



June 15, 2006

VIA ELECTRONIC SUBMISSION

Docket Management Facility
U.S. Department of Transportation
400 Seventh Street SW
Nassif Building, Room PL-401
Washington, DC 20590

RE: Qualifications of Drivers; Diabetes Standard; Docket No. FMCSA-2005-23151

Dear Sir or Madam:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am writing to respond to the Federal Motor Carrier Safety Administration's (FMCSA) request for comments on proposed amendments to medical qualification standards that would allow drivers with insulin-treated diabetes mellitus (ITDM) to operate commercial motor vehicles in interstate commerce. We appreciate the opportunity to convey transportation labor's views on the recent changes to the Diabetes Exemption program as well as some specific issues outlined in the Advanced Notice of Proposed Rulemaking in the above-referenced docket.

Through its 31 member unions¹, TTD represents millions of workers across the transportation industry, including commercial drivers directly affected by the proposals in this rulemaking. We note that the Amalgamated Transit Union, a TTD affiliate, has also submitted comments to this docket with which we fully concur.

To guide FMCSA in this rulemaking, the ANPRM requests comments on 13 specific questions. While our comments do not address all of these areas specifically, we offer some basic principles to protect the interests of drivers as this process moves forward. In addition, we note that the American Diabetes Association (ADA) has submitted extensive comments to this docket, and we urge FMCSA to utilize its expertise to implement improvements to interstate commercial driving laws to reflect the current medical treatment of drivers with ITDM.

First, let me reiterate our strong support for the diabetes provisions included in the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), enacted into law in August 2005, and urge their implementation as intended by Congress. TTD and our affiliated unions advocated for the inclusion of these provisions, which required

¹Attached at 1 is a complete list of TTD member unions.

Transportation Trades Department, AFL-CIO

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Edward Wytkind, President • Michael A. Ingraio, Secretary-Treasurer

FMCSA to revise the Diabetes Exemption Program established in September 2003. Specifically, the bill directed FMCSA to eliminate the requirement that individuals with ITDM have three years experience operating a commercial motor vehicle while using insulin and instead required drivers to demonstrate control of their diabetes through a minimum period of insulin use.

We commend the FMCSA for announcing in the November 8, 2005 *Federal Register* that the agency revised the Diabetes Exemption program to eliminate the three-year rule. Transportation labor has long opposed both a blanket prohibition against diabetic drivers as well as the draconian three year rule – both of which placed an unwarranted and unjust obstacle in the way of many qualified drivers, particularly in light of advances in the treatment of diabetes. The revisions to the exemption program mandated in SAFETEA-LU are a step in the right direction to ensure that medically-qualified individuals with ITDM are not barred from becoming commercial drivers.

We note that FMCSA added an additional requirement that no driver can obtain an exemption unless his or her glycosylated hemoglobin (A1C) falls within a certain range. FMCSA's own Expert Medical Advisory Panel has considered – and rejected – the use of this standard and we urge FMCSA to follow the guidance of its own experts. More generally, transportation labor has long rejected arbitrary ranges for test results – such as for specimen validity testing in the area of drug and alcohol testing – that alone would automatically disqualify a person from holding a license or certification.

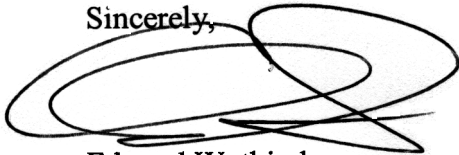
FMCSA is now considering changes to federal motor carrier safety regulations to allow qualified drivers with ITDM to become commercial drivers without having to seek an exemption. While we encourage this approach, until this rulemaking is completed, FMCSA must ensure that applications under the exemption program are processed quickly and that the program is administered effectively. Unfortunately, since its inception, the exemption process has been arduous and time consuming for individual applicants, with wait times as long as 18 months for an application to be processed and with only 13 individuals having received an exemption. This is clearly counter to the public policy goal of the program – to ensure that all qualified individuals with ITDM can become commercial drivers. To this same end, we urge FMCSA to finalize the changes to its safety regulations as quickly as possible. We note that the original rule to establish the exemption program took seven years to complete.

Whether through the exemption program or through a change in standards, we firmly believe that individuals with ITDM must be offered an individual assessment, by a physician knowledgeable in diabetes, of their ability to hold a commercial driver's license (CDL) and operate a commercial motor vehicle. Physicians who regularly care for diabetic individuals have more specialized knowledge of the disease, treatment options, and a patient's particular ability to control his or her condition. These physicians should be responsible for assessing and certifying that an individual will be able to safely operate a CMV in accordance with the revised diabetes standard. Similar to the current medical examination process for CMV operators, guidelines should be developed to assist physicians in the certification of insulin-treated individuals. The assessment of an individual with ITDM should occur prior to that individual's certification by a medical professional on the FMCSA National Registry of Certified Medical Examiners.

Finally, SAFETEA-LU clearly stated that the health and safety standards applied to drivers with diabetes must not be more stringent than those applied to other drivers unless the standards are necessary to ensure safety. Every individual with ITDM will have to undergo an assessment, in order to receive a CDL, to determine whether he or she will pose a safety risk as a result of being diabetic. If an individual is not deemed a safety risk and therefore granted a CDL, it makes little sense to apply different regulations to that driver. At the same time, any restrictions placed on drivers with ITDM must stem from the effect of the driver's health on the safe operation of the vehicle, and not be based on any perceived effects of commercial driving on the health of the driver. Restricting the type of commercial driving allowed by drivers with ITDM, such as limiting them to short-haul operations, would be arbitrary and without a medical basis. This approach would be an attempt to impose a one-size-fits-all solution for a very individual condition.

Transportation labor remains committed to a fair process to assess individuals with diabetes as they seek to enter the commercial driving profession, while ensuring the safety of the nation's surface transportation system. Thank you in advance for consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward Wytkind', with several loops and flourishes.

Edward Wytkind
President

TTD MEMBER UNIONS

The following labor organizations are members of and represented by the TTD:

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Federation of Professional and Technical Engineers (IFPTE)
International Longshoremen's Association (ILA)
International Longshore and Warehouse Union (ILWU)
International Organization of Masters, Mates & Pilots, ILA (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers' Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Conference of Firemen and Oilers, SEIU (NCFO, SEIU)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Airways Systems Specialists (PASS)
Sheet Metal Workers International Association (SMWIA)
Transportation · Communications International Union (TCU)
Transport Workers Union of America (TWU)
United Mine Workers of America (UMWA)
*United Steel, Paper and Forestry, Rubber, Manufacturing, Energy,
Allied Industrial and Service Workers International Union (USW)*
United Transportation Union (UTU)