



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0451]

Hours of Service of Drivers: Oregon Trucking Associations; Application for Exemption

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Oregon Trucking Associations (OTA) has applied for a limited exemption from the 30-minute rest-break requirement of the Agency's hours-of-service regulations [49 CFR 395.3(a)(3)(ii)]. It seeks the exemption for motor carriers and their commercial motor vehicle (CMV) drivers who transport timber from Oregon forestlands during periods in which fire safety restrictions limit their hours of operation. FMCSA requests public comment on the application for exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2013-0451 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number.

For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online.

Submitting Comments: You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. To submit your comment online, go to www.regulations.gov and in the search box insert the docket number “FMCSA-2013-0451” and click the SEARCH button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

Viewing Comments and Documents: To view comments, as well as any documents mentioned in this notice, go to www.regulations.gov and in the search box insert the docket number “FMCSA-2013-0451” and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to the proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver, and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must

publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency may grant an exemption subject to specified terms and conditions. The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

On December 27, 2011, FMCSA published a final rule establishing mandatory rest breaks for CMV drivers (76 FR 81133). Effective July 1, 2013, drivers may not operate a CMV if 8 hours or more have elapsed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes [49 CFR 395.3(a)(3)(ii)]. FMCSA did not specify when drivers must take the 30-minute break. Drivers who already take shorter breaks during the duty day could comply with the rule by extending one of these breaks to 30 minutes.

Exemption Request of Oregon Trucking Associations

OTA applies for exemption on behalf of motor carriers and drivers who operate CMVs on Oregon forestlands to transport logs to lumber mills for processing. OTA states that lumber mills depend on a regular volume of logs for their economic viability, and that environmental restrictions limit the amount of timber that can be harvested from Oregon forestlands. In addition, when the risk of fire increases, the Oregon Department of Forestry (ODF) further limits logging operations. For example, OTA states that at the time of its application (August 26, 2013), a Level III fire safety restriction barred CMVs from Oregon forestlands at 1:00 p.m. daily. OTA asserts that fire-safety restrictions are often in place from July to late October each year. If logging operators have to leave the forest lands by 1:00 p.m. during fire restrictions, they need all available time prior to 1:00 p.m. as on-duty time, without a rest break.

OTA asserts that the new 30-minute break requirement makes it impossible for log trucks to provide a sufficient volume of logs to the mills when operations are time-limited by fire restrictions. OTA seeks relief from this requirement when operating CMVs on Oregon forestland when that land is restricted by fire safety rules. OTA states that its members engaged in these operations are willing to restrict their duty day when operating under the exemption to a maximum of 12 hours in lieu of the 14-hour limit of the HOS rules. OTA states that during these periods of limited operations, its members would achieve the same level of safety with this exemption in place as they would achieve if required to observe the rest-break requirement.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on OTA's application for an exemption from the rest-break requirement of 49 CFR 395.3(a)(3)(ii). The Agency will consider all comments received by close of business on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**.]. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: December 2, 2013

Larry W. Minor
Associate Administrator for Policy

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