

report findings and finalizes the audit report with this notice.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2010-0386]

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 seventeen 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 January 28, 2011. The exemptions expire on January 28, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366-4001, 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), or you

may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Background

On December 14, 2010, FMCSA published a notice of receipt of Federal diabetes exemption applications from seventeen individuals and requested comments from the public (75 FR 77947). The public comment period closed on January 13, 2011 and no comments were received.

FMCSA has evaluated the eligibility of the seventeen 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 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 seventeen applicants have had ITDM over a range of 1 to 44 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 standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the December 14, 2010, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comment

FMCSA did not receive any 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 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 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 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 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 seventeen exemption applications, FMCSA exempts, Richard B. Angus, James T. Bezold, Allen C. Cornelius, Eugene M. Johnson, Michael A. McHenry, Steven L. Meredith, Gabriel Moreno, Gregory S. Myers, Scott A. Newell, Richard D. Peterson, Rudolph Q. Redd, Chad A. Sanders, Mark A. Sawyer, Isaac Singleton, Doris A. Tiberio, Gordon E. Toland, Raymond M. Wallace, Jr. from the ITDM standard 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: (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: January 20, 2011.

Larry W. Minor,

Associate Administrator, Office of Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Alternative Transportation in Parks and Public Lands Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Paul S. Sarbanes Transit in Parks Program Announcement of FY 2010 Project Selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects, funded with Fiscal Year (FY) 2010 appropriations and previously unallocated prior year funds, for the Paul S. Sarbanes Transit in Parks program, as authorized by Section 3021 of the Safe, Accountable, Flexible,

Efficient Transportation Equity Act—A Legacy for Users of 2005 (SAFETEA—LU) and codified in 49 U.S.C. 5320. The Paul S. Sarbanes Transit in Parks program funds capital and planning expenses for alternative transportation systems in parks and public lands. Federal land management agencies and State, Tribal and local governments acting with the consent of a Federal land management agency are eligible recipients.

FOR FURTHER INFORMATION CONTACT:

Project sponsors who are State, local, or Tribal entities may contact the appropriate FTA Regional Administrator (*See the Appendix to this Notice*) for grant-specific issues. Project sponsors who are a Federal land management agency or a specific unit of a Federal land management agency should work with the contact listed below at their headquarters office to coordinate the availability of funds to that unit.

- **National Park Service:** Mark H Hartsoe, Mark_H_Hartsoe@nps.gov; tel: 202-513-7025, fax: 202-371-6675, mail: 1849 C Street, NW. (MS2420); Washington, DC 20240-0001.

- **Fish and Wildlife Service:** Nathan Caldwell, Nathan_Caldwell@fws.gov, tel: 703-358-2205, fax: 703-358-2517, mail: 4401 N. Fairfax Drive, Room 634; Arlington, VA 22203.

- **Forest Service:** Ed James, ejames@fs.fed.us, tel: 703-605-4616, mail: 1400 Independence Avenue, SW.; Washington, DC 20250-1101.

- **Bureau of Land Management:** Victor F. Montoya, Victor_Montoya@blm.gov, tel: 202-912-7041, mail: 1620 L Street, WO-854, Washington, DC 20036

For general information about the Paul S. Sarbanes Transit in Parks program, please contact Adam Schildge, Office of Program Management, Federal Transit Administration, at adam.schildge@dot.gov, 202-366-0778.

SUPPLEMENTARY INFORMATION: A total of \$26,844,035 was appropriated for FTA's Paul S. Sarbanes Transit in Parks program in Fiscal Year (FY) 2010. Of this amount, \$26,709,815 is available for project awards, \$134,220 is reserved for oversight activities, and \$46,591 will be added to available FY 2011 appropriations for the program. A total of \$338,467 is available for project awards from funds appropriated in 2007, 2008 and 2009. A total of 73 applicants requested \$83.0 million, more than three times the amount available in FY 2010 for projects, indicating high competition for funds. A joint review committee of the U.S. Department of Interior, the U.S.

Department of Agriculture's Forest Service and DOT evaluated the project proposals based on the criteria defined in 49 U.S.C. 5320(g)(2). Final selections were made through a collaborative process.

The goals of the program are to conserve natural, historical, and cultural resources; reduce congestion and pollution; improve visitor mobility and accessibility; enhance visitor experience; and ensure access to all, including persons with disabilities, through alternative transportation projects. The projects selected to use FY 2010 funding represent a diverse set of capital and planning projects across the country, ranging from bus purchases to installation of Intelligent Transportation Systems (ITS) and are listed in Table 1.

Applying For Funds

Recipients who are State or local government entities will be required to apply for Paul S. Sarbanes Transit in Parks program funds electronically through FTA's electronic grant award and management system, TEAM. These entities are assigned discretionary project IDs as shown in Table 1 of this notice. The content of these grant applications must reflect the approved proposal. (**Note:** Applications for the Paul S. Sarbanes Transit in Parks program do not require Department of Labor Certification.) Upon grant award, payments to grantees will be made by electronic transfer to the grantee's financial institution through FTA's Electronic Clearing House Operation (ECHO) system. Staff in FTA's Regional offices are available to assist applicants.

Recipients who are Federal land management agencies will be required to enter into an interagency agreement (IAA) with FTA. FTA will administer one IAA with each Federal land management agency receiving funding through the program for all of that agency's projects. Individual units of Federal land management agencies should work with the contact at their headquarters office listed above to coordinate the availability of funds to that unit.

Program Requirements

Section 5320 requires funding recipients to meet certain requirements. Requirements that reflect existing statutory and regulatory provisions can be found in the document "Alternative Transportation in Parks and Public Lands Program: Requirements for Recipients" available at <http://www.fta.dot.gov/atppl>. These requirements are incorporated into the grant agreements and inter-agency