



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[FMCSA-2014-0420]

Hours of Service of Drivers: Specialized Carriers & Rigging Association (SC&RA);

Application for Exemption

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

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

SUMMARY: FMCSA announces that it has received an application from the Specialized Carriers & Rigging Association (SC&RA) for an exemption from the 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers. The requested exemption would apply to specialized carriers and drivers responsible for the transportation of loads that exceed normal weight and dimensional limits -- oversize/overweight (OS/OW) loads -- and require a permit issued by a government authority. Due to the nature of their operation, SC&RA believes that compliance with the 30-minute rest break rule is extremely difficult, primarily due to the limited (usually daylight) hours in which an OS/OW load can be transported as restricted by State permit requirements. SC&RA therefore requests this exemption for all permitted loads. FMCSA requests public comment on SC&RA's 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-2014-0420 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.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. 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 FDMS), which can be reviewed at www.dot.gov/privacy.

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. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Clemente, 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 (FMCSRs). 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 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)).

Request for Exemption

On December 27, 2011 (76 FR 81133), FMCSA published a final rule amending its hours-of-service (HOS) regulations for drivers of property-carrying CMVs. The final rule adopted several changes to the HOS rules, including a new provision requiring drivers to take a rest break during the work day under certain circumstances. Drivers may drive a CMV only if 8 hours or less have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes. FMCSA did not specify when drivers must take the 30-minute break, but the rule requires that they wait no longer than 8 hours after the last off-duty or sleeper-berth period of that length or longer to take the break. This requirement took effect on July 1, 2013.

SC&RA seeks an exemption from the 30-minute rest break provision in 49 CFR 395.3(a)(3)(ii). The 30-minute break uniquely affects OS/OW loads and has exacerbated the number of instances in which drivers have had to park these loads at roadside, consequently impacting the safety of both the general public and the driver. The requested exemption would apply to all specialized carriers and drivers responsible for the transportation of loads that exceed maximum legal weight and dimensional limits -- OS/OW loads -- that require a permit issued by a government authority. According to

SC&RA, the hours of operation in which a driver may move an OS/OW load on a valid permit vary tremendously from State to State, and even among local jurisdictions within a State, differ in terms of the days of the week and hours of the day when transit is allowed. Because hours in which an OS/OW load can travel are restricted by permit requirements, often those hours will be in conflict with the timing of the required 30-minute rest break. SC&RA specifically cites four instances demonstrating this conflict. As less space is available for parking OS/OW trucks, specialized tractor/trailer combinations transporting OS/OW loads will increasingly be parked alongside interstate or other highways and ramp shoulders, further compromising their safety and the safety of the general public on the roadways.

An average OS/OW load may measure approximately 15-16 feet wide and high and in excess of 100 feet in length. Each driver has the additional burden of finding a place large enough to accommodate and park the vehicle until passage is permitted. SC&RA cites the Federal Highway Administration's "Commercial Motor Vehicle Parking Shortage" study (May 2012), which documents the existing parking shortage and further provides evidence that locating adequate parking space for such over-dimensional loads is extremely challenging. A copy of this study is included in SC&RA's exemption request filing in the docket identified earlier in this notice.

Occasionally, the safest option for drivers is to park such loads on the shoulders of interstates routes and other highways, and on ramps leading to and from those highways. This decision requires the driver to protect and alert the motoring public by employing traffic control measures such as setting up safety cones, etc. In some instances, the OS/OW load is so large and/or the road shoulder width is so limited, that

the tractor trailer combination cannot be properly parked off the roadway and therefore takes up an entire lane of the road.

SC&RA does not foresee any negative impact to safety from the requested exemption. It believes that granting the exemption would have a favorable impact on overall safety by reducing the frequency of drivers resorting to less than ideal parking options, thereby reducing the frequency of lanes being partially or fully obscured.

SC&RA states that the industry has been diligent in ensuring that its drivers are safety compliant by identifying, deploying, analyzing and monitoring best practices. The effectiveness of the industry's efforts is substantiated through its safety record. By demand and due to the type and nature of the size and weight involved, these drivers tend to be more experienced and skilled than many drivers in the industry. Safety is achieved through rigorous, mandated training for all drivers on a daily, weekly, monthly and quarterly basis, in conjunction with annual safety checks, and self-imposed random safety audits. Furthermore, most specialized transportation carriers conduct weekly – or sometimes more frequent – meetings with drivers to ensure that they are current on information with regard to operating OS/OW loads in their industry. This training includes full recognition of the HOS regulations, and compliance with such regulations to ensure OS/OW drivers are not operating while fatigued. A copy of SC&RA's exemption application is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on SC&RA's application for an exemption from certain provisions of the driver's HOS regulations in 49 CFR part 395. The Agency will consider all comments

received by close of business on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The Agency also will consider to the extent practicable comments received in the public docket after the closing date of the comment period. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Issued on: November 14, 2014.

Larry W. Minor,
Associate Administrator for Policy.

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