DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0270]

Hours of Service of Drivers: National Tank Truck Carriers and Massachusetts Motor Transportation Association; Application for Exemption

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the application of the National Tank Truck Carriers, Inc. (NTTC) and the Massachusetts Motor Transport Association, Inc. (MMTA) for an exemption from the requirement that drivers of commercial motor vehicles (CMVs) obtain a 30-minute rest break. The exemption is limited to CMV drivers engaged in the transportation of specified types of petroleum-based fuels who would otherwise have to observe the rest break when their duty day unexpectedly exceeds 12 hours. FMCSA has analyzed the exemption application and public comments and has determined that the exemption, subject to the terms and conditions imposed, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: The exemption is effective April 9, 2018 and expires on April 10, 2023.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, please contact Mr. Buz Schultz, FMCSA Driver and Carrier Operations Division; Telephone: (202) 366–2718; Email: *Buz.Schultz@dot.gov.*

SUPPLEMENTARY INFORMATION:

Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain 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 (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Background

The Agency's hours of service (HOS) rules require most interstate drivers to maintain a record of duty status (RODS), or log, on board the CMV in accordance with 49 CFR part 395. However, the ''100 air-mile radius exception'' relieves CMV drivers of the duty to maintain a log if they remain within a 100 air-mile radius of the normal work reporting location during the duty day and return to the work-reporting location and are released from work within 12 hours (49 CFR 395.1(e)(1)). Further, drivers qualifying for the 100 air-mile exception are not subject to the 30-minute rest break requirement of HOS regulations (49 CFR 395.3(a)(3)(ii)).

Request for Exemption

NTTC and MMTA applied for an exemption from the 30-minute rest break provision on behalf of motor carriers and drivers operating tank trucks to transport certain petroleum-based products in interstate commerce. The tank trucks are normally loaded with products in the morning, and deliver the products to three or more service stations during the remainder of the duty day. Most of the estimated 38,000 vehicles engaged in such transportation each day qualify for the 100 air-mile radius exception, but on rare occasions, they do not. Circumstances beyond the control of the motor carrier and driver periodically cause delays in the delivery schedule. The applicants outlined the concerns they have with interrupting delivery of hazardous materials (HM) in order for the driver to take the required 30-minute rest break. For instance, as a security measure, a motor carrier may require that a tank truck transporting certain fuels be attended by the driver when the vehicle is stopped, and a driver attending a CMV is not considered off duty as required by the rest-break rule. Attendance is not required by regulation except for transporters of certain explosives [49 CFR 395.1(q)].

Public Comments

On September 26, 2017, FMCSA published notice of the application for exemption and asked for public comment (82 FR 44871). The Agency received nine comments from the public, four in favor of the application and five in opposition. The American Trucking Associations was in favor, citing the similarity of these operations to other HM transporters that previously were granted a more-limited exemption from the rest-break requirement. The Transportation Trades Department (AFL–CIO) and the International Association of Firefighters opposed the NTTC application. They believe that allowing these drivers to operate CMVs without a rest break imposes unnecessary risks upon the motoring public. They believe that the risks outweigh the difficulties inherent in tank truck drivers going off duty for 30 consecutive minutes.

FMCSA Decision

FMCSA has evaluated the application for an exemption and the public comments submitted. Few comments opposed the application and none directly addressed the regulatory difficulties confronted by tank-truck carriers and drivers transporting these petroleum-based fuels. The Agency finds the arguments in favor of the exemption persuasive and grants a limited exemption that the Agency can review at any time the safety performance of these operations requires. We have tailored the terms and conditions of the exemption carefully to relieve the regulatory difficulties without opening the door to abuse of the HOS rules.

FMCSA grants this exemption because it finds that the level of safety achieved by this industry operating under the terms and conditions of the exemption, would be equal to, or greater than, the level of safety that would be achieved if the drivers were required to take the rest break. These drivers receive several short ''breaks'' each day when they unload product at service stations. While the exemption will allow these drivers to operate beyond the 12th hour, they will still have to complete their duty day before the 14-hour limit by which most CMV drivers are governed. In addition, these drivers will be required to maintain an HOS log in accordance with 49 CFR part 395, as required of all CMV drivers who find during a duty day that they are not qualified for the 100 air-mile radius exception.

Terms and Conditions of the Exemption

1. This exemption from the requirements of 49 CFR 395.3(a)(3)(ii) is granted for the period from April 9, 2018 through April 10, 2023.

2. This exemption applies when a driver who normally operates under the 49 CFR 395.1(e)(1) short-haul exception finds that operational issues require him or her to exceed the 12-hour limit of that exception. Drivers operating under this exemption must, however, return to their work reporting location and be released from duty within 14 hours of having come on duty following 10 or more consecutive hours off duty.

3. This exemption is limited to motor carriers and drivers engaged in the transportation of the following petroleum products: U.N. 1170—Ethanol, U.N. 1202—Diesel Fuel, U.N. 1203—Gasoline, U.N. 1863—Fuel, aviation, turbine engine, U.N. 1993—Flammable liquids, n.o.s. (gasoline), U.N. 3475—Ethanol and gasoline mixture, Ethanol and motor spirit mixture, or Ethanol and petrol mixture, and N.A. 1993—Diesel Fuel or Fuel Oil.

4. This exemption is further limited to motor carriers that have an FMCSA ''satisfactory'' safety rating or are ''unrated''; motor carriers with ''conditional'' or ''unsatisfactory'' safety ratings are prohibited from utilizing this exemption.

5. Drivers must have a copy of this exemption document in their possession while operating under the terms of the exemption and must present it to law enforcement officials upon request.

Accident Reporting

Exempt motor carriers must notify FMCSA by email addressed to *MCPSD@DOT.GOV* within 5 business days of any accident (as defined in 49 CFR 390.5T) that occurs while its driver is operating under the terms of this exemption. The notification must include:

a. Identifier of the Exemption: ''NTTC,''

b. Name of operating carrier and USDOT number,

c. Date of the accident,

d. City or town, and State, in which the accident occurred, or closest to the accident scene,

e. Driver's name and license number,

f. Name of co-driver, if any, and license number,

g. Vehicle number and state license number,

h. Number of individuals suffering physical injury,

i. Number of fatalities,

j. The police-reported cause of the accident,

k. Whether the driver was cited for violation of any traffic laws or motor carrier safety regulations, and

l. The total driving time and total on-duty time prior to the accident.

Safety Oversight

FMCSA expects the motor carriers and drivers operating under the terms and conditions of this exemption to maintain their safety record. However, should safety deteriorate, FMCSA will, consistent with the statutory requirements of 49 U.S.C. 31315, take all steps necessary to protect the public interest. Authorization of the exemption is discretionary, and FMCSA will immediately revoke the exemption of any motor carrier or driver for failure to comply with the terms and conditions of the exemption.

Preemption

Consistent with 49 U.S.C. 31315(d), this exemption preempts inconsistent State or local requirements applicable to interstate commerce.

Issued on: March 30, 2018.

Cathy F. Gautreaux,

Deputy Administrator.

[FR Doc. 2018–07189 Filed 4–6–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0004]

Agency Information Collection Activities; Renewal of a Currently-Approved Information Collection Request: Application for Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers

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

ACTION: Notice and request for information.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its renewal. The FMCSA requests to renew the ICR titled, ''Application for Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers,'' that requires foreign (Mexico-based) for-hire and private motor carriers to file an application Form OP–2 if they wish to register to transport property only within municipalities in the United States on the U.S.-Mexico international borders or within the commercial zones of such municipalities. FMCSA invites public comment on the ICR.

DATES: We must receive your comments on or before *June 8, 2018.*

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2018–0004 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. 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 below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement