

**ACTION:** Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

**SUMMARY:** This notice announces actions taken by the FHWA and other Federal Agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the Interstate 43 (I-43) Freeway Improvement Project in Milwaukee and Ozaukee Counties, Wisconsin. Those actions grant approvals for the project.

**DATES:** By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). Claims seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before May 11, 2015. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** George Poirier, Division Administrator, FHWA, 525 Junction Road, Suite 8000, Madison, Wisconsin 53717; telephone: (608) 829-7500. The FHWA Wisconsin Division's normal office hours are 7 a.m. to 4 p.m. central time.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing approvals for the following highway project: I-43 Freeway Improvement Project from Silver Spring Drive to Wisconsin 60 (WIS 60) in Milwaukee and Ozaukee Counties, Wisconsin. The purpose of the project is to address emerging pavement and structural needs, safety issues, and design deficiencies while identifying methods to accommodate existing and projected future traffic volumes. The project also strives to minimize impacts to the natural, cultural and built environment to the extent feasible and practicable. The project will widen the existing I-43 four-lane divided highway to a six-lane divided highway for approximately 14 miles from Silver Spring Drive to WIS 60. The scope of the proposed action includes rebuilding the mainline roadway, bridges, and interchanges; replacing the existing partial interchange at County Line Road with a full-access interchange; constructing a new interchange at Highland Road; reconstructing local streets affected by the freeway reconstruction; and enhancing the aesthetic appearance of the reconstructed freeway.

The actions by the Federal agencies on this project, and the laws under

which such actions were taken, are described in the combined Record of Decision (ROD) and Final Environmental Impacts Statement (FEIS) approved on November 25, 2014, and in other documents in the FHWA administrative record. The combined ROD and FEIS was prepared pursuant to the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, § 1319, 126 Stat. 405 (2012).

The combined ROD and FEIS, and other documents in the administrative record are available by contacting FHWA at the address provided above. The combined ROD and FEIS can be downloaded from the project Web site at <http://www.dot.wisconsin.gov/projects/seregion/43/index.htm>; or viewed at offices of local governments and transportation agencies in the project area; or at the following public libraries: Whitefish Bay Public Library (5420 N. Marlborough Dr., Whitefish Bay, WI), North Shore Public Library (6800 N. Port Washington Rd., Glendale, WI), Frank L. Weyenberg Library (11345 N. Cedarburg Rd., Mequon, WI), and U.S.S. Liberty Memorial Public Library (1620 11th Ave., Grafton, WI).

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321-4351], Federal-Aid Highway Act [23 U.S.C. 109, 23 U.S.C. 128, and 23 U.S.C. 139].

2. *Air:* Clean Air Act [42 U.S.C. 7401-7671(q) and 23 U.S.C. 109(j)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544 and Section 1536], Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)], Migratory Bird Treaty Act [16 U.S.C. 703-712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)], Uniform Relocation Assistance and Real Property Acquisition Act of 1970 [42 U.S.C. 4601 *et seq.* as amended by the Uniform Relocation Act Amendments of 1987 [Pub. L. 100-17].

7. *Wetlands and Water Resources:* Clean Water Act (Section 404, Section 401, and Section 319) [33 U.S.C. 1251-1376].

8. *Hazardous Materials:* Comprehensive Environmental

Response, Compensation, and Liability Act [42 U.S.C. 9601-9675].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands, E.O. 11988 Floodplain Management, E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, E.O. 13175 Consultation and Coordination with Indian Tribal Governments, E.O. 11514 Protection and Enhancement of Environmental Quality, E.O. 13112 Invasive Species.

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

**Authority:** 23 U.S.C. 139(l)(1), as amended by Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141, § 1308, 126 Stat. 405 (2012).

Issued on: December 2, 2014.

**George R. Poirier,**  
Division Administrator, Madison, Wisconsin.  
[FR Doc. 2014-28922 Filed 12-11-14; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2014-0021]

#### 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 78 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 October 21, 2014. The exemptions expire on October 21, 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 September 18, 2014, FMCSA published a notice of receipt of Federal diabetes exemption applications from 78 individuals and requested comments from the public (79 FR 56107). The public comment period closed on October 20, 2014, and four comments were received.

FMCSA has evaluated the eligibility of the 78 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 78 applicants have had ITDM over a range of 1 to 48 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 September 18, 2014, **Federal Register** notice and they will not be repeated in this notice.

## IV. Discussion of Comments

FMCSA received four comments in this proceeding. The comments are discussed below.

Gregory Witt believes that drivers should be granted an exemption if a doctor is satisfied that their diabetes is adequately controlled by medication.

Ashley Warren opposes the ruling in FMCSA-2014-0021 because she does not believe drivers are required to receive medical examinations more than every two years. As described in "Section VI. Conditions and Requirements" in this document, all drivers must submit quarterly and annual evaluations from a board-eligible or board-certified endocrinologist each year throughout the duration of the exemption, as well as annual evaluations from an optometrist or ophthalmologist (if the driver has diabetic retinopathy, the evaluation must be completed by an ophthalmologist). In addition, exempted drivers are required to receive an annual DOT physical examination to ensure that they meet all other medical standards not related to ITDM.

Daniel Adams submitted two comments addressing Ashley Warren's comment, explaining the many evaluations drivers are required to submit throughout the duration of their exemption period.

## 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 78 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):

Daniel S. Adams (ME)  
 Michael L. Agnitsch (NE)  
 Shaun M. Aguayo (TX)  
 Earl W. Avery (TN)  
 Douglas W. Baker, Sr. (VA)  
 Michael A. Baker (CT)  
 Douglas E. Barron (SC)  
 Pablo H. Bilbao La Vieja Pozo (RI)  
 Todd D. Bloomfield (WA)  
 Sylvester G. Clements, Jr. (WI)  
 Fred W. Click (IN)  
 Kenneth M. Coco (TX)  
 Christopher R. Cook (NY)  
 Wygila M. Corliss (NM)  
 Timothy J. Cornish (OH)  
 Joshua D. Cresswell (NH)  
 Evan R. Dieken (MN)  
 Greg B. Duck (TX)  
 Arthur J. Dunn (PA)  
 Richard A. Durr (IL)  
 Daniel R. Eloff (OH)  
 Thomas O. Everett (WA)  
 Victor J. Flowers (CA)  
 Brian K. Forrest (PA)  
 David S. Fortune (VA)  
 Michael S. Frederick (NJ)  
 Peter E. Ganss (KS)  
 David E. Gates (MA)  
 Timothy L. Grant (NC)  
 James T. Heck (MN)  
 Rodney J. Hendricks (ID)  
 Marcus T. Herring (CA)  
 Charles R. Hoit (MO)  
 Jason L. Hubbard (MD)  
 Andy L. Hughes (IL)  
 Jammie L. Hughes (OH)  
 Charles J. Hurley (MN)  
 Rodney L. Johnson (OR)  
 Frederick B. Jones (TX)  
 Tito D. Jones (GA)  
 Scott M. Klain (OR)  
 Jeffrey P. Kloeckl (SD)  
 John J. Kress (AZ)  
 Russell A. Krogstad (MN)  
 John B. Leberherz (TX)  
 Alan S. Lewis (NM)  
 William M. Linskey (MA)  
 Jason D. Lowder (OH)  
 Arnold V. Magaoay (HI)  
 Norman C. Mallett (AR)  
 Patrick Marcantuono (NJ)  
 Daniel E. McDonald (MN)  
 William F. McQueen, Jr. (MO)  
 Kenneth M. Miller (ID)  
 William F. Mitchell (CT)  
 Donald L. Mitzel (PA)  
 Gino P. Monterio (WI)  
 Matthew K. Morrison (UT)  
 Gary R. Nelson (MN)  
 Edward L. Norfleet (AL)  
 Kyle R. Perry (PA)  
 Michael L. Plinski (WA)  
 Scott A. Porter (WA)

James A. Rambo (VA)  
 Rondo L. Rininger (IN)  
 Richard D. Sandison (ND)  
 Calvin R. Smith (IL)  
 Wesley J. Summerville (PA)  
 Jeffrey S. Thomas (PA)  
 Stephen M. Thompson (GA)  
 Randy L. Triplett (OH)  
 John E. Trygstad (SD)  
 Jared M. Wabeke (MI)  
 Steven R. Weir (MA)  
 Donald D. Willard (IA)  
 Gary W. Wozniak (NE)  
 Steven L. Yokom (ID)  
 Daniel R. Zuriff (MN)

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: December 5, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2014-0115]

#### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated October 22, 2014, Norfolk Southern Corporation (NS) has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA-2014-0115.

*Applicant:* Norfolk Southern Corporation, Mr. Brian L. Sykes, Chief Engineer C&S Engineering, 1200 Peachtree Street NE., Atlanta, GA 30309.

NS seeks approval of the proposed discontinuance of a traffic control system (TCS) on the Winding Gulf

Branch between Horsepen, Milepost (MP) WG 6.5 and Tams, MP WG 12.1, near Amigo, WV.

The reason given for the proposed changes is that the TCS is no longer desirable or needed to handle current train operations. The TCS will be discontinued and replaced with NS Rule 171 for track authority operation. CP Horsepen will be renewed, and fixed approach signals will be installed, in approach to the start of TCS territory.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by January 26, 2015 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to