

covered by the liability insurance a launch operator is required to purchase when conducting a licensed launch in the United States?

6. A government-industry risk sharing arrangement, such as that reflected in the CSLA and described in this Notice, may be unusual for a commercial industry, but it is not unique. For example, indemnification of excess liability is credited with enabling commercial development of the nuclear power industry. Do you think it is important and appropriate for the government to continue to support the U.S. commercial launch industry by having some type of liability risk-sharing program, such as the one described in this Notice, and can you state why?

7. Other governments financially support their launch industry through indemnification commitments. For example, the French Government is responsible for paying damages awarded to victims of Arianespace launches in excess of the insurance obtained by Arianespace. Do you believe that the U.S. Government should continue to have policies and laws, such as the CSLA risk-sharing program described in this Notice, so that U.S. companies can compete on similar terms against their international competitors?

8. If you answered "yes" to Question 7, above, under what circumstances do you believe the U.S. Government should or could stop supporting the U.S. commercial launch industry through risk sharing? What criteria (e.g., market share, technological success, other considerations) would you use in deciding that a risk-sharing arrangement between government and industry is no longer necessary or appropriate?

#### Part II

Reprinted below are the questions presented in the first Internet public meeting, conducted April 27–May 11. You may answer none, some or all of them, and then proceed to Part III.

1. Could the U.S. commercial space transportation industry compete effectively against non-U.S. launch providers without the existing liability risk-sharing regime?

2. Are the liability risk-sharing regimes of other space-faring countries relevant to the competitiveness of the U.S. space transportation industry? Are there specific elements of particular foreign regimes that you believe provide advantages or benefits to entities that fall under those regimes and the ability of non-U.S. launch providers to compete internationally?

3. Does holding a launch operator strictly liable for the damage or injury

that results from its launch hinder the commercialization of space launch capability?

4. By treaty, the U.S. Government accepts absolute liability for damage on the ground or to aircraft in flight outside of the United States when a launch takes place from U.S. territory or facilities. Given the Government's obligations in this regard, does the existing liability risk-sharing regime provide adequate coverage and financial protection for the commercial space transportation industry as well as the Government?

5. U.S. and foreign air carriers operating in the United States are required to maintain insurance coverage in certain minimum amounts covering liability to passengers and persons and property on the ground. For aircraft with more than 60 seats or more than 18,000 pounds of capacity, carriers must maintain third-party accident liability coverage in the minimum amount of \$300,000 for any one person other than a passenger and a total of \$20 million per involved aircraft for each occurrence. There is no government indemnification in the event claims exceed that amount, nor does the U.S. Government accept treaty-based liability in the event of such damage. At what stage of development and under what circumstances should the airline liability regime become a model for commercial reusable launch vehicles (RLVs) that will routinely take-off and land?

6. The Federal Government's current indemnification policy does not cover risks associated with commercial spaceport operations that do not involve launch vehicles. Do commercial spaceports require a liability risk-sharing regime comparable to that utilized for licensed launches and reentries, even when there is no vehicle-related activity taking place at the spaceport?

7. What factors should the U.S. Congress consider in determining whether to continue as-is, or modify, existing laws in terms of liability risk-sharing for commercial space launch and reentry activities?

8. What suggestions do you have for modifying the existing liability risk-sharing laws applicable to commercial launch and reentry activities?

#### Part III

This part provides an opportunity for you to express your views and concerns on matters related to launch liability, risk management and government policies in support of the U.S. commercial space launch industry. You are welcome to use this opportunity to

inform the FAA of your views regarding U.S. commercial space transportation in general, and the government's role in facilitating and supporting commercial access to space and regulating launch safety.

Issued in Washington, DC, on July 25, 2001.

**Joseph A. Hawkins,**

*Acting Associate Administrator for Commercial Space Transportation.*

[FR Doc. 01–19043 Filed 7–30–01; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–9800]

#### Qualification of Drivers; Exemption Applications; Diabetes

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of intent to issue exemptions and request for comments.

**SUMMARY:** This notice announces the FMCSA's proposal to issue exemptions to certain insulin-using diabetic drivers of commercial motor vehicles (CMVs), from the diabetes mellitus prohibitions contained in the Federal Motor Carrier Safety Regulations (FMCSRs). The FMCSA requests comments on its proposed exemption program, but we are not accepting applications for exemptions at this time. If a decision to proceed with the exemption program is made, the exemptions would be granted only to those applicants who meet the specific conditions and comply with all the requirements of the exemption. Exemptions would be issued for a period of two years. After the two years, those holding exemptions would need to reapply for another two-year exemption.

**DATES:** Comments must be received on or before October 1, 2001.

**ADDRESSES:** You can mail, hand deliver, fax, or electronically submit written comments to the Docket Management Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590; FAX (202) 493–2251, online at <http://dmses.dot.gov/submit>. Please include the docket number that appears in the heading of this document in your comment. You can examine and copy all comments from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays at the docket facility. You can also examine the docket on the Internet at <http://dms.dot.gov>. If you want us to

notify you of receipt of your comments, please include a self-addressed, stamped envelope or postcard, or after submitting comments electronically, print the acknowledgment page.

**FOR FURTHER INFORMATION CONTACT:** For further information about the proposed diabetes exemption program in this notice, Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (202) 366-2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366-1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

The motor carrier regulatory functions of the Federal Highway Administration (FHWA) were transferred to the recently created Federal Motor Carrier Safety Administration (FMCSA). The history and delegation of authority to the FMCSA was published in the **Federal Register** on January 4, 2000 (65 FR 220). The agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of accident involvement than the general population. The diabetes requirement provides:

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).

Since 1970, the agency engaged in several activities to address the issue of diabetes and CMV operation. On March 28, 1977, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) to solicit comments on the diabetes standard (42 FR 16452). The agency terminated this rulemaking in November 1977 without amending the standard, after determining that the more substantive comments and the literature cited in the ANPRM supported the prohibition against the operation of CMVs by insulin-using diabetics because of highway safety concerns. On November 25, 1987, the agency published a new ANPRM (52 FR 45204) requesting comments on petitions from two individuals and the American Diabetes Association to eliminate the blanket prohibition against insulin-using diabetics and grant waivers on a case-by-case basis. In September 1987, a Conference on Diabetic Disorders and

Commercial Drivers was held to review the diabetes standard in light of advances in the care of diabetics. Conference participants (physicians, scientists, federal officials and representatives from the motor carrier industry) recommended that some drivers with diabetes could be certified to drive depending upon insulin use and under certain conditions (absence of recurrent hypoglycemia, safe driving record, etc.) (Federal Highway Administration, Conference on Diabetic Disorders and Commercial Drivers; Final Report, 1988). Following this, the agency published a Notice of Proposed Rulemaking (55 FR 41208) requesting comments on a proposal to revise the diabetes standard to allow insulin-using diabetics to operate CMVs and sponsored a 1990 risk assessment that estimated various levels of accidents among diabetic drivers depending upon the severity of hypoglycemia (Federal Highway Administration, Insulin-using Commercial Motor Vehicle Drivers, 1992). The estimated level of accidents was deemed acceptable and a Notice of Intent to Issue Waivers was published in 1992. This led to a 1993 waiver program, based on a three-year safe driving record while using insulin and medical examinations by the required specialists.

The diabetes waiver program, originally part of a research study, was terminated in 1996. The D.C. Circuit Court of Appeals had found that the initial determination that the agency's vision waiver program would not adversely affect the safe operation of CMVs was "devoid of empirical support in the record" and, therefore, contrary to law (*Advocates for Highway and Auto Safety v. Federal Highway Administration*, 28 F. 3d 1288 (D.C. Circuit 1994)). Although the decision initially affected only the vision waiver program, it had a direct effect on the diabetes program because of the similar approach used to prequalify drivers. Those drivers holding waivers at the program's termination were allowed to continue to operate CMVs in interstate commerce under grandfather provisions at 49 CFR 391.64.

*Feasibility Study To Qualify Insulin-Treated Diabetics To Operate CMVs*

On June 9, 1998, the President signed the Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178, 112 Stat. 107). Section 4018 of the TEA-21 directed the Secretary of Transportation (the Secretary) to determine if it is feasible to develop a safe and practicable program for allowing individuals with insulin-treated diabetes mellitus (ITDM) to

operate CMVs in interstate commerce. In making the determination, the Secretary was directed to evaluate research and other relevant information on the effects of ITDM on driving performance. TEA-21 stated that, to accomplish this, the Secretary shall consult the states with regard to their programs for CMV operation by ITDM drivers, evaluate the Department of Transportation's (DOT) policies in other modes of transportation, analyze pertinent risk data, consult with interested groups knowledgeable about diabetes and related issues, and assess the possible legal consequences of permitting ITDM individuals to operate CMVs in interstate commerce. TEA-21 also directed the Secretary to report the findings to Congress and, if a program is feasible, describe the elements of a protocol to permit individuals with ITDM to operate CMVs. The report was submitted to Congress on August 23, 2000, and concludes that a safe and practicable protocol to allow some ITDM individuals to operate CMVs is feasible. A copy of the report is included in the docket. The FMCSA's feasibility assessment included a review of background research on the risk of driving with diabetes. Although the relationship between diabetes and automobile crashes had been assessed since 1965, the epidemiological evidence from 1965 to 1991 produced conflicting results. The lack of consistent results was in many cases caused by flawed methodology. Further, none of the studies addressed the operation of CMVs. With the termination of the waiver program and its research component, the agency lacked clear risk assessment information.

A literature review was conducted on the treatment and management of ITDM. The research results showed positive findings. Six studies have been reported in the literature. The two largest and most reported studies (The Diabetes Control and Complications Trial and the United Kingdom Prospective Diabetes Study Group) represented the most extensive investigations of insulin therapy and had similar findings. Both showed that patients experienced reductions in blood glucose levels and significantly fewer microvascular complications with intensive treatment. However, the studies also showed significant adverse effects from insulin use, notably, a significantly higher rate of hypoglycemia.

Investigation of the policies of other DOT modal administrations regarding ITDM showed that only the Federal Aviation Administration (FAA) has a well-developed program. In 1994, the

FAA determined that selected ITDM individuals can be considered for special issuance of a third-class Airman Medical Certificate under a screening, glucose management, and monitoring protocol. The program evolved through a series of steps in which the agency capitalized on its experience, reviewed relevant research, consulted medical experts, and considered comments from the public and interested organizations.

As a part of its feasibility determination, the FMCSA examined how the states treated drivers with ITDM. Although the states have the option to apply the FMCSRs to the medical qualifications for intrastate CMV operators, they also have the flexibility to deviate from the FMCSRs. A few states have chosen to adopt the federal standards and not allow ITDM individuals to operate CMVs. Some states have granted grandfather rights to drivers who were already driving intrastate, while allowing no new drivers after a specific date. Other states have programs whereby drivers can apply for the opportunity to operate in intrastate commerce. Based on several surveys of the states and contact with individual states, the programs of four states (Utah, Michigan, Kentucky and Delaware) are presented in the report as examples of more extensive approaches. These states have screening, operating and monitoring protocols of varying degrees of intensity and coverage, but do not monitor results.

The report presents four recent risk assessment studies (1995 to 1997) that specifically address diabetes and the operation of CMVs. Two of the studies were performed in Canada, while the other two were conducted by the Office of Motor Carrier Safety (now the FMCSA). The first study analyzed insurance data for 1,307 truck drivers and found that diabetics operating smaller trucks had significantly higher accident rates (diabetics operating large combination trucks did not have higher rates) (Dionne, G., Desjardin, D., LaBerge-Nadeau, C. and Moag, U., "Medical Conditions, Risk Exposure, and Truck Driver's Accidents: An Analysis with Count Data Regression Models," *Accident Analysis and Prevention*, 27(3), p. 295-305; 1995). Insulin use was not considered. The second Canadian study used the same database and concluded that diabetic drivers did not have accidents that were significantly more severe than those without the condition (severity was defined by injuries and fatalities). The third study used data from the FHWA waiver program (Federal Highway Administration, Final Descriptive Report: "Qualifications of Drivers-

Vision, Diabetes, Hearing and Epilepsy," 1997). The analysis of these data showed that the accident rate of the diabetes waiver program drivers was lower than the national rate. The last study looked at 723 ITDM drivers of large trucks and a comparison group of 1,297 drivers with commercial driver's licenses (Federal Highway Administration, "A Preliminary Study of the Risk Associated with the Operation of Commercial Motor Vehicles by Drivers with Insulin-Treated Diabetes Mellitus," 1999). After adjustment for confounding, the results showed no significant differences between the two groups in accident rate or severity. The ITDM drivers in this study had at least 3 years experience operating a commercial vehicle with the condition. All of the recent studies specifically concerned with diabetes and CMV operation show that drivers with that condition have a level of safety that is the same or better than a comparison group or the national accident rate.

The FMCSA also assembled a panel of physicians expert in the treatment of diabetes. The panel was asked to address the screening and monitoring issues that would be associated with a process to allow ITDM individuals to operate CMVs. Responding with written reports and through discussion at a meeting in Washington, DC, the panel expressed the opinion that advances in the treatment of diabetes make it possible both to control the disease and to permit the identification of those individuals capable of doing so. The panel identified methods to avoid acute complications, including hypoglycemia, and endorsed a protocol for monitoring glucose before and during the operation of a CMV. The panel concluded that from a medical standpoint a process was feasible for permitting some individuals with ITDM to operate CMVs.

The report concludes that a safe and practicable protocol to allow some ITDM individuals to operate CMVs is feasible. The research on the treatment and management of ITDM, combined with the determinations of the medical panel, indicate that the disease and its adverse effects can be successfully controlled and monitored. Moreover, recent risk assessments provide evidence that diabetic CMV operators can perform in an acceptably safe manner. Finally, the program operated by the FAA and the analysis of the agency's diabetes waiver study program demonstrate that it is possible to screen and monitor ITDM individuals so that safe performance is feasible.

The report further concludes that a viable program protocol for allowing

individuals with ITDM to operate CMVs would require three components. The first is a screening component to identify qualified applicants. This process would examine the applicant's experience and safety in operating CMVs, the applicant's history of hypoglycemia, and the results of examinations by the required medical specialists (endocrinologists and ophthalmologists). The second component would provide guidelines for managing ITDM, including supplies to be used and the protocol for monitoring and maintaining appropriate blood glucose levels. The last component would specify the process to be used for monitoring ITDM commercial drivers. It would address the required medical examinations and the schedule for their submission. It also would indicate how glucose measures should be taken and reviewed, and specify how episodes of severe hypoglycemia and accidents should be reported. These components are based largely on the structure of the FAA and FHWA/FMCSA waiver programs. They are presented in detail in the report.

Finally, the report addresses the legal consequences of permitting ITDM individuals to drive CMVs in interstate commerce. It was determined that the legal consequences of a rule (including a regulation, policy or standard adopted pursuant to the Administrative Procedure Act (APA)) fall into two categories: (1) An APA challenge to the validity of the rule and (2) tort liability for damages sustained in an accident involving an ITDM driver. The assessment concluded that these consequences are no different from those associated with any other rule involving driver standards and qualifications. For employers that hire ITDM drivers, the rule might expose them to new standards of responsibility for monitoring the health of drivers who meet federal guidelines.

Based on the research presented in the Report to Congress, the FMCSA has decided that evidence and precedence indicate the appropriate form for implementing a process would be an exemption program. Evidence indicates that diabetes is a chronic disease which requires constant control, especially ITDM, and needs, therefore, ongoing monitoring to ensure that the disease is under control. The evidence also strongly suggests that the process which guarantees an acceptable level of safety is one that thoroughly screens ITDM drivers who wish to operate CMVs and periodically monitors the disease-controlling behavior of those successfully screened. Experience indicates, through the FAA and FHWA/

FMCSA programs, such a process is best implemented as an exemption program, and that type of program is currently defined and authorized in Section 4007 of TEA-21.

#### *Authority—Waivers and Exemptions*

On June 9, 1998, the agency's waiver authority changed with enactment of the Transportation Equity Act for the 21st Century (TEA-21), Public Law No. 105-178, 112 Stat. 107. Section 4007 of TEA-21 amended the waiver provisions of 49 U.S.C. 31315 and 31136(e) to change the standard for evaluating waiver requests, to distinguish between a waiver and an exemption, and to establish term limits for both. Under revised sections 31315 and 31136(e), the FMCSA may grant a waiver for a period of up to 3 months or an exemption for a renewable 2-year period.

The amendments to 49 U.S.C. 31315 and 31136(e) also changed the criteria for exempting a person from application of a regulation. Previously an exemption was appropriate if it was consistent with the public interest and the safe operation of CMVs. Now the FMCSA may grant an exemption if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The new standard provides the FMCSA greater flexibility and discretion to deal with exemptions than the previous standard. (See H.R. Conf. Rep. No. 105-550, at 489 (1998).)

The TEA-21 requires the FMCSA to publish a notice in the **Federal Register** for each exemption requested, explaining that the request has been filed, and providing the public an opportunity to inspect the safety analysis and any other relevant information known to the agency, and comment on the request. Prior to granting a request for an exemption, the agency must publish a notice in the **Federal Register** identifying the person or class of persons who will receive the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption. The terms and conditions established by the FMCSA must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation.

In addition, the agency is required to monitor the implementation of each exemption to ensure compliance with its terms and conditions. If the FMCSA denies a request for an exemption, the agency must publish a notice in the **Federal Register** identifying the person

who was denied the exemption and the reasons for the denial.

Generally, the duration of exemptions issued under the authority of section 4007 is limited to two years from the date of approval, but may be renewed. The FMCSA is required to immediately revoke an exemption 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 that was maintained before the exemption was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of the regulations issued under the authority of 49 U.S.C. 31315 and 31136(e).

#### **Process for Applying for an Exemption**

The procedures for applying for an exemption are at 49 CFR 381.300. The person applying for an exemption is required to send a written request (which could be a typed or handwritten letter (printed)) to the Federal Motor Carrier Safety Administrator. The written request must include basic information such as the identity of the person who would be covered by the exemption, the name of the motor carrier or other entity that would be responsible for the use or operation of CMVs during the exemption period, and the principal place of business of the motor carrier or other entity. Under section 381.310, the application must include a written statement that: (1) Describes the event or CMV operation for which the exemption would be used; (2) identifies the regulation from which the applicant is requesting relief; (3) estimates the total number of drivers and CMVs that would be operating under the terms and conditions of the exemption; and (4) explains how the recipient of the exemption would ensure that they achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

#### **FMCSA Procedures for the Review of Exemption Applications**

Section 381.315 requires the FMCSA to review an application for an exemption and prepare, for the Administrator's signature, a Federal Register notice requesting public comment. After a review of the comments received, a recommendation will be made to the Administrator. Notice of the Administrator's final decision will be published in the **Federal Register**. The FMCSA would attempt to issue a final decision within 180 days of the date it receives an individual's completed application. However, if the applicant should omit

important details or other information necessary for the agency to conduct a comprehensive evaluation, the FMCSA would attempt to issue a final decision within 180 days of the date the additional information is received (49 CFR 381.315 and 381.320). The FMCSA recognizes that this potential six-month waiting period may seem burdensome. However, the agency must carefully evaluate each and every application for regulatory relief from the diabetes standard, to assess the potential safety performance of each applicant. In addition, the agency must prepare and submit the candidate's application for public notice and comment in the **Federal Register** and then evaluate comments received before making a final decision. The FMCSA's overriding concern is to ensure the safety of interstate commercial operations. The agency would notify all applicants in writing once a final decision is made.

#### **Application Information**

In considering exemptions, the FMCSA must ensure that the issuance of diabetes exemptions would not be contrary to the public interest and that the exemption achieves an acceptable level of safety. Exemptions, therefore, would only be granted to ITDM individuals who meet certain conditions. These conditions, which are based on the research literature, relevant DOT and State exemption programs and with substantial input from a panel of endocrinologists, are set forth below. Applicants for an exemption from the ITDM prohibition would be required to submit their applications in a letter (there would be no application form), include all supporting documentation, and use the following format:

##### **Vital Statistics**

Name (First Name, Middle Initial, Last Name):

Address (House Number and Street Name, City, State, and Zip Code):

Telephone Number (Area Code and Number):

Sex (Male or Female):

Date of Birth (Month, Day, Year):

Age:

Social Security Number:

State Driver's License Number (List all licenses held to operate a commercial motor vehicle (CMV) during the 3-year period immediately preceding the date of application.):

Driver's License Expiration Date:

Driver's License Classification Code (If not a commercial driver's license (CDL) classification code, specify what vehicles may be operated under such code):

Driver's License Date of Issuance (Month, Day, Year):

## Experience

Number of years driving straight trucks:

Approximate number of miles *per year* driving straight trucks:

Number of years driving tractor-trailer combinations:

Approximate number of miles *per year* driving tractor-trailer combinations:

Number of years driving buses:

Approximate number of miles *per year* driving buses:

## Present Employment

Employer's Name (If Applicable):

Employer's Address:

Employer's Telephone Number:

Type of Vehicle Operated and GVWR (Straight Truck, Tractor-Trailer Combination, Bus):

Commodities Transported (e.g., General Freight, Liquids in Bulk (in cargo tanks), Steel, Dry-Bulk, Large Heavy Machinery, Refrigerated Products):

Estimated number of miles driven *per week*:

Estimated number of daylight driving hours *per week*:

Estimated number of nighttime driving hours *per week*:

States in which you will drive if issued an exemption:

In addition, the applications must include supporting documentation showing that the applicant:

(1) Possesses a valid intrastate CDL or a license (non-CDL) to operate a CMV,

(2) Has operated a CMV, with a diabetic condition controlled by the use of insulin, for the three-year period immediately preceding application,

(3) Has a driving record for that three-year period that:

Contains no suspensions or revocations of the applicant's driver's license for the operation of any motor vehicle (including their personal vehicle);

Contains no involvement in an accident for which the applicant received a citation for a moving traffic violation while operating a CMV;

Contains no involvement in an accident for which the applicant contributed to the cause of the accident; and

Contains no convictions for a disqualifying offense or more than one serious traffic violation, as defined in 49 CFR 383.5, while operating a CMV,

(4) Has no other disqualifying conditions including diabetes-related complications,

(5) Has had no recurrent (two or more) hypoglycemic reactions resulting in a loss of consciousness or seizure within the past five years. A period of one year of demonstrated stability is required following the first episode of hypoglycemia,

(6) Has had no recurrent hypoglycemic reactions requiring the assistance of another person within the past five years. A period of one year of demonstrated stability is required following the first episode of hypoglycemia,

(7) Has had no recurrent hypoglycemic reactions resulting in impaired cognitive function which occurred without warning symptoms within the past five years. A period of one year of demonstrated stability is required following the first episode of hypoglycemia,

(8) Has provided a board-certified or board-eligible endocrinologist, who is knowledgeable about diabetes, with a complete medical history including:

The date insulin use began;

Diabetes diagnosis and disease history;

All hospitalization records;

Consultation notes for diagnostic examinations;

Special studies pertaining to the diabetes;

Follow-up reports; and

Reports of any hypoglycemic insulin reactions within the last five years,

(9) Has been examined by a board-certified or board-eligible endocrinologist who has conducted a complete medical examination. The complete medical examination must consist of a comprehensive evaluation of the applicant's medical history and current status with a report including the following information:

Two measures of glycosylated hemoglobin, the first 90 days prior to the last and current measure;

Insulin dosages and types, diet utilized for control and any significant factors such as smoking, alcohol use, and other medications or drugs taken; and

Examinations to detect any peripheral neuropathy or circulatory insufficiency of the extremities,

(10) Submits a signed statement prepared by the examining endocrinologist indicating the following medical determinations:

The endocrinologist is familiar with the applicant's medical history for the past five years either through actual treatment over that time or through consultation with a physician who has treated the applicant during that time;

The applicant has been using insulin to control his/her diabetes from the date of the application back to the date the three years of driving experience began;

The applicant has been educated in diabetes and its management, thoroughly informed of and understands the procedures which must be followed to monitor and manage his/her diabetes and what procedures should be followed if complications arise; and

The applicant has the ability and has demonstrated willingness to properly monitor and manage his/her diabetes,

(11) Submits a separate signed statement from an examining ophthalmologist that the applicant has been examined and that the applicant does not have clinically significant disease including unstable proliferative diabetic retinopathy (i.e., unstable advancing disease of blood vessels in the retina) and meets the vision standard at 49 CFR 391.41(b)(10).

### Requirements for ITDM Individuals Who Have Been Issued an Exemption To Operate CMV'S

There are special conditions attached to the issuance of any exemption for ITDM. The following requirements would be imposed:

(1) Individuals with ITDM shall maintain appropriate medical supplies for glucose management while preparing for the operation of a CMV and during its operation. The supplies should include the following:

An acceptable glucose monitor with memory;

Supplies needed to obtain adequate blood samples and to measure blood glucose;

Insulin to be used as necessary; and

An amount of rapidly absorbable glucose to be used as necessary,

(2) Prior to and while driving, the individual with ITDM shall adhere to the following protocol for monitoring and maintaining appropriate blood glucose levels:

Check glucose before starting to drive and take corrective action if necessary. If glucose is <100 mg/dl, take glucose or food and recheck in 30 minutes. Do not drive if glucose is <100 mg/dl. Repeat the process until glucose is >100 mg/dl;

While driving check glucose every two to four hours and take appropriate action to maintain it in the range of 100 to 400 mg/dl;

Have food available at all times when driving. If glucose is <100 mg/dl, stop driving and eat. Recheck in 30 minutes and repeat procedure until glucose is >100 mg/dl; and

If glucose is >400 mg/dl, stop driving until glucose returns to the 100–400 mg/dl range. If more than two hours after last insulin injection and eating, take additional insulin. Recheck blood glucose in 30 minutes. Don't resume driving until glucose is <400 mg/dl.

### Monitoring for ITDM Individuals Who Have Been Issued an Exemption to Operate CMV'S

In addition to the requirements for controlling ITDM, exemption recipients will be monitored during the period that

the exemption is valid. Monitoring will be conducted by requiring the exemption recipients to submit the following information to the FMCSA:

(1) Submit to a comprehensive medical evaluation by an endocrinologist on an annual basis. The evaluation will include a general physical examination and a report of glycosylated hemoglobin concentration. The evaluation will also involve an assessment of the individual's willingness and ability to monitor and manage the diabetic condition;

(2) Provide records of all daily glucose measurements taken with an acceptable device (with memory). These measurements will be reviewed by a specialist on a quarterly basis;

(3) Provide on an annual basis confirmation by an ophthalmologist that there is no proliferative diabetic retinopathy and no clinically significant disease that prevents the individual from meeting the current vision standards at 49 CFR 391.41(b)(10);

(4) Annual documentation by an endocrinologist of ongoing education in management of diabetes and hypoglycemia awareness;

(5) Report, upon determination of an endocrinologist or other physician, any episode of severe hypoglycemia, significant complications or inability to manage diabetes; and

(6) Report any involvement in an accident or any other adverse event and whether or not they are related to an episode of hypoglycemia.

#### *Request for Comments*

The FMCSA is requesting public comment from all interested persons on its intent to issue exemptions to certain insulin-using diabetic drivers of CMVs, from the diabetes requirement in 49 CFR 391.41(b)(3), and relevant issues discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable. However, the FMCSA may issue a final notice of intent to establish a process for considering exemptions from the diabetes requirement in accordance with 49 U.S.C. 311315 and 31136(e), and publish in the **Federal Register** that decision at any time after the close of the comment period. The FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

#### *Paper Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA has determined that this notice of intent contains collection of information requirements for the purposes of the PRA. The proposed exemption program, when made final, will impact the currently-approved information collection, "Medical Qualification Requirements." This approval is covered by OMB Approval No. 2126-0006 and is due to expire on October 31, 2003. The FMCSA estimates that approximately 200 applications for exemption could be filed annually and that it would take an average of 90 minutes to complete an application.

**Authority:** 49 U.S.C. 322, 31136 and 31315; and 49 CFR 1.73.

Issued on: July 25, 2001.

**Brian M. McLaughlin,**

*Acting Deputy Administrator.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on January 8, 2001 (66 FR 1369-1371).

**DATES:** Comments must be submitted on or before August 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** Henrietta Spinner at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS-20), 202-366-4802. 400 Seventh Street, SW., Room 6240, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

### National Highway Traffic Safety Administration

**Title:** 49 CFR part 537—Automotive Fuel Economy Reports.

**OMB Number:** 2127-0019.

**Type of Request:** Extension of a currently approved collection.

**Abstract:** NHTSA ensures that automobile manufacturers comply with 49 CFR part 537—Automotive Fuel Economy Reports. Part 537 requires that automobile manufacturers submit reports to NHTSA regarding their efforts to improve automotive fuel economy. This information assists NHTSA in evaluating automobile manufacturers' plans for complying with average fuel economy standards and in preparing an annual review of the average fuel economy standards.

**Affected Public:** Business or other for profit organizations.

**Estimated Total Annual Burden:** 3,474.

**ADDRESSES:** Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

**Comments are invited on:** Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on July 25, 2001.

**Herman L. Simms,**

*Associate Administrator for Administration.*

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**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Notice.