DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending June 30, 2012

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2012–0100.

Date Filed: June 28, 2012.

Parties: Members of the International Air Transport Association.

Subject: CSC/MailVote/003/2012 dated 5 June 2012 Expedited. Recommended Practice 1670. Intended effective date: 7 August 2012.

Docket Number: DOT–OST–2012–0103.

Date Filed: June 28, 2012.

Parties: Members of the International Air Transport Association.

Subject: CSC/34/Meet/004/2012 dated 24 April 2012 Expedited. Recommended Practice 1630. Intended effective date: 1 July 2012.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2012–18940 Filed 8–1–12; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

57th Meeting: RTCA Special Committee 186, Automatic Dependent Surveillance Broadcast (ADS–B)

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Meeting Notice of RTCA Special Committee 186, Automatic Dependent Surveillance Broadcast (ADS–B).

SUMMARY: The FAA is issuing this notice to advise the public of the 57th meeting of RTCA Special Committee 186, Automatic Dependent Surveillance Broadcast (ADS–B)

DATES: The meeting will be held August 23, 2012, from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, MacIntosh-NBAA Room and Colson Board Room, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 186. The agenda will include the following:

August 23, 2012

- Chairman's Introductory Remarks
- Review of Meeting Agenda
- Review/Approval of the Fifty-Sixth Meeting Summary, RTCA Paper No. 142–12/SC186–321
- EUROCAE WG–51—Status & Activities
- FAA Surveillance and Broadcast Services (SBS) Program—Status
- Working Group Reports
  - WG–1—Operations and Implementation—no report
  - WG–2—TIS–B MASPS—no report
  - WG–3—1090 MHz MOPS—no report
  - WG–4—Application Technical Requirements—Status
    - Traffic Situation Awareness with Alerts (TSAA)
    - Flight-deck Interval Management (FIM)
  - WG–5—UAT MOPS—no report
  - WG–6—Combined ADS–B & ASA MASPS—no report
    - ATSSA MASPS published in June by RTCA as DO–338
- Date, Place and Time of Next Meeting
- New Business
- Other Business
  - Aircraft-level Flight Crew Alerting on ADS–B Equipment Failures
- Review Action Items/Work Programs
- Adjourn Plenary

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 27, 2012.

Kathy Hitt,

Management Analyst, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–18942 Filed 8–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

FMCSA Policy on Granting, Withholding, Suspending, Amending or Revoking Operating Authority Registration

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of policy.

SUMMARY: FMCSA provides notice of the Agency's policy concerning review of applications for operating authority registration, and suspension, amendment or revocation of existing operating authority registration. Motor carriers, brokers and freight forwarders must demonstrate a willingness and ability to comply with applicable statutes and regulations in order to obtain and maintain operating authority registration. This notice outlines FMCSA's policy for evaluating motor carriers', brokers' and freight forwarders' willingness and ability to comply with these requirements.

DATES: This policy statement is effective August 2, 2012.

FOR FURTHER INFORMATION CONTACT: Sabrina E. Redd, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, 202–366–6240, *Sabrina.Redd@dot.gov.*

SUPPLEMENTARY INFORMATION

Background

The Motor Carrier Act of 1935 (Pub. L. 74–255, 49 Stat. 543) authorized the Interstate Commerce Commission (ICC) to issue operating authority registration to motor carriers, brokers, and freight forwarders subject to its jurisdiction and to suspend or revoke such registration for willful failure to comply with applicable statutes and regulations. The ICC Termination Act of 1995 (Pub. L. 104–88, 109 Stat. 803) (ICCTA) abolished the ICC and transferred this authority to the Secretary of Transportation (Secretary). See 49 U.S.C. 13902 (establishing standards for issuing operating authority) and 49 U.S.C. 13905 (establishing standards and procedures for suspending and revoking operating authority). Additionally, ICCTA section 204 contains a savings clause which states that ''all orders * * * that have been issued * * * by the Interstate Commerce Commission * * * in the performance of any function that is transferred by this Act * * * shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked.'' The

policy outlined in this notice stems in part from ICC decisions and orders that remain in effect, and it clarifies current FMCSA practice.

Under 49 CFR 1.73, the Secretary has delegated to the FMCSA Administrator the authority to, among other things, develop and implement rules to carry out Federal transportation policy; exercise administrative procedure powers necessary to implement and enforce applicable transportation laws and regulations; register motor carriers, brokers and freight forwarders to provide interstate transportation and establish standards required to obtain and maintain registration; and establish minimum safety standards governing the operation and equipment of motor carriers operating in interstate commerce.

A motor carrier, broker and freight forwarder may provide transportation or service subject to FMCSA jurisdiction only if it is registered by FMCSA. 49 U.S.C. 13901. FMCSA grants registration in accordance with the requirements and procedures in 49 U.S.C. 13902. Motor carriers, brokers and freight forwarders must demonstrate that they are willing and able to comply with the applicable statutory and regulatory requirements. Specifically, they must demonstrate willingness and ability to comply with applicable regulations imposed by FMCSA; the duties of employers and employees established by FMCSA pursuant to 49 U.S.C. 31135; the safety fitness requirements established by FMCSA pursuant to 49 U.S.C. 31144; the accessibility requirements established by FMCSA for transportation provided by an over-the-road bus; and minimum financial responsibilities established by FMCSA pursuant to 49 U.S.C. 13906 and 31138.

FMCSA withholds registration if it determines that the carrier, broker or freight forwarder does not meet, or is unable to meet, any of these requirements. 49 U.S.C. 13902(a)(4). Additionally, if registration is granted, and subsequent conduct by the registrant demonstrates an unwillingness or inability to remain compliant, FMCSA may suspend, amend or revoke the registration. 49 U.S.C. 13905(d).

This notice describes the policy and procedure FMCSA uses to determine whether a motor carrier, broker or freight forwarder is willing and able to comply with applicable requirements, and it identifies circumstances that can result in withholding, revocation, suspension or amendment of registration.

Policy

FMCSA withholds operating authority registration from any applicant that cannot demonstrate it is willing or able to comply with applicable statutory and regulatory requirements. Once granted, FMCSA exercises its authority to revoke, amend or suspend operating authority registration in cases where a motor carrier, broker or freight forwarder engaged in conduct demonstrating willful disregard for applicable requirements. Inadvertent, isolated, or sporadic violations of applicable requirements generally will not result in revocation, suspension or amendment.

In determining whether to withhold, suspend, amend or revoke operating authority registration, FMCSA evaluates, among other things, the following factors to determine whether a motor carrier, freight forwarder or broker is willing and able to comply with applicable statutory and regulatory requirements:

(1) The nature and extent of existing or past violations;

(2) the degree to which existing or past violations will affect, or have affected, the safety of operations, taking into account any crashes, deaths, or injuries associated with the violations;

(3) whether existing or past regulatory or statutory violations are the result a willful failure to comply with applicable requirements;

(4) the existence and nature of pending and closed enforcement actions;

(5) whether adequate safety management controls exist to ensure acceptable compliance with applicable requirements; and

(6) the existence of corrective action, if any.

FMCSA evaluates all available information concerning a motor carrier's, broker's, freight forwarder's or applicant's current status and past conduct to determine whether the person is willing and able to comply with statutory and regulatory requirements. One factor is not necessarily more significant than another, and the person's conduct and history are not considered in isolation. Certain conduct, however, will likely be sufficiently egregious to warrant withholding, suspension, amendment or revocation.

FMCSA will not grant operating authority registration to an applicant that fails to demonstrate willingness and ability to comply with applicable statutory and regulatory requirements. Applicants that intentionally furnish false or misleading information during the application and vetting process will not be granted operating authority registration. FMCSA views this conduct as demonstrating an inability or unwillingness to comply.

Applicants that fail to disclose all required information during the application and vetting process will not be granted operating authority registration until the required information is supplied. FMCSA withholds operating authority registration by rejecting applications that are incomplete, because FMCSA cannot determine that an applicant is willing or able to comply until the applicant has supplied all required information.

FMCSA does not grant operating authority registration to motor carriers that create a new identity or affiliate relationship to avoid a previous suspension or revocation of registration, a statutory or regulatory requirement, an FMCSA order or a history of past violations. FMCSA withholds operating authority registration by rejecting these individual's applications. The practice of ''reincarnating'' to avoid regulatory requirements and evade enforcement impairs FMCSA's ability to carry out its safety mission and creates an unacceptable safety risk for the motoring public. Moreover, this conduct demonstrates an inability and unwillingness to comply with applicable statutory and regulatory requirements.

Persons who have had their operating authority registration suspended or revoked, or who have operated without operating authority registration, within the six years prior to their application reasonably incur additional scrutiny and an increased burden to establish their willingness and ability to comply with applicable statutes and regulations. This scrutiny and burden also apply to persons who submit an application for operating authority registration and begin interstate operations before their application is approved. Persons who have been the subject of more than one final Unfit safety fitness determination or imminent hazard out-of-service order within the preceding six years, or who have operated during this period following issuance of a final Unfit safety fitness determination and an order to cease operations, face particularly close scrutiny. These individuals have already demonstrated a propensity to disregard applicable requirements and Agency orders. Accordingly, FMCSA will not grant operating authority registration under such circumstances absent evidence demonstrating that the regulated entity has corrected preexisting violations and clearly

exhibited a willingness and ability to comply with regulatory requirements in the future.

FMCSA uses a six-year compliance history to make determinations under 49 U.S.C. 13902 and 13905. Accordingly, FMCSA evaluates a person's willingness and ability to comply with applicable statutory and regulatory requirements based on, among other things, their compliance record, if any, and the factors identified above for the six-year period before the date of their application or the date of any conduct prompting review of their registration status. The six-year period is consistent with FMCSA's penalty assessment policies regarding ''history of prior offenses'' under 49 U.S.C. 521(b)(2)(D) and a ''pattern of violations'' warranting assessment of maximum civil penalties under section 222 of the Motor Carrier Safety Improvement Act (Pub. L. 106–159, 49 U.S.C. 521 note). See 69 FR 77828 (Dec. 28, 2004) and 74 FR 14184 (Mar. 30, 2009).

FMCSA considers all available information to analyze the factors identified above. Information bearing on the nature and extent of past violations is often contained in FMCSA records, State law enforcement records, State regulatory agency records, or State or Federal judicial records. Relevant information may also exist in a regulated entity's records. Information concerning the extent of a person's cooperation with FMCSA is also relevant to evaluate whether their conduct represents willful disregard of applicable requirements. FMCSA therefore considers a person's willingness to cooperate with FMCSA and State enforcement personnel during the application review process, compliance reviews, investigations, inspections, or audits, including timeliness in responding to requests for information or other regulatory directions.

Relevant information might also be available in complaints that private individuals file with FMCSA. While FMCSA lacks authority to resolve disputes between individuals and regulated entities, these complaints may be relevant in assessing whether a pattern of regulatory noncompliance exists. The totality of such information may show an unwillingness or inability to comply with statutory or regulatory requirements.

FMCSA will also consider a person's attempts to correct past violations. Relevant evidence might include, among other things, documentation of vehicle repairs or modifications, including installation of collision avoidance, automatic on-board recorders, speed limiters, stability control or other safety equipment, training and education programs instituted by the entity, changed policies, responses to FMCSA communications showing corrective action and other similar corrective action plans. The timeliness of corrective action is also relevant. FMCSA will not, however, accept a regulated entity's mere assertion that it intends to be compliant in the future as evidence of efforts to rectify past violations. In order to demonstrate an adequate effort to correct past violations, the available information must show that the regulated entity took corrective action to address the problem and comply with applicable statutes and regulations.

Finally, FMCSA will also consider the existence of any mitigating circumstances surrounding the regulated entity's conduct. Mitigating circumstances are facts that, while not exonerating, tend to explain why the violation occurred and that may tend to lessen a person's culpability for the violation. A mitigating fact would not necessarily relieve a person of the civil penalty liability, but it may be relevant in determining whether the conduct should preclude operating authority registration, given the other factors and circumstances described above. Proof of mitigating circumstances is evaluated in light of all the available information concerning a carrier's history.

FMCSA informs applicants of the Agency's decision to reject its application and withhold operating authority registration in writing. The rejection notice informs the applicant of the factual and legal basis for the rejection. Any person whose application is rejected may appeal the rejection to FMCSA. Under 49 CFR 365.111, the appeal must be filed with FMCSA within 10 days of the date of the letter of rejection. Information on where to submit an appeal is provided in the notice.

FMCSA suspends, amends or revokes operating authority registration in accordance with the procedures in 49 U.S.C. 13905. FMCSA initiates the proceeding by issuing an order to the motor carrier, broker or freight forwarder directing the registered entity to correct compliance deficiencies and show good cause, within 30 days of service of the order, why its registration should not be suspended, amended or revoked. The order provides the registered entity with notice of the alleged violation, explains how to respond to the order, and informs the registered entity that failure to respond and demonstrate corrective action or other good cause will result in suspension, amendment or revocation.

The Agency Official who issued the order reviews the registered entity's response. In reviewing the response, the Agency Official considers, among other things, the registered entity's proof of corrective action and supporting documentation, and the factors outlined above to evaluate whether the registration should be suspended, amended or revoked. After reviewing the response, the Agency Official issues a written decision and takes one of three actions. First, he or she may enter an order suspending, amending or revoking the entity's registration if the registered entity failed to take appropriate corrective action or show good cause why its registration should not be suspended, amended or revoked. Second, the Agency Official may enter an additional order directing the registered entity to come into compliance if the Agency Official determines the evidence of corrective action is deficient, but can be cured. Third, the Agency Official may determine that suspension, amendment or revocation are not appropriate and enter an order terminating the proceeding.

Issued on: July 17, 2012.

Anne S. Ferro,

Administrator.

[FR Doc. 2012–18935 Filed 8–1–12; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0164]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemption from the diabetes mellitus requirement; request for comments.

SUMMARY: FMCSA announces receipt of applications from 19 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before September 4, 2012.