

being operated in such a condition as to likely cause an accident or breakdown of the vehicle. Section 392.7(a) requires each CMV driver to satisfy himself/herself that a vehicle is in safe condition before operating the vehicle, which would include ensuring that the rear-vision mirrors (or in this case, the Smart-Vision system)—are in good working order. Similarly, section 396.13(a) of the FMCSRs requires that, before driving a vehicle, a driver must be satisfied that the vehicle is in safe operating condition. If the Smart-Vision system (effectively functioning as the rear vision mirrors) fails during operation, the driver must complete a driver vehicle inspection report at the completion of the workday as required by section 396.11 of the FMCSRs, and the motor carrier must ensure that the defect is corrected.

Application for Renewal of Exemption

In its renewal application, VSNA reiterated its previous statements in support of the original exemption request. Since the exemption was granted in 2020, the Smart-Vision system has been installed on 15,000 vehicles worldwide, logging millions of miles. In North America, approximately 700 CMVs are currently equipped with the Smart-Vision system, and VSNA forecasts that an additional 1,500 CMVs will be equipped with the technology by 2025. A copy of VSNA's request to renew the exemption is available in the docket.

IV. Applicant's Method To Ensure an Equivalent or Greater Level of Safety

VSNA states that its commitment to safety remains unchanged and emphasized that in the five years since the original exemption was granted, the use of Smart-Vision as an alternative to the two rear-vision mirrors required by 49 CFR 393.80(a) has demonstrated a level of safety equivalent to, or greater than, that provided by the regulation.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on VSNA's application for renewal of its exemption from § 393.80. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late

comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0018]

Qualification of Drivers; Exemption Applications; Hearing

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

ACTION: Notice of denials.

SUMMARY: FMCSA announces its decision to deny applications from four individuals for an exemption from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 366-4001, *fmcsamedical@dot.gov*. Office hours are from 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing material in the docket, contact Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Comments

To view comments go to *www.regulations.gov*. Insert the docket number (FMCSA-2024-0018) in the keyword box, and click "Search." Next, choose the only notice listed, and click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*. As described in the system of records notice DOT/ALL 14 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

II. Background

FMCSA received applications from four individuals for an exemption from the hearing requirement in § 391.41(b)(11) to operate a CMV in interstate commerce.

FMCSA has evaluated the eligibility of these applicants and concluded that granting these exemptions would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with § 391.41(b)(11).

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-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 statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification. The Agency's decision regarding these exemption applications is based on the eligibility criteria, the terms and conditions for Federal exemptions, and an individualized assessment of each applicant's medical information provided by the applicant.

IV. Conclusion

The Agency has determined that these applicants do not satisfy the eligibility criteria or meet the terms and conditions of the Federal exemption and granting these exemptions would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with § 391.41(b)(11). Therefore, the four applicants in this notice have been denied exemptions from the physical qualification standards in § 391.41(b)(11).

Each applicant has, prior to this notice, received a letter of final

disposition regarding his/her exemption request. Those decision letters fully outlined the basis for the denial and constitute final action by the Agency. This notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following four applicants do not meet the eligibility criteria or meet the terms and conditions of the Federal exemption:

Paul Hoover (PA)
Paris Nooner (IN)
Jesus Perez (IL)
Kevin Young (AL)

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2024-01; Roadway Maintenance Machines—Importance of Communications and Compliance With Red Zone Procedures

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety advisory.

SUMMARY: FRA is issuing Safety Advisory 2024-01 to emphasize the importance of rules and procedures regarding the safety of roadway workers who operate or work near roadway maintenance machines (RMMs). This safety advisory recommends that railroads and contractors review and update their rules regarding communication between roadway workers who work near RMMs and the operators of those RMMs, and increase monitoring of their employees for compliance with existing rules and procedures (including through operational testing). This safety advisory also recommends that railroads review and update their rules regarding work/red zones and evaluate the work/red zone distances for each type of RMM. In addition, this safety advisory recommends that railroads and contractors conduct additional safety briefings to raise worker awareness of the hazards associated with operating and working around RMMs.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track and Structures Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, at

telephone: (202) 493-6460, or email: yujiang.zhang@dot.gov.

Disclaimer: This Safety Advisory is considered guidance pursuant to DOT Order 2100.6A (June 7, 2021). Except when referencing laws, regulations, policies, or orders, the information in this Safety Advisory does not have the force and effect of law and is not meant to bind the public in any way. This document does not revise or replace any previously issued guidance.

SUPPLEMENTARY INFORMATION:

Background

In September 2023, FRA issued Safety Advisory 2023-06, titled *Roadway Maintenance Machines—Importance of Clear Communications and Compliance with Applicable Rules and Procedures*. FRA addressed two accidents in that Safety Advisory, each involving a railroad contractor working on a main line and being fatally injured by an RMM. In Safety Advisory 2023-06, FRA recommended that railroads and contractors review and update their rules regarding the safety of roadway workers who operate or work near RMMs, communicate any resulting changes to their employees, and increase monitoring of roadway workers, railroad employees, and contractors for compliance with all applicable rules and procedures.

To date, in calendar year 2024, two roadway workers have been fatally injured while working in the vicinity of RMMs. This Safety Advisory is based on FRA's preliminary findings and the respective railroads' latest reporting and is not intended to attribute a cause or assign responsibility for these incidents on the acts or omissions of any person or entity.

The following is a summary of the circumstances involved in the incidents:

In February 2024, an RMM struck and fatally injured a track foreman working on CSX's main line in Roanoke Rapids, North Carolina. FRA's preliminary investigation shows that at the time of the incident, the track foreman was part of a four-person work group tasked to flag a highway-rail grade crossing for a ballast regulator that would be entering the crossing. When the work group arrived at the crossing, the track foreman walked to the north of the ballast regulator and stood in the gage of the track approximately seventeen feet from the ballast regulator. As the ballast regulator moved north to pull ballast into the track, the foreman was not visible to the operator of the ballast regulator and the machine struck and fatally injured the track foreman.

In April 2024, a Union Pacific manager was fatally injured when he

was struck by an RMM while working on the main line in McNeil, Arkansas.¹ The manager was serving as the roadway worker in charge (RWIC) of a work group filling areas along an embankment with ballast. The RWIC was directing the on-track operations of a track-hoe excavator (e.g., instructing the excavator operator where to dump ballast). The RWIC positioned himself alongside the excavator, which was in a blind spot of the operator, and was struck and fatally injured by the bucket while it was being retracted.

These incidents represent the worst-case scenario that can occur when roadway workers are working on or near RMMs. These incidents highlight the continued need for railroads to examine their rules and procedures for protecting roadway workers who operate or work near RMMs and the need for roadway workers to be vigilant in maintaining a safe distance from any operating RMM.

Recommendations

Considering the above discussion, FRA recommends that railroads and railroad contractors:

1. Review and update work/red zone procedures² to:

a. Address differences in sight distances and line of sight for different types of RMMs; and

b. Prohibit a roadway worker from entering the work/red zone of any RMM unless communication is established and maintained between that roadway worker and the RMM operator.

2. Ensure work/red zones are discussed in job briefings anytime an RMM will be part of a work group.

3. Increase monitoring (including operational testing under 49 CFR part 217) of roadway workers, railroad employees, and contractors for compliance with all existing applicable rules and procedures (and any updated rules and procedures to result from paragraphs (1 and 2)), particularly those involving the operation of RMMs and roadway workers working on and in the vicinity of RMMs.

4. Conduct additional safety briefings to raise worker awareness of the hazards associated with operating and working around RMMs.

5. Review Safety Advisory 2023-06; *Roadway Maintenance Machines—*

¹ FRA issued a Safety Bulletin in response to this incident. See Safety Bulletin 2024-03 (available at <https://railroads.dot.gov/elibrary/safety-bulletin-2024-03-employee-fatality-working-around-track-equipment>).

² Although individual railroads define the "work zone" or "red zone" surrounding RMMs differently, generally the "work zone" or "red zone" is the area surrounding the RMM, which, if entered by an individual creates the potential for injury as a result of being struck by the equipment.