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**Docket:** To read background documents or comments received, go to <http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Frances Shaver, (202) 267-9681, or Katrina Holiday, (202) 267-3603, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 9, 2008.

**Pamela Hamilton-Powell,**  
*Director, Office of Rulemaking.*

#### Petition for Exemption

**Docket No.:** FAA-2008-0927.  
**Petitioner:** Honeywell, Defense & Space Electronics System.  
**Section of 14 CFR Affected:** § 21.195(d)(2).

**Description of Relief Sought:** Honeywell requests an exemption to gain an experimental airworthiness certificate to conduct customer crew training with less than 50 flight hours.

[FR Doc. E8-24442 Filed 10-14-08; 8:45 am]  
**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Buy America Waiver Notification

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice.

**SUMMARY:** This notice provides information regarding the FHWA's

finding that a Buy America waiver is appropriate for certain steel products used in Federal-aid bridge construction projects in North Carolina.

**DATES:** The effective date of the waiver is October 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366-1562, [gerald.yakowenko@dot.gov](mailto:gerald.yakowenko@dot.gov). For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366-4928, [michael.harkins@dot.gov](mailto:michael.harkins@dot.gov). Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register's** home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

##### Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when application of the requirements would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for specialty machinery and motor brakes used on certain bridge projects in North Carolina.

In accordance with section 130 of Division K of the "Consolidated Appropriations Act, 2008" (Pub. L. 110-161), on August 21, 2008, the FHWA published on its Web site a notice of intent to issue a waiver for machinery and motor brakes (<http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=19>). The FHWA received one comment which supported the waiver if it is not for multiple applications. During the 15-day comment period, the FHWA conducted an additional nationwide review to locate potential domestic manufacturers of machinery and motor brakes. Based on all the information available to the Agency, including the response received to the notice as well as the Agency's nationwide review, the

FHWA concludes that there are no domestic manufacturers for these products, and a Buy America waiver is appropriate as provided by 23 CFR 635.410(c)(1).

In accordance with the provisions of section 117 of the "SAFETEA-LU Technical Corrections Act of 2008" (Pub. L. 110-244, 122 Stat.1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the links above to the North Carolina waiver pages noted above.

**Authority:** 23 U.S.C. 313; Pub. L. 110-161, 23 CFR 635.410.

Issued on: October 6, 2008.

**Thomas J. Madison, Jr.,**  
*Federal Highway Administrator.*  
[FR Doc. E8-24529 Filed 10-14-08; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2008-0175]

#### 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 forty-seven 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 October 15, 2008. The exemptions expire on October 15, 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://Docketsinfo.dot.gov>.

### Background

On August 5, 2008, FMCSA published a notice announcing receipt of applications for exemption from the Federal diabetes standard from forty-seven individuals, and requested comments from the public (73 FR 45519). The public comment period closed on September 4, 2008, and three comments were received.

FMCSA has evaluated the eligibility of the forty-seven 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 forty-seven applicants have had ITDM over a range of 1 to 46 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or that 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 his or her diabetes, received education related to diabetes management, and is on a stable insulin regimen. Each driver reports 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 August 5, 2008, **Federal Register** Notice (73 FR 45519). 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 three comments in this proceeding. Two of the comments were recommendations in favor of granting the Federal diabetes exemption to Mr. Tyree L. Murdock II. and Mr. Brian Wallisch. The third comment was also a recommendation in favor of granting Federal diabetes exemptions to individuals with ITDM.

### Conclusion

After considering the comments to the docket, and based upon its evaluation of the forty-seven exemption applications, FMCSA exempts, Robert V. Balmes, David R. Bauerdorf, Stephen R. Bortz, John A. Broecker, Daniel A. Brown, Floyd G. Burbach, Kenneth M. Brinker, Richard A. Bruyere, Randie L. Burrows, Scott R. Butler, Jay P. Cave, Jeffrey A. Clark, Terry C. Conwell, Steven M. French, Glennon E. Goetting, Philip P. Gray, John L. Hansen, Darin D. Harries, William E. Hollowell, Cindy L. Hushin-Brink, Steven L. Jensen, Mark A. Kabriel, Kevin K. Kimbro, Richard D. Knoche, Jonathan D. Koehn, Robert J. Lanczkowski, Terry G. Lindahl, Paula S. Lewis, Edward M. Mason, John M. McAuliffe, John A. McMurray, Kurt V. Miller, William W. Moffat, Tyree L. Murdock, II., Edward A. Ortega, David W. Payne, Richard Rodriguez, Scott D. Schultz, Daniel S. Sherman, Marvin R. Shipman, Mark W. Seem, Ricky Sirico, Daryl L. Vaughn, Brian K. Wallisch, Steven S. Whitt, Jr., Andrew A. Zizza, Mick B. Zoske, 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: September 25, 2008.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E8-24380 Filed 10-14-08; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Notice of Closing of Funding Availability and Request for Comments for the Capital Assistance to States—Intercity Passenger Rail Service Program for Fiscal Year 2008

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

**ACTION:** Closing of Funding Availability and Request for Comments.

**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 for Fiscal Year (FY) 2008. On September 30, 2008, DOT announced the selection of awardees for the available FY 2008 funding. Therefore, FRA is now announcing that it will no longer be accepting applications for awards of the FY 2008 funding. FRA is also requesting, in preparation for a possible FY 2009 Notice of Funding Availability and Solicitation of Applications, that past and prospective applicants (or associations representing past and prospective applicants) submit comments regarding their experience with the program and suggestions for possible improvements.

**DATES:** Comments should be submitted no later than December 5, 2008.

**ADDRESSES:** Past and prospective applicants (or associations representing past and prospective applicants) may submit comments identified by the docket number FRA-2008-0115 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Fax:* 1-202-493-2251.

*Instructions:* All submissions must include the agency name and docket number (FRA-2008-0115) for this program. Note that all comments received will be posted, without change, to <http://www.regulations.gov>, including any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials. Internet users may access comments received by DOT at <http://www.regulations.gov>.

**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:** FRA anticipates that it will publish during the second quarter of FY 2009 a Notice of Funding Availability and Solicitation of Applications for the Capital Assistance to States—Intercity Passenger Rail Service Program for funding made available for FY 2009. In preparation for such an announcement, FRA is requesting that past and prospective applicants submit comments regarding their experience with the program during FY 2008 and their suggestions for possible improvements. Those interested in submitting comments should do so by the methods specified in the **ADDRESSES** heading above no later than December 5, 2008.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of a State, association, business, or labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://DocketsInfo.dot.gov>.

Issued in Washington, DC, on October 8, 2008.

**Mark E. Yachmetz,**

*Associate Administrator for Railroad Development.*

[FR Doc. E8-24524 Filed 10-14-08; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2008-0009, Notice No. 4]

#### Declaration of Emergency Event

**AGENCY:** Federal Railroad Administration, Department of Transportation.

**ACTION:** Notice of declaration of emergency event.

**SUMMARY:** On September 26, 2008, the Administrator of the Federal Railroad Administration (FRA) determined that the impending landfall of tropical storm Kyle on the coast of the United States and the potential of that storm to reach hurricane status constituted an emergency event as related to railroad operations. Accordingly, the Administrator activated the Emergency Relief Docket. This document provides notice of the Administrator's determination.

**SUPPLEMENTARY INFORMATION:** On September 26, 2008, the Administrator of FRA determined that the impending landfall of tropical storm Kyle on the coast of the United States and that potential of that storm to reach hurricane status constituted an emergency event pursuant to Title 49 Code of Federal Regulations (CFR) Part 211.45(c) and that public safety required the implementation of FRA's emergency waiver rule directly related to the emergency. Accordingly, the Administrator activated the Emergency Relief Docket (Docket Number FRA-2008-0009) and in accordance with 49 CFR Part 211.45(g), petitions received in that docket pursuant to this emergency event will be handled according to the requirements of 49 CFR Part 211.45(g)-(j).

Interested parties are reminded that the procedures in 49 CFR Part 211.45 provide for expedited review and processing of emergency waiver petitions. Accordingly, in accordance with 49 CFR Part 211.45(h), any person wishing to comment on petitions for emergency waivers should submit their comments to the docket within 72 hours from the close of business on the day that the petition is posted in the public docket. Any person desiring a public