



[4910-EX-P]

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2019-0215]**

**Hours of Service of Drivers: Right-A-Way LLC.; Application for Exemptions**

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

**ACTION:** Notice of application for exemptions; request for comments.

**SUMMARY:** FMCSA announces that it has received an application from Right-A-Way, LLC (Right-A-Way) requesting an exemption from the requirement that its short-haul drivers use electronic logging devices (ELDs) when they are required to prepare records of duty status (RODS) more than eight days in a 30 consecutive day period.

FMCSA requests public comment on Right-A-Way's application.

**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 (FDMS) Number FMCSA-2019-0215 by any of the following methods:

- **Federal eRulemaking Portal:** [www.regulations.gov](http://www.regulations.gov). See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Send comments to Docket Operations, 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:** Bring comments to Docket Operations, 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. To be sure someone is there

to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

- 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 Docket Operations, 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. 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](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:** 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](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-2019-0215), 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-2019-0215" 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 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 (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Background**

Currently, 49 CFR 395.1(e) provides exceptions from the requirement to prepare records of duty status (RODS) for drivers operating in short-haul operations, provided certain conditions are satisfied. Section 395.8(a)(1)(iii)(A)(1) allows motor carriers to require drivers to record drivers' duty status manually rather than use an ELD, if the drivers are operating commercial motor vehicles "in a manner requiring completion of a record of duty status on not more than 8 days within any 30-day period." Taken together, drivers operating in short-haul operations are not required to prepare RODS, except for the days when they do not satisfy all the criteria provided in 49 CFR 395.1(e). They may

prepare paper RODS for those occasions as long as RODS are not used more than eight days in a 30-day period. For operations where the short-haul drivers fail to satisfy the applicable criteria more than eight days in a 30-day period, the carrier and its drivers would be required to use ELDs.

Right-A-Way is requesting an exemption from the requirement to use ELDs when its drivers do not satisfy all the criteria for the short-haul exception to the RODS requirement, more than eight days in a 30-day period. The exemption would enable the company's short-haul drivers to use paper RODS rather than ELDs for more than eight days in a 30 consecutive day period. A copy of the exemption application is included in the docket referenced at the beginning of this notice.

#### **IV. Request for Comments**

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on Right-A-Way's application for an exemption. 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 of Policy.*

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