

37 individuals and requested comments from the public (78 FR 63285). The public comment period closed on November 22, 2013, and no comments were received.

FMCSA has evaluated the eligibility of the 37 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 requirement 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 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 September 3, 2003 (68 FR 52441), **Federal Register** 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 37 applicants have had ITDM over a range of 1 to 45 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 October 23, 2013, **Federal Register** notice and they will not be repeated in this notice.

### Discussion of Comments

FMCSA received no comments in this proceeding.

### 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 37 exemption applications, FMCSA exempts Charles A. Adams, Jr. (CT), Thomas W. Allee (WI), J.D. Ashcraft, Jr. (AL), Robert J. Berger III (PA), Michael E. Bingham (WA), Danny W. Bradley (DE), Richard A. Clark (GA), Winfred G. Clemenson (WA), Romero Coleman (WI), Thomas J. Crawford (NY), Williams N. Drake (NY), John S. Duvall (PA), Robert B. Engel (IN), Carolyn C. Gardner (CT), Brian L. Gregory (IL), Alfonso Grijalva (CA), Jason E. Jacobus (KY), Ervin A. Klocko, Jr. (OH), Stephen C. Koktavy (AZ), Richard J. Long (MN), Margaret Lopez (NY), John D. May (KS), Michael C. McDowell (TX), Charles B. McKay (FL), Norman C. Mertz (PA), Gary D. Peters (NE), Mark R. Phillips (WI), Francis J. Shultz (PA), Gary L. Snelling (AL), Joseph L. Stevenson (IL), Matthew S. Thompson (PA), Robin S. Travis (CO), William R. Van Gog (WA), Charles S. Watson (IL), David H. Wilkins (PA), Mark A. Yurian (MT), David M. Zanicky (PA) 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 1/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: December 3, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2013-29957 Filed 12-16-13; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2013-0189]

### 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 15 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 December 17, 2013. The exemptions expire on December 17, 2015.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs Division, (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 Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

**Background**

On October 23, 2013, FMCSA published a notice of receipt of Federal diabetes exemption applications from 15 individuals and requested comments from the public (78 FR 63295). The public comment period closed on November 22, 2013, and no comments were received.

FMCSA has evaluated the eligibility of the 15 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 requirement 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 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 September 3, 2003 (68 FR 52441), **Federal Register** 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 15 applicants have had ITDM over a range of 1 to 20 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 October 23, 2013, **Federal Register** notice and they will not be repeated in this notice.

**Discussion of Comments**

FMCSA received no comments in this proceeding.

**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 15 exemption applications, FMCSA exempts Steven R. Auger (NH), James L. Barnes (GA), Travis D. Clarkston (IN), Steven M. Ference (CT), Allen D. Goddard (MO), Jerry M. Hicks (WV), Bobby H. Johnson (GA), Michael P. Mahan (NY), Kenneth B. Maynard, Jr.

(NH), Will Norsworthy (AL), Walter A. Przewrocki, Jr. (PA), Keith E. Pulliam (MO), Richard A. Treadwell, Sr. (ME), James R. Troutman (PA), and William E. Wyant III (IA) 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 1/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: December 4, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2013-29950 Filed 12-16-13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA-2013-0038]

#### Notice of Proposed Buy America Waiver for the Pad and Rubber Boot of a Concrete Block for a Low Vibration Track System

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of proposed Buy America waiver and request for comment.

**SUMMARY:** The New York Metropolitan Transportation Authority (MTA), New York City Transit (NYCT), MTA Capital Construction Company, has requested a Buy America waiver for the pad and rubber boot of a concrete block for its Low Vibration Track (LVT) system on the basis of non-availability. MTA intends to install an LVT system as part of its Second Avenue Subway Project. This notice is to inform the public of the waiver request and to seek public comment to inform FTA's decision whether to grant the request.

**DATES:** Comments must be received by January 16, 2014. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** Please submit your comments by one of the following

means, identifying your submissions by docket number FTA-2013-0038:

1. *Web site:* <http://www.regulations.gov>.

Follow the instructions for submitting comments on the U.S. Government electronic docket site.

2. *Fax:* (202) 493-2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Instructions:** All submissions must make reference to the "Federal Transit Administration" and include docket number FTA-2013-0038. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Mary J. Lee, FTA Attorney-Advisor, at (202) 366-0985 or [mary.j.lee@dot.gov](mailto:mary.j.lee@dot.gov).

**SUPPLEMENTARY INFORMATION:** The purpose of this notice is to provide notice and seek comment on whether the Federal Transit Administration (FTA) should grant a non-availability waiver for the procurement of the pad and rubber boot of the concrete block used in its LVT system for Phase 1 of the Second Avenue Subway Project.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) the manufacturing processes for the product take place in the United States; and (2) the components of the product are of U.S. origin. A component is considered of

U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that "the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality," then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On June 20, 2013, FTA issued a letter to MTA regarding FTA's determination that the concrete blocks purchased for MTA's LVT system were not Buy America compliant because they contained foreign manufactured components—the pad and the rubber boot of each concrete block. However, FTA indicated that it would be willing to entertain a non-availability waiver if MTA met the required conditions under 49 CFR 661.7(c) and provided the following information: (1) the history of the procurement, including the technical specifications for the concrete blocks; (2) the technical feasibility of using other replacement parts manufactured in the United States; and (3) MTA's market research demonstrating the extent to which manufacturers in the United States are capable and willing to produce the pad and the rubber boot.

On September 11, 2013, MTA formally requested a Buy America waiver for the pad and rubber boot. In its request, MTA reiterated that it specified an LVT system to address operational noise and vibration issues, which had been identified as significant adverse impacts in the Final Environmental Impact Statement and Record of Decision for the Second Avenue Subway Project. The LVT system is, among other things, also designed to meet the National Fire Protection Association requirements and the vertical and horizontal gap tolerances between the platform and the train floor required to comply with the Americans with Disabilities Act. In addition, according to MTA, the LVT system has a proven performance history and an expected useful life in excess of 60 years, and would meet the performance requirements of MTA-NYCT's standard specifications. Along with these reasons, MTA stated that it had, in good faith, concluded that the concrete blocks were components of the LVT system and believed itself to be Buy America compliant.

According to MTA, it is unable to find a U.S.-manufactured pad and rubber boot. However, upon learning that it likely would have to find a U.S.-manufactured pad and rubber boot, MTA began conducting market research