



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0337]

Hours of Service of Drivers: Application for Exemption; Association of Energy Service Companies

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 Association of Energy Service Companies (AESC) requesting an exemption from the electronic logging device (ELD) requirements for well service rig contractors. AESC request this exemption to allow all drivers of well service rigs to complete paper records of duty status (RODS) instead of using an ELD device whenever the drivers exceed the requirements of the short-haul exception. AESC believes that the exemption would not have any adverse impacts on operational safety because drivers would remain subject to the hours-of-service (HOS) regulations as well as the requirements to maintain paper RODS. FMCSA requests public comment on AESC'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 (FDMS) Number FMCSA-2017-0337 by any of the following methods:

- Federal eRulemaking Portal: 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, 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. 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. 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-2017-0337), 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 comments online, go to www.regulations.gov and put the docket number, "FMCSA-2017-0337" 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 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 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

AESC is requesting an exemption on behalf of well service rig contractors from the requirement in 49 CFR Part 395.8(a) that motor carriers ensure their drivers use ELDs

in place of written logs to record their duty status for each 24-hour period. The term of the requested exemption is for five years, subject to renewal. According to AESC, complying with the ELD requirement would be overly burdensome for well service rig contractors without providing any measurable safety benefit. The drivers of well service rigs hold commercial driver's licenses and typically operate under the short-haul exception. While drivers must record their duty status on paper on any day they exceed the requirements of the short-haul exception, the changes that take effect on December 18, 2017, would require drivers to use an ELD whenever they exceed the 8 in 30-day threshold HOS exception.

AESC contends that without the exemption well service rig contractors would have to monitor the number of days their drivers exceed the requirements of the short-haul exception, including if a driver exceeded the short-haul exception on any day in a rolling 30-day period immediately before the employer hired the driver. Contractors would have to purchase ELDs, train the drivers on their usage and monitor compliance.

AESC explained that well service rig drivers operate under different circumstances than long-haul truck drivers. Well service rig drivers spend very little time on public roads, in contrast to long-haul truck drivers, who spend most of their on-duty hours driving on public roads. Depending on the service required at the oil well, a well service rig spends two to five days parked at a single location or sometimes longer. The oil well serves as the daily work reporting location, and the well service rigs remain stationary at that location until the job is completed.

AESC asserts that exempting well service rig contractors from the ELD requirement would have no impact on safety for several reasons. First, drivers would

continue to maintain written RODS logs on any day that they exceed the requirements of the short-haul exception. Second, drivers typically spend little time on public roads. Third, contractors are required to maintain time records for their drivers. Fourth, contractors and drivers otherwise must comply with the HOS requirements.

AESC further asserts that a level of safety that is equivalent, or greater than, the level of safety obtained by complying with the regulation will be maintained by continuing the practices already being exercised in the industry. AESC reports that one current method of ensuring safety is the process of a contractor obtaining a permit from the State prior to driving the well service rig on a public highway. Well service rigs are then provided an escort as they move to their next location.

A copy of AESC's application for exemption is available for review in the docket for this notice.

Issued on: December 22, 2017

Larry W. Minor
Associate Administrator for Policy

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