

to provide for increased mobility and safety, including pedestrian safety, by improving connections between I-5/I-90, the Port of Seattle, freight centers, waterfront commercial interests (including State ferries) and recreational/sports facilities in the downtown area. The project is located in the south downtown (SODO) area of Seattle, King County. The project also proposes to eliminate the remaining safety issues related to surface-level rail crossings at South Royal Brougham Way.

The actions by the FHWA on this project, and the laws under which such actions were taken, are described in the February 2008 Environmental Assessment (EA), April 2008 Finding of No Significant Impact (FONSI), and in other documents in the FHWA administrative record for the project. The EA, FONSI and other documents in the FHWA administrative record are available by contacting the FHWA or the Washington State Department of Transportation at the addresses provided above.

The EA can be viewed and downloaded from the project Web site at <http://www.wsdot.wa.gov/Projects/SR519> or viewed at the Seattle Public Library as well as local neighborhood service centers in the project area.

This notice applies to all Federal agency decisions on the project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General*: National Environmental Policy Act [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air*: Clean Air Act, as amended [42 U.S.C. 7401–7671(q)].

3. *Land*: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wildlife*: Endangered Species Act [16 U.S.C. 1531–1544]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001–3013].

6. *Social and Economic*: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act [7 U.S.C. 4201–4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].

7. *Wetlands and Water Resources*: Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319); Coastal Zone Management Act [16 U.S.C. 1451–1465]; Land and Water Conservation Fund [16 U.S.C. 4601–4604]; Safe Drinking Water Act [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; TEA–21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].

8. *Hazardous Materials*: Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 [Pub. L. 99–499]; Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

9. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: April 21, 2008.

**Stephen P. Boch,**

*Major Project Oversight Manager, Seattle, Washington.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2008–0009]

### Qualification of Drivers; Exemption Applications; Diabetes

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt fifty-six individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions are effective April 25, 2008. The exemptions expire on April 25, 2010.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

### SUPPLEMENTARY INFORMATION:

#### Electronic Access

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

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at <http://Docketinfo.dot.gov>.

#### Background

On March 5, 2008, FMCSA published a notice of receipt of Federal diabetes exemption applications from fifty-six

individuals, and requested comments from the public (73 FR 11982). The public comment period closed on April 4, 2008 and no comments were received.

FMCSA has evaluated the eligibility of the fifty-six applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

### **Diabetes Mellitus and Driving Experience of the Applicants**

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The 2003 notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** Notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These fifty-six applicants have had ITDM over a range of 1 to 38 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified that the driver has demonstrated willingness to properly monitor and manage their diabetes, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated

and discussed in detail in the March 5, 2008, **Federal Register** Notice (73 FR 11982). Therefore, they will not be repeated in this notice.

### **Basis for Exemption Determination**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologist's medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

### **Conditions and Requirements**

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not they are related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

### **Discussion of Comments**

FMCSA received no comments in this proceeding.

### **Conclusion**

After considering the comments to the docket, and based upon its evaluation of the fifty-six exemption applications, FMCSA exempts Ryan N. Adams, Clay B. Anderson, Michael B. Bessinger, Douglas D. Brown, Kenneth T. Clark, Joseph F. Colbert, Daniel E. Coufal, Stuart A. Dietz, John J. Durrence, Michael B. Elzey, Candy C. Eubank, Thomas S. Faucette, Jr., Earl S. Fibish, Stanley R. Folkerts, Timothy L. Gahring, Donald W. Giesbrecht, Todd W. Gillespie, Stephen W. Golden, Richard E. Grunden, Jack L. Guffey, Mark Hall, Teresa M. Hansen, Jason A. Henry, Michael B. Heuett, John M. Hickey, Joe Ibarra, Anthony L. Lambert, Paul F. Lanich, Ronald M. Lavalley, Eric R. Ledvina, Kenneth L. Lefeld, Steven J. Leite, Daryl G. Lewis, George A. Lucietto, Robert A. Manning, Ottis N. McCoy, Joseph G. McDonald, Richard L. McDonald, David D. Millard, Jr., Raymond E. Miller, Victor E. Millwood, Walter G. Minshall, Alan J. Mitchell, Raymond P. Mora, Sr., John M. Murray, John R. Pile, Forest T. Porter, John Rubillo, Jason E. Saunders, Christopher D. Singleton, Brian Slover, Steven T. Slowey, Jacob A. Small, Richard S. Synakowski, Sabrina F. Thomas, and Scott D. Wimer from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: April 17, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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