safely. Mr. Sherk meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Kailey J. Skroko

Ms. Skroko, 26, has had ITDM since 1999. Her endocrinologist examined her in 2012 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Skroko understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Skroko meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2012 and certified that she does not have diabetic retinopathy. She holds an operator’s license from Indiana.

Samantha K. Tsuchiya

Ms. Tsuchiya, 27, has had ITDM since 1996. Her endocrinologist examined her in 2012 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Tsuchiya understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Tsuchiya meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2012 and certified that she does not have diabetic retinopathy. She holds a Class A CDL from Ohio.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441). The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the Federal Register on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: January 18, 2013.

Larry W. Minor,
Associate Administrator for Policy.

FOR FURTHER INFORMATION CONTACT:
Elaine M. Papp, Chief, Medical Programs Division. (202) 366–4001, 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 4:30 p.m., Monday through Friday.
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 Privacy Act Statement for the Federal Docket Management System (FDMS) published in the Federal Register on December 29, 2010 (75 FR 82132), or you may visit http://www.gpo.gov/fdsys/pkg/FR–2010–12–29/pdf/2010–32876.pdf.

Background

On December 13, 2012, FMCSA published a notice of receipt of Federal diabetes exemption applications from 12 individuals and requested comments from the public (77 FR 74271). The public comment period closed on January 14, 2013, and no comments were received.

FMCSA has evaluated the eligibility of the 12 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 requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes 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)(2)). 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 September 3, 2003 (68 FR 52441), Federal Register 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 12 applicants have had ITDM over a range of 1 to 50 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, 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 requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the December 13, 2012, Federal Register notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received no comments in this proceeding.

Basis for Exemption Determination

Under 49 U.S.C. 31313(e) and 31315, FMCSA may grant an exemption from the diabetes requirement 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 endocrinologists’ medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement 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 it is 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.

Conclusion

Based upon its evaluation of the 12 exemption applications, FMCSA exempts Dennis W. Baseman (MN), Kathy L. Brown (IN), Charles K. Eudy (TX), John C. Evans (IL), Thomas J. Ferry (NJ), Jeffrey C. Hanson (TX), Jeffrey D. Kivett (IN), Bryan M. Laffin (MD), Peter W. Prime (MA), David E. Wagner (PA), Daniel V. Williamson (MN), and Charles F. Woodford (WI) from the ITDM 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. 31313(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/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. 31313(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: January 18, 2013.

Larry W. Minor, Associate Administrator for Policy.

[FR Doc. 2013–02267 Filed 2–1–13; 8:45 am]
BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION
Federal Railroad Administration
[Docket No. FRA 2013–0002–N–3]

Proposed Agency Information
Collection Activities; Comment
Request

AGENCY: Federal Railroad
Administration (FRA), DOT.

ACTION: Notice and request for
comments.

SUMMARY: In compliance with the
Paperwork Reduction Act of 1995, this
notice announces that the Information
Collection Requirements (ICRs)
abstracted below have been forwarded
to the Office of Management and Budget
(OMB) for review and comment. The
ICRs describes the nature of the
information collection and their
expected burden. The Federal Register
notice with a 60-day comment period
soliciting comments on the following
collection of information was published
on November 15, 2012.

DATES: Comments must be submitted on
or before March 6, 2013.

FOR FURTHER INFORMATION CONTACT: Mr.
Robert Brogan, Office of Safety,
Planning and Evaluation Division, RRS–
21, Federal Railroad Administration,
1200 New Jersey Ave. SE., Mail Stop 17,
Washington, DC 20590 (telephone: (202)
493–6132). (These telephone numbers
are not toll-free.)

SUPPLEMENTARY INFORMATION: The
Paperwork Reduction Act of 1995
(PRA), Public Law 104–13, Section 2,
at 44 U.S.C. 3501–3520), and its
implementing regulations, 5 CFR Part
1320, require Federal agencies to issue
two notices seeking public comment on
information collection activities before
OMB may approve paperwork packages.
44 U.S.C. 3506, 3507; 5 CFR 1320.5,
1320.8(d)(1), 1320.12. On November 15,
2012, FRA published a 60-day notice in the
Federal Register soliciting comment on
ICRs for which the agency was
seeking OMB approval. 77 FR 68203.

FRA received one comment in response
to this notice. On January 9, 2013, the Association
of American Railroads (AAR) submitted a
comment on behalf of itself and its
member railroads. AAR stated its
opposition to the proposed renewal of
OMB’s approval of FRA’s requirement
that rolling stock with glazing materials
be stenciled and noted that 49 CFR
223.17 and 49 CFR 223, Appendix A, set
forth FRA’s glazing requirements.

Section 223.17 requires the stenciling of
the walls of rolling stock as follows:

Each locomotive, passenger car and
coach that is fully equipped with glazing
materials that meets the requirements of this
part shall be stenciled on an interior wall as
follows:

“Fully Equipped FRA Part 223 glazing” or
similar words conveying that meaning in
letters at least ¼ inch high.

Appendix A requires more detailed
information than section 223.17. It provides the
following:

c. Material Identification

(1) Each individual unit of glazing material
shall be permanently marked, prior to
installation, to indicate that this type of
material has been successfully tested as set
forth in this appendix and that marking shall
be done in such a manner that it is clearly
visible after the material has been installed.

(2) Each individual unit of a glazing
material that has successfully passed the
Type I testing regimen shall be marked to
indicate:

(i) “FRA Type I” material;
(ii) the manufacturer of the material;
(iii) the type or brand identification of the
material.

(3) Each individual unit of a glazing
material that has successfully passed the
Type II testing regimen shall be marked to
indicate:

(i) “FRA Type II” material;
(ii) the manufacturer of the material;
(iii) the type or brand identification of the
material.

AAR believes that, “with glazing
materials required to have detailed
information set forth in Appendix A,
there is no reason to require the
information on the walls of rolling stock
required by section 223.17. Section
223.17 is simply superfluous.” In its
letter, AAR pointed out that it filed a
petition with FRA in 2004 to eliminate the
stenciling requirement under 49 CFR
223.17 and remarked:

With more than eight years having elapsed
since AAR filed its petition, it is past the
point in time when FRA should have acted
to eliminate the requirement to stencil rolling
stock. OMB should deny the request to
approve this useless information collection
requirement.

FRA fully acknowledges the issue that
AAR raises in its January 9th letter and in its
earlier petition to FRA. For some
time, FRA has planned to address this
issue through an agency rulemaking.
However, FRA cannot always proceed
with a rulemaking as quickly as it or the
regulated community would like, even
when the agency knows that a current
rule needs to be revised. The AAR well
knows that the rulemaking process is
neither a fast nor a simple process.

Myriad points of view must be
considered before the agency changes an
existing rule. To achieve its mission to
promote and enforce all areas of rail
safety, FRA must prioritize its
rulemaking agenda to address those
areas that will most greatly and directly
impact rail safety. In that regard, the
current state of rail safety throughout
the nation is a prime consideration. Rail
accidents and incidents that occur at
any given time and result in numerous
injuries, fatalities, significant property
damage, or harm to nearby communities
will demand urgent agency action.

Items on the agency regulatory agenda then
will be moved up or down depending
on current rail events. Having said all
the above, FRA plans on revising its
Safety Glazing Standards Rule (49 CFR
Part 223) later this year. FRA will
carefully review section 223.17 and
other requirements in this rule that are
deemed unnecessary or superfluous
with the object of eliminating them.

FRA asks AAR’s patience and asks OMB
to approve this latest renewal
information collection submission with its
current requirements for the
maximum time period while FRA works
on completing its intended rulemaking
action.

Before OMB decides whether to
approve a proposed collection of
information, it must provide 30 days for
public comment. 44 U.S.C. 3507(b); 5
CFR 1320.12(d). Federal law requires
OMB to approve or disapprove
paperwork packages between 30 and 60
days after the 30 day notice is
published. 44 U.S.C. 3507(b)–(c); 5 CFR
1320.12(d); see also 60 FR 44978, 44983,
Aug. 29, 1995. OMB believes that the 30
day notice informs the regulated
community to file relevant comments
and affords the agency adequate time to
digest public comments before it
renders a decision. 60 FR 44983, Aug.
29, 1995. Therefore, respondents should
submit their respective comments to
OMB within 30 days of publication to
best ensure having their full effect. 5
CFR 1320.12(c); see also 60 FR 44983,

The summary below describes the
nature of the information collection
requirements (ICRs) and the expected
burden, and are being submitted for
clearance by OMB as required by the
PRA.