

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA–2014–0020]

**Qualification of Drivers; Exemption Applications; Diabetes Mellitus****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA confirms its decision to exempt 46 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions were effective on August 14, 2014. The exemptions expire on September 15, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Elaine M. Papp, R.N., Chief, Medical Programs Division, (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:****I. 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 January 17, 2008 (73 FR 3316).

**II. Background**

On August 14, 2014, FMCSA published a notice of receipt of Federal diabetes exemption applications from 46 individuals and requested comments

from the public (79 FR 47711). The public comment period closed on September 15, 2014, and no comments were received.

FMCSA has evaluated the eligibility of the 46 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).

**III. 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)(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 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 46 applicants have had ITDM over a range of 1 to 43 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 August 14, 2014, **Federal Register** notice and they will not be repeated in this notice.

**IV. Discussion of Comments**

FMCSA received no comments in this proceeding.

**V. Basis for Exemption Determination**

Under 49 U.S.C. 31136(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.

**VI. 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.

## VII. Conclusion

Based upon its evaluation of the 46 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 949 CFR 391.64(b):

James M. Brooks (VA)  
 Gary L. Brown (PA)  
 Richard E. Campney (IA)  
 Steven J. Causie (MI)  
 Wesley A. Chain (TX)  
 Richard M. Cohen (NJ)  
 Alex A. Comella (NJ)  
 Jeffrey R. Courtright (CO)  
 Dwayne P. Daniels (PA)  
 James T. Dodge (CO)  
 Richard D. Domingo (NV)  
 John J. Dominguez (TX)  
 Mark S. Duda (PA)  
 Vernon L. Fulton, Jr. (OR)  
 Gary W. Giles (TX)  
 Benny B. Gonzales (TX)  
 Jerry W. Gott (IA)  
 James L. Hummel (WA)  
 Matthew J. Jensen (MN)  
 Joseph A. Kipus (OH)  
 Kevin L. Kreakie (OH)  
 Gerald D. Layton (TX)  
 Steve F. Levicoff (PA)  
 Kevin C. Lewis (LA)  
 Timothy M. Malo (ME)  
 Paul J. Marshall (UT)  
 David L. Mc Donald (IL)  
 Thomas K. Miszler (PA)  
 Rusty A. Neal (IL)  
 Jacob B. Newman (GA)  
 Duke R. Pendergraft (TX)  
 Timothy K. Price (WV)  
 Michael C. Prue (ME)  
 Juan C. Rodriguez-Martinez (CA)  
 Bradlee R. Saxby (IL)  
 Barry L. Schwab (MI)  
 Geoffrey E. Showaker (PA)  
 Nicholas J. Shultz (IN)  
 Kevin J. Sparks (ME)  
 George E. Thompson (NJ)  
 Dale W. Tucker (VA)  
 William C. Vickery (NY)  
 Cheryl L. Weber Gambill (IL)  
 Robert A. Whitcomb (MA)  
 Rodney L. Wichman (IL)  
 Richard D. Wiegartz (IL)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is 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 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: October 10, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2014-25128 Filed 10-21-14; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35861]

#### California High Speed Rail Authority— Petition for Declaratory Order

On October 9, 2014, the California High-Speed Rail Authority (Authority) filed a petition requesting that the Board issue a declaratory order regarding the availability of injunctive remedies under the California Environmental Quality Act (CEQA) to prevent or delay construction of an approximately 114-mile high-speed passenger rail line between Fresno and Bakersfield, Cal. (the Line). The Board authorized construction of the Line, subject to certain conditions, in *California High-Speed Rail Authority—Construction Exemption—in Fresno, Kings, Tulare, & Kern Counties, California*, FD 35724 (Sub-No. 1) (STB served August 12, 2014) (Vice Chairman Miller concurring and Commissioner Begeman dissenting). The Authority states that seven lawsuits have been filed against the Authority challenging its compliance with CEQA with respect to the Line and that the lawsuits seek injunctive remedies under CEQA that would prevent or delay construction of the Line. The Authority argues that 49 U.S.C. 10501(b) would preempt such CEQA remedies because injunctive relief would enjoin construction of a Board-authorized project.

The Authority has requested that the Board issue an expedited declaratory order by November 20, 2014. The first case management conference for the lawsuits is scheduled for November 21, 2014, and the Authority claims that a declaratory order issued before that conference would remove uncertainty regarding the CEQA injunctive remedies available to the litigants. The Authority states that it served a copy of its petition on all counsel of record in the lawsuits.

The Board has discretionary authority under 5 U.S.C. 554(e) and 49 U.S.C. 721 to issue a declaratory order to eliminate a controversy or remove uncertainty. Here, it is appropriate to institute a declaratory order proceeding so that the Board can consider the issues raised in

the Authority's petition regarding whether 10501(b) would preempt CEQA injunctive remedies regarding the Line. The Board will therefore institute a proceeding to consider the matter. Interested persons may file substantive replies to the Authority's petition by November 6, 2014.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. A declaratory order proceeding is instituted.

2. Interested persons may file substantive replies to the Authority's petition by November 6, 2014.

3. This decision is effective on its service date.

By the Board.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Brendetta S. Jones,**

*Clearance Clerk.*

[FR Doc. 2014-25130 Filed 10-21-14; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

October 17, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104-13, on or after the date of publication of this notice.

**DATES:** Comments should be received on or before November 21, 2014 to be assured of consideration.

**ADDRESSES:** Send comments regarding the burden estimates, or any other aspect of the information collections, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at [OIRA\\_Submission@OMB.EOP.gov](mailto:OIRA_Submission@OMB.EOP.gov) and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at [PRA@treasury.gov](mailto:PRA@treasury.gov).

#### **FOR FURTHER INFORMATION CONTACT:**

Copies of the submissions may be obtained by emailing [PRA@treasury.gov](mailto:PRA@treasury.gov), calling (202) 622-1295, or viewing the entire information collection request at [www.reginfo.gov](http://www.reginfo.gov).