

391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

#### Exemption Decision

This notice addresses 9 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 9 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Robert W. Brown  
David D. Bungori, Jr.  
Robert Clarke  
David R. Cox  
John B. Gregory  
Gary T. Hicks  
Robert T. Hill  
John C. McLaughlin  
Larry D. Wedekind

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was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.

#### Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application

for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 9 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 20245; 65 FR 57230; 67 FR 71610; 69 FR 64810; 71 FR 66217; 73 FR 75806; 65 FR 45817; 65 FR 77066; 67 FR 71610; 69 FR 64810; 72 FR 184; 73 FR 75806; 67 FR 46016; 67 FR 57267; 69 FR 51346; 71 FR 50970; 73 FR 75806; 69 FR 53493; 69 FR 62742; 73 FR 75806; 72 FR 8417; 72 FR 36099; 67 FR 46016; 73 FR 46973; 73 FR 54888). Each of these 9 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

#### Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 13, 2011.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 9 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant

for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 6, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2010-0328]

#### 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 twenty-seven 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 14, 2010. The exemptions expire on December 14, 2012.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (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), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

## Background

On October 15, 2010, FMCSA published a notice of receipt of Federal diabetes exemption applications from thirty-two individuals and requested comments from the public (75 FR 63536). The public comment period closed on November 15, 2010 and one comment was received.

FMCSA has evaluated the eligibility of the twenty-seven 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 twenty-seven applicants have had ITDM over a range of 1 to 21 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 October 15, 2010, **Federal Register** notice and they will not be repeated in this notice.

## Discussion of Comments

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

The Pennsylvania Department of Transportation stated that it had reviewed the driving records for Richard Bruehl and Christopher Gary Chegag and were in favor of granting Federal diabetes exemptions to these individuals.

## 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 twenty-seven exemption applications, FMCSA exempts, Juan C. Araoz Cespedes, William V. Barbrie, Kerry W. Blackwell, Mark S. Braddom, Mike G. Brambila, Matthew T. Brown, Richard G. Bruehl, John P. Catalano, Travis A. Chandler, Christopher G. Chegag, Gary J. Dionne, Thomas C. Donahue, Joseph G. Greatens, Marlin K. Johnson, George Long, Jr., Cary C. McAlister, Dennis P. Miller, Robert F. Minacapelli, Joe E. L. Radabaugh, Raul F. Sanchez, Enrique E. Santiago, Thomas A. Schmitt, Leo A. Schmitz, Ben D. Shelton, Jr., Marlon J. Vanderheiden, Nestor P. Vargas, Jr., and Harold A. Wendt 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: December 1, 2010.

**Larry W. Minor,**

*Associate Administrator, Office of Policy.*

[FR Doc. 2010-31276 Filed 12-13-10; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Transfer of Federally Assisted Facility

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

**ACTION:** Notice of intent to transfer Federally assisted facility.

**SUMMARY:** Section 5334(h) of the Federal Transit Laws, as codified, 49 U.S.C. 5301, *et. seq.*, permits the Administrator of the Federal Transit Administration (FTA) to authorize a recipient of FTA funds to transfer land or a facility to a public body for any public purpose with no further obligation to the Federal Government if, among other things, no Federal agency is interested in acquiring the asset for Federal use. Accordingly, FTA is issuing this Notice to advise Federal agencies that the City of Charlottesville (City) intends to transfer a facility and land located at 315 4th Street, NW., Charlottesville, Virginia to the Charlottesville Facilities Maintenance Division of Public Works. The facility and land sit within a secure Public Works Yard and any other acquiring agency would need access to use this property.

**DATES:** *Effective Date:* Any Federal agency interested in acquiring the facility must notify the FTA Region III office of its interest by January 7, 2011.

**ADDRESSES:** Interested parties should notify the Regional Office by writing to Letitia Thompson, Regional Administrator, Federal Transit Administration, 1760 Market Street, Suite 500, Philadelphia, PA, 19103.

**FOR FURTHER INFORMATION CONTACT:** Jay M. Fox, Regional Counsel, (215) 656-7258.

#### SUPPLEMENTARY INFORMATION:

##### Background

49 U.S.C. 5334(h) provides guidance on the transfer of capital assets. Specifically, if a recipient of FTA assistance decides an asset acquired under this chapter at least in part with that assistance is no longer needed for

the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. 49 U.S.C. 5334(h)(1).

#### Determinations

The Secretary may authorize a transfer for a public purpose other than mass transportation only if the Secretary decides:

(A) The asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) There is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) The overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) Through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

#### Federal Interest in Acquiring Land or Facility

This document implements the requirements of 49 U.S.C. 5334(h)(1)(D) of the Federal Transit Laws. Accordingly, FTA hereby provides notice of the availability of the facility further described below. Any Federal agency interested in acquiring the affected facility should promptly notify the FTA. If no Federal agency is interested in acquiring the existing facility, FTA will make certain that the other requirements specified in 49 U.S.C. Section 5334(h)(1)(A) through (C) are met before permitting the asset to be transferred.

#### Additional Description of Land or Facility

The facility is a former bus operations and maintenance building situated on an approximately 41,245 square foot City-owned parcel, and is located at 315 4th Street, NW., in Charlottesville, Virginia. The building is within an area zoned M1 for light industrial use. The immediate area consists of residential, commercial and light industrial properties. The facility was previously used for transit bus operations and maintenance. The facility is a flex-type building which includes a front office and/or administration section and a large attached multi-purpose shop or warehouse rear section, for a total building coverage of approximately 8,000 square feet. The facility resides on

a roughly triangular shaped parcel consisting of perimeter dimensions of 134 feet on its east side, 514 feet on its south side, 0 feet on its west side and 508 feet on its north side. The entire facility is contained within the fenced and secured City of Charlottesville Public Works Yard, and includes no street frontage. The north side of the facility is bounded by the Southern Railway embankment and it is slightly inclined and above-grade in relation to the adjoining Public Works Yard. The railway embankment to the north of the buildings is steep, wooded, and at an elevation approximately 40 feet higher relative to the paved areas.

The building improvements consist of concrete foundations, basic concrete slab floors, enameled metal side walls, sloped metal roof with gutters and downspouts and various entry doors and glass windows. The front office section has dimensions of 20 feet wide and 100 feet long for a total enclosed ground floor area of 2,000 square feet. The interior includes work areas, four individual offices, a utility room, a break area, two lavatory and shower rooms, small closets and storage rooms. The rear building section has exterior dimensions of 60 feet wide by 100 feet long with ground floor coverage of 6,000 square feet. The space is generally open, but includes a partitioned storage area of approximately 6,700 square feet of ground floor area with an additional mezzanine level of approximately 500 square feet. The rear building section has a concrete slab floor, exposed metal sidewalls and six large metal vehicular size roll-up doors. Miscellaneous site improvements include approximately 23,000 square feet of asphalt surfaced vehicular parking and maneuvering areas and assorted small unpaved areas. The general condition of the building appears in fair to good overall condition from an architectural and structural standpoint and is approximately 33 years old.

Issued on December 9, 2010.

**Letitia A. Thompson,**

*Regional Administrator.*

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