

and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325. E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, 401, June 9, 1998) amended 49 U.S.C. 31136(e) and 31315 to provide authority to grant exemptions from the FMCSRs. Under its regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period, and explain the terms and conditions, of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### Request for Exemption

The HOS regulations in 49 CFR 395.3(b)(2) prohibit a property-carrying commercial motor vehicle (CMV) driver from driving a CMV after having been on duty for 70 cumulative hours in any period of 8 consecutive days, if the employing motor carrier operates CMVs every day of the week.

Western is a tactical aerial firefighting company that operates in support of wild-land firefighting operations under contract with various government agencies such as the U. S. Forest Service, Bureau of Land Management, and the Bureau of Indian Affairs. Western is based in Phoenix, Arizona. The requested exemption would apply to no more than 15 ground support truck drivers employed by Western. The company operates a total of 12 ground support CMVs.

Each Western firefighting aircraft is teamed with a ground unit, which includes a driver and a CMV that pulls

a gooseneck trailer transporting various mixing tanks, motors, and aviation fuel. Western states that its contracts require it to staff its units for a minimum of 9 hours and up to a maximum of 14 hours a day. Western's equipment must be set up at a designated government base and be ready to mix, load, fuel, and service its aircraft at all times during daylight hours and must be capable of going to an alternative base when requested. The ground support vehicles carry aviation fuel for their respective aircraft; the primary role of the driver is to service and re-fuel the aircraft. While the operation of the ground support vehicle is a secondary role, each driver is subject to the FMCSRs including 49 CFR part 395.

Western states that on a typical day its drivers report to work at 9 a.m. and perform a pre-trip inspection. The drivers prepare their daily logs, manifest, load logs, and mileage logs and attend a fire weather outlook briefing. The drivers may relax and sleep if they feel the need after the briefing and completion of any portion of daily duty requirements. If there is no late afternoon fire activity, the drivers are usually released at 6 p.m. (9-hour day).

Western contends that with no fire activity, drivers may perform no more than 4 hours of actual physical and mental work in a given day. While Western's drivers wait for an aircraft to be dispatched or land, they are "available" and in "readiness to work," and are therefore considered to be "on-duty, not driving" and subject to the 70-hour/8-day rule.

The problem arises because Western's drivers sometimes run out of available hours in 5 days at 14 hours on duty per day, based on the 70-hour/8-day rule. Currently, Western has relief drivers who travel to give regular drivers 2 days off every 7 days to ensure that they stay in compliance with the HOS regulations.

Instead of complying with the 70-hour/8-day rule, Western would like drivers to have 2 consecutive days off in a 14-day period so that they are on the same schedule as the pilots operating the aircraft, who are required by Federal Aviation Administration rules to have 2 consecutive days off daily in a 2-week period. Western states that if its exemption request is granted, the drivers would still be held to the 14-hour driving windows and 11-hour driving limit every day the drivers are on duty. Western reasons that because its regular drivers have access to rest facilities, and permission to rest and relax during the day, they are not becoming fatigued. Western contends

that these drivers operate in a relaxing, stress-free environment.

A copy of the Western Pilot Service exemption application is available for review in the docket for this notice.

##### Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on the Western application for an exemption from the "70-hour/8-day rule" in 49 CFR part 395. The Agency will consider all comments received by close of business on November 2, 2011. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: September 16, 2011.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2011-25323 Filed 9-30-11; 8:45 am]

**BILLING CODE 4910-EX-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2011-0097]

##### Pilot Program on NAFTA Long-Haul Trucking Provisions

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

**ACTION:** Notice of availability.

**SUMMARY:** FMCSA announces the availability of a Final Environmental Assessment (FEA) that evaluates the potential environmental impacts resulting from the implementation of its United States-Mexico cross-border long-haul trucking pilot program. FMCSA received five comments to its draft environmental assessment (DEA) and responds to those comments in the FEA. FMCSA concludes that the potential environmental impacts from the pilot program are not significant and do not warrant additional environmental analysis in the form of an Environmental Impact Statement. FMCSA issues a Finding of No Significant Impact (FONSI) based on the conclusions in the FEA, which is also available in the docket.

**Instructions:** To view the FEA or the FONSI, go to the online docket (Regulations.gov) at <http://www.regulations.gov/> and enter in the docket number (FMCSA-2011-0097) and search for the "Final Environmental Assessment" or "FONSI."

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

**Privacy Act:** Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comment. You may review the U.S. Department of Transportation's (DOT) complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

**FOR FURTHER INFORMATION CONTACT:**

Michael M. Johnsen, Environmental Protection Specialist, Analysis Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-4111.

**SUPPLEMENTARY INFORMATION:**

**Background on the Pilot Project on the U.S.-Mexico Cross-Border Long-Haul Trucking Program**

The pilot program is part of FMCSA's implementation of the North American Free Trade Agreement (NAFTA) cross-border long-haul trucking provisions. This pilot program would allow Mexico-domiciled motor carriers to operate throughout the United States for up to 3 years. U.S.-domiciled motor carriers would be granted reciprocal rights to operate in Mexico for the same period. Participating Mexican carriers and drivers would be required to comply with all applicable U.S. laws and regulations, including those concerned with motor carrier safety, customs, immigration, vehicle registration and taxation, and fuel taxation. The safety of the participating carriers would be tracked closely by FMCSA with input from the Motor Carrier Safety Advisory Committee, a Federal advisory committee. For further information regarding this pilot program, including additional background and comments, please see the **Federal Register** notice of the Pilot Program on NAFTA Long Haul Trucking Provisions in docket FMCSA-2011-0097.

**Final Environmental Assessment**

In accordance with the National Environmental Policy Act of 1969 (NEPA) (section 102(2)(c)), as implemented by the Council on

Environment Quality regulations (40 CFR parts 1500-1508), FMCSA's Order 5610.1, issued March 1, 2004 (69 FR 9680), and other applicable guidance and requirements, FMCSA prepared a DEA for the U.S.-Mexico cross-border long-haul trucking program. FMCSA analyzed the potential impacts to the environment that may result from implementing the pilot project. In the DEA, FMCSA evaluated environmental issues such as emissions from vehicles, air quality impacts, and other pertinent matters, and requested public comments. FMCSA received five comments to the DEA and responded to those comments in the FEA. Additionally, after reviewing those comments, FMCSA has concluded that the potential environmental impacts from the pilot program are not significant and do not warrant additional environmental analysis in the form of an Environmental Impact Statement. Accordingly, FMCSA is issuing a FONSI based on the conclusions in the FEA, which is also available in the docket.

Issued on: September 27, 2011.

**Kenneth M. Leonard,**

*Special Projects Officer, Office of Research and Information Technology, FMCSA.*

[FR Doc. 2011-25389 Filed 9-30-11; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA-2011-0192]

**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 thirty-three 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 3, 2011. The exemptions expire on October 3, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Elaine M. Papp, Chief, Medical Programs, (202) 366-4001, [fmcamedical@dot.gov](mailto:fmcamedical@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 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 August 4, 2011, FMCSA published a notice of receipt of Federal diabetes exemption applications from thirty-three individuals and requested comments from the public (76 FR 47291). The public comment period closed on September 6, 2011 and no comments were received.

FMCSA has evaluated the eligibility of the thirty-three 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