



[4910-EX-P]

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2020-0157]

Hours of Service of Drivers: Pipe Line Contractors Association (PLCA); Application for Exemption

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

SUMMARY: FMCSA announces that it has received an application from the Pipe Line Contractors Association (PLCA) for an exemption from certain hours-of-service (HOS) regulations for drivers of a variety of commercial motor vehicles (CMVs) employed by its member pipeline contractors. PLCA specifically seeks an exemption from: (1) the requirement of the short-haul exception that drivers return to the work reporting location from which they started the day; (2) the requirement that drivers use electronic logging devices (ELDs) if they must complete a record of duty status (RODS) on more than 8 days in any 30-day period; and (3) the prohibition on driving after having been on duty for 70 hours in 8 consecutive days. The PLCA also requested that drivers of CMVs used exclusively in the construction and servicing of pipelines be allowed the same HOS exceptions currently available to oilfield operations.

FMCSA requests public comment on PLCA's application for exemption.

DATES: [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2020-0157 using any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.
- Mail: Send comments to Docket Operations, 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: Deliver comments to Docket Operations, West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.
- 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 Docket Operations, 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. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

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. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4225. 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-2020-0157), 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 and put the docket number, “FMCSA-2020-0157” 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.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2020-0157” in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button and choose the document listed 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, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

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. 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 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)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption,

and the regulatory provision or provisions from which exemption is granted. The notice must also 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 381.300(b)).

III. PLCA Application for Exemption

The PLCA is a trade association of unionized pipeline contractors specializing in the construction and maintenance of oil and gas transmission pipelines. PLCA members are committed to completing every job with the highest level of attention to safety, quality, and environmental compliance. Pipeline jobs range from construction of major interstate and intrastate pipelines to maintenance and repair work for utilities, and these projects vary in duration, from a few weeks to six months or more on a major construction project. Their members typically hire workers on a project-by-project basis who will work on multiple jobs each year, typically traveling all over the United States to do so. Pipeline construction companies operate a fleet of CMVs, most of which are operated by holders of commercial driver's licenses (CDLs). PLCA believes that the current HOS regulations are ill-suited to address the needs and safety concerns of pipeline industry drivers. Pipeline contractors are skilled tradesman and driving is ancillary to their primary role as construction workers, as they typically spend only a few hours a day operating CMVs on public roads.

PLCA requests exemption from the following HOS provisions:

(1) The short-haul exception [49 CFR 395.1(e)(1)] recently amended by the final rule adopted on June 1, 2020, with an effective date of Sept. 29, 2020 (85 FR 33396) retains the requirement that drivers return to the work reporting location from which they were dispatched in the morning. PLCA requests that drivers for its member companies who otherwise meet the

requirements of the short-haul exception be allowed to return to a different location than the one where they started their workday.

(2) Drivers subject to the Agency's HOS regulations are required to use ELDs if they must complete RODS on more than 8 days in any 30-day period [49 CFR 395.8(a)(1)(iii)(A)(I)]. PLCA requests that drivers for its member companies be allowed to use paper RODS unless RODS are required on more than 16 days in any 30-day period.

(3) Drivers are prohibited from driving CMVs after having been on duty for 70 hours in a period of 8 consecutive days [49 CFR 395.3(b)(2)]. PLCA requests that drivers for its member companies be prohibited from driving only after having been on duty for 80 hours in 8 days.

The PLCA also requested that drivers of CMVs used exclusively in the construction and servicing of pipelines be allowed the same HOS exceptions currently available to oilfield operations [49 CFR 395.1(d)].

IV. Method to Ensure an Equivalent or Greater Level of Safety

PLCA asserts that granting the exemptions sought will not negatively impact safety. Drivers working for PLCA member companies involved in pipeline construction and maintenance are not engaged in continuous driving. Conversely, they work on the pipeline right-of-way often operating different construction vehicles. Because of the different jobs, they normally perform and minimal driving they do, they are less susceptible to fatigue. The applicant adds that as pipeline workers spend most their day working on the pipeline right-of-way and typically only drive on public roads at the start and end of the workday; drivers would not be on public roads any longer by virtue of the longer workday. Pipeline drivers very rarely, if ever, utilize their entire 11 hours allowable daily driving time. PLCA develops and administers, in conjunction with the labor unions robust training programs for union pipeline

contractor employees, including CMV drivers focused on safe operations. PLCA member contractors and their drivers have excellent safety records and the applicant does not anticipate any additional reduction in safety attributable to the granting of the exemptions sought.

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

V. Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on PLCA's application for an exemption. 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.

Larry W. Minor,

Associate Administrator for Policy.