



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[FMCSA-2016-0096]

Hours of Service of Drivers: Specialized Carriers & Rigging Association;

Application for Exemption

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

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

SUMMARY: FMCSA announces that it has received an application from the Specialized Carriers & Rigging Association (SC&RA) seeking exemption from two provisions of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers. SC&RA asks that motor carriers and drivers operating mobile cranes with a rated lifting capacity of greater than 30 tons be exempted from the 30-minute break requirement and the 14-hour rule. SC&RA believes that these two HOS rules uniquely affect the operational efficiency of these crane operations and unnecessarily place the driver and public at risk. FMCSA requests public comment on SC&RA's application for exemption.

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 Number FMCSA-2016-0096 by any of the following methods:

- Federal eRulemaking Portal: 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, 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 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Robert Schultz, FMCSA Driver and Carrier Operations Division;

Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-2718. 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-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 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. 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. 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. Request for Exemption

On December 27, 2011 (76 FR 81133), FMCSA published a final rule amending its hours-of-service (HOS) regulations for drivers of property-carrying CMVs. The new rule included a provision requiring many 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. The HOS rules also limit drivers of property-carrying CMVs to a 14-hour driving window each duty day (49 CFR 395.3(a)(2)). The window begins when the driver comes on duty following at least 10 consecutive hours off duty. After the 14th consecutive hour from that point, the driver cannot operate a CMV until he or she obtains at least 10 consecutive hours off duty. The requirements of the HOS rules apply to drivers of CMVs in interstate commerce and to their motor carrier employers who direct the drivers to operate the CMVs.

On June 18, 2015 (80 FR 34957), FMCSA granted SC&RA an exemption from the 30-minute rest-break requirement for its members when transporting loads that exceed certain vehicle weight and size limits and therefore require a permit issued by a governmental authority. The Agency granted this exemption for the maximum period of two years permitted by the FMCSRs (§ 381.300(b)). Subsequently, section 5206(a)(3) of the "Fixing America's Surface Transportation Act" (FAST Act) [Pub. L. 114-94, 129 Stat. 1312], effective October 1, 2015, gave the Agency authority to grant HOS exemptions for up to 5 years. Section 5206(b)(2)(A) also provides that any exemption from 49 CFR part 395 that was in effect on the date of enactment of the FAST Act is valid for 5 years from the date of the original exemption. The 30-minute exemption granted on June 18, 2015, is therefore valid until June 18, 2020. SC&RA advises that the broader exemption now being requested is needed because mobile cranes do not always require oversize/overweight permits, but the drivers encounter HOS problems nevertheless.

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 over 30 tons lifting capacity.

SC&RA seeks an exemption from the 14-hour rule and the requirement for a 30-minute break for drivers operating mobile cranes with a rated lifting capacity of greater than 30 tons. It asks that the exemptions be for a period of 5 years. SC&RA asserts that these two HOS rules frequently compel drivers of these cranes to stop driving and park the crane to avoid violating their terms. SC&RA states that complications arise at this point because the availability of parking for CMVs is very limited. 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 the dimensions of these vehicles. SC&RA asserts that compliance with the two HOS rules often results in cranes being parked on the shoulder of public roads. SC&RA states the width of some cranes is such that they can only be parked partially on the shoulder and partially on a travel lane.

SC&RA describes the unpredictable nature of the typical workday when a crane is fixed in place for lifting at a worksite. The applicant lists a number of variables that can complicate the scheduling of crane operations, including delays waiting for the item to be lifted to arrive at the work site or to be rigged so that the crane can lift it. Unexpected inclement weather can also trigger delays. SC&RA asserts that the primary result is that the workday may be unexpectedly extended. Thus, timing a crane's movement from the worksite and onto public roads at the end of the day is highly problematic. SC&RA points out 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, movement of cranes may require a pilot car, the display of signs and lights, and even an escort vehicle provided by state or local police. Movement of cranes is normally at speeds much slower than the posted speed limit, and is highly susceptible to weather and traffic conditions. SC&RA asserts that the two HOS rules from which it seeks exemption – the 30-minute-break and 14-hour rules -- become most burdensome at this point. However, SC&RA acknowledges that crane operators cross State lines on less than 5 percent of their trips.

IV. Method To Ensure an Equivalent or Greater Level of Safety

SC&RA does not foresee any negative impact to safety from the requested exemption. It believes that granting 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. SC&RA states that its crane drivers have a low crash rate, and it attached copies of its driver training and safety manuals to the application for exemption. Copies of these documents are available for review in the docket for this notice.

Issued on: March 10, 2016.

Larry W. Minor
Associate Administrator for Policy

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