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DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0012]

Hours of Service of Drivers: American Trucking Associations, Inc. (ATA) Exemption; FAST Act Extension of Compliance Date

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

ACTION: Notice; extension of exemption.

SUMMARY: FMCSA announces the extension of the exemption from the 30-minute rest break requirement granted to the American Trucking Associations, Inc. (ATA) on August 21, 2015, on behalf of motor carriers whose drivers transport security-sensitive hazardous materials (HM) requiring constant attendance on the vehicle. The Agency extends the expiration date from August 21, 2015 to August 20, 2020, in response to section 5206(b)(2)(A) of the “Fixing America’s Surface Transportation Act” (FAST Act), which extends hours-of-service (HOS) exemptions in effect on the date of enactment to 5 years from their date of issuance. The ATA rest break exemption is limited to drivers transporting HM loads requiring placarding under the HM regulations or select agents and toxins identified in the HM regulations that do not require placarding, and who have filed security plans requiring constant attendance of HM. The Agency previously determined that the CMV operations of drivers under this exemption would likely achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This limited exemption is effective from August 21, 2015, through August 20, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614-942-6477. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)].

Section 5206(b)(2)(A) of the FAST Act requires FMCSA to extend any exemption from any provision of the HOS regulations under 49 CFR part 395 that was in effect on the date of enactment of the Act to a period of 5 years from the date the exemption was granted. The exemption may be renewed. Because this action merely implements a statutory mandate that took effect on the date of enactment of the FAST Act, notice and comment are not required.

ATA Exemption

ATA, a trade association, applied for a limited exemption from the mandatory rest break requirement of 49 CFR 395.3(a)(3)(ii) on behalf of all motor carriers whose drivers transport HM loads subject to the Pipeline and Hazardous Materials Safety Administration's security plan requirement.

FMCSA reviewed ATA's application and the public comments and concluded that motor carriers may only use this exemption when their drivers are actually transporting HM that requires placarding or includes a select agent or toxin identified in § 172.800(b)(13), and for which a security plan has been filed under § 172.800-804. A

Notice of Final Determination granting this ATA exemption was published on August 21, 2015 [80 FR 50912].

The substance of the exemption is not affected by this extension. The exemption covers only the 30-minute break requirement [49 CFR 395.3(a)(3)(ii)]. The exemption is restricted to drivers transporting HM loads requiring placarding under 49 CFR part 172, subpart F, or select agents and toxins identified in § 172.800(b)(13) that do not require placarding, and who have filed security plans requiring constant attendance of HM in accordance with §§ 172.800-804. On each trip, the drivers will be allowed to use 30 minutes or more of “attendance time” to meet the requirements for a rest break in the manner provided in 49 CFR 395.1(q) provided they perform no other on-duty activities during the rest break.

The FMCSA does not believe the safety record of any driver operating under this exemption will deteriorate. However, should deterioration in safety occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA has the authority to terminate the exemption at any time the Agency has the data/information to conclude that safety is being compromised.

Issued on: November 9, 2016

T.F. Scott Darling, III
Administrator

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