

FMCSA's tamper-proofing rule (49 CFR 383.155) should not be construed to apply a higher standard of document security than the rules prescribed by DHS on January 29, 2008. The Agency concludes that the objections to laser-engraved black and white images raised by L-1 should be addressed to DHS, as they relate to DHS's decision in its READ ID Act rulemaking. The Agency will not attempt to resolve those concerns here.

For the reasons discussed above, FMCSA grants the Virginia DMV's application for an exemption from 49 CFR 383.153(a)(4) for a period of 2 years.

Issued on: March 2, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9-4930 Filed 3-6-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0010]

Hours of Service of Drivers: Redding Air Services, Inc. and Guardian Helicopters, Inc., Application for Exemption

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

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

SUMMARY: FMCSA announces that it has received a joint application from Redding Air Service, Inc. and Guardian Helicopters, Inc. (Redding/Guardian) requesting an exemption from certain commercial motor vehicle (CMV) driver hours-of-service (HOS) provisions of the Federal Motor Carrier Safety Regulations (FMCSRs). The exemption request is for Redding/Guardian's CMV drivers who transport jet fuel for their helicopters in support of wild-land firefighting operations. They specifically request an exemption for 20 drivers from the HOS prohibition against driving a CMV after the 70th hour of cumulative on-duty time in any 8-day period. The exemption, if granted, would enable Redding/Guardian drivers to conduct their operations—including transportation of jet fuel to and from the firefighting sites—without having to comply with the 70-hour in 8-day HOS rule. Redding/Guardian believes the exemption would ensure a level of safety equivalent to or greater than the level of safety that would be obtained absent the exemption. FMCSA requests

public comment on the Redding/Guardian application for exemption.

DATES: Comments must be received on or before April 8, 2009.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number [FMCSA-2009-0010] by 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 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. 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 in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://DocketInfo.dot.gov>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal Web site. 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 page that appears after submitting comments online. Comments received after the comment closing date will be

included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. Under its 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 denying or, in the alternative, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which the exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

The Federal hours-of-service (HOS) regulations in 49 CFR 395.3(b)(2) prohibit a property-carrying commercial motor vehicle (CMV) driver from driving a CMV after having been on duty for 70 cumulative hours in any period of 8 consecutive days, if the employing motor carrier operates CMVs every day of the week.

Redding/Guardian's business is primarily in support of wild-land firefighting operations within the continental United States in conjunction with the U.S. Department of Interior, U.S. Forest Service and various State and County agencies. Redding is based in Redding, California, and Guardian is based in Van Nuys, California. The two

companies employ a total of 35 people; however, the requested exemption would only apply to full-time, part-time and temporary ground support truck drivers employed by Redding/Guardian—no more than 20 drivers. Together the two companies operate a total of 10 CMVs, which are the ground support vehicles.

Redding/Guardian operate a fleet of helicopters on both “Exclusive Use” (EU) and “Call When Needed” (CWN) contracts, which call for a helicopter, ground support vehicle, pilot and driver/ground support technician. The ground support vehicles carry sufficient jet fuel to support their respective helicopters, and the primary role of the technicians is to support and re-fuel the helicopters. While the driving of the ground support vehicle is each individual’s secondary role, they are still subject to the FMCSRs—including the Part 395 HOS rules.

Redding/Guardian states that their EU contracts—including helicopters and ground support vehicles—frequently necessitate sitting at a base for weeks at a time and never going anywhere or even flying; however, there may be daily extensions due to high fire danger. When these extensions do occur, a ground support technician driver may be “on-duty, not driving” for 14 hours in a day for several consecutive days at a time, which results in reaching the 70-hour/8-day limit in as little as 5 days. According to Redding/Guardian, this includes a considerable amount of time just “sitting around and waiting” for a helicopter dispatch or for the helicopter to land. In addition, their CWN contract vehicles will remain away from their primary base of operation for weeks at a time, generally remaining in one location, and available for dispatch 7 days per week.

While Redding/Guardian’s drivers are just waiting for a helicopter dispatch or for the helicopter to land, by being “available” and in “readiness to work” they are considered to be “on-duty, not driving” and therefore subject to the 70-hour in 8-day rule. The applicants note that on average, their drivers drive once every few days for less than 100 miles, and for the CWN contracts, the ground support technician may never drive the fuel vehicle more than 5 miles in a day, and that is only to and from the local hotel accommodations.

The problem arises as Redding/Guardian’s drivers can basically run out of available hours in 5 days at 14 hours on duty per day—based on the 70-hour/8-day rule. They are therefore unable to legally operate a CMV on a public road until they have gained enough available hours to drive.

Redding/Guardian state that their ground-support technician-drivers are encouraged to stop driving at the onset of fatigue. They further claim that if their exemption request is granted, the CMV drivers will still not be allowed to exceed the 14-hour duty limit regulation (49 CFR 395.3(a)(2)). They reason that, based on the fact that their drivers are just “sitting around and waiting,” they are not becoming fatigued, which is the primary reason for the duty limits. Redding/Guardian contends that these drivers are not stressed or tired.

Redding/Guardian believes the exemption would achieve a level of safety equivalent to, or greater than, the level of safety obtained under the current 70-hour/8-day rule because they are firmly committed to their goal of zero accidents or incidents and have implemented a Comprehensive Safety Program designed to prevent accidents or injuries. Both companies also have an approved “Safety Management System” that includes annual reviews of safety-related issues.

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

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on the Redding/Guardian application for an exemption from the “70-hour/8-day rule” in 49 CFR Part 395. The Agency will consider all comments received by close of business on April 8, 2009. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued On: March 3, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-4928 Filed 3-6-09; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA-2009-0032]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval concerning vehicle safety features for consumer information purposes (OMB Control number 2127-0629).

DATES: Comments must be received on or before May 8, 2009.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202-366-9826.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. 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.

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 in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).