

McVaugh, Mayor, Village of Hamilton, PO Box 119, 3 Broad Street, Hamilton, New York 13346.

FOR FURTHER INFORMATION CONTACT: Mr. Otto N. Suriani, Acting Manager, New York Airport District Office, 600 Old County Road, Suite 446, Garden City, New York 11530; telephone (516) 227-3809; Fax (516) 227-3813; e-mail Otto.Suriani@FAA.Gov.

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10-181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Garden City, New York, on March 29, 2006.

Otto N. Suriani,

Acting Manager, New York Airports District Office, Eastern Region.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2005-22177]

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 two 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 5, 2006. The exemptions expire on April 7, 2008.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366-4001, maggi.gunnels@fmcsa.dot.gov, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: <http://dmses.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> and/or Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., 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://dms.dot.gov>.

Background

Authority To Grant Exemptions

Section 4007 of the Transportation Equity Act for the 21st Century (Public Law 105-178, 112 Stat. 107, June 9, 1998) (TEA-21) amended 49 U.S.C. 31315 and 31136(e) to provide FMCSA with authority to grant exemptions from its safety regulations. On December 8, 1998, the Federal Highway Administration's Office of Motor Carriers, the predecessor to FMCSA, published an interim final rule implementing section 4007 (63 FR 67600). On August 20, 2004, FMCSA published a final rule (69 FR 51589) on this subject. By this rule, FMCSA must publish a Notice of each exemption request in the **Federal Register** (49 CFR part 381), provide the public with an opportunity to inspect the information relevant to the application to include any safety analyses that have been conducted, and provide an opportunity for public comment on the request.

The Agency must then examine the safety analyses and the public comments, and determine whether the exemption 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 381.305). The Agency's decision must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the Notice must specify the person or class of persons receiving the exemption, and the regulatory provision or provisions from which an exemption is being granted. The Notice must also specify

the effective period of the exemption (up to two years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Establishment of FMCSA's Diabetes Exemption Program

FMCSA published a Notice of intent to issue exemptions to drivers with ITDM on July 31, 2001 (66 FR 39548). On September 3, 2003, the Agency published a Notice of final disposition announcing its decision to issue exemptions to certain insulin-using diabetic drivers of CMVs from the diabetes mellitus prohibition under 49 CFR 391.41(b)(3). [68 FR 5241] ("2003 Notice"). The 2003 Notice explained that in considering exemptions, FMCSA must ensure that the issuance of diabetes exemptions will not be contrary to the public interest and that the exemption achieves an acceptable level of safety. The Agency indicated it will only grant exemptions to insulin-using diabetic drivers that meet the eligibility criteria provided in its notice of final disposition.

Because FMCSA established eligibility criteria for use in determining whether the granting of a diabetes exemption would achieve the requisite level of safety, the Agency only publishes for public comment, the names of exemption applicants that satisfy the eligibility requirements, based upon the information provided by the applicant. Applicants that do not meet the requirements are notified by letter that their applications are denied and the Agency periodically publishes the names of those individuals to satisfy the statutory requirement for disclosing such information to the public.

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

Section 4129 of SAFETEA-LU (Public Law 109-59, 119 Stat., August 10, 2005) required FMCSA to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). The revision must provide for individual assessment of drivers with ITDM, and be consistent with the criteria described in section 4018 of TEA-21.¹ Section 4129 required two substantive changes to be made in the exemption process set out in the 2003 Notice.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established

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

by the September 3, 2003 Notice. These revisions by FMCSA were necessary to respond to the specific changes mandated by section 4129(b) and (c). The changes are: (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. Section 4129(d) also directed FMCSA to ensure that CMV drivers 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 2003 Notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the 2003 Notice, other than those modified in the November 8, 2005 (70 FR 67777) **Federal Register** Notice, remain in effect.

On October 19, 2005, FMCSA published a Notice of receipt of diabetes exemption applications from three individuals, and requested comments from the public (70 FR 60875). The three individuals are: Doyle F. Heiner, James R. Moretz, and Uve J. Witsch. The public comment period closed on November 18, 2005. Three comments were received through the DMS and one comment was received by telephone in regard to Uve J. Witsch. All comments have been fully considered by FMCSA in reaching the final decision whether to grant the exemptions.

FMCSA has evaluated the eligibility of the three applicants and made a determination that granting the exemptions to two of 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). FMCSA is at this time unable to determine if granting the third exemption would achieve the same level of safety. A request for additional information has been sent to Mr. Witsch to assist the Agency in making this determination.

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 insulin-treated diabetic drivers 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 three applicants have had ITDM over a range of 5 to 9 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 October 19, 2005, Notice (70 FR 23904). Because there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), 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 two of 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. The Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to Doyle F. Heiner and James R. Moretz. Once the Agency has received the requested information from Mr. Witsch, it will be reviewed, and a final determination will be published in a separate **Federal Register** Notice.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document.

Discussion of Comments

FMCSA received three comments in this proceeding through the DMS. The comments were considered and are discussed below.

Heather M. Murphy commented that she does not believe that it is fair that an insulin dependent person is now able to receive an exemption to drive in interstate commerce without three years of driving experience while taking insulin, and individuals applying for a Federal vision exemption must still meet this three years of experience requirement. She believes that all exemptions should go by the same standards and she requests that FMCSA reconsider the Federal vision exemption requirements.

FMCSA recognizes the current differences between the Federal Diabetes Exemption Program and the Federal Vision Exemption Program related to driving experience criteria. FMCSA has used recent driving experience in evaluating future safety, based on several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of these studies may be found at docket number FMCSA-98-3637. The implementation of SAFETEA-LU mandated the removal of the three year driving requirement from the Federal diabetes exemption eligibility criteria.

The Agency has begun initiatives to evaluate if the driving experience criteria should remain part of the Federal Vision Exemption Program. FMCSA has begun a Federal Vision Exemption Program evaluation. One portion of this evaluation will focus on determining if drivers with certain

visual deficiencies are as safe or safer than drivers in the general population. FMCSA also published a **Federal Register** Notice announcing the establishment of a Medical Review Board (MRB) on October 3, 2005 (70 FR 57642). The MRB is scheduled to review the vision standard during the third quarter of 2006. The driving experience criteria will remain in effect for the Federal Vision Exemption Program until the conclusion of these initiatives.

Two additional comments received were in favor of granting the exemptions and supported the approach FMCSA takes in evaluating the exemption candidates.

Conclusion

After considering the comments to the docket and based upon its evaluation of the 3 exemption applications, FMCSA exempts Doyle F. Heiner and James R. Moretz from the diabetes requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31315 and 31136(e), 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. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: March 29, 2006.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted

below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on January 11, 2006 [Volume 71, No. 7, Page 1782].

DATES: Comments must be submitted on or before May 5, 2006.

FOR FURTHER INFORMATION CONTACT: Gary Toth, NHTSA, 400 Seventh Street, SW., Room 6213, NPO-111, Washington, DC 20590. The telephone number for Mr. Toth is (202) 366-5378.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: National Automotive Sampling System (NASS).

OMB Number: 2127 0021.

Type of Request: Continuation.

Abstract: The collection of crash data that support the establishment and enforcement of motor vehicle regulations that reduce the severity of injury and property damage caused by motor vehicle crashes is authorized under the National Traffic and Motor Vehicle Safety Act of 1966 (Pub. L. 89-563, Title 1, Sec. 106, 108, and 112). The National Automotive Sampling System (NASS) Crashworthiness Data System (CDS) of the National Highway Traffic Safety Administration investigates high severity crashes. Once a crash has been selected for investigation, researchers locate, visit, measure, and photograph the crash scene; locate, inspect, and photograph vehicles; conduct a telephone or personal interview with the involved individuals or surrogate; and obtain and record injury information received from various medical data sources. NASS CDS data are used to describe and analyze circumstances, mechanisms, and consequences of high severity motor vehicle crashes in the United States. The collection of interview data aids in this effort.

Affected Public: Passenger Motor Vehicle Operators.

Estimated Total Annual Burden: 5,807 hours.

Number of respondents: 13,500.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725-17th Street, NW, Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will

have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Joseph S. Carra,

Associate Administrator for National Center for Statistics and Analysis.

[FR Doc. E6-4915 Filed 4-4-06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-24137; Notice 1]

General Motors Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain 2006 model year Cadillac XLR vehicles do not comply with S7.8.2.1(c) of 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, reflective devices, and associated equipment." GM has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), GM has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are a total of approximately 1,074 model year 2006 Cadillac XLR vehicles produced between July 26, 2005 and November 3, 2005. S7.8.2.1(c) of FMVSS No. 108 requires that if visually/optically (VO) aimable headlamps are equipped with horizontal adjustment, then they must meet the applicable headlamp aim requirements in S7.8.5.2. The noncompliant headlamps are equipped with a horizontal adjustment but do not meet the S7.8.5.2 requirements. GM explains that during the assembly process the horizontal adjuster is supposed to be