



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2017-0002]**

**Controlled Substances and Alcohol Use and Testing: J.B. Hunt Transport, Inc., Schneider National Carriers, Inc., Werner Enterprises, Inc., Knight Transportation, Inc., Dupre Logistics, Inc. and Maveric Transportation, LLC Application for Exemption**

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

**ACTION:** Notice of application for exemption; re-opening of comment period.

**SUMMARY:** FMCSA re-opens the public comment period for the Agency's January 19, 2017, notice announcing the application for exemption from J.B. Hunt Transport, Inc. (J.B. Hunt), Schneider National Carriers, Inc. (Schneider), Werner Enterprises, Inc. (Werner), Knight Transportation, Inc. (Knight), Dupre Logistics, Inc. (Dupree), and Maveric Transportation, LLC (Maverick) to allow hair analysis in lieu of urine testing for pre-employment controlled substances testing of commercial driver's license (CDL) holders. On January 23, 2017, the American Federation of Labor and Congress of Industrial Organizations' (AFL-CIO) Transportation Trades Department requested a 60-day extension of the comment period. On February 7, 2017, the International Brotherhood of Teamsters requested a 60-day extension of the comment period. The Agency re-opens and extends the deadline for the submission of public comments.

**DATES:** FMCSA re-opens and extends the comment period for the notice of application for exemption published on January 19, 2017. You must submit comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2017-0002 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: 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. 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](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 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., 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](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** For information concerning this notice, 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](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-2017-0002), 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-2017-0002” 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 before determining whether to grant this application.

## **II. Background**

On January 19, 2017 (82 FR 6688), FMCSA published a notice of application for exemption from J.B. Hunt, Schneider, Werner, Knight, Dupre, and Maveric (Applicants). Applicants requested an exemption from 49 CFR 382.105 and 382.301 with specific authorization for obtaining and releasing hair test results to comply with 49 CFR 391.23, *Investigations and inquiries*. Under the exemption, Applicants would conduct pre-employment tests using hair analysis only, rather than hair analysis in addition to urine testing, and individuals with negative test results would be permitted to perform safety-sensitive functions for the employer Applicants. Individuals testing positive would not be allowed to perform safety-sensitive functions until the driver completes the return-to-duty process under Subpart O of 49 CFR Part 40. In addition, the Applicants would share the positive hair testing results with prospective employers in response to safety performance inquiries required by 49 CFR 391.23.

The Applicant carriers that would be covered by the exemption, if granted, already use hair analysis as a method for pre-employment controlled substances testing of drivers on a voluntary basis. However, they also conduct urine testing for drugs because it is the only screening method accepted under the Department's regulations. The Applicants view their use of multiple screening methods as an unnecessary and redundant

financial burden. Also, the Applicants consider urine testing to be less effective in pre-employment screening for drugs than hair analysis.

A copy of the exemption application and all supporting documents submitted by the Applicants is available for review in the docket referenced at the beginning of this notice.

### **Requests for Extension of the Comment Period**

On January 23, 2017, the AFL-CIO's Transportation Trades Department requested that the Agency provide a 60-day extension of the comment period. The International Brotherhood of Teamsters requested a 60-day extension of the comment period on February 7, 2017. A copy of each request is in the docket identified at the beginning of this notice.

FMCSA acknowledges the Transportation Trades Department's and the International Brotherhood of Teamsters' concerns. After reviewing the requests, FMCSA hereby grants a 60-day re-opening of the comment period to [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATON IN THE FEDERAL REGISTER], to provide all interested parties additional time to respond to the notice of application for exemption.

Issued on: February 21, 2017

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Larry W. Minor,  
Associate Administrator for Policy.

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