (CONFIDENTIAL)

RESPONDENT EXHIBITS

- 1 - Medical Examination Report, 12/29/12
(CONFIDENTIAL)
- 2 - Medical Examination Report, 3/29/13
(CONFIDENTIAL)
- 3 - Medical Examination Report, 3/21/14
(CONFIDENTIAL)
- 4 - Medical Examiner's Certificate 3/20/15,
with attachments (CONFIDENTIAL)
- 5 - Medical Examiner's Certificate,
expires 3/11/17, with attachments
(CONFIDENTIAL)
- 6 - Medical Examiner's Certificate 3/8/17,
with attachments (CONFIDENTIAL)
- 7 - FMCSA Medical Examiner Handbook

Reporter's Signature: _____
Date Submitted: _____

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PUCO

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Technician fe Date Processed 9/6/18

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before Ms. Stacie Cathcart, Attorney Examiner, at the Public Utilities Commission of Ohio, 180 East Broad Street, Room 11-D, Columbus, Ohio, called at 10:00 a.m. on Wednesday, August 15, 2018.

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Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedman
Daniel R. Conway

12/13/2017

CR201810190017
PETER J VOELKER
8779 STATE ROUTE 703
CELINA, OH 45822

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. CR201810190017

Dear Sir or Madam:

On 10/19/2017, a compliance review of your facility located at 7021 STATE ROUTE 703, CELINA, OH, U.S.A., 45822 was conducted. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified MIDWEST LOGISTICS SYSTEMS LTD (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	VIOLATION	FORFEITURE
391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.	0.00
391.11(b)(4)	Using a physically unqualified driver.	1000.00
395.8(f)	Failing to require driver to prepare record of duty status in form and manner prescribed.	0.00
391.11(b)(4)	Using a physically unqualified driver.	0.00
391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.	0.00
392.2	Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Unsafe Driving.	0.00

TOTAL AMOUNT DUE: \$1,000.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
www.PUCO.ohio.gov





Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against MIDWEST LOGISTICS SYSTEMS LTD in the following amount:

CODE	VIOLATION	FORFEITURE
391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.	0.00
391.11(b)(4)	Using a physically unqualified driver.	1000.00
395.8(f)	Failing to require driver to prepare record of duty status in form and manner prescribed.	0.00
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TOTAL AMOUNT DUE: \$1,000.00

Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing pursuant to rule 4901:2-7-13, O.A.C. Failure to file a written request for an administrative hearing within 30 days shall constitute a waiver of your right to further contest the violations and will conclusively establish the occurrence of the violations. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's office for collection.

Please consult the enclosed instruction sheet for additional information regarding this Notice of Preliminary Determination.

Sincerely,

Milan Orbovich, Director
Transportation Department

Compliance Officer: Michael Hines

180 East Broad Street
Columbus, Ohio 43215-3783

(614) 468-3018
www.PUCO.ohio.gov



Case View Report

Assigned CO: Michael Hines

Case Summary

Case Number: **CR201810190017**
 Respondent: **MIDWEST LOGISTICS SYSTEMS LTD**
 USDOT: **00774374**
 Address: **7021 STATE ROUTE 703**
CELINA, OH 45822
 Inspection: **CR on 10/19/2017 (75 days ago)**
 Status: **Admin Hearing Saved**
 Respondent Type: **Carrier**

Assessments Pending Review

Non-Hazmat: **0** Last Letter: **NPD**
 Hazmat: **0** Letter Sent: **12/14/2017**
 Compliance Review: **0**

Payment Summary

Assessed Amount: **\$1,000.00** Amount Due: **\$1,000.00**
 Balance Amount: **\$1,000.00**
 Payment: **No Payment has been made on this case.**

Case Violations

CR Assessments

Violation Code	Violation Description	Number of Violations	Assessed Amount	Post Conference Amount	Commission Ordered Forfeiture
391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.	1	\$0.00	\$0.00	
391.11(b)(4)	Using a physically unqualified driver.	1	\$1,000.00	\$1,000.00	
395.8(f)	Failing to require driver to prepare record of duty status in form and manner prescribed.	1	\$0.00	\$0.00	
391.11(b)(4)	Using a physically unqualified driver.	1	\$0.00	\$0.00	
391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.	1	\$0.00	\$0.00	
392.2	Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Unsafe Driving.	1	\$0.00	\$0.00	

History/Factor

Hazmat: **1** Non-Hazmat: **NA**

Additional Case Details

NAV Sent Date: **None** NIF Sent Date: **11/2/2017**
 Resend Date: **None** Conference Requested: **11/29/2017**
 Conference Date: **12/21/2017** Conference Time: **11:30:00 AM ET**
 NPD Sent Date: **12/14/2017** Settlement Sent Date: **None**
 Default Sent Date: **None** Show Cause Sent Date: **None**
 Payment Plan Sent Date: **None** Delinquent Letter Sent Date: **None**

PENGLAD 800-831-6889

EXHIBIT

Staff
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CR Assessment Worksheet

Assigned CO: Michael Hines

Case Summary

Case Number: **CR201810190017**
 Respondent: **MIDWEST LOGISTICS SYSTEMS LTD**
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CELINA, OH 45822
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391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.	1	\$0.00	\$0.00	
392.2	Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Unsafe Driving.	1	\$0.00	\$0.00	

Input Gross Revenue **172,042.00**

Add CR Assessment

Total Amounts

Assessed: **\$1,000.00** Post Conference: **\$1,000.00**
 Commission Ordered: **Total Fine: \$1,000.00**
 Save Fine

USDOT Number : 774374		Legal Name: MIDWEST LOGISTICS SYSTEMS LTD							
Review Type: CR		Operating Name:							
Status:		Physical Address: 8779 State Route 703							
Place: Principal Office		(County Code:) Celina, OH 45822							
Census Type:		Mailing Address: 8779 State Route 703							
Business: Corporation		(County Code:) Celina, OH 45822							
		MC/MX Number : MC-346709				Phone Numbers - Voice : (419)584-1414			
		Federal Tax ID # :				Fax : (419)584-0181			
Carrier Operation :		Interstate				Intrastate			
		Region				OIC		Territory E	
Class : (01) Authorized for Hire									
Cargo Classification : (GF) General Freight, (ZZ) Other									
Hazardous Materials : (C=Carried S=Shipped M=Carried and Shipped B=Bulk N=Non-Bulk A=Bulk and Non-Bulk)									
Class 9 Miscellaneous Hazardous Material C N									
Equipment	Trucks	Truck Tractors	Trailers	HM Tank Trailers	HM Tank Trucks	Motor Coaches	School Buses	Limos	Pass. Vans
Owned	0	0	0	0	0	0	0	0	0
Term Lease	0	854	3,289	0	0	0	0	0	0
Trip Lease	0	0	0	0	0	0	0	0	0
Drivers:				Interstate		Intrastate		Total Drivers: 1,093	
< 100 miles:				21		139		CDL Drivers: 1,093	
>=100 miles:				781		152		Trip Lease/Mo: 0	
								State Census #: 129339	
								Placards: No	
THIS IS A FACSIMILE OF THE ORIGINAL REPORT									

Person(s) Interviewed: Ellen J. Welker		Kara Wagner	
Title: VP of Operations		Office/Administration	
Received by: Ellen J. Welker		Title: VP of Operations	
Reported by: Blackburn		Title:	Code: OH0426
		Date:	10/19/2017

Safetynet

Part A

Printed

11/02/2017

02:07

Compliance Review	MIDWEST LOGISTICS SYSTEMS LTD	Date: 10/19/2017
	USDOT Number : 774374	Page 1 of 8
THIS IS A FACSIMILE OF THE ORIGINAL REPORT		

Violations:

Seq. Federal Violation	1	Primary: 392.2	Number Found	1	Number Checked	1	Drivers/Vhcls In Viol Chkd	0 of 0
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Operating a commercial motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated - Unsafe Driving.

Example: On 10/11/2017 the FMCSA and State or local commercial vehicle safety partners have identified violations across multiple inspections at the roadside over the previous 24 months that are reflected in the Unsafe Driving BASIC of the Carrier Safety Measurement System. This carrier has been the subject of 773 total inspections in the last 12 months: 581 were interstate inspections, 113 were intrastate inspections. 125 of the interstate inspections and 18 of the intrastate inspections revealed an Unsafe Driving violation.

Example: Driver Michael W. Hughes, trip date 08/28/17, Lincoln, AL-Bowling Green, KY, the driver was cited for speeding (15 MPH over the posted limit, 50 in a 35 MPH zone) during a roadside inspection in the State of Tennessee (inspection report #TNTEOZ000110).

Seq. State Violation	2	Primary: 391.45(b)(1) Secondary: 4901:2-5-03 Federal Equivalent: 391.45(b)(1)	Number Found	0	Number Checked	7	Drivers/Vhcls In Viol Chkd	0 of 7
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Using a driver not medically examined and certified during the preceding 24 months.

Example: No intrastate violations noted - see also federal/interstate violation.

Seq. State Violation	3	Primary: 391.11(b)(4) Secondary: 4901:2-5-03 Federal Equivalent: 391.11(b)(4)	Number Found	1	Number Checked	7	Drivers/Vhcls In Viol Chkd	1 of 7
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Using a physically unqualified driver.

Example: Driver David Q. Goubeaux, DOH 11/18/06, trip date 09/05/17, Saint Marys, OH-Mansfield, OH, driver Goubeaux uses an insulin pump to control diabetes and does not currently hold an intrastate or interstate medical waiver for insulin dependent diabetes and cannot be medically qualified without one.

Received by: Ellen J. Welker	Title: VP of Operations
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Safetynet

Part B

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Compliance Review	MIDWEST LOGISTICS SYSTEMS LTD	Date: 10/19/2017
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Seq. 4 Federal Violation	Primary: 391.45(b)(1) Secondary: 391.11(a)	Number Found 2	Number Checked 73	Drivers/Vhcls In Viol Chkd 2 of 73
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Using a driver not medically examined and certified during the preceding 24 months.

Example: Driver Kenneth (Neil) Corbin, DOB 10/09/02, Mr. Corbin had a MEC card lapse, expired 08/08/17, and renewed 08/15/2017. Mr. Corbin made a trip on 08/09/2017, Mansfield, OH to Boaz, AL at the time without a valid MEC card.

Seq. 5 Federal Violation	[A] Primary: 391.11(b)(4) Secondary: 391.11(a)	Number Found 0	Number Checked 73	Drivers/Vhcls In Viol Chkd 0 of 73
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Using a physically unqualified driver.

Example: No interstate violations noted - see also intrastate violation.

Seq. 6 Federal Violation	Primary: 395.8(f)	Number Found 21	Number Checked 994	Drivers/Vhcls In Viol Chkd 2 of 35
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Failing to require driver to prepare record of duty status in form and manner prescribed.

Example: Driver Sylvester Esaw, trip date 08/21/17, Little Rock, AR-Waverly, TN, the driver logged time getting fuel as off duty on that day (counts include drivers and RODS reviewed for recordable accidents in the 6 month period prior to 10/11/17).

Safety Fitness Rating Information:				Rating			Points	
				Factors			# of	# of
Total Miles Operated:	91,700,134						Acute	Critical
Recordable Crashes:	50							
Recordable Crashes / Million Miles:								
OOS Vehicles (CR):	0			Factor 1:	S	0	0	0
# of Vehicles Inspected (CR):	0			Factor 2:	C	1	0	0
OOS Vehicles (MCMIS):	7			Factor 3:	S	0	0	0
# of Vehicles Inspected (MCMIS):	80			Factor 4:	S	0	0	0
				Factor 5:	S	0	0	0
				Factor 6:	S	-	-	-

Received by: Ellen J. Welker	Title: VP of Operations
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Safetynet

Part B

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Recommendations:

UNSAFE DRIVING BASIC PROCESS BREAKDOWN: Meaningful Action

DESCRIPTION OF PROCESS BREAKDOWN

Officials within Midwest Logistics Systems LTD currently have an unsafe driving policy. Notwithstanding, the meaningful action was not applied uniformly and stringently until after the most recent investigation on 08/10/16. Nonetheless, it appears the driver population has responded to the stringent meaningful action currently being applied per company policy. For example, there have one hundred thirty-two (132) unsafe driving violations in the 365 day period prior to 10/11/17. There were one hundred sixty-four (164) unsafe driving violations in the 12 month period prior to 10/11/17, equating to a roughly 20% decrease in unsafe driving violations since the last audit. Albeit, at least one (1) of the unsafe driving violations in the 365 day period prior to 10/11/17 was serious in nature. It is imperative that you continue to enforce uniform stringent meaningful action on the ENTIRE driver population in order to continue the downward trend in unsafe driving practices. Although meaningful action has been targeted as the primary source of the investigation violations, management personnel should also the other areas provided during the investigation (i.e. training, policies/procedures, etc.). For example, strongly consider expanding your current unsafe driving policies/procedures to include more stringent meaningful action and/or bonuses. This breakdown has led to several unsafe driving violations during roadside inspections and the violation for Unsafe Driving noted in this audit report. This breakdown most likely has also led to the high score within the Unsafe Driving BASIC category. Moreover, the breakdown/violation(s) has exposed the company, the drivers, and the general public to unnecessary potential risk/liability. Lastly, ardently consider the higher probability for drivers who commit such violations to be involved in a serious future recordable crash (regardless of fault).

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Meaningful Action.

- ? Design and implement incentives and/or recognition programs in order to reward and encourage safe-driving behavior - for example, including bonuses, gift certificates, and/or verbal recognition for clean inspections, no crashes, and/or fuel efficiency.
- ? Reward dispatchers, terminal managers, and safety directors for having a low percentage of runs without unsafe-driving violations. Do not use on-time delivery incentives, which could encourage speeding.
- ? Consider paying drivers by the hour instead of by the load or mileage to encourage them not to speed.
- ? Give employees immediate feedback and require corrective action as soon as the company is aware that responsibilities related to unsafe-driving issues are not being fulfilled.
- ? Provide required remedial training to employees with unsafe-driving performance issues that can be addressed by enhancing their knowledge and skills.
- ? Implement a disciplinary policy where potential disciplinary measures correspond to risk posed, with violations associated with high-consequence accidents or incidents being punished more severely.
- ? Discipline carrier officials for knowingly and willfully allowing violations of unsafe-driving regulations - for example, for encouraging drivers to speed.
- ? If a problem related to unsafe driving is systemic, make adjustments to one or more of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

Seek Out Resources:

- ? You are encouraged to review your company's record at the following website: <http://al.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- ? Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

1. DRIVER FITNESS BASIC PROCESS BREAKDOWN: Monitoring and Tracking

DESCRIPTION OF PROCESS BREAKDOWN

Officials within Midwest Logistics Systems LTD currently have a system in place for monitoring when various driver qualification items are due (i.e. annual MVR's, CDL's, MEC's, etc.). Nonetheless, company officials failed to monitor and track some of

Received by: Ellen J. Welker	Title: VP of Operations
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the data. Specifically, the data related to the MEC renewal/standard was not monitored properly to ensure driver(s) were fully qualified at all times and/or that the MEC had been renewed properly. Although monitoring and tracking has been targeted as the primary source of the investigation violation(s), a secondary course of action of training and communication/roles and responsibilities is also being recommended. Management personnel should obtain refresher training related to the Driver Fitness/Qualification requirements. The roles and responsibilities for said individuals should be clearly identified and defined. The breakdown has caused the violations pertaining to driver qualification noted in this audit report. Lastly, the breakdown/violation(s) has exposed the company, the drivers, and the general public to unnecessary potential risk/liability.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Monitoring and Tracking Processes.

- ? Implement an effective process for monitoring and documenting all drivers' job functions, training, qualifications, renewal dates, disclosed medical conditions, and operational restrictions, including those of drivers on a waiver program or with impairments that may be satisfied by a Skill Performance Evaluation certificate, to ensure that assignments are covered by qualified drivers.
- ? Review and retain each driver's Motor Vehicle Record (MVR) at least annually to ensure compliance with company policies, Federal regulations, and State and local laws and ordinances related to driver fitness. If a driver seems to have numerous violations, the MVR should be reviewed more often. Random MVR checks in addition to annual checks are also effective. File the MVR in each driver's driver qualification file after review.
- ? Maintain each driver's investigation history file in a secure location with limited and controlled access for as long as the driver is employed and for three years thereafter.
- ? Maintain roadside inspection reports, moving violation records, training records, the Commercial Driver's License (CDL), the dispatch schedule, bills of lading, and the medical report to help evaluate the performance of all staff involved in qualifying drivers (dispatchers and managers) and the effectiveness of the policies and procedures.
- ? Implement a system for keeping accurate records of employee driver fitness training needs, such as entry-level and HAZMAT training, and completed training, via software, a checklist in the driver's file, and/or another appropriate method.
- ? Evaluate personnel who are monitoring driver fitness performance by making sure they are reviewing driver-assignment and qualification files; applying the performance standards fairly, consistently, and equitably; and documenting the evaluations.
- ? Regularly evaluate the company's driver fitness-related inspection results via the Federal Motor Carrier Safety Administration's (FMCSA) website at <http://ai.fmcsa.dot.gov/SMS>. Assess violations for process breakdowns and how to remedy them. Use data to help implement an effective process beyond self-reporting to monitor, document, and evaluate compliance with driver-fitness regulations and company policies.
- ? When monitoring and tracking any driver-fitness-related issue, always assess whether it is individual or represents a systemic breakdown in one of the Safety Management Processes (Policies and Procedures, Roles and Responsibilities, etc.).

HAZMAT Carriers Only:

- ? Ensure that HAZMAT assignments are allocated
2. CRASH INDICATOR BASIC PROCESS BREAKDOWN: Training and Communication

DESCRIPTION OF PROCESS BREAKDOWN

The USDOT/FMCSA/PUCO recommends ongoing driver training on topics inclusive of accident prevention, accident countermeasures, defensive driving, distracted driving, and related behaviors to impact both the number and severity of crashes experienced by your drivers. This recommendation is being provided to you because of the volume of recordable crashes within the 24 month period prior to the initiation of this investigation. In addition to driver training, recommendations suggested during the audit included development of internal accident procedures (management) and development of an accident policy/manual (drivers).

Available evidence revealed drivers for Midwest Logistics Systems LTD were involved in one hundred and eleven (111) recordable crashes within the 24 month period prior to 10/11/17. Available evidence indicated the driver was not cited (at fault) in a vast majority of the instances. Notwithstanding, the lack of a periodic training program that teaches and reminds drivers of, for example, the hazards of driver inattention, city driving conditions, speeding in construction zones, rural to city driving zones, and driving too fast for conditions, etc. could be a contributing factor for this process breakdown. This training should also

Received by: Ellen J. Welker	Title: VP of Operations
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include "refresher" information about driving in inclement weather and ever-changing roadway scenarios/conditions (i.e. construction zones, high congestion areas, rough road surface, etc.). Additionally, current management staff within the organization should receive training on various aspects of recordable crashes (i.e. what constitutes a recordable crash, accident register, post accident controlled substances/alcohol testing, etc.). Management should also fervently consider updating company policies/procedures relating to crashes and include more explicit instructions/procedures for ALL crashes.

BASIC SPECIFIC RECOMMENDED REMEDIES

Implement Safety Improvement Practices: The following are recommended practices related to Communication and Training.

- ? Communicate expectations for adhering to safe driving regulations and company policies and procedures to all staff, and provide new hire and refresher training and company communication channels to support meeting those expectations.
- ? Implement a training/testing program that includes hands-on demonstrations of safe driving with a focus on defensive driving skills and techniques and crash avoidance. Create opportunities for individual instruction and coaching as appropriate.
- ? Reinforce training by developing job aids and/or establishing communication channels for all staff.
- ? Ensure that managers and supervisors regularly communicate with their drivers and demonstrate their commitment to the management of safety and safe driving, in particular.

HAZMAT Carrier Only:

- ? Ensure that drivers of HAZMAT loads are trained in special vehicle handling characteristics, including the high center of gravity; fluid load subject to surge and the effects of the surge on braking; differences in stability among baffled, unbaffled, and multicompartiment tanks; and the effects of partial loads on vehicle stability.

Seek Out Resources:

- ? You are encouraged to review your company's record at the following website: <http://ai.fmcsa.dot.gov/SMS>. You will need to use your PIN Number that has been provided by the FMCSA.
- ? Contact industry associations to get resources and ideas on safety improvement practices from other carriers in the industry.

3. Your company currently has (or has employed in the past) one (1) or more drivers who fall into the "Worst 1%" (as rated by the FMCSA's Driver Safety Measurement System) classification in one or more BASIC categories. This classification/score includes ALL drivers throughout the nation. If you continue to employ the driver(s) and/or continue to hire drivers with these violation patterns, negative consequences may result. For example, ardently consider the higher probability for drivers who commit such violations to be involved in a serious future recordable crash (regardless of fault). Crashes may result in loss of life, litigation, loss of cargo, safety rating implications, insurance rate increases, fines, penalties, and possible criminal incarceration, just to name a few. Please consider using the tools (especially at the time of hire) provided to you during this investigation to mitigate the potential for utilizing a driver with a SERIOUS pattern of non-compliance.

Company Official's Signature

4. Ensure that records of duty status (logs) contain all required information and are completed properly by the drivers (reference FMCSR 395.8 and the interpretations to that section).
5. IF A MEDICAL EXAMINER'S CERTIFICATE IS REQUIRED: Ensure that each CDL driver has properly self-certified their medical certification status with the Bureau of Motor Vehicles within the state of licensure. For CDL drivers who operate in interstate commerce, the proper certification is "Non-Excepted - Interstate." For CDL drivers who operate solely in intrastate commerce, the proper certification is "Non-Excepted - Intrastate."
6. ***CHAMELEON ACTIVITY PROHIBITED***

The practice of "re-incarnation" by creating a successor or affiliated company and transferring operation to a new USDOT / MC number in order to evade prior safety history or Agency action is prohibited.

The FMCSA may issue an out-of-service order to prohibit a motor carrier, intermodal equipment provider, broker, or freight forwarder from conducting operations subject to FMCSA jurisdiction upon a determination that the motor carrier, intermodal equipment provider, broker, or freight forwarder or an officer, employee, agent, or authorized representative of such an entity,

Received by: Ellen J. Welker	Title: VP of Operations
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Compliance Review	MIDWEST LOGISTICS SYSTEMS LTD	Date: 10/19/2017
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operated or attempted to operate a motor carrier, intermodal equipment provider, broker, or freight forwarder under a new identity or as an affiliated entity to:

- (1) Avoid complying with an FMCSA order;
- (2) Avoid complying with a statutory or regulatory requirement;
- (3) Avoid paying a civil penalty;
- (4) Avoid responding to an enforcement action; or
- (5) Avoid being linked with a negative compliance history.

Violations of any order resulting from the discovery of "chameleon" activity under these requirements may apply in amounts of up to \$18,000 per day the operation continues in violation.

A copy of Federal Register Vol. 77, No. 81 published 4/26/2012 regarding Agency Rules of Practice may be obtained from www.gpo.gov. Rules relating to chameleon activity are found in 49 CFR Part 386.

7. Just like the Personal Identification Number (PIN) for your banking and credit cards, you should protect your Motor Carrier Personal Identification Number (PIN). Your PIN is your personal identifier and should not be shared with anyone you have not authorized to make changes to your Motor Carrier status.

Your PIN allows access to your USDOT data and to make changes or updates to your company's information, including identification updates, name and address changes, transfers, and voluntary revocations.

To update your US DOT number Registration information, you will need your USDOT number and US DOT number PIN.

Please visit:
https://li-public.fmcsa.dot.gov/LIVIEW/PKG_REGISTRATION.prc_option

Then choose the following to begin the update process:
 "I need to update my USDOT number registration information or file my biennial update."

Remember to keep your PIN in a safe place. Only share your PIN with individuals you have authorized to make changes to your FMCSA records. An added safeguard is to conduct regular checks of your company information in the FMCSA System.

If you suspect your Personal Identification Number has been compromised, please change your PIN immediately! If you experience difficulty changing your PIN contact the Federal Motor Carrier Safety Administration's Information Line at 1-800-832-5660 for assistance.

8. Remind drivers of the drugs and other substances prohibitions contained in 392.4 of the FMCSR's. There was at least one drug violation noted on the carrier profile.
9. Do not schedule or require drivers to make trips requiring them to exceed posted speed limits in order to complete the run within the hours of service limits. There were numerous instances of speeding violations noted on your carrier profile and/or in your drivers' driving records/MVR's. These types of moving violations indicate haphazard driving habits. Take appropriate action against drivers with severe patterns of moving violations.
10. Remind all drivers that seat belts are required to be worn at all times while driving commercial motor vehicles. There was at least one (1) instance of a seat belt violation noted either on your company profile or within the CDL license verifications performed during the audit.
11. Use of radar detectors or similar devices on commercial vehicles is illegal. Do not require or permit drivers to use them. Take appropriate disciplinary action against drivers if they are using such devices. There was at least one (1) instance of radar detector use noted on your company profile.
12. Remind all drivers to drive defensively while operating commercial motor vehicles. There was at least one (1) instance of a serious moving violation noted either on your company profile or within the CDL license verifications performed during the audit.

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13. Do not allow drivers to operate regulated vehicles unless they have been physically examined and certified as required.
14. Periodically have your drivers attend a safe/defensive driving seminar. Remind drivers of the importance of defensive driving at all times. Use necessary means to prevent future recordable accidents from taking place.
15. Drivers who are diabetics and who take insulin to control their condition are not qualified to drive in interstate/intrastate commerce.
16. Document and Follow Through on Action Plans: Document and follow through on action plans to ensure the actions you are taking are creating improvement in safety management and compliance.
17. NOTICE: A pattern and/or repeated violations of the same or related acute or critical regulations (violations of the same Part in Title 49, Code of Federal Regulations) will cause the maximum penalties allowed by law to be assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). A pattern of violations means two or more violations of acute and/or critical regulations in three or more Parts of Title 49, Code of Federal Regulations discovered during any eligible investigation. Repeated violations means violation(s) of an acute regulation of the same Part of Title 49, Code of Federal Regulations discovered in an investigation after one or more closed enforcement actions within a six year period and/or violation(s) of a critical regulation in the same Part of Title 49, Code of Federal Regulations discovered in an investigation after two or more closed enforcement actions within a six year period.
18. Supporting documents are the records of the motor carrier which are maintained in the ordinary course of business and may be used by the motor carrier to verify the information recorded on the driver's record of duty status. Effective 12/19/2008, the FMCSA formally adopted a policy of including GPS and other advanced technology records as supporting documents (see Federal Register Vol. 73 No. 224, 11/19/2008). Failure to maintain such records for six months as required will result in your company being cited and/or penalized for failure to maintain supporting documents.

Other examples of supporting documents you should maintain are: Bills of lading, carrier pros, freight bills, dispatch records, driver call-in records, gate record receipts, weight/scale tickets, fuel receipts, fuel billing statements, toll receipts, international registration plan receipts, international fuel tax agreement receipts, trip permits, port of entry receipts, cash advance receipts, delivery receipts, lumper receipts, interchange and inspection reports, lessor settlement sheets, over/short and damage reports, agricultural inspection reports, CVSA reports, accident reports, telephone billing statements, credit card receipts, driver fax reports, on-board computer reports, border crossing reports, custom declarations, traffic citations, overweight/oversize reports and citations, and/or other documents directly related to the motor carrier's operation, which are retained by the motor carrier in connection with the operation of its transportation business. Supporting documents may include other documents which the motor carrier maintains and can be used to verify information on the driver's records of duty status. If these records are maintained at locations other than the principal place of business but are not used by the motor carrier for verification purposes, they must be forwarded to the principal place of business upon a request by an authorized representative of the FMCSA or State official within 2 business days.

19. COMPASS PORTAL COMPANY ACCESS ACCOUNT - The COMPASS program is an FMCSA-wide initiative that is leveraging new technology to transform the way the FMCSA does business. The ultimate goal is to implement a customer-centric information technology (IT) solution that optimizes FMCSA's business processes and improves the Agency's ability to save lives. Key objectives include (1) creating a single source for crucial safety data via single sign-on access, (2) improving data quality to ensure better, more informed decision-making and (3) providing actionable information as well as data. For companies, the FMCSA Portal provides single sign-on access to L&I, DataQs, Analysis and Information (A&I) Online, and the National Consumer Complaint Database (NCCDB) via a single password and user ID. Company users can also access public functionality in L&I, SAFER, Commercial Vehicle Information Systems and Networks (CVISN), and the National Hazardous Material Route Registry (NHMRR) as well as the "Protect Your Move" and "Share the Road Safely" Web sites. To register for a COMPASS account, go to: <https://portal.fmcsa.dot.gov>.

Company access accounts are available to the following types of users: (1) carriers with a USDOT number and (2) carrier employees or other professionals (i.e. freight-forwarders, insurance companies) who need access to carrier information. Note: You must know the carrier's USDOT Number. In order to set up an account, you must know the user account type that you are

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requesting A Company Official Account is for a person who will have full access to company information, and the ability and responsibility of approving and managing account requests from Company Employees. Note: There will be only one Company Official for each USDOT#. To request a Company Official user account, you must have the PIN associated with your USDOT#. If you do not have a PIN, or do not know your PIN, go to the USDOT PIN Request. An Access Company Information Account is for a person who needs access to limited company information, but is not responsible for managing accounts or other users. For additional information about COMPASS, go to <http://www.fmcsa.dot.gov/about/what-we-do/keyprograms/compass-factsheet.htm>.

20. All motor carriers and truck drivers are needed to fight against terrorism and hijacking. You could be a target. Protect yourself, your trucks, your cargo, and your facilities. If you see an incident in Ohio the Ohio State Highway Patrol can be directly reached at #877 (non-emergency number) or 911 for the nearest police department. Discuss with your employees/drivers the "Security Measures for Truck Drivers and Companies" which are available online. Carriers should visit the following website for more information: <http://www.fmcsa.dot.gov/documents/Hijacking-Brochure.pdf>
21. Understand Why Compliance Saves Time and Money: Compliance with FMCSRs will not only save lives, but also saves your business time and money. Tracking how much your business spends on non-compliance activities can help you understand the many benefits of compliance to your business and why safety is good business.
22. NOTICE: 49 CFR Part 391.23 requires prospective employers to, at a minimum, investigate a driver's employment information, crash record, and alcohol and controlled substances history from all employers the driver worked for within the previous 3 years.

The Pre-Employment Screening Program (PSP) is a screening tool that assists motor carriers in investigating crash history and roadside safety performance of prospective drivers. The PSP allows motor carriers to purchase 5 years of crash data and 3 years of roadside inspection data from the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Management Information System (MCMIS). Records are available 24 hours a day via Web request. Motor carriers should visit the following website for more information: <http://www.psp.fmcsa.dot.gov/Pages/default.aspx>

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Intra-Agency Memorandum	MIDWEST LOGISTICS SYSTEMS LTD	Date: 10/19/2017
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Reason for Review:

Planned Action:

Parts Reviewed:

325	382	383	387	390	391	392	393	395	396	397	398	399	171	172	173	177	178	180
No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes	No	No

Prior Reviews

08/10/2016

08/27/2014

07/25/2012

Prosecutions

12/09/2016

Follow Up:

Special Studies:

Locator 1:

Locator 2:

FACSIMILE

Could an UNSATISFACTORY Safety Rating result in 45 day shutdown procedures?

Unsat/Unfit Information

Does Passenger Vehicle transport more than 15 passengers, including driver?

Does carrier transport placardable quantities of HM?

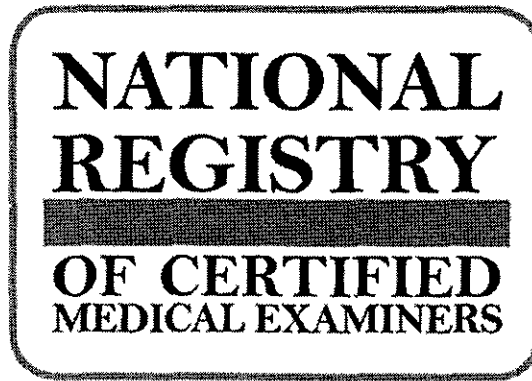
Unsat/Unfit Rule:

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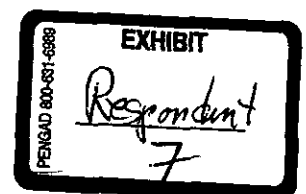
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**Federal Motor Carrier Safety Administration
(FMCSA)**

Medical Examiner Handbook



Regulations — You must evaluate

On examination, does the driver have:

- Glycosuria (dip stick urinalysis)?
- Signs of target organ damage associated with dysfunction of the senses, including:
 - Retinopathy?
 - Macular degeneration?
 - Peripheral neuropathy?
- Signs of target organ damage that can cause gradual or sudden incapacitation, including:
 - Coronary heart disease?
 - Cerebrovascular disease, including:
 - Transient ischemic attack?
 - Embolic or thrombotic stroke?
 - Peripheral vascular disease?
 - Autonomic neuropathy?
 - Nephropathy?

Record

Regulations — You must document discussion with the driver about

- Any affirmative history, including if available:
 - Onset date, diagnosis.
 - Medication(s), dose, and frequency.
 - Any current limitation(s).
- Potential negative effects of medication use, including over-the-counter medications, while driving.
- Any abnormal finding(s), noting:
 - Effect on driver ability to operate a CMV safely.
 - Necessary steps to correct the condition as soon as possible, particularly if the condition, if neglected, could result in more serious illness that might affect driving.
- Any additional medical tests and evaluation.

REMEMBER: The diabetes qualification standard parameter is use of insulin, not the diagnosis of diabetes mellitus.

Advisory Criteria/Guidance

Diabetes Mellitus

The driver with diabetes mellitus who does not use insulin is eligible for certification, unless the driver also has a disqualifying complication, comorbidity, or fails to meet one or more of the other standards for qualification.

You may choose to consult with the primary care provider and/or specialist to adequately assess driver medical fitness for duty. When requesting additional evaluation, including a copy of the Medical Examination Report form description of the driver role and medical standards is helpful.

Remember that the provider treating the driver is primarily concerned with minimizing target organ damage associated with elevated levels of blood glucose. As a medical examiner, your assessing any driver with diabetes mellitus for the risk of a severe hypoglycemic episode is the most critical and challenging safety issue.

NOTE: If the driver with diabetes mellitus uses insulin, use the *Federal Diabetes Exemption Program and insulin therapy guidelines* to determine certification status. See the Federal Diabetes Exemption Program section of this document.

Waiting Period

No recommended time frame

You should not certify the driver until the treatment has been shown to be adequate/effective, safe, and stable.

Decision

Maximum certification — 2 years

NOTE: Because of the progressive nature of diabetes mellitus, the Federal Motor Carrier Safety Administration (FMCSA) believes that 1 year maximum certification time is reasonable when the driver has a diagnosis of diabetes mellitus.

Recommend to certify if:

The driver with diabetes mellitus:

- Meets all the physical qualification standards.
- Has a treatment plan that manages the disease and does not:
 - Include the use of insulin.
 - Interfere with safe driving.

Recommend not to certify if:

The driver with diabetes mellitus has:

- In the last 12 months, experienced a hypoglycemic reaction resulting in:
 - Seizure.
 - Loss of consciousness.
 - Need of assistance from another person.
 - Period of impaired cognitive function that occurred without warning.
- In the last 5 years, had recurring (two or more) disqualifying hypoglycemic reactions (as described above).
- Loss of position sensation.
- Loss of pedal sensation.
- Resting tachycardia.
- Orthostatic hypotension.
- Diagnosis of:
 - Peripheral neuropathy.
 - Proliferative retinopathy (e.g., unstable proliferative or non-proliferative).

Monitoring/Testing

Urinalysis

Glycosuria may indicate poor blood glucose control. When urinalysis shows glycosuria, you may elect to perform a finger stick test to obtain a random blood glucose.

Blood Glucose

Hemoglobin A1c (HbA1c) greater than 10% is an indicator of poor blood glucose control. It is recommended that you obtain further evaluation or monitor the driver more frequently to determine if the disease process interferes with medical fitness for duty and safe driving.

Follow-up

The driver must have biennial physical examinations. You may require the driver to have more frequent examinations, if indicated, to adequately monitor the progression of the condition.

NOTE: *Encourage the driver with diabetes mellitus to participate in annual diabetes mellitus education.*

Incretin Mimetic

An incretin mimetic, such as exenatide (Byetta), is used to improve glycemic control in people with Type 2 diabetes by reducing fasting and postprandial glucose concentrations. An incretin mimetic is indicated as adjunctive therapy to individuals who are taking metformin or a combination of other oral agents. Use of an incretin mimetic in conjunction with a sulfonylurea has an increased risk of hypoglycemia.

Incretin mimetics are not insulin and can be used without an exemption.

Waiting Period

No recommended time frame

You should not certify the driver until the treatment has been shown to be adequate/effective, safe, and stable.

Decision

Maximum certification — 1 year

NOTE: *The Federal Motor Carrier Safety Administration (FMCSA) recommends frequent monitoring determined on a case-by-case basis.*

Recommend to certify if:

The driver with diabetes mellitus who uses an incretin mimetic:

- Meets all the physical qualification standards.
- Has a treatment plan that manages the disease and does not:
 - Include the use of insulin.
 - Have side effects that interfere with safe driving.

Recommend not to certify if:

As a medical examiner, you believe that the nature and severity of the medical condition and/or the treatment of the driver endangers the safety and health of the driver and the public.

Monitoring/Testing

FMCSA recommends that a driver taking an incretin mimetic provide a written statement from the treating health care professional. The written statement should:

- Describe driver tolerance to the medication.
- Indicate how frequently the driver is monitored for adequate blood glucose control.
- Include efficacy of treatment.

Follow-up

FMCSA recommends frequent monitoring of the driver who is taking an incretin mimetic.

Insulin Therapy

Individuals who require insulin for control of diabetes mellitus blood glucose levels also have treatment conditions that can be adversely affected by the use of too much or too little insulin, or food intake that is not consistent with the insulin dosage.

The administration of insulin is a complicated process requiring insulin, syringe, needle, alcohol sponge, and a sterile technique. Factors related to long-haul commercial motor vehicle (CMV) operations, such as fatigue, lack of sleep, poor diet, emotional conditions, stress, and concomitant illness, compound the dangers. The Federal Motor Carrier Safety Administration (FMCSA) has consistently held that a driver with diabetes mellitus who uses insulin does not meet the minimum physical requirements of 49 CFR 391.41.

Some drivers with diabetes mellitus who use insulin may be medically certified if the driver:

- Has or is eligible to apply for a Federal diabetes exemption.
- Has an FMCSA-issued letter that states the driver may be qualified by operation of 49 CFR 391.64(a) (grandfathered status).

NOTE: Proof of grandfathered status is the original letter from 1996 granting the right to continue to drive as long as the driver can meet physical qualification requirements. If a letter is not provided, you may verify driver participation in the study program—and the driver can obtain a new copy of the letter—by calling the FMCSA Exemption Program Office at 703-448-3094.

Hypoglycemia Risk

Preventing hypoglycemia is the most critical and challenging safety issue for any driver with diabetes mellitus. Individuals who use insulin are at an increased risk for hypoglycemic reactions.

NOTE: FMCSA defines a severe hypoglycemic reaction as one that results in:

- Seizure.
- Loss of consciousness.
- Need of assistance from another person.
- Period of impaired cognitive function that occurs without warning.

Rescue Glucose

In some cases, hypoglycemia can be self-treated by the ingestion of at least 20 grams of glucose tablets or carbohydrates. Consuming "rescue" glucose or carbohydrates may avert a hypoglycemic reaction for

less than a 2-hour period. The driver with a diabetes exemption must carry a source of rapidly absorbable glucose while driving.

Waiting Period

Minimum — 1 month, if the driver with diabetes mellitus was previously diagnosed and on treatment that did not include the use of insulin

Minimum — 2 months, if the driver with diabetes mellitus is newly diagnosed and was not on prior treatment

Decision

Maximum certification — 1 year

Recommend to certify if:

The driver with diabetes mellitus:

- Meets all other physical qualification requirements of 49 CFR 391.41(b) except for use of insulin and:
 - Has a Federal diabetes exemption or is eligible to apply for the exemption.
 - Was a participant in good standing on March 31, 1996, in the Federal diabetes waiver study program and continues to meet all qualification requirements of 49 CFR 391.64(a).

Recommend not to certify if:

The driver with diabetes mellitus has:

- Other than the use of insulin to treat diabetes mellitus, any other medical problem or condition that prevents certification in accordance with the qualification requirements of 49 CFR 391.41(b).
- In the last 12 months, had a severe hypoglycemic reaction resulting in:
 - Seizure.
 - Loss of consciousness.
 - Need of assistance from another person.
 - Period of impaired cognitive function that occurred without warning.
- In the last 5 years, has had recurring (two or more) disqualifying severe hypoglycemic reactions (as described above).
- Loss of position sensation.
- Loss of pedal sensation.
- Resting tachycardia.
- Orthostatic hypotension.
- Diagnosis of:
 - Peripheral neuropathy that interferes with safe driving.
 - Proliferative retinopathy (e.g., unstable proliferative or non-proliferative).

Monitoring/Testing

Annual Recertification Physical Examinations

The driver with a Federal diabetes exemption should provide you with a copy of the completed Annual Diabetes Assessment Package that includes the:

- Endocrinologist Annual Evaluation Checklist.
 - Exemption requires evaluation by a board-certified or board-eligible endocrinologist.
- Vision Annual Evaluation Checklist.
 - Exemption requires evaluation by an ophthalmologist or optometrist.
 - The driver diagnosed with diabetic retinopathy is required to have an eye examination by an ophthalmologist.

The grandfathered driver should provide a copy of the endocrinologist report addressing the requirements listed in 49 CFR 391.64(a).

Urinalysis

Glycosuria may indicate poor blood glucose control. When urinalysis shows glycosuria, you may elect to perform a finger stick test to obtain a random blood glucose.

Blood Glucose

Poor blood glucose control may indicate a need for further evaluation or more frequent monitoring to determine if the disease process interferes with safe driving.

Blood Glucose Monitoring Guidelines

The Federal Diabetes Exemption Program guidelines for blood glucose monitoring include using a device that records the results for later review and measuring blood glucose level:

- Before driving.
- Every 2 to 4 hours while driving.

Blood glucose levels that remain within the 100 milligrams per deciliter (mg/dL) to 400 mg/dL range are generally considered safe for commercial driving.

NOTE: *You should review and consider the findings of the most recent specialist evaluation reports and blood glucose monitoring documentation before determining if the driver is medically fit for duty.*

Follow-up

The driver must have an annual physical examination.

NOTE: *The driver is responsible for maintaining both a current Medical Examiner's Certificate and Federal diabetes exemption.*

Oral Hypoglycemics

Hypoglycemic drugs taken orally are frequently prescribed for persons with diabetes mellitus to help stimulate natural body production of insulin. If diabetes mellitus can be controlled by the use of oral medication and diet, an individual may be considered for driver certification using the physical qualification requirements of 49 CFR 391.41.

NOTE: *If the driver with diabetes mellitus uses insulin, use the Federal Diabetes Exemption Program and insulin therapy guidelines to determine certification status.*

Waiting Period

No recommended time frame

You should not certify the driver until the treatment has been shown to be adequate/effective, safe, and stable.

Decision

Maximum certification — 1 year

Recommend to certify if:

The driver with diabetes mellitus who uses an oral hypoglycemic medication:

- Meets all the physical qualification standards.
- Has a treatment plan that manages the disease and does not:
 - Include the use of insulin.
 - Have side effects that interfere with safe driving.

Recommend not to certify if:

As a medical examiner, you believe that the nature and severity of the medical condition and/or the treatment of the driver endangers the safety and health of the driver and the public.

Monitoring/Testing

Not applicable.

Follow-up

The driver should have biennial physical examinations. You may require the driver to have more frequent physical examinations, if indicated, to adequately monitor driver medical fitness for duty.

Other Diseases

The fundamental question when deciding if a commercial driver should be certified is whether the driver has a condition that so increases the risk of sudden death or incapacitation that the condition creates a danger to the safety and health of the driver, as well as to the public sharing the road.

The qualification standards cover 13 areas that directly relate to the driving function; however, on a case-by-case basis, use your clinical skills and knowledge of the Federal Motor Carrier Safety Administration (FMCSA) physical qualification standards to evaluate the overall medical fitness for duty of the driver.

The medical advisory criteria for 49 CFR 391.41(b)(9) includes examples of how medical conditions might interfere with operation of a commercial motor vehicle (CMV). You are expected to assess the nature and severity of the medical condition and determine certification outcomes on a case-by-case basis and with knowledge of the demands of commercial driving.

- "Emotional or adjustment problems contribute directly to an individual's level of memory, reasoning, attention, and judgment. These problems often underlie physical disorders."
- "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 crashes while driving."