

and approach roadway connecting U.S. 158 on the mainland to NC 12 on the Outer Banks, crossing Currituck Sound. On July 6, 1995, FHWA issued a notice of intent to prepare an environmental impact statement (EIS) for a Mid-Currituck Sound Bridge project in Currituck and Dare Counties, North Carolina. The FHWA, in cooperation with the NCDOT, issued a Draft Environmental Impact Statement (DEIS) on the project in January 1998. FHWA and NCDOT held a public hearing and provided a comment period on the DEIS.

Since the 1998 DEIS, there have been several changes in the project including the expansion of the project study area, modification of the purpose and need statement, and analysis of additional alternatives. During this time period, state legislation and plans, including the North Carolina Intrastate System and the North Carolina Strategic Highway Corridor System, have also been developed or amended to incorporate the proposed project. In 2006, the project was adopted by the North Carolina Turnpike Authority (NCTA) for consideration as a candidate toll project, and the environmental studies for the project are now being completed by NCTA, in coordination with FHWA and NCDOT.

In light of these changes the FHWA is now rescinding the notice of intent and 1998 DEIS. The FHWA, NCDOT, and NCTA plan to prepare a new Draft EIS for the proposed project. A notice of intent to prepare the EIS will be issued subsequent to this rescinding notice. The new Draft EIS will include a toll alternative among the full range of alternatives that will be analyzed. Comments or questions concerning the decision to not prepare Final EIS should be directed to FHWA at the address provided above. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Dated: May 28, 2008.

**George Hoops,**

*Major Projects Engineer, Raleigh, North Carolina.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[FMCSA Docket No. FMCSA-2008-0071]**

**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 twenty-nine 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 June 3, 2008. The exemptions expire on June 3, 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 19476, Apr. 11, 2000). This statement is also available at <http://Docketinfo.dot.gov>.

**Background**

On March 31, 2008, FMCSA published a notice of receipt of Federal diabetes exemption applications from twenty-nine individuals, and requested comments from the public (73 FR 16946). The public comment period closed on April 30, 2008 and one comment was received.

FMCSA has evaluated the eligibility of the twenty-nine 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 (68 FR 52442) 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 twenty-nine applicants have had ITDM over a range of 1 to 35 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 31, 2008, **Federal Register** Notice (73 FR 16946). 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 submits to FMCSA 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 to FMCSA 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 one comment in this proceeding. A letter of recommendation was written in favor of granting the Federal Diabetes Exemption to Mr. Jason Daily. It was written by Mr. Ernest A. White, who states that Mr. Daily has not had diabetic difficulties that would preclude him from operating a motor vehicle safely.

#### Conclusion

After considering the comments to the docket, and based upon its evaluation of the twenty-nine exemption applications, FMCSA exempts, Gary D. Coonfield, Edward F. Connole, Jason C. Daily, Mark B. Demmer, Francis W. Devine, Paul W. Dietze, Harold W. Goodwill, Shannon D. Hanson, Craig A. Hendrickson, Michael T. Johnson, Michael K. Limberg, Maurice R. McGill, Jr., Aundra Menefield, Charles E. Murphy, Eric B. Pies, Douglas G. Puckett, Eric A. Quisling, James T. Rothwell, Bob L. Rumble, Larry D. Schweisberger, Randy A. Shannon, Dalton T. Smith, Jr., Kim M. Stickelmeyer, Marvin D. Webster, Harold A. Wendt, Donald D. Willard, Anthony O. Wilson, Travis S. Wolfe, and Jason J. Wolff, 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: May 28, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Clarification of Solicitation of Applications and Notice of Funding Availability for the Capital Assistance to States—Intercity Passenger Rail Service Program

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Clarification regarding solicitation of applications and notice of funding availability.

**SUMMARY:** On February 19, 2008, FRA issued a Notice of Funding Availability and Solicitation of Applications for the Capital Assistance to States—Intercity Passenger Rail Service Program. On April 18, 2008, in response to questions posed by prospective applicants, FRA issued Notice of Clarification addressing three issues related to applicant and project eligibility. FRA is now issuing further clarification, as described below.

**FOR FURTHER INFORMATION CONTACT:** Peter Schwartz, Office of Railroad Development (RDV-11), Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Phone: (202) 493-6360; Fax: (202) 493-6330.

**SUPPLEMENTARY INFORMATION:** The sections of the February 19, 2008 notice labeled **DATES** and "Schedule for Capital Grant Program" are amended to read as follows.

**DATES:** FRA will begin accepting grant applications on March 18, 2008. Applications may be submitted until the earlier of September 30, 2009, or the date on which all available funds will have been committed under this program. The last-mentioned date will be announced in the **Federal Register**.

Applications submitted by June 30, 2008 will be considered in the first round of awards on the basis of application materials that FRA has received as of that date. Any subsequent rounds of awards will depend on the availability of funds after the first round of awards.

*Schedule for Capital Grant Program:* FRA will begin accepting grant applications on March 18, 2008. Applications for the first round of awards must be submitted by June 30, 2008. For subsequent rounds of awards, if any, deadlines will be announced in the **Federal Register**. Due to the limited funding available under this program: (1) Applicants are encouraged to submit their applications at the earliest date practicable in order to maximize the consideration of their applications in