



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0340]

Hours of Service of Drivers: Application for Exemption; Cudd Energy Services

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 Cudd Energy Services (CES) (incorporated as Cudd Pressure Control Inc., and Cudd Pumping Services Inc.) requesting an exemption from the electronic logging device (ELD) requirements for their specially trained drivers of specially constructed commercial motor vehicles (CMVs) used in oilfield operations. The exemption would allow drivers of these infrequently-driven CMVs to complete paper records of duty status (RODS) instead of using an ELD device. These drivers are prohibited by regulation from using the short-haul exceptions to the hours-of-service (HOS) rules. CES believes that the exemption would not have any adverse impacts on operational safety because drivers would remain subject to the HOS regulations as well as the requirements to maintain paper RODS.

FMCSA requests public comment on CES' 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-2017-0340 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-2017-0340), 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-2017-0340” 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

Cudd Energy Services (CES) (incorporated as Cudd Pressure Control Inc., USDOT 211908 and Cudd Pumping Services Inc. USDOT 962805) is requesting an exemption from the requirement in 49 CFR 395.8(a)(1)(i) that motor carriers ensure their drivers use ELDs in place of written records of duty status (RODS) to record their duty status for each 24-hour period. According to CES, the exemption would be applicable to CES' operations in which specially trained drivers of CMVs specially constructed to service oil wells are utilized. The exemption is requested for 5 years and would cover a total of approximately 939 drivers and 1,858 CMVs.

CES' services utilizing special equipment are performed in an environment where connectivity and driver access to the vehicles both affect the use of an ELD system. Due to regulatory wording in 49 CFR 395.1 (d)(2), these drivers are not eligible to use the provisions of Section 395.1(e)(1) for 100 air-mile short-haul operations. Therefore, the drivers would normally be required to be operating vehicles equipped with ELDs.

CES reports that it intends to install equipment that would enable tracking of its vehicles when communication capabilities exist, but would not meet AOB RD or ELD standards. They state that this tracking would provide an increased level of safety. CES listed AOB RD/ELD issues that it claims could prevent a driver from logging into an ELD system such as poor cellular service in certain oilfield locations and when companies prohibit cell phones and electronic equipment exclusively while operations are in progress. According to CES, "If drivers are required to use the ELD, Cudd feels the efforts involved in administering the documentation to show why paper logs were utilized beyond the eight-day threshold, tracking all repairs purely due to communication loss,

and manual editing of RODS, would become counterproductive, not cost effective and does not contribute to the safety of the driver, equipment, or motoring public.”

CES asserts that due to the low exposure of these vehicle in traffic, compliance with current paper log provisions would ensure compliance with driver fatigue reduction intentions of 49 CFR part 395.

A copy of CES’ 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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