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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016-0081]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption from Great Lakes Timber Professionals Association.

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

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

SUMMARY: FMCSA requests public comment on an application for exemption from the Great Lakes Timber Professionals Association (GLTPA) to allow GLTPA motor carriers in Wisconsin to use cargo securement methods that do not comply with the Federal Motor Carrier Safety Regulations (FMCSRs) for securing shortwood logs transported lengthwise in crib-type vehicles that have been modified or manufactured without front structures, rear structures, or which have a center-mounted crane for loading and unloading. The GLTPA and the Wisconsin State Patrol Motor Carrier Enforcement Section partnered to conduct cargo securement testing on stacks of shortwood logs in a crib-type vehicle using different tiedown configurations. Based on this testing, GLTPA believes that the alternative cargo securement methods for securing shortwood logs loaded lengthwise proposed in its application will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. The GLTPA is requesting this temporary exemption in advance of petitioning FMCSA to conduct a rulemaking to amend 49 CFR 393.116.

DATES: Comments must be received on or before *[insert date 30 days after publication in the Federal Register]*.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2016-0081 using any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.
- Hand Delivery: Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. 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 <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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 <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site as well as the DOT’s <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366-0676; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA- 21) [Pub. L. 105-178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with 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 the safety analyses and the public comments 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)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

GLTPA Application for Exemption

The GLTPA has applied for an exemption from 49 CFR 393.116 to allow GLTPA motor carriers in Wisconsin to transport shortwood logs in crib-type log trailers with fewer tiedowns than required by the regulation. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.116 of the FMCSRs, “What are the rules for securing logs?,” provides commodity specific cargo securement requirements for the transportation of logs on trucks and trailers, and are in addition to the general cargo securement requirements specified in §§ 393.100 – 393.114 of the FMCSRs. Sections 393.116(b), “Components of a securement system,” and 393.116(c), “Use of securement system” provide general requirements for the securement of logs.

Specifically with respect to the securement of shortwood logs loaded lengthwise on flatbed and frame vehicles, § 393.116(e) of the FMCSRs requires – in addition to meeting the requirements of § 393.116(b) and (c) – each stack to be cradled in a bunk unit or contained by stakes, and (1) secured to the vehicle by at least two tiedowns, or (2) if all the logs in any stack are blocked in the front by a front-end structure strong enough to restrain the load, or by another stack of logs, and blocked in the rear by another stack of logs or vehicle end structure, the stack may be secured with one tiedown. If one tiedown is used, it must be positioned about midway between the stakes, or (3) be bound by at least two tiedown-type devices such as wire rope, used as wrappers that encircle the entire load at locations along the load that provide effective securement. If wrappers are being used to bundle the logs together, the wrappers are not required to be attached to the vehicle.

However, 49 CFR 393.116(b)(3)(i) notes that tiedowns are not required for logs transported in crib-type trailers, as defined in 49 CFR 393.5, provided that the logs are loaded in compliance with §§ 393.116(b)(2) and 393.116(c) of the FMCSRs. Crib-type trailers use stakes, bunks, a front-end structure, and a rear structure to restrain logs on trailers. The stakes prevent movement of logs from side to side on the vehicle while the front-end and rear structures prevent movement of the logs from front to back on the vehicle. The intent of such systems is to enable motor carriers to transport logs without the use of wrapper chains or straps to secure the load, thereby expediting the loading and unloading process.

In its exemption application, GLTPA states that questions have arisen between industry and enforcement regarding the proper securement of logs in crib-type trailers

when modifications to those trailers have been made – including the lack of a front or rear structure (either because the vehicle was manufactured without front or rear structures, or because motor carriers have removed them) and the addition of a center-mounted crane for loading and unloading the logs. GLTPA states that “In these cases, because the specific definition of a crib-type vehicle has not been met, enforcement has reverted to 49 CFR 393.116(e), which addresses logs loaded lengthwise on flatbed and frame vehicles. Here, logs that are contained by structures or another stack of logs require one tie down. Stacks that do not have this containment such as end stacks without front/rear structures or those adjacent to a center-mounted crane would require two tiedowns.”

In its exemption application, GLTPA references a “Cargo Securement Enforcement Policy” memorandum, dated December 31, 2003, from the FMCSA Assistant Administrator to its Field Administrators and Division Administrators.¹ Specifically as it relates to the subject exemption application, the December 2003 memorandum states “Also, industry has requested the section 393.116 be amended to allow one tiedown per bunk, spaced equally between the standards, when transporting short length logs loaded lengthwise between the first two standards and between the last two standards. They believe the current wording requiring the use of two tiedowns is unnecessary given the bunks and standards...With regard to allowing the use of one tiedown per bunk for shortwood logs loaded lengthwise between the first two standards

¹ A copy of the Cargo Securement Enforcement Policy memorandum is included in the docket referenced at the beginning of this notice.

and between the last two standards, FMCSA believes one tiedown is sufficient given the standards used to protect against lateral movement.”

The GLTPA states “This language suggests that end stacks not protected by front and rear structures, but contained by stakes, bunks, or standards, would require one tiedown. By extension, this would also suggest that a crib-type trailer without front and rear structures would require one tiedown on each of the end stacks. It is GLTPA’s position that the interior stacks, which are protected by adjacent stacks of logs, should not be required to have tiedowns, provided they are loaded in accordance with 49 CFR 393.116(b)(3). With the front and rear stacks secured, the configuration is essentially now acting as a crib-type vehicle.”

To ensure that this interpretation would not reduce safety, GLTPA and the Wisconsin State Patrol Motor Carrier Enforcement Section partnered to test the use of a single tiedown on a stack of logs contained in a crib-type configuration. GLTPA states “Specifically, a load was subjected to various simulated longitudinal g forces. Although not directly applicable to the cargo-specific requirements for logs, the tiedown performance criteria outlined in 49 CFR 393.102 was used as guidance.”

GLTPA states that the testing showed “a single tiedown, on average, was able to maintain a stack of low-friction logs under winter conditions to approximately 0.5 g. This average was increased to 0.63 g for high-friction hardwood logs. It is noted that 0.8 g was obtained through the use of two tiedowns.” Copies of the testing performed by GLTPA and the Wisconsin State Patrol Motor Carrier Enforcement Section in support of the exemption application are contained in the docket.

In considering the December 2003 FMCSA Cargo Securement Enforcement Policy memorandum, the cargo securement requirements for crib-type vehicles in the FMCSRs, and the testing described above, GLTPA requests an exemption from section 393.116 for the securement of shortwood loaded lengthwise. Specifically, GLTPA requests:

1. Logs transported in a crib or bunk type vehicle without a front structure will require at least two tiedowns on the foremost stack. All other stacks will not require tiedowns provided they are loaded in accordance with 49 CFR 393.116 (b)(2) and 49 CFR 393.116(c).
2. Logs transported in a crib or bunk vehicle without a rear structure will require at least one tie down on the rearmost stack. All other stacks will not require tiedowns provided they are loaded in accordance with 49 CFR 393.116 (b)(2) and 49 CFR 393.116(c).
3. Logs transported in a crib or bunk type vehicle having an internal gap between stacks such that a log could theoretically move in the forward or rearward direction and not be continually in contact with at least two stakes, bunks, bolsters or standards would require at least one tiedown on that stack.
4. When one tiedown is used, it must be positioned about midway between the stakes or cross diagonally from the front to the rear crossing midway over the stack.

GLTPA states “Although the 2003 Enforcement Policy cites a single tiedown on the foremost stack, input from GLTPA member carriers has suggested requiring two for increased driver safety. Wisconsin State Patrol testing also found that two tiedowns have

the capability of maintaining the load under a simulated longitudinal force of 0.8 g. This value exceeds heavy vehicle braking ability, and therefore provides an added element of safety in the event of a crash. The GLTPA and the Wisconsin State Patrol believe that this exemption will provide relief to the timber industry without compromising safety. Furthermore, these requirements will make the inherent safety aspects of crib-type vehicles more attractive to carriers in comparison to traditional frame vehicles with logs loaded crosswise.”

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the GLTPA application for an exemption from certain cargo securement requirements of 49 CFR 393.116. 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 continue to file relevant information in the public docket that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: March 3, 2016.

Larry W. Minor
Associate Administrator for Policy

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