



[4910-EX-P]

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0108]

Hours of Service of Drivers of Commercial Motor Vehicles: Proposed Regulatory Guidance Concerning the Use of a Commercial Motor Vehicle for Personal Conveyance; Extension of Comment Period

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

ACTION: Notice of proposed regulatory guidance; extension of comment period.

SUMMARY: FMCSA extends the public comment period for the Agency's December 19, 2017, notice announcing the proposed regulatory guidance concerning the use of a commercial motor vehicle for personal conveyance. On December 22, 2017, the American Trucking Associations, Inc. (ATA) requested a 30-day extension of the comment period. The Agency extends the January 18, 2018, deadline for the submission of public comments to February 20, 2018.

DATES: FMCSA extends the comment period for the notice of proposed regulatory guidance published on December 19, 2017. You must submit comments by February 20, 2018.

ADDRESSES: You may insert comments identified by Federal Docket Management System Number FMCSA-2017-0108 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., 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, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue S.E., Washington, D.C. 20590, phone (614) 942-6477, email MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION

I. PUBLIC PARTICIPATION AND REQUEST FOR COMMENTS

A. Submitting Comments

If you submit a comment, please include the docket number listed above, indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery. 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 that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA-2017-0108, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on 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 change this guidance based on your comments.

B. Viewing Comments and Documents

To view comments, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2017-0108, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, D.C. 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory 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.transportation.gov/privacy.

II. BACKGROUND

On December 19, 2017 (82 FR 60269), FMCSA published a notice of proposed regulatory guidance concerning the use of a commercial motor vehicle (CMV) for personal conveyance. This provision is available to all CMV drivers required to record their hours of service (HOS) who are permitted by their employer to use the vehicle for personal use. The proposed regulatory guidance would revise Question 26 to 49 CFR 395.8.

The existing guidance on personal conveyance (49 CFR 395.8, Question 26) was issued by the Federal Highway Administration (FHWA), FMCSA's predecessor agency, in a memorandum dated November 18, 1996, and later published in a compilation of guidance (62 FR 16370, 16426, April 4, 1997). The guidance reiterated the basic principle that a driver in off-duty status must be relieved from work and all responsibility for performing work. It highlighted the use of the CMV as a personal conveyance in traveling to and from the place of employment (e.g., the normal work reporting location). The 1997 guidance included discussion of CMVs used to travel "short distances" from a driver's en route lodgings to restaurants in the vicinity of such lodgings. In addition, the 1997 guidance explicitly excluded the use of laden vehicles as personal conveyance and

the operation of the CMV as personal conveyance by drivers who have been placed out of service for HOS violations. The guidance has remained unchanged since 1997.

In the December 19, 2017, proposed revision to the guidance, the Agency focused on the reason the driver is operating a CMV while off duty, without regard to whether the CMV is or is not laden. The previous guidance, which required the CMV to be unladen, was written for combination vehicles, where the driver could readily detach the trailer and use the unladen tractor for personal conveyance. This interpretation had the inadvertent effect of not allowing drivers of single-unit work trucks that carry loads, as well as tools of trade and related materials, on the power unit to document this off-duty time on the RODS. In the absence of a trailer, these loads, tools, and other equipment cannot reasonably be offloaded, left unattended, and reloaded after the power unit has been used for personal conveyance. This proposed revision to the guidance eliminates the requirement that the CMV be unladen and thus the disparate impact created by the previous guidance.

Request for Extension of the Comment Period

On December 22, 2017, the American Trucking Associations, Inc. (ATA), asked that the Agency provide a 30-day extension of the comment period. ATA expressed concern that end-of-year tasks and holiday periods might make it difficult for many interested parties to prepare comments by the original January 19, deadline. A copy of the ATA request is in the docket identified at the beginning of this notice.

FMCSA acknowledges ATA's concerns. After reviewing the request, FMCSA hereby grants a 30-day extension of the comment period to February 20, 2018, to provide

all interested parties additional time to respond to the notice of proposed regulatory guidance.

Issued on: January 12, 2018.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2018-00878 Filed: 1/18/2018 8:45 am; Publication Date: 1/19/2018]