



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2018-0299]**

**Hours of Service of Drivers: Application for Exemption; Fiat Chrysler Automobiles (FCA)**

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

**ACTION:** Notice of final disposition; denial of application for exemption.

**SUMMARY:** FMCSA announces its decision to deny the application of Fiat Chrysler Automobiles (FCA) for an exemption from the requirement that its drivers use electronic logging devices (ELDs) to record their hours of service (HOS). FCA requested the exemption for all its operators of commercial motor vehicles (CMVs) including engineers, technicians, and other drivers who operate CMVs on public roads. FMCSA analyzed the exemption application and the single public comment submitted, and has determined that the applicant would not achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-2722. 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:**

**Background**

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.

FMCSA 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(a)). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Request for Exemption**

FCA's commercial motor vehicles (CMVs) include RAM trucks and other product families, which, when configured with a trailer, have a gross combination weight rating greater than 10,000 pounds. When operated in interstate commerce, this subjects the company and its drivers to 49 CFR Parts 300-399, including the hours-of-service (HOS) rules. Procedures and processes are in place to ensure that only FCA and supplier employees with an active driver qualification file operate these vehicles. In any given year, up to 100 FCA employees may be involved in driving its CMVs on product

development off-site road trips. All of its engineers and technicians are infrequent drivers who, on average, drive fewer than 2,500 miles a year on public roads.

Additionally, all Engineering Groups conduct off-site road trips to evaluate systems and components to support future product development activities. Including non-CMV support vehicles, FCA normally sends between 8 to 12 vehicles with 4 to 5 trailers. This type of trip would include up to 20 drivers (engineers and technicians) who possess either a commercial driver's license or a chauffeur's license. Most road trips involve a smaller number of vehicles and drivers, and according to FCA, a significant amount of testing occurs while the vehicles are stationary.

FCA's product development activities encompass working with suppliers on validating engineering redesigns for future vehicles. FCA tests "next generation" vehicles against competing products from other original equipment manufacturers in dynamic settings. FCA estimates that 85% to 90% of such testing occurs on site at its facilities or proving grounds, and the remaining testing occurs off site on public roads. Specifically, FCA conducts tests to benchmark vehicles against competing brands, and some of these programs involve calibration and thermal validation of complete vehicle systems at various locations in the United States and Canada. On occasion, the instrumented vehicles and trailers are shipped to the off-site testing location, and on other occasions, FCA's engineers, technicians and suppliers drive these vehicles to the off-site test locations. None of its CMVs are involved in package delivery or passenger transportation.

FCA has already tested several portable electronic logging device (ELD) units and found that the devices interfere with the ability of FCA's data loggers to capture

high-speed data from vehicle control modules and networks for critical vehicle validation. Furthermore, the devices cause the logger to suspend all message transmissions in error. As a result of its detailed investigations on this matter, FCA has concluded that utilizing paper records of duty status (RODS) and/or an HOS compliance application other than an ELD is the most effective and accurate method of measuring and reporting HOS in a manner compatible with FCA's data loggers. FCA further includes a number of exhibits which demonstrate the problems described in the application when utilizing ELDS. The Company also includes HOS and other general compliance forms currently used to remain in compliance with the appropriate Federal Motor Carrier Safety Regulations.

A copy of FCA's application for exemption is available for review in the docket for this notice.

## **V. Public Comments**

On October 18, 2018, FMCSA published notice of this application and requested public comment (83 FR 52870). The Agency received one comment from an individual in opposition to the FCA exemption request. Excerpts from this comment were as follows: 'Fiat's request creates a growing burden on the FMCSA's partners that enforce the Federal Motor Carrier Safety Regulations. Part 395.8(a)(1)(iii)(A)(1) has an exception from the ELD and for a driver to use a paper log for eight days in any 30-day period. If the staff at Fiat is doing 80% - 90% of the work on its closed courses where no log is required then the exception in the regulation should be more than sufficient, i.e. 80% of 31 days is 24.8 (25 days) meaning a driver would use a paper log for six days below the eight-day limit.... [R]oadside officers must attempt to try and keep track of

the numerous exemptions allowed by the FMCSA.... The more exemptions that exist decreases [sic] the public's safety as carriers abuse the safety regulations.... Fiat could utilize the exception in Part 395.8 and avoid burdening the system with one additional exemption. Fiat should have to substantiate that utilization of the exception in Part 395.8 is not practicable and creates a significant burden on the organization.”

## **VI. FMCSA Decision**

When FMCSA published the final rule mandating ELDs, it relied upon research indicating that the rule improves CMV safety by improving compliance with the HOS rules. The rule also reduces the overall paperwork burden for both motor carriers and drivers.

In its application, FCA provides no analysis of the safety performance of drivers who would operate using paper RODS under the exemption. FCA provides no analysis of how the risk of fatigue and crashes while operating a CMV without an ELD would be equivalent to the risk posed by operating a vehicle with one installed.

The FCA application does not consider practical alternatives or provide an analysis of the safety impacts the requested exemption may cause. It also does not provide countermeasures to be undertaken to ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. Furthermore, based on the information provided in their application, FCA may qualify for the general short-haul (8 days in 30) exemption from ELDs. For these reasons, FMCSA denies FCA's request for an exemption.

Issued on: April 8, 2019.

**Raymond P. Martinez,**

*Administrator.*

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