



[4910-EX-P]

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2020-0114]

Hours of Service of Drivers: Application for Exemption; Werner Enterprises

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

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

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on Werner Enterprises' (Werner) application for an exemption from the requirement that certain data fields be included in electronic records of duty status (RODS) files presented by electronic logging devices (ELDs). Specifically, Werner requests that, during the first eight days that each of its drivers transitions to an ELD from its new supplier, Platform Science, five specific data fields in the RODS files accessible through the in-cab ELD unit be left blank due to file compatibility issues between the suppliers' systems.

DATES: Comments must be received on or before [Insert 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2020-0114 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: Send comments to Docket Operations, M-30, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE, Washington, DC 20590–0001.

- Hand Delivery or Courier: Bring comments to Docket Operations, 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 Docket Operations, 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. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

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, 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: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-4325; E-mail: 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-2020-0114), 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 comments online, go to www.regulations.gov and put the docket number, "FMCSA-2020-0114" 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. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31315(b) 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)).

III. Background

On December 16, 2015 (80 FR 78292), FMCSA published a final rule requiring most drivers required to prepare hours-of-service (HOS) records of duty status (RODS) to use ELDs instead of paper logs to document their RODS. The final rule also established minimum performance and technical design standards for ELDs.

Appendix A to Subpart B of 49 CFR part 395 (Appendix A) provides requirements for data fields that must be included in electronic RODS files generated by ELDs.

IV. Werner's Exemption Application

Werner requests that during the first eight days that each of its drivers makes the transition to an ELD from its new supplier, Platform Science, five specific data fields required by Appendix A to be included in the RODS files accessible through the in-cab ELD unit be left blank. The files generated by the current ELDs used by Werner include

all the required information. The files generated by the Platform Science ELDs that Werner will begin using in 2020 include all the required information. Werner will be transferring data from its current ELD system to a new platform, and with that transition 5 elements will not be available for the first 8 days. The affected fields are:

- Co-driver information;
- Odometer Elapsed - vehicle elapsed miles/kilometers in given ignition power on cycle;
- Engine Hours Elapsed - elapsed time of engine operation in the given ignition power on cycle;
- Engine Hours Total - total engine hours at time of event; and,
- Odometer Total (decimal) - total at time of the event.

Consequently, during the first seven days a driver is operating a Werner vehicle equipped with the new Platform Science ELD, the electronic RODS file accessible in the vehicle will not include the five data elements specified above; however, all other information needed to determine compliance with the HOS rules will be available. The inspector would review the electronic RODS via FMCSA's eRODS software which would detect the missing data elements in the Platform Science ELD presentation of the previous eight days of RODS. This problem will affect Werner's entire fleet which consists of roughly 10,000 drivers and 8,000 power units as the transition takes place.

Werner notes that its drivers would have electronic RODS files available for review using FMCSA's eRODS software providing accurate duty status information for the current day and the previous seven days at any inspection location. While the files

would not include the five data elements above, HOS information can still be verified at the roadside, and the information would be available for an on-site investigation conducted at a Werner facility. The remaining data elements would provide a means for identifying non-compliance with the underlying hours-of-service requirements. A copy of the exemption application has been placed in the docket referenced at the beginning of this notice.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on Werner's application for an exemption from the requirement that data fields specified in Appendix A to Subpart B or Part 395 (Appendix A) be included in electronic records of duty status (RODS) files generated by electronic logging devices (ELDs). 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 also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,
Associate Administrator for Policy.

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