



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2016-0096]**

**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 renewal of exemption; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the Specialized Carriers & Rigging Association's (SC&RA) exemption from the 30-minute rest break rule of the Agency's hours-of-service (HOS) regulations for certain commercial motor vehicle (CMV) drivers. SC&RA currently holds an exemption valid through November 1, 2018.

The exemption renewal is for five years. All qualifying motor carriers and drivers operating mobile cranes with a rated lifting capacity of greater than 30 tons are exempt from the 30-minute break provision.

**DATES:** The renewed exemption is effective through November 1, 2023. Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**FOR ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2016-0096 by any of the following methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments.

- 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.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** For information concerning this notice, contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division;

Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4225. E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

#### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2016-0096), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov) and put the docket number, "FMCSA-2016-0096" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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.

## **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain 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)).

## **III. Background**

On December 27, 2011 (76 FR 81133), FMCSA published a final rule amending its HOS regulations for drivers of property-carrying CMVs. The rule requires most drivers to take a rest break during the workday. Generally, if 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes, the driver may not operate a CMV until he or she takes at least 30 minutes off duty (49 CFR 395.3(a)(3)(ii)). FMCSA did not specify when drivers must take the 30-minute break.

#### **IV. Request for Exemption Renewal**

The SC&RA's initial application for exemption from the provisions of the 30-minute break rule was submitted in 2014; a copy of that application is in the docket identified at the beginning of this notice. The 2014 application describes fully the nature of SC&RA's operations and CMV drivers. The exemption, limited to drivers of oversize/overweight (OW/OW) vehicles, was granted on June 18, 2015 (80 FR 34957) and extended to June 17, 2020 (see 81 FR 79556, November 14, 2016).

SC&RA subsequently requested an exemption from the 30-minute rest break and the 14-hour driving window for drivers of cranes with a lifting capacity of more than 30 tons. FMCSA granted an exemption from the 30-minute rule, but not from the 14-hour rule, on November 1, 2016 (81 FR 75727). SC&RA requested a renewal of that exemption.

The 2016 exemption excuses drivers operating mobile cranes with a rated lifting capacity of greater than 30 tons from the requirement to take a 30-minute break. SC&RA advises that there are approximately 85,000 trained and certified mobile crane operators in the United States, and, of these, approximately 65,000 operate cranes with a lifting capacity over 30 tons. While some of these cranes require an OS/OW permit, others do not. The 2016 exemption is therefore more inclusive than the 2015 exemption (now extended to 2020). SC&RA states that the HOS rules create complications because it is difficult to find suitable parking when crane drivers are required to go off duty. SC&RA cites data indicating that there is a shortage of parking places for CMVs in the United States and notes ongoing Federal and State efforts to address this problem. Parking for cranes is even more limited because of their size. SC&RA asserts that these two HOS

rules often require crane drivers to stop operating a CMV to avoid violating their provisions. The result is that cranes are often parked on the shoulder of public roads. SC&RA states the width of some cranes means they cannot be parked entirely off the travel lanes, creating a safety hazard for their own drivers and others.

SC&RA describes the unpredictable nature of the typical workday of a crane operator. It lists a variety of variables that can complicate the scheduling of operations, including delays waiting for the item to be lifted to arrive at the work site or to be rigged for lifting. Unexpected inclement weather can also trigger delays. SC&RA asserts that the primary result is that the workday may be extended unexpectedly. Thus, timing a crane's movement from the worksite and onto public roads at the end of the day is highly problematic. It notes that State and local restrictions limit the hours of the day, and sometimes the days of the week, that cranes may move on public roads. In addition, the movement of cranes may require a pilot car, the display of signs and lights, and even a police escort. Cranes normally move much slower than the posted speed limit, and are highly susceptible to weather and traffic conditions.

SC&RA does not foresee any negative impact to safety from the requested exemption. It believes that continuing the exemption would have a favorable impact on overall safety by reducing the frequency of cranes being parked along public roads. It points out that its members generally drive a crane less than 2 hours a day and have low crash rates.

FMCSA has not received any reports of accidents attributable to the 30-minute exemption and has concluded that a renewal of the exemption, subject to the terms and

conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

It should also be noted that this renewed exemption is broader in scope than the original 2015 exemption (now extended to 2020) because it covers, not just cranes required to have an OS/OW permit, but all cranes with a lifting capacity over 30 tons. As a result, the 2015 exemption may have been largely, if not entirely, superseded by this exemption. The 2015 exemption (extended to 2020) remains in place, but will expire by its own terms in 2020, while this renewed exemption will remain in effect until November 1, 2023.

#### Terms of the Exemption

1. All motor carriers and drivers operating mobile cranes with a rated lifting capacity of greater than 30 tons are exempt from the 30-minute break requirement of 49 CFR 395.3(a)(3)(ii). The lifting capacity of the crane must be displayed on a manufacturer's certification plate on the crane or in manufacturer's documentation carried on the vehicle.
2. Drivers must have a copy of this exemption document in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.
3. Motor carriers operating under this exemption must have a "Satisfactory" safety rating with FMCSA, or be "Unrated." Motor carriers with "Conditional" or "Unsatisfactory" FMCSA safety ratings are prohibited from using this exemption.

#### Period of the Exemption

This exemption from the requirements of 49 CFR 395.3(a)(3)(ii) is effective November 1, 2018 through November 1, 2023, 11:59 p.m. local time.

#### Extent of the Exemption

This exemption is limited to the provisions of 49 CFR 395.3(a)(3)(ii). These motor carriers and drivers must comply with all other applicable provisions of the FMCSRs.

#### Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

#### Notification to FMCSA

Any motor carrier utilizing this exemption must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMV drivers operating under the terms of this exemption. The notification must include the following information:

- a. Name of Exemption: "SC&RA cranes"
- b. Name of operating motor carrier and USDOT number,
- c. Date of the accident,
- d. City or town, and State, in which the accident occurred, or closest to the accident scene,

- e. Driver's name and license number and State of issuance
- f. Vehicle number and State license plate number,
- g. Number of individuals suffering physical injury,
- h. Number of fatalities,
- i. The police-reported cause of the accident,
- j. Whether the driver was cited for violation of any traffic laws or motor carrier safety regulations, and
- k. The driver's total driving time and total on-duty time prior to the accident.

Reports filed under this provision shall be e-mailed to [MCPSD@DOT.GOV](mailto:MCPSD@DOT.GOV).

#### Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record.

Interested parties or organizations possessing information that would otherwise show that any or all of these motor carriers are not achieving the requisite statutory level

of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemption is inconsistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will immediately take steps to revoke the exemption of the company or companies and drivers in question.

Issued on: November 14, 2018.

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Raymond P. Martinez,  
Administrator.

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