



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0142]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Castignoli Enterprises

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

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Castignoli Enterprises (Castignoli) to allow a sleeper berth to be installed in the bed of a Ford F350 pickup truck that, when operated in combination with certain trailers, is a commercial motor vehicle (CMV) under the Federal Motor Carrier Safety Regulations (FMCSR). A sleeper berth installed in the bed of the pickup truck does not meet the access, location, exit, communication, or occupant restraint requirements for sleeper berths in the FMCSRs. Castignoli believes that the sleeper berth installed in the bed of the pickup truck will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2018-0142 using any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.

- Fax: 1–202–493–2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

- Hand Delivery: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the “help” section of the <http://www.regulations.gov> Web site as well as the DOT’s <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-0676, Luke.Loy@dot.gov, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 CFR 381.315(a), FMCSA must publish a notice of each exemption request in the Federal Register. The Agency must provide the public with 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 the safety analyses and the public comments 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)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

Castignoli's Application for Exemption

Castignoli applied for an exemption from 49 CFR 393.76(a)(3), (b)(2), (c), (d), and (h) to allow a sleeper berth to be installed in the bed of a Ford F350 pickup truck. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.76 of the FMCSRs provides various requirements for sleeper berths installed in CMVs. Specific to Castignoli's exemption application:

1. Section 393.76(a)(3), "*Access*," requires a sleeper berth to be constructed so that an occupant's ready entrance to, and exit from the sleeper berth is not unduly hindered.
2. Section 393.76(b)(2), "*Location*," requires a sleeper berth located within the cargo space of a motor vehicle to be securely compartmentalized from the remainder of the cargo space.
3. Section 393.76(c), "*Exit from the berth*," requires a direct and ready means of exit from a sleeper berth into the driver's seat or compartment.
4. Section 393.76(d), "*Communication with the driver*," requires a sleeper berth which is not located within the driver's compartment and has no direct entrance into the driver's compartment to be equipped with a means of communication between the occupant and the driver. The means of communication may consist of

a telephone, speaker tube, buzzer, pull cord, or other mechanical or electrical device.

5. Section 393.76(h), “*Occupant restraint*,” requires a motor vehicle manufactured on or after July 1, 1971, and equipped with a sleeper berth to be equipped with a means of preventing ejection of the occupant of the sleeper berth during deceleration of the vehicle. The restraint system must be designed, installed, and maintained to withstand a minimum total force of 6,000 pounds applied toward the front of the vehicle and parallel to the longitudinal axis of the vehicle.

The applicant states that he is the owner/operator of Castignoli, and is the “solo driver of a hot shot hauler, F350 1-ton pickup with trailer...”¹ The applicant states that as a solo driver, “there is no ready need for access between the sleeper berth and the driver’s compartment.” In addition, the applicant states:

I plan to incorporate the sleeper berth into the bed of the tow vehicle. The utilization of this type of sleeper berth, would allow myself (as the sole driver) to meet the hours of [10-hour] service rest period requirements by utilizing a sleeper berth incorporated into the bed of the vehicle (Rear covered, ventilated, insulated, bed with cap and full size twin mattress) in lieu of a motel each evening. The tow vehicle/trailer combination would not be operating on the roadway during my 10-hour rest period, so there is no benefit in having the access requirements to the driver compartment, nor any need for communication with the driver (myself), nor any occupant restraint requirement as the vehicle is not moving while I am sleeping. The sleeper berth is separate from the trailer behind the tow vehicle, and is therefore separate from the cargo.

The current FMCSR regulatory requirements for sleeper berth access seem to rely on the assumption that one driver is driving while another driver is in the sleeper berth, and that the truck is moving at all times. The situation that I have as a single driver is that when I am off duty, the vehicle is not moving and therefore direct access to the sleeper berth area should not be required, and since the vehicle is not moving there is no need for occupant restraint systems nor a means for communication with the driver. All other dimensional requirements, ventilation, and protection against exhaust and fuel leaks will be met.

1 In trucking, the term “hot shot” commonly refers to either the truck or the freight – often both. In the former sense, it’s normally a Class 3-5 truck used in combination with a variety of trailers to run for-hire freight, whether for a single customer or less-than-truckload. The truck is often a ¾ to 1 ½ ton pickup outfitted with weight-distributing gooseneck- or fifth-wheel-type connections to a trailer.

The applicant states that as a result of mobility issues associated with a partially fused spine, it is easier for him to access a sleeper berth installed in the bed of the pickup truck as opposed to a sleeper berth that could be installed in the back seat of the pickup truck that meets the requirements of the FMCSRs.

The exemption would apply to Castignoli's sole driver and pickup truck. Castignoli believes that the sleeper berth installed in the bed of the pickup truck will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Castignoli's application for an exemption from sections (a)(3), (b)(2), (c), (d), and (h) of 49 CFR 393.76. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the "Addresses" section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: April 17, 2018.

Larry W. Minor,

Associate Administrator for Policy.

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