

Because of the nature of their operations, motion picture industry drivers often use the same paper RODS from one carrier to another. In these unique circumstances, using an ELD system would not provide additional accuracy because most duty status information would be manually entered by the drivers. As MPA states, the paper log provides continuity for the carrier and enforcement to evaluate compliance, regardless of the number of carriers for which the driver is operating in a given 7-day or even 24-hour period. FMCSA acknowledges that, given the unique arrangements under which drivers in the motion picture industry routinely operate for multiple carriers over brief periods of time, paper RODS may prove more efficient than ELDs.

In addition, MPA members are required to submit their RODS within 24 hours, rather than waiting for the 13-day period allowed by 49 CFR 395.8. According to MPA, these “RODS are reviewed by a third-party auditing company, resulting in accelerated reporting of HOS compliance and an independent assessment of accuracy.”

FMCSA concludes that provisionally extending the exemption for another five years, under the terms and conditions listed below, will achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved without the exemption.

V. Exemption Decision

A. Grant of Exemption

FMCSA provisionally renews the exemption for a period of five years subject to the terms and conditions of this decision and the absence of public comments that would cause the Agency to terminate the exemption under Sec. V.F. below. The exemption from the ELD requirement under 49 CFR 395.8(a), is otherwise effective January 19, 2023, through January 19, 2028, 11:59 p.m. local time, unless renewed or rescinded.

B. Applicability of Exemption

The exemption allows all CMV drivers providing transportation to or from a theatrical or television motion picture production site to complete paper RODS instead of using an ELD.

C. Terms and Conditions

When operating under this exemption, motor carriers and drivers are subject to the following terms and conditions:

(1) Motor carriers and drivers must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR part 350–399);

(2) Drivers must have a copy of this notice in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request;

(3) Drivers must not be subject to any out-of-service order or suspension of their driving privileges; and

(4) Carriers operating under this exemption may not have an “Unsatisfactory” rating with FMCSA or be subject to any imminent hazard or out-of-service orders.

D. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

E. Notification to FMCSA

Motor carriers operating under this exemption must notify FMCSA within five business days of any crash (as defined in 49 CFR 390.5), involving any of their CMVs operating under the terms of the exemption. The notification must include the following information:

- (a) Identity of Exemption: “MPA,”
- (b) Name and USDOT number of the operating motor carrier,
- (c) Date of the crash,
- (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) Vehicle number and State license number,
- (g) Number of individuals suffering physical injury,
- (h) Number of fatalities,
- (i) The police-reported cause of the crash,
- (j) Whether the driver was cited for violation of any traffic laws or motor carrier safety regulations, and
- (k) The driver’s total driving time and total on-duty time since the last ten (if operating under 49 CFR 395.3(a)) or eight (if operating under 49 CFR 395.1(p)) consecutive hours off-duty prior to the crash.

Reports filed under this provision shall be emailed to MCPSD@DOT.GOV.

F. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. The exemption will be

rescinded if: (1) motor carriers and drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315.

VI. Request for Comments

FMCSA requests comments from parties with data concerning the safety record of CMV drivers providing transportation to or from a theatrical or television motion picture production site. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to rescind the exemption of the company or companies and drivers in question.

Robin Hutcherson,

Deputy Administrator.

[FR Doc. 2022–23889 Filed 11–2–22; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0105]

General Qualifications of Drivers: Small Business in Transportation Coalition; Application for Exemption

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

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

SUMMARY: FMCSA announces its decision to deny the Small Business in Transportation Coalition’s (SBTC) request for an exemption from the requirement that motor carriers not permit a person to drive a commercial motor vehicle (CMV) unless the driver is capable of reading and speaking the English language sufficiently to communicate with the public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records drivers. SBTC requests the exemption on behalf of all motor carriers in North American Industry Classification System (NAICS) category 484230 (Specialized Freight (except Used Goods) Trucking, Long-Distance) with

revenues under \$30 million. FMCSA analyzed the exemption application and public comments, and determined that the application lacked evidence that would ensure an equivalent level of safety or greater would be achieved absent such exemption.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; (202) 366-4225; pearlie.robinson@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number (“FMCSA-2022-0105”) in the “Keyword” box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number (“FMCSA-2022-0105”) in the “Keyword” box, click “Search,” and choose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations 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., 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 Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from 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 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 Agency must publish its decision 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 specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulation Requirements

The regulations regarding qualifications of drivers in 49 CFR 391.11(a) prohibit a person from driving, and a motor carrier from requiring or permitting a person to drive, a CMV if the person is not qualified to do so. Under 49 CFR 391.11(b)(2) a person is qualified to drive a CMV if they can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records.

IV. Applicant's Request

SBTC seeks an exemption from “49 CFR 391.11(a) as it applies to 49 CFR 391.11(b)(2)” on behalf of “all motor carriers in NAICS category 484230 (Specialized Freight (except Used Goods) Trucking, Long-Distance) with revenues under \$30 million, which are defined as ‘small businesses’ by the Small Business Administration.” SBTC wrote that as long as FMCSA does not require states to test for language proficiency, “it is inappropriate to enforce this rule against motor carriers, especially those small entities beyond one man owner operators employing drivers that do not have in-house compliance departments able to conduct their own state level-like testing for English proficiency.” SBTC suggests that a motor carrier should be able to assert it is in compliance with 49 CFR 391.11(a) and 391.11(b)(2) the moment it verifies that a prospective driver has a state-issued commercial driver's license.

V. Equivalent Level of Safety

In its exemption application, SBTC stated: “By temporarily placing the onus for compliance with the English proficiency standard solely on drivers and not motor carriers until such time as the FMCSA decides whether to shift responsibility for same to the states, we believe a level of safety that is equivalent to the level of safety that

would be obtained by complying with the regulation will be achieved.”

VI. Public Comments

On June 15, 2022, FMCSA published notice of this application and requested public comments (87 FR 36200). The Agency received 10 comments from the public, with three comments from the applicant and seven from individuals opposing the proposed exemption.

Mr. Jimmy Walker wrote, “Allowing this proposal to be accepted only makes roads and traffic more unsafe. It appears that [SBTC] is truly NOT interested in the public's safety, but is only interested in profits at the expense of more loss of life and property to others and the public.” Mr. James Lamb responded to Mr. Walker's comments and noted that FMCSA failed to immediately post SBTC's exemption application. Mr. Lamb clarified that SBTC's position “is about bringing attention and awareness to the fact that FMCSA has failed for 20 years to follow the USDOT Inspector General's recommendation that FMCSA should require states verify drivers' English proficiency rather than place the onus on carriers . . .”

Mr. Michael Milliard wrote, “I support the SBTC's request to better our highways by reducing the number of non-English speaking drivers. I don't support the SBTC's request to except the drivers of small businesses from the English-speaking requirement.” Mr. Carl Huddleston and Danko and Son's, Inc., commented that the exemption should not be granted because drivers who cannot read and speak English pose a danger to the public. Mr. Ricky Phillip added that a driver “would be forced to use some sort of electronic device to translate directions which could cause distracted driving to increase” and would not be able to read road signs. Finally, Ms. Tamra Howell commented that the exemption would diminish the effectiveness of other programs such as FMCSA's Compliance, Safety, Accountability program and the Drug and Alcohol Clearinghouse.

VII. FMCSA Safety Analysis and Decision

FMCSA evaluated SBTC's application and the public comments. In response to the comment that SBTC's application was not immediately posted to the docket, the Agency acknowledges that SBTC's application was posted to the public docket the day after the **Federal Register** notice published. FMCSA continued to monitor the public docket for comments filed after the comment closing date. FMCSA notes in response to SBTC's comment about the Department of Transportation's Office of

Inspector General's May 8, 2002, report titled "Improving Testing and Licensing of Commercial Drivers," that the report does not support SBTC's exemption application. The report did not recommend that motor carriers should be exempt from the driver qualification regulations relating to the English language proficiency requirement.

Although SBTC made a conclusory statement that "placing the onus for compliance with the English proficiency standard solely on drivers and not motor carriers" would achieve an equivalent level of safety as complying with the regulations, SBTC did not explain how this would achieve an equivalent level of safety and did not propose any safety countermeasures. FMCSA concludes that SBTC has presented insufficient evidence to establish that not complying with the driver qualification regulations relating to the English language proficiency requirements for CMV drivers would meet or exceed the level of safety provided by complying with the regulations.

For the above reasons, FMCSA denies SBTC's request for exemption.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022-23891 Filed 11-2-22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2022-0077]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on July 22, 2022,¹ Kansas City Southern (KCS) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA-2022-0077.

Specifically, KCS requests permission to decrease the limits of a centralized traffic control (CTC) block signal system, from mile post (MP) 9.9 to MP 11.2, near Laredo, Texas, as part of its Serrano Yard expansion project. This permanent change would include removing control point (CP) 10 and

changing 1.3 miles of current CTC territory to yard limits at restricted speed. KCS requests the change to expand capacity for building trains in the Serrano Yard. In support of its petition, KCS states that the change will minimally affect the safety of operations because the maximum authorized speed in the area will decrease from 59 miles per hour to restricted speed yard limits. KCS also notes that this proposed change would bring the CTC/yard limits "in coincidence between the main track and switching lead at CP 11, reducing the risk of confusion for on track equipment."

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by January 3, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. 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 <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2022-23973 Filed 11-2-22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2017-0017]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on July 29, 2022,¹ Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). The relevant FRA Docket Number is FRA-2017-0017.

Specifically, NS requests a waiver extension from § 236.566, *Locomotive of each train operating in train stop, train control or cab signal territory; equipped*, for: (1) all operations between and including the limits of control point (CP) Bright at mile post (MP) PC 28.2 and CP West Conway at MP PC 24.5; and (2) all movements on the Fort Wayne Line Tracks #1 and #2, both to and from CP Rochester, at MP PC 25.9 on the Cleveland Line, CP Bright on the Youngstown Line, and the yard tracks at East Conway. In support of its request, NS states that any movement directed by this relief will be at restricted speed and an absolute block will be established in advance of each movement.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a

¹ On October 13, 2022, KCS submitted a revised petition. Both the original and revised petitions are available in the docket (<https://www.regulations.gov/document/FRA-2022-0077-0001>).

¹ On October 13, 2022, NS submitted a revised petition. Both the original and revised petitions are available in the docket (<https://www.regulations.gov/document/FRA-2017-0017-0007>).