

a huge obstacle in the path of qualified individuals with ITDM. This requirement discriminates against drivers in non-waiver States. In light of the medical advances in the treatment of ITDM, the ATU states there is no justification for the three-year requirement. Instead, the ATU claims that the FMCSA should adopt the recommendation of the medical panel in the TEA-21 Report to Congress, wherein a one or two-month period for adjustment to insulin would be required for seeking or maintaining a CDL.

The International Brotherhood of Teamsters (IBT) applauds the FMCSA's efforts to eliminate the blanket ban on insulin-using diabetic drivers. However, the IBT agrees with the other organizations relative to the three-year driving requirement. In their opposition to the requirement, the IBT cites the absence of waivers in some States that would exclude many drivers. The IBT also claims that it is not easy for drivers to obtain the required experience even in States with waiver programs because there are significantly fewer jobs in intrastate operation. They also point to the unfairness of experienced interstate drivers losing their CDL when newly diagnosed with ITDM.

The IBT is also concerned about the requirement that a CDL applicant have a safe driving record. It states that the requirement bears no relation to the applicant's medical condition and that this goes too far even in trying to ensure safety. It is most concerned about the requirement that a driving record could prevent the applicant from obtaining an exemption based on the applicant's accident involvement for which the driver "contributed to the cause." The IBT believes this standard is too broad and subjective.

The IBT also believes that rulemaking rather than an exemption program would better serve the process of granting CDLs to insulin-using diabetics. It sees little benefit in the exemption process of publishing an application in the **Federal Register** and requesting comments on the applicants' diabetic conditions. The IBT states that it understands that rulemaking can be a lengthy process and encourages the FMCSA to proceed with the exemption program while continuing to work on the more permanent solution through a change in the regulations.

The Owner-Operator Independent Drivers Association, Inc. (OOIDA) generally supports and welcomes the changes proposed by the FMCSA in the exemption program. Based on reports from its membership, OOIDA believes that a number of drivers with ITDM can safely operate CMVs in interstate

commerce. OOIDA believes that FMCSA's proposed program has a number of steps that will ensure that no increased safety risks will be present. However, OOIDA is concerned about the three-year driving requirement, and believes that it runs counter to the proposal to require an activity currently prohibited in interstate commerce. It believes that the requirement limits access to the CDL program because there are few intrastate driving opportunities. OOIDA is further concerned about experienced drivers who would be using insulin, but choose not to do so because they will lose their CDLs. While the proposed exemption program may help lessen this problem, the three-year requirement places them in a difficult economic and health position.

The National Private Truck Council (NPTC) agrees with the FMCSA that a blanket prohibition on the operation of CMVs by individuals with ITDM is unwarranted and understands the agency's concerns relative to the safe performance of drivers with this condition. The NPTC, however, believes that the protocol is so burdensome that it will discourage participation in the program. The most onerous provision in the program, according to the NPTC, is the requirement for three years of CMV driving experience with the diabetic condition. They believe that the requirement is unnecessary from a safety standpoint, and presents an excessive burden on applicants to the program.

The American Trucking Associations, Inc. (ATA) supports FMCSA's proposed exemption program. ATA recognizes the advances made in the treatment of ITDM, the advances in the treatment of diabetes related heart disease, and the success of the agency's earlier diabetes waiver program. ATA's support is given if the proposed exemption program contains specific components related to screening, safe driving experience, medical history and examinations, guidelines, and monitoring.

The American Optometric Association (AOA), while supporting the proposal, takes exception with the omission of optometrists from the examination requirements in the application process. The AOA states that this omission is inconsistent with all existing Federal guidelines on the matter in addition to those put forth by the AOA, the National Committee on Quality Assurance, and the recommendations of the agency's medical panel member Edward S. Horton, M.D. Moreover, the AOA argues that the omission of optometrists implies that they are not able to monitor proliferative diabetic retinopathy. The

AOA states that this is not true because studies indicate that optometrists can detect non-proliferative and proliferative retinopathy, as well as general ophthalmologists. The AOA clinical guidelines for the optometric care of diabetic patients is identical to the procedure used by ophthalmologists to detect proliferative diabetic retinopathy. Finally, the AOA argues that it would be inconsistent for the agency to include optometrists in the annual medical examination for diabetics in 49 CFR 391.64, and then exclude them in the proposed exemption process.

The Oregon Department of Transportation and the Illinois State Police both endorse the proposed exemption program. Oregon has extensive experience in issuing intrastate waivers to insulin-using diabetic CMV drivers based on stringent medical requirements. Oregon maintains crash data for intrastate commercial operations and had found no accidents related to complications from diabetes. Likewise, the State of Illinois currently allows diabetic drivers under its grandfather provisions and has no data to indicate ITDM drivers are a greater safety risk than other drivers. The Illinois State Police takes no exception to the proposed exemption program if there is strict oversight and careful scrutiny of each applicant.

The State of Delaware also supports the proposed exemption program since it has had a similar program in effect for 15 years. Delaware states that it has no indication that the program has reduced highway safety. However, the State believes that the agency proposal is overly complex. It points specifically to the publication of individual exemptions in the **Federal Register** for comment, the decision period of up to six months, the annual physician report, and the quarterly specialist review. It suggests a reduction in these requirements.

FMCSA's Response

The comments about the requirement for three years of driving experience with the ITDM condition are understandable. It does place a constraint on some ITDM drivers who want to operate a CMV in interstate commerce. However, under 49 U.S.C. 31315 and 31316(e), FMCSA may grant an exemption from the diabetes standard only if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. FMCSA believes that thorough screening of exemption applicants, and periodic monitoring of their safety performance, are the most