

drivers to operate CMVs in interstate commerce.

These 40 applicants have had ITDM over a range of 1 to 41 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 March 14, 2014, **Federal Register** notice and they will not be repeated in this notice.

#### Discussion of Comments

FMCSA received one comment in this proceeding. The comment is discussed below.

Ken Czeschin is in favor of granting Donald S. Middleton an exemption.

#### 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.

#### 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.

#### Conclusion

Based upon its evaluation of the 40 exemption applications, FMCSA exempts Schylor M. Altenhofen (IA), Don R. Anderson, III (IN), Thomas A. Barnes (MI), Charles L. Bryant (PA), Edward Cannon, Jr. (AZ), Alvin L. Carpenter (MT), Richard J. D'Ambrosia (NY), Jefferey F. Deane (MA), Keith M. Dickerson (WI), Carl A. Federighi (CA), Bradley J. Frazier (IL), Maximo E. Gayten (CO), Carl R. Gentry (WA), Benjamin D. Hirsch (NE), Robert M. Hutchison (NY), Gerald S. Johnson (FL), Michael E. Jorissen (ND), Craig A. Keese, Jr. (NY), Robert E. Kilheffer, Jr. (PA), Amos L. Lapp (PA), Edward J. Lulay (IL), Archard W. McQuade, Jr. (MD), Donald S. Middleton (MO), Alva D. Moffatt (WA), John M. Muske (MN), Joseph S. Myers (FL), Stephen R. Newlin (IL), Antonio Pepicciello (NY), David R. Pettitt (WA), James K. Popp (MN), Dustin P. Russell (PA), Gilbert L. Sanchez (TX), Sean L. Shidell (WI), Randall L. Shultz (MO), Patrick J. Smiley (PA), Kenneth R. Soult (OH), Chad B. Spidell (PA), Cameron M. Sprinkle (IN), Douglas E. Stewart (MS), and Thomas L. Williams (MN) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be 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: May 6, 2014.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2000-7257, Notice No. 78]

#### Railroad Safety Advisory Committee; Charter Renewal

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Announcement of Charter Renewal of the Railroad Safety Advisory Committee (RSAC).

**SUMMARY:** FRA announces the charter renewal of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. This charter renewal will take effect on May 16, 2014, and will expire after 2 years.

**FOR FURTHER INFORMATION CONTACT:** Larry Woolverton, RSAC Designated Federal Officer/Administrative Officer, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493-6212; or Robert Lauby, Associate Administrator for Railroad Safety/Chief Safety Officer, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493-6474.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), FRA is giving notice of the charter renewal for the RSAC. The RSAC was established to provide advice and recommendations to FRA on railroad safety matters. The RSAC is composed of 62 voting representatives from 36 member organizations, representing various rail industry perspectives. In addition, there are non-voting advisory representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico, the National Transportation Safety Board, the Transportation Safety Administration, and the Federal Transit Administration. The diversity of the Committee ensures the requisite range of views and

expertise necessary to discharge its responsibilities. See the RSAC Web site for details on pending tasks at: <http://rsac.fra.dot.gov/>. Please refer to the notice published in the **Federal Register** on March 11, 1996, 61 FR 9740, for additional information about the RSAC.

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2014-0043]

#### Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated April 22, 2014, the National Passenger Railroad Corporation (Amtrak) is requesting a waiver from the requirements of 49 CFR 214.336, *On-track safety procedures for certain roadway work groups and adjacent tracks*. FRA assigned the petition Docket Number FRA-2014-0043.

In its petition, Amtrak requests relief from the portion of 49 CFR part 214 where roadway workers (herein referred to as “workers”) are able to occupy and satisfy the requirements of a predetermined place of safety (PPOS). The waiver is sought for the express purpose of providing workers with a safe means of traversing to a PPOS when working alongside Amtrak’s production equipment, which does not allow access between the rails of the occupied track, and where an adjacent controlled track is present on the same side as the worker. When it is safe to do so, the Roadway Worker-In-Charge (RWIC) will identify the PPOS to be within the vertical planes projected by the occupied track’s running rails within working limits, or clear of all tracks, per 49 CFR 214.336(b). When such a place is not accessible or will require the worker to directly expose themselves to movement on one or more tracks while traversing to occupy their PPOS, the RWIC will identify the PPOS to be within the perimeter of the equipment so that no part of their person will break the plane of the equipment’s perimeter. The equipment will effectively protect the worker from fouling the adjacent controlled track.

Title 49 CFR 214.336(a)(1) defines the procedure for on-track safety that is required for each adjacent controlled

track when a roadway work group with at least one of the roadway workers on the ground is engaged in a common task with on-track, self-propelled equipment, or coupled equipment on an occupied track. Title 49 CFR 214.336(b)(1) provides the requirements for affected workers to cease all on-ground work and equipment movement being performed, and occupy a PPOS upon receiving either a warning or notification of equipment movement on the adjacent controlled track. The average track center spacing on the Northeast Corridor (NEC) is less than 19 feet, and is therefore regulated under the requirements of 49 CFR 214.336. Amtrak’s production equipment units are typically work trains that consist of many on-track, self-propelled, coupled pieces of equipment, and the materials required for continuous action track renewal (rail, ballast, and/or tie replacement), removal of track, and/or track laying. The current practice for workers engaged in a common task with on-track, self-propelled equipment prevents worker access to a PPOS between the running rails of the occupied track, and when the workers must cross the tracks for which movement is authorized. The safest PPOS is identified within the perimeter of the immobile production equipment on the occupied track but not between the running rails.

Title 49 CFR 214.336(e)(2) provides exceptions for workers performing maintenance or repairs either alongside or within the perimeter of a roadway maintenance machine, or coupled equipment on the occupied track. The exception to the requirement to cease work does not apply to workers on the ground engaged in a common task with such equipment when a warning is provided for movement on the adjacent controlled track, when the equipment prevents access between the rails of the occupied track, when the only alternate PPOS requires workers to cross tracks for which movement is authorized at maximum authorized speeds (the highest authorized speed on the NEC is 150 mph, 220 feet per second).

An unfortunate consequence of the procedures for adjacent controlled track is that workers are frequently required to engage in a common task alongside Amtrak’s production equipment to cross a convergent path with the projected path of the movement for which a warning was just received. A worker’s exposure to the risk associated with an adjacent controlled track is maximized at that moment as a result of the regulation designed to minimize this particular risk. The normal frequency of passing trains on the NEC can be as high

as 30 trains per hour, which includes instances of multiple trains authorized to pass the work group simultaneously. In the scenario of multiple authorized movements, a worker’s view of adjacent track movements could be obstructed by an approaching movement requiring them to blindly cross an unprotected track.

Amtrak seeks regulatory relief so that the RWIC may identify a PPOS in an area of the stationary equipment, which minimizes risk for the worker traversing to occupy the identified PPOS, provided that such PPOS is within the widest perimeter dimension of the equipment and no part of the worker’s person may break the plane projected by the equipment’s widest perimeter dimension. The equipment would effectively shelter the worker in a place of safety. Equipment authorized to operate on the NEC must meet the dimensional specification, “Clearance Limitations of Roadway Equipment; Plate C”, which is defined specifically for the safe passage of multiple adjacent movements at the most restrictive spacing of track center locations (Figure 1). It is this specification that ensures the worker a PPOS protected from authorized movements.

Amtrak states in its petition that it is dedicated to ensuring the safety of its employees, and emphasizes that Amtrak does not wish to seek a waiver from the procedures for adjacent controlled track movements when the RWIC feels it safe for the workers to cross and occupy a PPOS in accordance with the regulation. The method of identifying a PPOS within the widest perimeter dimension of stationary equipment on an occupied track is a common practice that has been employed since Amtrak’s inception without any records of serious injury or fatality. In contrast, the procedure provided in the regulation (crossing live tracks to reach the PPOS) has resulted in fatalities. The Fatality Analysis of Maintenance-of-way Employees and Signalmen committee’s most recent publication on “Fatalities on Adjacent Tracks” shows that 91 percent of the Roadway Worker Protection fatalities that are classified as adjacent track fatalities occurred on adjacent tracks with less than 19-foot spacing, where roadway maintenance machines were present and in use on the track where work was being performed.

Amtrak believes that the waiver requested will provide a level of safety for workers engaged in a common task with on-track, self-propelled equipment, or coupled equipment on an occupied track that exceeds the regulation’s requirements. Therefore, Amtrak believes that relief from the PPOS