

interested market participants? How would the Consolidated Tape marks affect the behavior of short sellers and other investors? Would Consolidated Tape marks help or hinder long-term investors in making “efficient investments?”³⁸ Would market commentators and others use Consolidated Tape marks to help the public better understand markets? Could such marks help to better detect, deter, or prevent identified short selling abuses? Alternatively, could such marks themselves present opportunities for alleged unfair or otherwise abusive market practices, such as bear raids or short squeezes? Would real time Consolidated Tape marks lead to copycat trading? How would Consolidated Tape marks affect investor confidence?

Q17. Please discuss the feasibility, benefits, and costs related to the “short sale,” “market maker short,” and “buy-to-cover” marks specifically, and the effects of any choices that would be made when defining such terms. Would there be a trade-off between defining the trades that would be subject to these marks for maximum utility and accuracy to investors, and minimizing implementation costs by building on existing definitions and order marking infrastructure?³⁹ If so, how should the tension between these goals be best resolved? Would there be any other potential issues associated with the accuracy or clarity of Consolidated Tape marks? Would the Consolidated Tape marks present possibilities for misinterpretation of the data that could impact any benefits and costs?

Q18. How would any additions to Consolidated Tape marks affect liquidity, volatility, price efficiency, competition, and capital formation? To what extent, if any, would such data deter short selling activity not associated with abusive market practices, but that enhances market quality, for example, by revealing trading strategies? What are the consequences of such deterrence? Would any additions to Consolidated Tape marks have consequences (including benefits or costs) for equity-related securities markets, such as options or other derivative markets, convertible bond or other debt markets? If so, please explain. What would the feasibility, benefits, and costs be if this real time reporting information were to be made public on a delayed basis? What length of delay might best balance any benefits and costs?

Q19. What would be the direct, quantifiable costs of adding the additional fields to the Consolidated Tape to support new marks? Please differentiate implementation costs from ongoing costs and include opportunity costs. How feasible would it be for brokers, exchanges, and others to modify order management systems, or other systems, for these marks? What would be the potential technological challenges faced in implementing these marks? Would the Consolidated Tape bear significant implementation or ongoing costs? For example, would capacity requirements be significantly higher? Would vendors and others who receive feeds from the Consolidated Tape bear significant implementation or ongoing costs? Responses based on the costs of implementing Regulation SHO Rule 201,⁴⁰ Regulation NMS,⁴¹ and Form SH⁴² are particularly requested.

Q20. What would be the benefits and costs (including the direct, quantifiable costs) of conducting a pilot for the Consolidated Tape marking? Would a pilot for Consolidated Tape marking be feasible? Would the direct, quantifiable costs of implementing and maintaining a pilot be any less, or more, than those of implementing and maintaining Consolidated Tape marking on all listed issuers? Would market participants be likely to behave differently during a pilot, for example by hesitating to develop new trading strategies?⁴³

Q21. What would be the benefits and costs of the voluntary component of the pilot? What types of issuers would likely volunteer to participate in a pilot? How would this self-selection affect the usefulness of any data derived from a pilot? Are there other consequences from a voluntary pilot? To maximize the utility of any pilot, should the pilot be designed to limit participation in a way that facilitates comparisons of trading in pilot companies and trading in non-pilot companies? If participation should be limited, how should the Commission determine which volunteers to include or exclude from the pilot?

⁴⁰ 17 CFR 242.201.

⁴¹ 17 CFR 242.600 *et seq.*

⁴² See *supra* note 33.

⁴³ For example, in 2004, the Commission adopted Rule 202T, which provided for the temporary suspension of the short sale uptick rule in certain securities so that the Commission could study trading behavior in the absence of a price test. See Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008 (Aug. 6, 2004). In the view of Division Staff, Boehmer, Jones, and Zhang provide evidence suggesting that trading behavior may not have completely adjusted to the Regulation SHO Pilot. See Boehmer, Jones, and Zhang, “Unshackling Short Sellers: The Repeal of the Uptick Rule” (2008), available at <http://www.gsb.columbia.edu/mygsb/faculty/research/pubfiles/3231/UptickRepealDec11.pdf>.

Q22. How should experiences with transaction marking regimes in foreign jurisdictions⁴⁴ inform analysis of the feasibility, benefits, and costs? Are there any analyses of transaction marking regimes that are relevant to the Division’s study?

Q23. To what extent would Consolidated Tape marks be a substitute or complement to real time short position reporting? How would the benefits and costs of any Consolidated Tape marks be impacted if real time position reporting existed and vice versa?

Dated: May 3, 2011.

By the Commission.

Elizabeth M. Murphy,
Secretary.

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DEPARTMENT OF STATE

[Public Notice 7108]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union; Notice of Committee Renewal

Renewal of Advisory Committee. The Department of State has renewed the Charter of the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union. This advisory committee makes recommendations to the Secretary of State on funding for applications submitted for the Research and Training Program on Eastern Europe and the Independent States of the Former Soviet Union (Title VIII). These applications are submitted in response to an annual open competition among U.S. national organizations with interest and expertise administering research and training programs in the Russian, Eurasian, and Central and East European fields. The program seeks to build and sustain U.S. expertise on these regions through support for advanced graduate training, language training, and postdoctoral research.

The committee includes representatives of the Secretaries of Defense and Education, the Librarian of

⁴⁴ Several foreign jurisdictions have short sale marking requirements in place including Australia (Australian Securities and Investment Commission, Regulatory Guide, RG 196.12 (April 2010)), Canada (Universal Market Integrity Rules, Rule 3.2), Hong Kong (Hong Kong Exchange Rules, Eleventh Schedule, Rule 5), and Japan (Japan Financial Services Agency, “FSA Extends Temporary Measures Regarding Restrictions on Short Selling and Purchases of Own Stocks by Listed Companies” (Jan. 21, 2011) (effective until Apr. 30, 2011)).

³⁸ See *supra* note 26.

³⁹ See *supra* note 3.

Congress, and the Presidents of the American Association for the Advancement of Slavic Studies and the Association of American Universities. The Assistant Secretary for Intelligence and Research chairs the advisory committee for the Secretary of State. The committee meets at least once annually to recommend grant policies and recipients.

For further information, please call Jon Crocitto, U.S. Department of State, (202) 736-4661.

Dated: May 2, 2011.

Susan H. Nelson,

Executive Director, Advisory Committee for Study of Eastern Europe and Eurasia (the Independent States of the Former Soviet Union).

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2011-0058]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt eighteen 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 May 9, 2011. The exemptions expire on May 9, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, 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://](http://www.regulations.gov)

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), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Background

On March 29, 2011, FMCSA published a notice of receipt of Federal diabetes exemption applications from eighteen individuals and requested comments from the public (76 FR 17476). The public comment period closed on April 28, 2011 and no comments were received.

FMCSA has evaluated the eligibility of the eighteen 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 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 eighteen applicants have had ITDM over a range of 1 to 21 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 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 29, 2011, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comment

FMCSA did not receive any comments in this proceeding.

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 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 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 submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive