

manufactured in the United States, are not inherently compliant with FHWA's Buy America and may not necessarily be permanently incorporated into FHWA-funded projects.

Finally, the fifth commenter, representing the domestic supplier identified by UDOT as using gas-delivered explosives noted above, stated that the company was not consulted on the viability of its product to work in the project terrain and contested the statement from UDOT that its products are not a viable alternative for the project. When determining whether steel and iron materials or products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality pursuant to 23 U.S.C. 313(b)(2) and 23 CFR 635.410(c)(1)(ii), FHWA considers whether the recipient has used appropriate due diligence to identify domestic products or domestically available alternative products that meet the recipient's specifications. A comparable product that performs a similar function is not necessarily a domestic alternative; the product must also meet the recipient's specific requirements that are deemed necessary in order to achieve the performance objectives of the project. The FHWA's statutory requirements do not require recipients to change product specifications in order to utilize domestic products that do not meet the recipient's original specifications. Accordingly, as FHWA views this fifth commenter as arguing UDOT should modify their original specifications to accommodate their domestic product, FHWA does not believe that this commenter has demonstrated that they have a suitable domestic alternative.

In sum, no commenter provided information on potential domestic manufacturers of suspended explosive charge RACS. Thus, UDOT did not receive any new information indicating that the waiver items could be produced by domestic manufacturers from any of the commenters.

The FHWA believes that UDOT has made substantial efforts to find suitable Buy America-compliant waiver items that will safely and effectively serve the purpose of this project but that such products are unavailable.

Timing and Need for a Waiver: The waiver items are essential to achieving the goal of replacing the current use of live artillery with a safer remote-activated system that can provide highway avalanche mitigation.

While UDOT did not request a waiver for the reinforced foundation of the RACS, as such foundation can be domestically manufactured, the waiver

items are engineered to work together as a single system, and exchanging parts of the system would reduce the reliability and safety of the system. Accordingly, the waiver items at issue must be purchased and installed as a single system, and UDOT has not located any domestic manufacturers for the waiver items meeting the project's specifications, nor has any domestic manufacturer identified the ability to produce Buy America-compliant waiver items through the public comment process.

Executive Order 14005: Executive Order (E.O.) 14005, entitled "Ensuring the Future is Made in All of America by All of America's Workers," provides that Federal Agencies should, consistent with applicable law, maximize the use of goods, products, and materials produced in, and services offered in, the United States. 86 FR 7475 (Jan. 28, 2021). Based on the information contained in the waiver request from UDOT and the lack of responsive comments to the notice of waiver request, FHWA concludes that issuing a waiver is not inconsistent with E.O. 14005.

Finding and Request for Comments

Based on all the information available to the Agency, FHWA concludes that there are no Buy America-compliant waiver items meeting the project's specifications and is waiving its Buy America requirements for steel and iron set forth at 23 U.S.C. 313 and 23 CFR 635.410 for recipient purchases of 16 RACS using suspended explosive charges for avalanche highway mitigation in Little Cottonwood Canyon. For each RACS, this waiver will cover only: (i) the tower; (ii) the deployment box; and (iii) the charges (collectively "waiver items"). This waiver does not apply to other components of the RACS, such as reinforced foundations, which must be compliant with FHWA's Buy America requirements. In addition, this waiver does not cover additional charges purchased for the RACS.

The waiver applies to the waiver items used in the project that are subject to FHWA's Buy America requirements as a result of obligations of Federal financial assistance made by FHWA for the project.

The UDOT and its contractors and subcontractors involved in the procurement of the relevant components are reminded of the need to comply with the Cargo Preference Act in 46 CFR part 38, if applicable.

In accordance with the provisions of section 117 of the SAFETEA-LU Technical Corrections Act of 2008, FHWA is providing this notice as its

finding that a waiver of its Buy America requirements for steel and iron is appropriate. The FHWA invites public comment on this finding for an additional five days following the effective date of the finding. Comments may be submitted to FHWA's website via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110-161; 23 CFR 635.410.

Kristin R. White,

Acting Administrator, Federal Highway Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0319]

Parts and Accessories Necessary for Safe Operation; Exemption Renewal for Agricultural and Food Transporters Conference of American Trucking Associations

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

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

SUMMARY: FMCSA announces its decision to renew an exemption requested by the Agricultural and Food Transporters Conference (AFTC) of American Trucking Associations (ATA), which will allow certain alternative methods for the securement of agricultural commodities transported in wood and plastic boxes and bins and large fiberglass tubs, as well as hay, straw, and cotton bales that are grouped together into large singular units. FMCSA concludes that renewing the exemption, subject to the terms and conditions set forth below, is likely to achieve a level of safety equivalent to or greater than the level of safety that would be achieved absent the exemption.

DATES: This renewed exemption is effective April 15, 2024, through April 15, 2029.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Chief, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-9209; MCPSV@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:**I. Viewing Comments and Documents**

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2017-0319/document> and choose the document to review. To view comments, click this notice, then click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, 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)(2) and 49 CFR 381.300(b) to renew an exemption from the FMCSRs for subsequent periods of up to 5 years if it finds that such exemption would likely maintain a level of safety that is equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)).

III. Background

On June 18, 2024, FMCSA issued a notice of provisional renewal of exemption for AFTC for a period of 6 months.¹ FMCSA requested comments on the application for exemption from AFTC on the use of alternative cargo securement methods. The comment period closed on July 18, 2024. The Agency did not receive any comments to the notice.

IV. Exemption Decision**A. Grant of Exemption**

As explained in the provisional renewal of exemption notice, the Agency believes that granting the temporary exemption to allow alternative methods for the securement of agricultural commodities in wood and plastic boxes and bins and large fiberglass tubs, as well as hay, straw, and cotton bales that are grouped together into larger singular units, as proposed by AFTC in its original exemption application, will likely provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. The Agency hereby grants an exemption for a 5-year period, beginning April 15, 2024, and ending April 15, 2029, from 49 CFR 393.102,

393.106, 393.110, and 393.114, to allow alternate methods for the securement of (1) agricultural commodities transported in wood and plastic boxes and bins and large fiberglass tubs, and (2) hay, straw, and cotton bales that are grouped together into large singular units.

B. Applicability of Exemption

During the exemption period, motor carriers operating commercial motor vehicles (CMVs) may use certain alternative methods for the securement of agricultural commodities transported in wood and plastic boxes and bins and large fiberglass tubs, as well as hay, straw, and cotton bales that are grouped together into large singular units, as proposed by AFTC in its original exemption application.

C. Terms and Conditions**1. General:**

Motor carriers and CMVs operating under this exemption must comply with all other applicable Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350-399), unless specifically exempted from a requirement.

2. Limitation of Exemption:

This exemption applies exclusively to CMVs transporting agricultural commodities in wood and plastic boxes and bins and large fiberglass tubs, as well as hay, straw, and cotton bales that are grouped together into large singular units.

3. Recurring Data Reporting Requirements:

AFTC must provide recurring yearly data submissions to include information on crashes and incidents involving CMVs transporting agricultural commodities in wood and plastic boxes and bins and large fiberglass tubs, as well as hay, straw, and cotton bales that are grouped together into large singular units when operating under this exemption. The first submission is due 5 months after the date of publication of the provisional exemption renewal in the **Federal Register** (published June 18, 2024), and subsequent submissions are due every 12-months thereafter until the exemption expires or is revoked. The yearly data submissions must be sent via email to FMCSA at MCPSD@dot.gov. If AFTC lacks certain categories of information, alternative information may be discussed with FMCSA and submitted if approved.

4. Data Reporting Requirements for Crashes and Incidents:

At the end of each 12-month period, AFTC must submit a report detailing crash rates, vehicle miles traveled, number and type of CMVs operating under the exemption, and the date of the crash or incident, time, location, and

a brief description of the event. AFTC must provide any available information indicating malfunction of the alternative cargo securement methods.

5. Meetings:

AFTC must meet with FMCSA upon request to answer questions regarding data and information provided under the exemption.

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 that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

E. Termination

FMCSA does not believe that motor carriers, drivers, and CMVs covered by the exemption will experience any deterioration of safety below the level that would be achieved without the exemption. The exemption will be rescinded if: (1) motor carriers, drivers, or CMVs 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 objectives of 49 U.S.C. 31136(e) and 31315(b).

Vincent G. White,

Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2014-0071]

Hours of Service of Drivers: McKee Foods Transportation, LLC, Application for Exemption

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

ACTION: Notice of application for renewal of exemption; extension of comment period.

SUMMARY: FMCSA reopens the comment period for its July 10, 2024, notice requesting public comment on an application from McKee Foods Transportation, LLC (MFT) for a renewal of its exemption from the hours-of-service regulation pertaining to the use of a sleeper berth. FMCSA has

¹ 89 FR 51586.