



## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0050]

#### **Hours of Service of Drivers; Parts and Accessories: Application for an Exemption from Cleveland-Cliffs Steel, LLC.**

**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 submitted by Cleveland-Cliffs Steel, LLC (Cliffs), formerly known as ArcelorMittal Indiana Harbor, LLC, to allow its employee-drivers with commercial driver's licenses (CDLs) who transport scrap metal on two trucks between their production and shipping locations on public roads to work up to 16 hours per day and to return to work with less than the mandatory 10 consecutive hours off duty. The exemption is similar to the exemption that allows Cliffs' drivers transporting steel coils to work the same hours of services (HOS). Unlike the steel coil exemption, the scrap metal trucks would comply with the heavy hauler trailer definition, height of rear side marker lights restrictions, tire loading restrictions, and the coil securement requirements in the FMCSRs.

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

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA-2016-0050 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!docketDetail;D=FMCSA-2016-0050>. Follow the online instructions for submitting comments.

- Mail: 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: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001, 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 Dockets Operations.
- Fax: (202) 493-2251.

**FOR FURTHER INFORMATION CONTACT:** Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (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 2016–0050), indicate the specific section of this document to which the comment applies, and provide a reason for each suggestion or recommendation. 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 email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to [www.regulations.gov/#!docketDetail;D=FMCSA-2016-0050](http://www.regulations.gov/#!docketDetail;D=FMCSA-2016-0050), click on the “Comment Now!” button and type your comment into the text box on 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.

#### *Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov/#!docketDetail;D=FMCSA-2016-0050> and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, 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 Dockets Operations.

#### *Privacy Act*

DOT solicits comments from the public to better inform its regulatory process, in accordance with 5 U.S.C. 553(c). 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 – Federal Docket Management System), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

## **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 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 5 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)).

### **Background**

Under 49 CFR 381.315(a), FMCSA must publish a notice of each exemption request in the **Federal Register**. 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 5 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)).

### **III. Cliff's Application for Exemption**

Cliffs, formerly known as ArcelorMittal, requests an exemption to allow its employee-drivers with CDLs who transport scrap metal on two trucks between their production and shipping locations to work up to 16 hours per day and return to work with less than the mandatory 10 consecutive hours off duty. The request is similar to the exemption previously granted that allows Cliffs' drivers transporting steel coils to work the same HOS, and travel the same distances and routes between their production and shipping locations. Unlike the steel coil exemption, the scrap trucks would comply with the definition of a "heavy hauler trailer" in 49 CFR 393.5; the required "height of rear side marker lights restrictions" in 49 CFR 393.11 Table 1 – Footnote 4; the "tire loading restrictions" in 49 CFR 393.75(f); and the "coil securement requirements" in 49 CFR 393.120.

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

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on Cliffs' exemption request. The request was submitted as part of Cliffs' exemption renewal application mentioned above. As a new request,

however, it is subject to the separate notice and comment provided by this document. 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.

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Larry W. Minor,  
Associate Administrator for Policy.

[FR Doc. 2021-18330 Filed: 8/25/2021 8:45 am; Publication Date: 8/26/2021]