

Issued on: August 28, 2009.

**Jeffrey P. Michael,**

*Associate Administrator for Research and Program Development.*

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**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-21254]

#### Qualification of Drivers; Exemption Renewals; Vision

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 7 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202)-366-4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov), FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64-224, 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>.

##### Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-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 2-year period. The comment period ended on August 13, 2009.

#### Discussion of Comments

FMCSA received no comments in this proceeding.

#### Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 7 renewal applications, FMCSA renews the Federal vision exemptions for Andrew B. Clayton, Kenneth D. Daniels, Donald M. Jenson, Dean A. Maystead, Donald L. Murphy, Carl V. Murphy, Jr., and Thomas D. Reynolds.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 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 and 31315.

Issued on August 27, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9-21197 Filed 9-1-09; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35287]

#### The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.

Pursuant to a written trackage rights agreement entered into between CSX Transportation, Inc. (CSXT), and The Indiana Rail Road Company (INRD), CSXT has agreed to grant non-exclusive, limited overhead trackage rights to INRD over CSXT's line of railroad between the connection of CSXT and INRD trackage at Sullivan, IN, at approximately CSXT milepost OZA 204.5, and the connection between CSXT's line and tracks leading to the Oaktown Fuels Mine No. 1, LLC loading facility (Oaktown facility) at Oaktown, IN, at approximately CSXT milepost OZA 219.05, a distance of approximately 14.5 miles (Line).<sup>1</sup>

<sup>1</sup> A portion of the subject line is also at issue in STB Finance Docket No. 35137, *The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.*, which pertains to CSXT's grant of non-exclusive, limited local trackage rights to INRD between mileposts OZA 204.5 and OZA 214.5. A revocation proceeding is pending.

According to INRD, the trackage rights will be used to permit INRD to move loaded coal trains and empty hopper trains: (1) between the Oaktown facility, located on the Line at approximately milepost OZA 219.05, and INRD's interchange with Indiana Southern Railroad Company (ISRR) at Beehunter, IN, to the Vectren power plant at Culley, IN, and to the Indianapolis Power & Light's (IP&L) power plant at Petersburg, IN, and (2) between the Oaktown facility and IP&L's Harding Street power plant in Indianapolis, IN, located on INRD's line.

The transaction is scheduled to be consummated on September 17, 2009.

The purpose of the trackage rights is to permit INRD to move loaded coal trains and empty hopper trains in single-line service between the Oaktown facility and INRD's interchange with ISRR at Beehunter for onward movement to the power plants at Culley and Petersburg, and also between the Oaktown facility and the power plant in Indianapolis, thus enhancing operational efficiency.<sup>2</sup>

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by September 9, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance

<sup>2</sup> The trackage rights at issue here were set forth as a supplemental agreement to a May 15, 2008 agreement between INRD and CSXT. See Exhibit 2 of INRD's verified notice of exemption.