



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0180]

Hours of Service of Drivers: Application for Exemption; Small Business in Transportation Coalition

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

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

SUMMARY: FMCSA announces that the Small Business in Transportation Coalition (SBTC) has requested an exemption from the electronic logging device (ELD) requirements for all motor carriers with fewer than 50 employees, including, but not limited to, one-person private and for-hire owner-operators of commercial motor vehicles used in interstate commerce. SBTC believes that the exemption would not have any adverse impacts on operational safety as motor carriers and 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 SBTC'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-2018-0180 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. Tom 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-2018-0180), 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-2018-0180" 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

SBTC reports that it is a non-profit trade organization with more than 8,000 members. SBTC states that it “represents, promotes, and protects the interest of small

businesses in the transportation industry. Through the exemption application, SBTC seeks relief from the ELD requirements for small private, common and contract motor carriers with fewer than 50 employees. SBTC argues:

“[T]he ELD rule is not a “safety regulation” per se as the FMCSA has concluded. Rather it is a mechanism intended to enforce a safety regulation by regulating the manner in which a driver records and communicates his compliance. That is, it is merely a tool to determine compliance with an existing rule that regulates over-the-road drivers’ driving and on duty time, namely the actual safety regulation: the [hours-of- service] regulations codified at 49 CFR 395.3 and 395.5. However, the ELD rule is not a safety regulation itself. Therefore, it is our position that this rule does **not** itself impact safety, and that the level of safety will not change based on whether or not our exemption application is approved. That would require a change to the [hours-of-service rules].”

SBTC asserts that the exemption would not have any adverse impacts on operational safety, as motor carriers and drivers would remain subject to the HOS regulations in 49 CFR 395.3, as well as the requirements to maintain a paper RODS under 49 CFR 395.8. The exemption would allow motor carriers with fewer than 50 employees to maintain their current practices that have resulted in a proven safety record.

The term of the requested exemption, if granted, would be for five years, subject to renewal upon application.

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

Issued on: May 30, 2018

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2018-12037 Filed: 6/4/2018 8:45 am; Publication Date: 6/5/2018]