

2016. FMCSA evaluated the medical records provided by Mr. Banks and determined that granting him an exemption would achieve an equivalent or greater level of safety than would be achieved without granting him an exemption.

#### IV. 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.

The Agency's decision regarding these exemption applications is based on the program eligibility criteria and an individualized assessment of information submitted by each applicant.

These 41 applicants have had ITDM over a range of 1 to 27 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 (two or more) severe hypoglycemic episodes in the past five 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, experience, and medical condition of each applicant were stated and discussed in detail in the March 8, 2017 **Federal Register** notice (82 FR 13050) and will not be repeated in this notice.

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.

#### V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) each driver must

report within two 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) each driver must 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) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keeping a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

#### VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

#### VII. Conclusion

Based upon its evaluation of the 41 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

Joseph A. Akers (WV)  
 Leslie R. Auger (MO)  
 Ta Canunpa W. Banks (SD)  
 Ralph E. Beard (MI)  
 Darrell W. Britnell (NC)  
 Paul M. Capeder (MN)  
 Robert D. Carnazzo (MA)  
 Randall C. Coleman (WA)  
 Thomas K. Coleman (NC)  
 Mark A. Cologne (LA)  
 Christopher J. Comstock (TX)  
 Alexander H. Cromartie (PA)  
 Michael R. Dark (TX)  
 Joseph P. Dellavolpe (NJ)  
 Shea E. Durand (NY)  
 David L. Farris (KS)  
 Donald D. Fown (OH)  
 Michael L. Gamache (NH)  
 David P. Glaeser (CO)  
 Donald J. Gray (CA)  
 James E. Guthrie, IV (KY)  
 James F. Hamilton (SD)  
 Paul R. Hanson (MN)  
 Jaculyn E. Heck (DE)  
 Greg J. Isom (GA)  
 Mark J. Johnson (WA)  
 Tyson C. Johnson (PA)  
 Darrell W. Luck (NC)  
 Gregory L. Markin (WI)  
 Patrick May (MD)  
 Elbert J. Means (SC)

Peter R. Meyer (WA)  
 Andrew R. Morris (WA)  
 Timothy A. Parks, Jr. (MD)  
 Dennis Pitt (NY)  
 Antonio R. Ragin (CT)  
 Matthew Reynolds (PA)  
 Robert G. Smith (MA)  
 Patricia M. Spurgeon (NY)  
 Robert M. Sypolt (WV)  
 Brandon R. Wedding (OR)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date 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 exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being 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.

Issued on: October 18, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA-2017-0010]

#### National Transit Database Reporting Changes and Clarifications

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

**ACTION:** Request for Comments.

**SUMMARY:** This notice provides information on proposed changes and clarifications to the National Transit Database (NTD) reporting requirements. All proposed changes and clarifications are proposed to be effective for report year 2017 (beginning in September 2017).

**DATES:** Comments are due by December 26, 2017. FTA will consider late comments to the extent practicable.

**ADDRESSES:** Please identify your submission by Docket Number (FTA-2017-0010) through one of the following methods:

- *Federal eRulemaking Portal:* Submit electronic comments and other data to <http://www.regulations.gov>.
- *U.S. Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in

Room W12-140 of the West Building, Ground Floor, at 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket

Operations, U.S. Department of Transportation, at (202) 493-2251.

*Instructions:* You must include the agency name (Federal Transit Administration) and Docket Number (FTA-2017-0010) for this notice, at the beginning of your comments. If sent by mail, submit two copies of your comments. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments should consider using an express mail firm to ensure their prompt filing of any submissions not filed electronically or by hand. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may review U.S. DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477-8 or <http://DocketsInfo.dot.gov>.

*Electronic Access and Filing:* This document and all comments received may be viewed online through the Federal eRulemaking portal at <http://www.regulations.gov>. Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 365 days a year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at <https://www.federalregister.gov>.

**FOR FURTHER INFORMATION CONTACT:** Maggie Schilling, National Transit Database Program Manager, FTA Office of Budget and Policy, (202) 366-2054 or [margaret.schilling@dot.gov](mailto:margaret.schilling@dot.gov).

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G. Clarification of Major Mechanical System Failures and Other Mechanical System Failures Definitions

**A. Background and Overview**

The National Transit Database (NTD) was established by Congress to be the Nation's primary source for information and statistics on the transit systems of the United States. Recipients and beneficiaries of grants from the Federal Transit Administration (FTA) under the Urbanized Area Formula Grants Program (§ 5307) or Other than Urbanized Area (Rural) Formula Program (§ 5311) are required to submit data to the NTD. Additionally, all other recipients of grants from FTA that own, operate, or manage assets used in public transportation are required to report data related to their asset inventory, condition assessments, and state of good repair performance targets data to the NTD.

In July 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) amended § 5335 authorizing the collection of an expanded asset inventory and condition information through the NTD. The updated asset inventory and condition reporting requirements were published in the **Federal Register** in July 2016.

The final NTD asset inventory reporting guidance specifies that service vehicles and administrative or maintenance facilities are reportable if the agency has full or partial capital responsibility for the asset; however, the updated guidance did not define *capital responsibility* as it relates to the NTD reporting requirements. This notice corrects that oversight and clarifies the term *capital responsibility*. It also provides clarification on when a new asset is reportable to the NTD and proposes additional granularity to track reporting.

In addition, FTA is seeking comment on five additional pieces of proposed guidance for inclusion in the NTD Reporting Manual. First is an update to the definition of a *reportable event* for monthly safety reporting. Second is a clarification on reporting requirements for recipients of JARC funds. Third is additional guidance on distinguishing between commuter and intercity service. Fourth is an adjustment to the reporting requirements for non-rail, for-profit providers of public transportation.

Fifth is a proposed update to the definition of *major mechanical system failures* and *other mechanical system failures* and solicits comment on improvements to these data points. The solicitation for comment on improvements to the mechanical system failures data points are for information only purposes, but may be used to inform a future notice. These changes are discussed in greater detail in the sections following.

All proposed changes and clarifications will be effective for report year 2017, that begins in September 2017.

**B. Clarifications on Reporting Requirements Related to the Transit Asset Management Program Rule Published in July 2016**

(a) Beginning in report year 2018, all NTD reporters are required to report additional asset inventory information with their annual report. The guidance published with the final asset inventory reporting requirements specified that service vehicles and administrative or maintenance facilities are reportable if the agency has full or partial capital responsibility for the asset; however, the guidance did not specifically define *capital responsibility*.

FTA is proposing that for purposes of the NTD Report, an agency has direct capital responsibility for an asset if any of the following are true:

1. The agency owns the asset,
2. the agency jointly owns the asset with another entity, or
3. The agency is responsible for replacing, overhauling, refurbishing or conducting major repairs on an asset, or the cost of those activities are itemized as a capital line item in their budget.

Performing minimal preventive maintenance work on an asset, like cleaning, does not in itself indicate direct capital responsibility for the asset. An infrastructure asset itemized as a capital line item in the budget does not necessarily mean an agency has direct capital responsibility; an agency must also have management or oversight responsibilities for the line item project.

(b) The guidance published with the final asset inventory reporting requirements did not clearly state when an asset that is under construction or final assembly becomes reportable to the NTD. FTA is proposing that an agency is required to report a new asset to the NTD asset inventory in the fiscal year that the agency begins using the asset for public transportation service. Agencies would not be required to report assets that are being assembled, nor those assets under construction, nor assets that are in testing.

(c) The new track inventory form, which will be implemented in report year 2018, includes two track types: Tangent and curve. Agencies are asked to report a sum of all track in these two categories. The guidance does not indicate whether non-revenue or yard track should be included in these two categories. It also does not allow agencies to separate out the total track without capital replacement responsibility. To clarify the reporting requirement and ensure that the Transit Asset Management (TAM) Program infrastructure performance restrictions metric (% of track segments under performance restriction) only includes track used in revenue service for which an agency has capital replacement responsibility, FTA is proposing the addition of two additional track categories. Under this proposal, agencies would report: (1) Total in-service tangent track, (2) total in-service curved track and (3) total non-revenue/yard track (includes all non-revenue/yard track regardless of capital replacement responsibility) and (4) total in-service track with no capital replacement responsibility. The TAM performance restriction calculation would exclude all track in the third and fourth categories. In addition to these four categories, agencies would also report total track under performance restriction. This number would be used with the total in-service track minus the total in-service track with no capital replacement responsibility to calculate the percent of track segments under performance restriction.

### C. Additional Guidance on Reportable Safety Events

FTA is proposing the following update to a reportable *safety event*. Although FTA is not changing the thresholds for a reportable event, FTA is clarifying the sorts of locations where a reportable event may occur. The primary change is the addition of safety reporting for events occurring on transit infrastructure. For example, a substation may not be part of the transit right-of-way, but FTA has always intended that a safety event occurring at a substation outside the right-of-way should be reportable. The current definition can be found in the 2016 NTD Safety Reporting Manual found on the NTD Web site: [www.transit.dot.gov/ntd](http://www.transit.dot.gov/ntd).

The proposed definition of a reportable *safety event* is below:

A safety or security event occurring:

- On transit right-of-way or infrastructure
- at a transit revenue facility
- at a maintenance facility or rail yard

- during a transit-related maintenance activity, or
  - involving a transit revenue vehicle
- Excluded from this event reporting requirement are:
- Events that occur off transit property where affected persons, vehicles, or objects come to rest on transit property after the event
  - occupational safety events occurring in administrative buildings
  - deaths that are a result of illness or other natural causes, outside of a reportable event
  - other events (assault, robbery, non-transit vehicle collisions etc.) occurring at bus stops or shelters that are not on transit-controlled property
  - collisions that occur while travelling to or from a transit-related maintenance activity
  - collisions involving a supervisor car, or other transit service vehicle operating on public roads

### D. Clarifications on Reporting Requirements for JARC Recipients

Prior to 2012, the JARC Program was a stand-alone grant program which did not carry an NTD reporting requirement. MAP-21, however, repealed the JARC Program as a stand-alone program, and instead made JARC projects eligible activities under the Urbanized Area Formula Program and the Rural Areas Formula Program. All recipients and beneficiaries of these programs are required to report to the NTD, however, FTA does not currently provide any guidance on reporting requirements for recipients and subrecipients of the programs that only support JARC projects, and which do not provide any public transportation services.

FTA is proposing to exempt from NTD reporting any subrecipient that only receives FTA money for 5307 or 5311 funded JARC projects, and does not have any transit operating or capital expenses from any funding source.

### E. Guidance on Distinguishing Between Commuter and Intercity Service

The definition of *public transportation* at 49 U.S.C 5302 excludes intercity passenger rail operated by Amtrak and intercity bus service. In a **Federal Register** Notice published on Tuesday, August 19, 2014 (FTA-2014-0006), FTA provided additional guidance on the definitions of commuter rail and commuter bus and established that service provided by these modes could be considered public transportation, and not intercity transportation, if at least 50% of passengers make a return trip on the same day across all service runs for one year.

FTA reviews all requests to report new service to the NTD, as services excluded from the definition of public transportation are not permitted to report to the NTD on a voluntary basis. When FTA deems it necessary, it will require the agency to conduct a passenger survey test of whether 50% of passengers are making a return trip on the same day. However, FTA proposes that such a survey must meet the following requirements:

1. The agency must conduct the survey over a 12-month period, to account for seasonal variations in passenger behavior.
2. The agency must include the entire length of each route in the survey.
3. The survey must determine that at least 50% of passengers on each route make a return trip on the same day, with 95% confidence.
4. A qualified statistician must approve the survey/sampling methodology and certify that the results give the required level of confidence.

If at least 50% of all passengers surveyed on a route made a return trip on the same day, or reported their intention to do so, then FTA will permit the agency to report that route to the NTD.

Current NTD reporting guidance does not address the questions of commuter vs intercity service for ferryboats. Although all ferryboats that permit walk-on passengers are included in the definition of public transportation, the NTD Reporting Manual only allows ferryboat service outside the boundaries of an urbanized area to be deemed “attributable” to that urbanized area for commuter ferryboat services. Intercity ferryboat services are not permitted to deem their service outside the boundaries of an urbanized area as attributable to that area. Thus, FTA is proposing a uniform use of the 50% same day return trip policy to determine whether Ferryboat (FB) service is commuter or intercity for the purposes of inclusion in NTD. In addition, FTA is proposing a requirement for all new commuter rail, commuter bus or ferryboat service to survey for routes with a maximum one-way trip time exceeding 90 minutes to establish that at least 50% of all passengers on the route made a return trip on the same day. For new commuter rail, commuter bus, or ferryboat routes being proposed for reporting to the NTD, FTA may, at its discretion, presume that those with 100% one-way trip times of 90 minutes or less are commuter services, without requiring a passenger survey.

### F. Change to Reporting Requirements for Non-Rail For-Profit Providers of Public Transportation

FTA currently has 18 non-rail, for-profit providers of public transportation that report directly to the NTD. One of these reporters raised the concern that providing the detailed financial information required of full reporters to the NTD may compromise their ability to successfully compete for business. They requested that FTA consider reducing the financial reporting requirements for for-profit providers to mirror those of reduced reporters to address their concern. FTA is seeking comment on the proposal to allow non-rail, for-profit providers of public transportation the option to report to the NTD as a reduced reporter. Of the 18 non-rail, for-profit providers referenced above, ten already meet the current reduced reporting threshold. This proposal would provide the flexibility to report as a reduced reporter for the remaining 8 agencies.

As a reduced reporter, these agencies would no longer be required to report passenger miles traveled (PMT). Such data previously reported by these agencies would not be available for use in the Urbanized Area Formula (UAF) apportionment. If the local urbanized area has more than 200,000 in population, this may reduce their local urbanized area's UAF apportionment. If the local urbanized area has fewer than 200,000 in population, this may impact the local urbanized area's eligibility for Small Transit Intensive Cities (STIC) funds in the UAF apportionment.

FTA would amend current reporting forms to allow ferry providers to continue to report fixed guideway directional route miles (DRM) or fixed guideway vehicle revenue miles (VRM) for continued use in the State of Good Repair Formula Apportionment.

### G. Clarification of Mechanical System Failures Definitions

FTA has received feedback from the transit industry that the current definitions of *major mechanical system failures* and *other mechanical system failures* do not provide sufficient detail or clarity to allow for a useful analysis of the data. This information is currently collected from each agency by mode. The current definitions can be found in the 2017 NTD Policy Manual or the glossary on the NTD Web site: [www.transit.dot.gov/ntd](http://www.transit.dot.gov/ntd). *Major mechanical system failures* and *other mechanical system failures* are only reported by full reporters to the NTD; reduced reporters and capital asset-only

reporters do not currently report these data.

To improve current reporting guidance, FTA proposes adding language specifically excluding failures caused by collision, natural disaster, or vandalism to the current definitions. FTA seeks comment on this proposed change. The amended definitions are below:

Proposed definition of *major mechanical system failure*:

A failure of some mechanical element of the revenue vehicle that is not caused by a collision, natural disaster, or vandalism and prevents the vehicle from completing a scheduled revenue trip or from starting the next scheduled revenue trip because actual movement is limited or the vehicle is unsafe.

Proposed definition of *other mechanical system failure*:

A failure of some other mechanical element of the revenue vehicle that is not caused by a collision, natural disaster, or vandalism, but, because of local agency policy, prevents the revenue vehicle from completing a scheduled revenue trip or from starting the next scheduled revenue trip even though the vehicle is physically able to continue in revenue service.

In addition to the proposed definition changes, FTA seeks additional feedback on the current utility of the *major mechanical system failures* and *other mechanical system failures* data points. As an example, one of the primary concerns expressed to FTA by stakeholders is that the current definition of *other mechanical system failures* cannot be used for comparative purposes because it is heavily dependent on local policy decisions. FTA would like to improve the utility of these data points to: (1) Inform transit stakeholders on mechanical performance; (2) allow for better comparative analysis of the data; and, (3) provide better insight on transit state of good repair. At this time, FTA is not formally proposing changes to these data points beyond the definition adjustments addressed above; however, two scenarios are outlined below. FTA welcomes input from stakeholders on these scenarios and welcomes additional direction on how these data points may be adjusted to best accomplish the stated goals.

Input received from this notice may be used to inform a future proposal to adjust the definition or collection method of these data points.

The scenarios described below are for public comment only. At this time, FTA is not formally proposing these changes.

FTA seeks feedback on the following scenarios:

(1) Collection of the *major mechanical system failures* by fleet rather than by mode. This would improve the granularity of the *major mechanical systems failure* data by collecting the information at the vehicle fleet level. It would provide a more robust and granular data set for *major mechanical system failures* and allow stakeholders to look at mechanical failure data by vehicle type. However, improving the granularity of the data could also increase the reporting burden for some agencies. To help offset this increase, FTA asks stakeholders to consider discontinuing the collection of *other mechanical system failures*.

(2) Adjust the definition of *other mechanical system failure* to the following: All non-major failures of a mechanical element of the revenue vehicle requiring a work order that are not caused by a collision, natural disaster, or vandalism.

This adjustment would provide a more standard and comprehensive look at the *other mechanical system failures* data. The new definition would allow for better comparison across transit agencies by focusing the outcome of this data point on a system failure rather than a local policy decision to remove the vehicle from service.

In addition to the scenarios discussed above, FTA welcomes additional comment and input on how these data points may be adjusted to benefit the transit industry and transit stakeholders. FTA specifically requests that agencies provide comment on the anticipated impact on reporting burden for the scenarios above as well as the anticipated reporting burden for any additional suggestions provided to improve the utility of these data points.

**K. Jane Williams,**

*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA-2017-0014]

#### Notice of Proposed Buy America Waiver for Motor Brakes and Machinery Brakes for the SE 3rd Avenue Bascule Bridge Modification in Fort Lauderdale, Florida

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

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

**SUMMARY:** The Federal Transit Administration (FTA) received a request