

Dated: March 3, 2009.

**James B. Steinberg,**

*Deputy Secretary of State, Department of State.*

[FR Doc. E9-7675 Filed 4-3-09; 8:45 am]

BILLING CODE 4710-17-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in Washington

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

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

**SUMMARY:** This notice announces actions taken by FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the proposed I-405/NE 195th to SR 527 Northbound Auxiliary Lane Project in the City of Bothell, King and Snohomish Counties, in the State of Washington. These actions grant licenses, permits, and approvals for the Project.

**DATES:** By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on any of the listed highway projects will be barred unless the claim is filed on or before October 5, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Pete Jilek, Urban Area Engineer, Federal Highway Administration, 711 S. Capitol Way #501, Olympia, WA 98501; telephone: (360) 753-9550; and e-mail: [pete.jilek@dot.gov](mailto:pete.jilek@dot.gov). The FHWA Washington Division's Urban Area Engineer's regular office hours are between 7 a.m. and 4 p.m. (Pacific Time). You may also contact William Jordan, I-405 Environmental Manager, Washington State Department of Transportation, 600-108th Avenue, NE., Suite 405, Bellevue, WA 98004; telephone: (425) 456-8547; and e-mail: [william.jordan@i405.wsdot.wa.gov](mailto:william.jordan@i405.wsdot.wa.gov). The I-405 Corridor Program's regular office hours are between 8 a.m. and 5 p.m. (Pacific Time).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing licenses, permits, and approvals for the following highway project in the State of Washington: I-

405/NE 195th Street to SR 527 Northbound Auxiliary Lane Project. The Project will construct a northbound auxiliary lane for approximately 1.8 miles along I-405 (milepost 24.6 to milepost 26.4) from NE 195th Street north to SR 527. As part of the Project, WSDOT will also be constructing associated stormwater treatment and a noise wall. In addition, the Project includes other elements that are typical for urban interstate widening projects such as retaining walls, barriers, guardrails, pavement markings, roadway signs, intelligent transportation systems, and illumination systems.

These actions by the Federal agencies, and the laws under which such actions were taken, are described in the March 2009 Environmental Classification Summary (ECS) and in other documents in the FHWA administrative record, which support FHWA's determination that this project qualifies as a Documented Categorical Exclusion. The ECS and other documents in the FHWA administrative record are available by contacting FHWA or WSDOT at the addresses provided above. The FHWA Federal Aid number is ARRA-4053(859).

This notice applies to all Federal agency decisions on the project 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 [42 U.S.C. 4321-4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. *Air:* Clean Air Act, as amended [42 U.S.C. 7401-7671(q)].
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544]; Anadromous Fish Conservation Act [16 U.S.C. 757(a)-757(g)]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(d)]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].
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.*]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)-11]; Archaeological and Historic Preservation Act [16 U.S.C. 469-469(c)]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001-3013].
6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland

Protection Policy Act [7 U.S.C. 4201-4209]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended [42 U.S.C. 61].

7. *Wetlands and Water Resources:* Clean Water Act, 33 U.S.C. 1251-1377 (Section 404, Section 401, Section 319); Coastal Zone Management Act [16 U.S.C. 1451-1465]; Land and Water Conservation Fund [16 U.S.C. 4601-4604]; Safe Drinking Water Act [42 U.S.C. 300(f)-300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; TEA-21 Wetlands Mitigation [23 U.S.C. 103(b)(6)(m), 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001-4128].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986 [Pub. L. 99-499]; Resource Conservation and Recovery Act [42 U.S.C. 6901-6992(k)].

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. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; 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).

**Peter A. Jilek,**

*Urban Area Engineer, Olympia, Washington.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2003-25290]

**Commercial Driver's License Standards: Application for Exemption; Isuzu Motors America, Inc. (Isuzu)**

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

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that Isuzu North America Corporation (Isuzu) has applied for an exemption from the Federal requirement that drivers of commercial motor vehicles (CMV) hold a commercial driver's license (CDL) issued by one of the States. Isuzu requests exemption so that 20 of its Japanese employees can test-drive Isuzu CMVs in the United States. Each of these 20 Isuzu employees holds a valid Japanese CDL but lacks the U.S. residency necessary to obtain a CDL from one of the States. Isuzu believes the knowledge and skills tests and training program that drivers undergo to obtain a Japanese CDL would provide for a level of safety that is equivalent to, or greater than, the level of safety that would be achieved without the exemption.

**DATES:** Comments must be received on or before May 6, 2009.

**ADDRESSES:** You may submit comments to Federal Docket Management System Number FMCSA-2003-25290 by any of the following methods:

- **Web site:** <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE., 20590-0001.
- **Hand Delivery:** Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal Holidays.

**Instructions:** All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to the ground floor, room W12-140, DOT Building, 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 may search the electronic form of all comments

received into any of the our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://www.regulations.gov>.

**Public Participation:** The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site and also at <http://docketsinfo.dot.gov>. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Schultz, Jr., FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; *Telephone:* 202-366-4325. *E-mail:* [MCPSPD@dot.gov](mailto:MCPSPD@dot.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. 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. The Agency must also provide an opportunity for public comment on the application.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely provide for a level of safety that is equivalent to, or greater than, the level achieved without the exemption (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying the request for exemption or, in the alternative, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms

and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### **Request for Exemption**

Isuzu has applied for an exemption from the commercial driver's license (CDL) rule, specifically 49 CFR 383.23, that prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Isuzu requests the exemption because its driver-employees, as citizens and residents of Japan, cannot apply for a CDL in any of the United States. A copy of the application is in Docket No. FMCSA-2003-25290. The exemption would allow 20 drivers to operate CMVs in interstate commerce as a team, testing and evaluating production and prototype CMVs in the United States in order to assist in the design of safe vehicles for sale in the United States.

The drivers are: Tadashi Shoda, Ryouji Matsuzawa, Hisashi Hashiguchi, Nobuhisa Okuda, Minoru Endo, Fumiaki Takei, Akira Yoshino, Tadao Shibuya, Akira Iizuka, Yoshinori Ugai, Kazuyoshi Tateishi, Naomi Uchida, Kiyoshi Toshima, Khoki Natsumi, Minuro Tsuchida, Mitsuo Konno, Hiroaki Kurata, Naoki Morimoto, Takayuki Kaneda, and Chito Agatsuma.

Each driver holds a valid Japanese CDL, and as explained by Isuzu in previous exemption requests, drivers applying for a Japanese-issued CDL must undergo a driver training program and pass knowledge and skills tests. Isuzu also stated in prior exemption requests that the knowledge and skills tests and training program that Japanese drivers undergo to obtain a Japanese CDL provide for a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. FMCSA has previously determined that the process for obtaining a Japanese CDL is comparable to, or as effective as, the Federal CDL knowledge and skills requirements of 49 CFR part 383 as enforced by the States, and adequately assesses the driver's ability to operate CMVs in the U.S. The initial notice of a similar nature was published by FMCSA on October 16, 2003, granting a similar exemption to Isuzu for 31 Japanese CDL drivers (68 FR 59677).

##### **Request for Comments**

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Isuzu's application for an exemption from the CDL requirements of 49 CFR 383.23. The Agency will consider all comments received by close of business on May 6, 2009. 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: March 27, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9-7564 Filed 4-3-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2008-0399]

#### 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 thirty-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 April 6, 2009. The exemptions expire on April 6, 2011.

**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 19477, Apr. 11, 2000). This statement is also available at <http://Docketinfo.dot.gov>.

#### Background

On February 12, 2009, FMCSA published a notice of receipt of Federal diabetes exemption applications from thirty-seven individuals, and requested comments from the public (74 FR 7093). The public comment period closed on March 16, 2009 and no comments were received.

FMCSA has evaluated the eligibility of the thirty-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 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 thirty-seven applicants have had ITDM over a range of 1 to 47 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or 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 their diabetes, 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 February 12, 2009, **Federal Register** Notice (74 FR 7093). 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 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 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