

the world." The funding authority for the program above is provided through legislation.

#### Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by ECA that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. ECA reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

#### Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: March 17, 2004.

#### Patricia S. Harrison,

*Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 04-6715 Filed 3-24-04; 8:45 am]

BILLING CODE 4710-05-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Qualification of Drivers; Exemption Applications; Diabetes

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

**ACTION:** Notice of denials.

**SUMMARY:** The FMCSA announces its denial of 17 applications from individuals who requested an exemption from the Federal diabetes standards applicable to interstate truck drivers and the reasons for the denials. The FMCSA has statutory authority to exempt individuals from diabetes standards 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 equal or exceed the level of safety maintained without the exemptions for these commercial motor vehicle drivers.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (MC-PSD), (202) 366-2987, Department of Transportation, FMCSA, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to

4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the Federal diabetes standards for commercial drivers with insulin-treated diabetes mellitus for a renewable 2-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 (49 CFR 391.41(b)(3)).

Accordingly, FMCSA evaluated 17 individual exemption requests on their merits and made a determination that these applicants do not satisfy the criteria established to demonstrate that granting an exemption is likely to achieve an equal or greater level of safety than exists without the exemption. Each applicant has, prior to this notice, received a letter of final disposition on his/her individual 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 4 applicants lacked sufficient recent driving experience under normal highway operating conditions over the previous three years that would serve as an adequate predictor of future safe performance:

Boyum, Allan C.  
Smith, Andrew P.  
Dorris, Boyd A.  
Erickson, Ronald J.

One applicant, Mr. Charles E. Williams, does not have any experience operating a commercial motor vehicle (CMV) and therefore presented no evidence from which FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

The following 6 applicants do not have 3 years of experience driving a CMV on public highways with insulin-treated diabetes mellitus:

Corsaro, Joseph G.  
Izzi, Anthony  
Mays, James  
Nunnally, Derril W.  
Rardin, Pierce E.  
Thomas, Jr., Joseph

One applicant, Mr. Robert H. Thompson, Jr., does not have recent experience driving a CMV. Applicants must have driven for at least the three years preceding application.

One applicant, Mr. Glenn A. Kotzer, had a hypoglycemic episode resulting in loss of consciousness or requiring the assistance of another person in March 2003. Applicants do not qualify for an exemption if they have had more than two hypoglycemic reactions resulting in loss of consciousness or requiring the assistance of another person in the past 5 years. Applicants must have one year of stability following any such episode.

One applicant, Mr. David Arnette, has other medical conditions making him otherwise unqualified under the Federal Motor Carrier Safety Regulations. Applicants must meet all other physical qualifications standards in 49 CFR 391.41(b)(1-13).

Two applicants, Mr. Johnathan Akins and Mr. John A. Herbert, do not have verifiable proof of commercial driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

One applicant from Canada, Mr. Kevin R. Durham, applied for an exemption. The medical reciprocity agreement between the United States and Canada prohibits U.S. and Canadian CMV drivers who are insulin-using-diabetics from trans-border operations. In addition, an exemption from the diabetes standards is valid for operations only within the United States. It does not exempt the driver from the physical qualification standards of any bordering jurisdiction.

Issued on: March 22, 2004.

#### Rose A. McMurray,

*Associate Administrator for Policy and Program Development.*

[FR Doc. 04-6700 Filed 3-24-04; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34487]

#### Greenville County Economic Development Corporation—Petition for Declaratory Order

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Institution of declaratory order proceeding; request for comments.

**SUMMARY:** The Surface Transportation Board is instituting a declaratory order proceeding and requesting comments on the following question: whether the preemption provisions of 49 U.S.C. 10501(b)(2) preclude a state court from hearing a lawsuit alleging that a railroad has failed to carry out its common carrier obligation to provide service.

**DATES:** Any interested person may file with the Board written comments concerning this issue by March 31, 2004. Replies will be due on April 7, 2004.

**ADDRESSES:** Send an original and 10 copies of any comments referring to STB Finance Docket No. 34487 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, send one copy of any comments to: Andrew J. White, Jr., Haynsworth Sinkler Boyd, PA, 75 Beattie Place, 11th Floor, P.O. Box 2048, Greenville, SC 29602 (counsel for Greenville County Economic Development Corporation); and Jason Elliott, Law Offices of John S. Simmons, LLC, 1711 Pickens Street, P.O. Box 5, Columbia, SC 29202 (counsel for Groome & Associates, Inc.).

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565-1600. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877-8339.]

**SUPPLEMENTARY INFORMATION:** In Finance Docket No. 33752, *Greenville County Economic Development Corporation—Acquisition Exemption—South Carolina Central Railroad Company, Inc., Carolina Piedmont Division*, the Greenville County Economic Development Corporation (GCEDC) acquired an 11.8 mile unabandoned rail line between Greenville and Travelers Rest, S.C. (Served June 3, 1999). On June 30, 2003, in Docket No. AB-490X, *Greenville County Economic Development Corporation—Discontinuance of Service Exemption—in Greenville County, SC*, GCEDC sought to use the Board's class exemption procedures to obtain authorization to discontinue service over a line of railroad that it had acquired in 1999. In response, Lee Groome and Groome & Associates, Inc. (Groome), indicated that it had unsuccessfully sought service over the line, and that it was pursuing an action against GCEDC in South Carolina state court. Finding that Groome had raised sufficient concerns to make it inappropriate for GCEDC to use the expedited class exemption procedures—which are reserved for routine, noncontroversial matters—in a decision issued January 29, 2004, the Board dismissed the notice of exemption. The Board held that, to obtain discontinuance authority, GCEDC would have to proceed by filing a petition for an individual exemption under 49 U.S.C. 10502 or a full application under 49 U.S.C. 10903, either of which would permit the issues

to be examined more fully on a more thoroughly developed record.

The Board in its decision did not address the state court proceeding other than to note that it provided an indication that the discontinuance matter was not uncontroversial. Subsequently, however, in a letter dated March 11, 2004, Andrew J. White, Jr., counsel for GCEDC, did raise questions about the state court's jurisdiction in light of the Federal preemption of state law embodied in 49 U.S.C. 10501(b). Among other things, Mr. White furnished the agency with a recent decision issued in the Greenville County Court of Common Pleas in *Groome & Associates, Inc., and Lee Groome v. Greenville County Economic Development Corporation*, Civil Case No. 01-CP-23-2351 (filed Feb. 13, 2004). In that decision, the court rejected GCEDC's argument that the court lacks jurisdiction to hear claims for damages resulting from failure to provide service (*Id.* at 4); cited various provisions of the South Carolina Code as support for its authority to act (*Id.*); found it "significant that the STB has made [its] ruling dismissing the carrier's action with full knowledge of the pending state court litigation," which, the court concluded, indicates that the Board "does not find the state court litigation to be offensive and apparently does not intend to preempt the jurisdiction of the state court in this matter" (*Id.* at 5); and determined that it "is for a jury to determine whether the defendant had fully complied with [its] common carrier obligations to provide rail service on the contested line." *Id.*

Mr. White's letter will be treated as a petition for declaratory order and placed in the docket and on the Board's Web site, and a declaratory order proceeding will be instituted. It should be noted that, in disallowing use of the class exemption for the sought discontinuance, the Board has not addressed the merits of either the service dispute or the discontinuance. In this proceeding, however, the Board will not address any merits issues, but rather will look at a single question, which was not expressly or impliedly addressed in the decision on the discontinuance: whether the preemption provisions of 49 U.S.C. 10501(b)(2) preclude a state court from hearing a lawsuit alleging that a railroad has failed to carry out its common carrier obligation to provide service.

Under 49 U.S.C. 10501(b), the Board has exclusive jurisdiction over "transportation by rail carriers," and the remedies provided in the Interstate Commerce Act (IC Act), which the Board administers, "preempt [other]

remedies provided under Federal or State law." Several courts have interpreted this provision and have found that it is extremely broad. *See, e.g., CSX Transp., Inc. v. Georgia Public Service Commission*, 944 F. Supp 1573, 1581 (N.D. Ga. 1996); *Friberg v. Kansas City S. Ry.*, 267 F.3d 439, 443 (5th Cir. 2001). The Board has interpreted it in a variety of cases as well. *See, e.g., Joint Petition for Decl. Order—Boston & Maine Corp. & Town of Ayer, MA*, STB Finance Docket No. 33971 (STB served May 1, 2001) (*Ayer*),<sup>1</sup> 2001 STB LEXIS 435 (collecting court cases). But although at least one federal court of appeals has addressed the preemptive effect of section 10501(b) on state court actions in cases involving the common carrier obligation—*see Pejepscoot Industrial Park v. Maine Central Railroad*, 215 F.3d 195, 204-05 (1st Cir. 2000) ("Congress intended only to preempt state law and remedies," but did not intend to oust concurrent federal district court jurisdiction over common carrier obligation claims under the IC Act)—the matter has never been formally brought before the Board, and so the Board has never ruled on it.

Accordingly, by this notice, the Board is requesting comments on this matter. Board decisions and notices are available on our Web site at [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: March 22, 2004.

By the Board, Chairman Nober.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-6802 Filed 3-24-04; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[IA-30-95]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

<sup>1</sup> *Aff'd, Boston & Maine Corp. v. Town of Ayer*, 206 F. Supp. 2d 128 (D. Mass. 2002), *rev'd solely on attorneys' fee issue*, 330 F.3d 12 (1st Cir. 2003).