

### 11. *Narrow Definition of the QA/QC Performance Measure*

The team's Observation #11 was that the QA/QC measure for NEPA decisions focused only on EA and EIS projects. The team urges TxDOT to consider evaluating a broader range of NEPA related decisions (including, but not limited to CEs, re-evaluations, Section 4(f), and STIP/Transportation Improvement Program (TIP) consistency). Note that the recurring non-compliance observations occurred on CEs with either STIP/TIP or Section 4(f) items that were not ready for a decision to be made. In recent interviews with TxDOT staff, the team learned that TxDOT will examine other measures on an ongoing basis for internal use. The team believes that if the QA/QC refocuses attention not only on the documentation, but also on the required sequential NEPA process related items, that improved efficiencies related to TxDOT's NEPA decision and FHWA project authorization could result. The team believes that a more relevant focus on process could potentially help avoid non-compliance actions by TxDOT under the MOU and FHWA non-compliance observations in future audits.

### 12. *Performance Measure Utility*

Observation #12 was that the utility of several of the performance measures was difficult to determine. Also, the team was concerned that the measure for the TxDOT relationship with the public may be too limited by focusing on the number of complaints. Through recent interviews, the team learned that TxDOT staff agree with FHWA's concerns about utility. Quantifying changes in relationships with the public or agencies is possible, but the number is hard to interpret. Regarding the survey of agencies, TxDOT staff indicated that they did not know if agencies have higher expectations of TxDOT compared with other agencies. Considering the TxDOT relationship with the public, staff told the team that, during the preparation of their application, they considered various sorts of surveys and social media outreach. Given the cost of these approaches, TxDOT was not convinced of their utility and so decided not to use any of them. This leaves the performance measure difficult to address for TxDOT and may be a recurring FHWA observation until it is resolved.

### 13. *TxDOT Reliance on the California Department of Transportation (Caltrans) Training Plan*

The team's Observation #13 was that the Caltrans training plan, which served as a basis for the TxDOT training plan, may not adequately meet the needs of TxDOT. The team urged TxDOT to consider other State DOT approaches to training. The TxDOT staff said in a recent interview that they had reviewed training plans from Virginia, Ohio, Alaska, and Florida. They also indicated that prior to Audit #2, TxDOT had completed a survey of staff in District offices and at ENV to assess training needs. The team was told that the surveys would be used to update the training plan in the spring of 2016.

### 14. *Adequacy of Training for Non-TxDOT Staff*

Observation #14 urged TxDOT to assess whether the proposed training approach for non-TxDOT staff (relying heavily upon the annual ECC) is adequate and responsive enough to address a need to quickly disseminate newly developed procedures and policy. Through interviews, the team learned that TxDOT does not prioritize training classes specifically for non-TxDOT staff. The Director of ENV acknowledged that the training session at the recent ENV conference for LPA staff was not well attended and was thinking of reaching out to large planning organizations. The TxDOT concluded that its priority for training is first for TxDOT staff internally (ENV and District staff), second for consultants that TxDOT hires for environmental work, and third for LPAs. In years three and beyond of the TxDOT NEPA Assignment, the training plan may start to focus on the second, and eventually third, priority groups of individuals.

### 15. *What Training is Mandatory*

Observation #15 resulted in a team suggestion that the progressive training plan clearly identify the training required for each job classification. The TxDOT training coordinator told the team that the progressive training plan will address training required to meet State law (16 hours of training) and job task certification. This plan will be developed at the end of 2015.

### 16. *Training Plan, Consideration of Resource Agency Recommendations*

The team learned in a recent interview that in the fall of 2015 (as in the fall of 2014), TxDOT subject matter experts planned to reach out to resource agencies to ask what training they would like to see conducted for TxDOT

staff. Previously, USACE staff said that TxDOT needed 404 training. The TxDOT scheduled and completed Section 404 training in two different locations during October 2015. The TxDOT will continue to schedule Section 404 training.

### Next Steps

The FHWA provided this draft audit report to TxDOT for a 14-day review and comment period. The team has considered TxDOT comments in developing this draft audit report. As the next step, FHWA will publish a notice in the **Federal Register** to make it available to the public and for a 30-day comment period review (23 U.S.C. 327(g)). No later than 60 days after the close of the comment period, FHWA will respond to all comments submitted in finalizing this draft audit report, pursuant to 23 U.S.C. 327(g)(B). Once finalized, the audit report will be published in the **Federal Register**.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Notice of Unsafe Condition Involving Commercial Motor Vehicles Affected by Volvo Trucks North America's Safety Recall and Out-of-Service Declaration

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

**ACTION:** Notice.

**SUMMARY:** FMCSA has determined that commercial motor vehicles manufactured by Volvo Trucks North America (Volvo Trucks) and affected by the National Highway Traffic Safety Administration (NHTSA) Part 573 Safety Recall Report No. 16V-097000, that have not already received the interim or permanent recall remedy repair specified by Volvo in the recall, are likely to cause an accident or breakdown because of a defective steering shaft which may disconnect from the junction block without warning, causing the vehicle to be in an unsafe condition. FMCSA is notifying commercial motor vehicle operators that vehicles subject to the recall without the interim or permanent repair will be subject to an immediate out-of-service order under 49 CFR 396.9 or compatible state regulations.

**DATES:** This Notice is effective March 23, 2016.

**FOR FURTHER INFORMATION CONTACT:** Charles J. Fromm, Deputy Chief

Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590, by telephone at 202-366-3551 or via email at [charles.fromm@dot.gov](mailto:charles.fromm@dot.gov). FMCSA office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On February 16, 2016, Volvo Trucks initiated a safety recall affecting nearly 16,000 Class 8 motor vehicles in the United States. According to Volvo, a condition exists which could lead to separation of the steering shaft from the junction block. Also, the bolt connecting the upper steering shaft to the lower steering shaft may not have been properly tightened. Volvo's report to NHTSA states that either condition can lead to separation of the steering shaft and immediate loss of steering ability and control, which could lead to a crash. Volvo Trucks issued a Safety Recall Alert on March 10, which directed all owners of the affected vehicles to take the vehicles out of operation as soon as possible and cautioned that the separation can occur without warning and amended its safety recall on March 15, alerting NHTSA of the more serious hazard. Volvo Trucks strongly recommends that these vehicles remain out of service until repairs are made. NHTSA is overseeing Volvo Truck's recall efforts to ensure prompt notification of the defect to vehicle owners and that vehicles are not operated in a defective condition. Volvo's Safety Recall Report is available on its Web site at: [http://www.odi.nhtsa.dot.gov/owners/SearchDetails?searchCriteria.prod\\_ids=1991310&searchCriteria.model\\_yr=2016&searchCriteria.make=VOLVO&searchCriteria.model=VNL&activeTab=0&searchType=PROD&prodType=V&targetCategory=A&cmplCount=1&rclCount=3&invCount=1&tsbCount=0](http://www.odi.nhtsa.dot.gov/owners/SearchDetails?searchCriteria.prod_ids=1991310&searchCriteria.model_yr=2016&searchCriteria.make=VOLVO&searchCriteria.model=VNL&activeTab=0&searchType=PROD&prodType=V&targetCategory=A&cmplCount=1&rclCount=3&invCount=1&tsbCount=0).

Additionally, to assist with notification efforts, on March 18, 2016, FMCSA posted an Inspection Bulletin on its Web site. <https://www.fmcsa.dot.gov/newsroom/urgent-inspection-bulletin-safety-recall-issued-volvo-trucks>. The Inspection Bulletin advised FMCSA inspectors and state partners under the Motor Carrier Safety Assistance Program (MCSAP) of the condition of the affected vehicles and requested inspectors to direct the operators of such vehicles to contact Volvo Customer Service before continuing in operation. The Inspection Bulletin also noted that continued operation of the affected vehicles could be considered a violation of 49 CFR 396.7, which prohibits operation of a

vehicle in a condition likely to cause an accident or a breakdown. Today's notice formalizes that determination and clarifies that FMCSA and its state partners under the MCSAP program will place a vehicle out-of-service if the necessary repair or replacement has not been made, based on the identified out-of-service defect under 49 CFR 393.209(c), which requires that a steering column to be securely fastened.

The Secretary of Transportation has statutory authority to set minimum standards for commercial motor vehicle safety, including ensuring that commercial motor vehicles "are maintained, equipped, loaded, and operated safely" and to prescribe requirements for the "safety of operation and equipment of, a motor carrier." (49 U.S.C. 31136(a)(1) and 49 U.S.C. 31502(b)). The Secretary also has broad power in carrying out motor carrier safety statutes and regulations to, among other things, "inspect the equipment of a carrier or lessor" and "perform other acts the Secretary considers appropriate." (49 U.S.C. 504(c)(1) and 49 U.S.C. 31133(a)(10)). The Administrator of FMCSA has been delegated authority under 49 CFR 1.87(f), (i) and (j) to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. chapter 311, subchapter III, 49 U.S.C. chapter 315, and 49 U.S.C. 504. This delegation of authority includes the authority to declare unsafe vehicles out-of-service under 49 CFR 396.9. Under 49 U.S.C. 31102, MCSAP State partners agree to conduct roadside inspections. In 49 CFR part 350, MCSAP state partners agree to adopt state safety laws and regulations that are compatible with 49 CFR parts 390-397.

#### Out-of-Service Determination

FMCSA has determined that commercial motor vehicles subject to Volvo Trucks' Safety Recall (NHTSA Part 573 Safety Recall Report No. 16V-097000), that have not already received the interim or permanent recall remedy repair specified by Volvo in the above-referenced recall, are likely to cause an accident or breakdown and are therefore in an unsafe condition. The condition of the steering column is also a violation of 49 CFR 393.209(c) which requires the steering column to be securely fastened. Because of the potential consequences associated with continued operation of these vehicles, through this notice FMCSA is declaring unsafe the operation of any unrepaired vehicle affected by the Volvo Trucks recall under NHTSA Campaign No. 16V097000 and declaring such vehicles to be in an out-of-service condition. The

affected vehicles should not be operated, and the operation of an unrepaired affected vehicle will therefore subject the operator to an out-of-service order under federal or compatible state regulations.

FMCSA is directing its investigators and state partners conducting roadside inspections to perform a Level IV inspection on any unrepaired affected vehicles and to place the vehicle out of service based on the violation of 49 CFR 393.209(c). Level IV inspections, which are typically performed on a one-time basis on a particular item as a special inspection, are not included in FMCSA's Safety Measurement System (SMS), and therefore the out-of-service declaration will not affect a motor carrier's SMS score.

Placing the vehicle out-of-service under this Notice is not intended to provide a basis for further enforcement action and seeks only the immediate cessation of the operation of vehicles that have been deemed to be in an unsafe condition. Operators of vehicles declared out-of-service, however, must comply with an out-of-service order. Motor carrier operators who violate an out-of-service order will be subject to civil penalties and other enforcement as provided in the Federal Motor Carrier Safety Regulations.

Issued under the authority delegated in 49 CFR 1.87 on: March 22, 2016.

**T. F. Scott Darling, III,**  
*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0072]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 40 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or