

**SUMMARY:** FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by September 4, 2012.

**ADDRESSES:** You may submit comments identified by DOT Docket ID 2012-0062 by any of the following methods:

*Web Site:* For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to <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, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

*Hand Delivery or Courier:* U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chris Allen, 202-366-4104, Office of Highway Policy Information, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, between 6:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Federal Highway Administration (FHWA) State Reports for American Recovery and Reinvestment Act (Recovery Act).

*Background:* The American Recovery and Reinvestment Act of 2009 (Recovery Act), provides the State Departments of Transportation and Federal Lands Agencies with \$27.5 billion for highway infrastructure investment. With these funds also comes an increased level of data reporting with the stated goal of improving transparency and accountability at all levels of government. According to President Obama "Every American will be able to hold Washington accountable for these decisions by going online to see how and where their tax dollars are being spent." The Federal Highway Administration (FHWA) in concert with the Office of the Secretary of Transportation (OST) and the other modes within the U.S. Department of Transportation (DOT) will be taking the appropriate steps to ensure that

accountability and transparency are provided for all infrastructure investments.

The reporting requirements of the Recovery Act are covered in Sections 1201 and 1512. Section 1201 (c)(1) stipulates that "notwithstanding any other provision of law each grant recipient shall submit to the covered agency (FHWA) from which they received funding periodic reports on the use of the funds appropriated in this Act for covered programs. Such reports shall be collected and compiled by the covered agency (FHWA) and transmitted to Congress. Covered agencies (FHWA) may develop such reports on behalf of grant recipients (States) to ensure the accuracy and consistency of such reports."

Section 1512 of the Recovery Act requires "any entity that receives recovery funds directly from the Federal Government (including recovery funds received through grant, loan, or contract) other than an individual," including States, to provide regular "Recipient Reports."

As the recipients or grantees for the majority of the Recovery Act funds, States and Federal Land Management Agencies (FLMA) are by statute responsible for reporting to FHWA on the projects, use of Recovery Act funds, and jobs supported. States and FLMA that receive recovery fund apportionments directly from the Federal government are responsible for reporting to FHWA, and are also responsible for reporting quarterly to the [federalreporting.gov](http://federalreporting.gov) Web site. To achieve a high-quality, consistent basis for reporting and project oversight, FHWA has designed the Recovery Act Database System (RADS) for obtaining and summarizing data including reports to congress, project oversight, and other purposes.

States and FLMA will be responsible for providing the data that are not currently available at the national level. Not every data element required to be reported by the Recovery Act needs to be specifically collected. To the maximum extent possible, FHWA will utilize existing data programs to meet the Recovery Act reporting requirements. For example, for the requirement to report aggregate expenditures of State funds, FHWA will use existing reports submitted by States and data collected in the Financial Management Information System (FMIS). While the reporting obligations in the Recovery Act are only applicable to the grant recipients, the States and FLMA may need to obtain certain information from their contractors, consultants, and other funding

recipients in order to provide the FHWA with all of the required information. Additional information on the American Recovery and Reinvestment Act of 2009 is available at <http://www.fhwa.dot.gov/economicrecovery/index.htm>.

*Respondents:* In a reporting cycle, it is estimated that reports will be received from approximately 70 grant recipients. Respondents include: 50 State Departments of Transportation, the District of Columbia and Puerto Rico, the U.S. territories, the following Federal Land Management Agencies: National Park Service, U.S. Fish and Wildlife, National Forest Service and the Bureau of Indian Affairs, and several Native American Indian Governments who, by contract, manage their own transportation program. These reports will be submitted through the RADS and reviewed for accuracy by the FHWA Division Offices.

*Estimated Average Burden per Response:* 5 hours.

*Estimated Total Annual Burden Hours:* Total estimated average annual burden is 4000 hours.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of computer technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: June 22, 2012.

**Steven Smith,**

*Chief, Information Technology Division.*

[FR Doc. 2012-15923 Filed 7-5-12; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Dockets No. FMCSA-2008-0078, FMCSA-2011-0376, FMCSA-2011-0084, FMCSA-2009-0010]

### Applications for Exemption: Commercial Driver's License (CDL) and Hours-of-Service (HOS) of Drivers

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

**ACTION:** Notice of final dispositions.

**SUMMARY:** FMCSA announces denials of several separate applications for exemption from certain provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) submitted by five motor carriers on behalf of their commercial motor vehicle (CMV) drivers. The Agency reviewed each application and any public comments received, and rendered each decision based upon the merits of the application.

**DATES:** FMCSA denied the application for exemption of Rotel North American Tours, Inc. (Rotel) on May 21, 2012, and of Underwater Construction Corporation (Underwater) on May 29, 2012. On June 4, 2012, FMCSA denied the applications for exemption of Western Pilot Service (Western), Redding Air Service, Inc. (Redding) and Guardian Helicopters, Inc. (Guardian).

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations; Telephone 202–366–4325, Email: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

**SUPPLEMENTARY INFORMATION:****Dockets**

You may read background documents or comments filed to the dockets of any of these applications for exemption by going to [www.regulations.gov](http://www.regulations.gov) at any

time, or to Room W12–140, DOT Building, 1200 New Jersey Ave. SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

**Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant an exemption from certain Federal Motor Carrier Safety Regulations (FMCSRs) for a maximum 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.” This standard must be satisfied before the Agency can grant an exemption [49 CFR 381.305(a)]. If granted, the exemption may be renewed. An applicant is advised in the regulations to carefully review the FMCSRs to determine if there are any practical alternatives that would allow it to conduct its motor carrier operations without the exemption [49 CFR 381.305(b)]. The application must include a written assessment of the safety impacts the exemption may have. It must also describe how the applicant would ensure that it could achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation [49 CFR 381.310(c)(4) and (5)].

FMCSA must publish a notice of each exemption application in the **Federal Register** [49 CFR 381.315(a)]. The Agency must invite the public to comment on the merits of the application, and provide the public an opportunity to inspect the application, the safety assessment, and all other information relevant to the application. The Agency must publish a notice announcing its decision on the applications. A notice is required for granting an exemption but the Agency may issue denial letters with the publication of a notice at a later date, as is the case with the denials announced today.

**Applications for Exemption**

Rotel, Underwater, Western, Guardian and Redding filed applications for exemption from certain FMCSRs on behalf of their CMV drivers. Guardian and Redding, under common ownership, filed jointly. FMCSA published **Federal Register** notices requesting public comment on each application. Each notice established a docket to provide the public an opportunity to inspect the application and other docketed information, such as the comments of others submitted to the docket. Table 1 provides, for each application, the docket number where the complete record can be examined, and the FMCSR from which exemption was sought.

TABLE 1

| Applicant                                     | Docket No.            | Exemption sought   |
|---|-----------------------|--|
| Rotel .....                                   | FMCSA–2008–0078 ..... | CMV drivers must possess a commercial driver's license. 49 CFR part 383  |
| Underwater .....                              | FMCSA–2011–0376 ..... | CMV drivers must maintain a record of duty status. 49 CFR 395.8  |
| Western Pilot .....                           | FMCSA–2011–0084 ..... | CMV drivers may not drive a CMV after accumulating 70 hours of “on duty” time in an 8-day period. 49 CFR 395.3(b)(2) |
| Guardian and Redding (joint application) .... | FMCSA–2009–0010.      |  |

**Rotel**

Rotel provides motorcoach tours of the United States for residents of Germany, and, for business reasons, prefers to employ residents of Germany to drive the motorcoaches. It sought renewal of an exemption from the commercial driver's license (CDL) requirements for 22 of its drivers who do not hold a CDL issued by one of the States, as required by 49 CFR part 383. On May 21, 2012, FMCSA denied Rotel's application for exemption renewal because it found that the applicant had not pursued all practical alternatives available to it, including hiring U.S. CDL drivers. A copy of the

denial letter has been placed in the docket identified in Table 1.

**Underwater**

Underwater sought exemption for 165 of its CMV drivers from a provision of the hours-of-service (HOS) rules (49 CFR part 395) requiring CMV drivers to maintain a record of duty status (RODS) on board the CMV they are operating (49 CFR 395.8). However, operators of “utility service vehicles” (USVs) are exempt from all the HOS rules [49 CFR 395.1(n)], including the RODS requirement. Underwater stated that its drivers operate USVs for all but a portion of their overall driving time in

a given week. The rest of their driving involves operation of CMVs that do not qualify as USVs; at these times, the Underwater drivers must maintain a RODS on board the CMV. Underwater sought exemption from the RODS requirement of 49 CFR 395.8 for its drivers at all times, so that they would always be exempt from the RODS requirement, even when not operating a USV. On May 29, 2012, FMCSA denied Underwater's application for exemption because Underwater failed to demonstrate how it would achieve the level of safety equivalent to, or greater than, the level of safety that would be obtained by complying with the RODS

requirement. A copy of the denial letter has been placed in the docket identified in Table 1.

#### Western Pilot Service

Western sought exemption for 15 CMV drivers who transport aviation fuel for aircraft engaged in firefighting operations in remote areas. Western asked for exemption from the provision of the HOS rule that limits CMV drivers to a maximum of 70 on-duty hours in any period of 8 consecutive days [49 CFR 395.3(b)(2)]. When the 70-hour limit is reached, this provision bars CMV drivers from operating a CMV on a public highway until they attain the amount of off-duty time prescribed by the HOS regulations. Western proposed that it be given an exemption that would permit its CMV drivers to satisfy the off-duty requirement by being off duty for 2 consecutive days in any 14-day period. Thus, Western drivers could be eligible to drive a CMV when their hours on duty exceeded 70 hours in the most recent 8-day period. Western sought this exemption so that the work schedules of its CMV drivers would more closely correspond with the work schedules of its aircraft pilots. FMCSA reviewed the application and the two public comments submitted. On June 4, 2012, FMCSA concluded that Western had not demonstrated how it would achieve a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the limit of 70 on-duty hours in 8 days. A copy of the denial letter has been placed in the docket identified in Table 1.

#### Redding Air Service/Guardian Helicopters

These two entities, owned by the same individual, filed a joint application seeking relief for 20 CMV drivers who transport jet fuel in tank CMVs in support of aircraft engaged in firefighting operations. The applicants asked for exemption from the HOS rule that prohibits a driver from operating a CMV after accumulating 70 on-duty hours in an 8-day period [§ 395.3(b)(2)]. The applicant sought the exemption so that the work schedules of its ground support employees would more closely correspond to the work schedules of its aircraft employees. On June 4, 2012, the Agency concluded that the applicant failed to explain how it would ensure that drivers operating tank vehicles laden with hazardous materials beyond the 70-hour/8-day limit of section 395.3(b)(2) would achieve a level of safety equivalent to, or greater than, the level that would be achieved by compliance with that limitation. Section

381.305(a) requires that the Agency be satisfied that this standard would be met before granting an exemption from the FMCSRs. A copy of the denial letter has been placed in the docket identified in Table 1.

#### Conclusion

FMCSA reviewed each application and all public comments received. The Agency concluded in each case that the application for exemption lacked sufficient merit to justify the exemption sought. Accordingly, FMCSA denied the applications for exemption of Rotel, Underwater, Western, Redding and Guardian.

Issued on: June 27, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2012-16549 Filed 7-5-12; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Adoption of the Environmental Impact Statement (EIS) and Participation in the Section 106 Programmatic Agreement for the East Side Access Project

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of adoption and recirculation of the Final Environmental Impact Statement for the East Side Access Project and participation in the Section 106 Programmatic Agreement.

**SUMMARY:** FRA is issuing this notice to advise the public and interested agencies that FRA is adopting the Federal Transit Administration (FTA) March 2001 Final Environmental Impact Statement and subsequent FTA reevaluations (collectively, the "2001 EIS") for the East Side Access project proposed by the Metropolitan Transportation Authority (MTA) in the State of New York. FRA is adopting the 2001 EIS to satisfy FRA's National Environmental Policy Act (NEPA) obligations related to MTA's request for financing for the East Side Access project through the FRA Railroad Rehabilitation and Improvement Financing (RRIF) Program. Through Amendment No. 3, FRA is becoming a signatory to the 2006 Amended Programmatic Agreement to satisfy Section 106 of the National Historic Preservation Act.

**FOR FURTHER INFORMATION CONTACT:** Michelle W. Fishburne; Environmental Protection Specialist; Federal Railroad

Administration; Office of Railroad and Policy Development; 1200 New Jersey Avenue SE., MS-20; Washington, DC 20590; Phone (202) 493-0398.

**DATES:** Submit comments regarding adoption of the 2001 EIS no later than 30 days following EPA's notice of availability of the 2001 EIS to Michelle Fishburne, at the address listed above.

**ADDRESSES:** The 2001 EIS can be inspected at the FRA office at the address listed above and locally at the following locations:

#### Manhattan

- Community Board 4, Muhlenberg Library, 209 West 23rd Street, New York, NY 10011-2379; Phone (212) 924-1585.
- Community Board 5, Mid-Manhattan Library, 455 Fifth Avenue, New York, NY 10016-0122; Phone (212) 340-0863.
- New York Public Library, Fifth Avenue at 42nd Street, New York, NY 10018-2788; Phone (212) 275-6975.
- Community Board 6, Epiphany Library, 228 East 23rd Street, New York, NY 10010-4672; Phone (212) 679-2645.

#### Queens

- Community Board 8, Yorkville Library, 222 East 79th Street, New York, NY 10021-1295; Phone (212) 744-5824.
- Community Board 2, Court Square Library, 25-01 Jackson Avenue, Long Island City, NY 11101; Phone (718) 937-2790.
- Community Board 5, Maspeth Library, 69-70 Grand Avenue, Maspeth, NY 11378; Phone (718) 639-5228.

The 2001 EIS is also located on the FRA Web site at [www.fra.dot.gov](http://www.fra.dot.gov) or on the MTA East Side Access project Web site at [www.mta.info/capconstr/esas/](http://www.mta.info/capconstr/esas/).

**SUPPLEMENTARY INFORMATION:** MTA has applied to FRA for a RRIF loan for the East Side Access project. The East Side Access project will provide direct access for Long Island Rail Road (LIRR) riders to Grand Central Terminal (GCT) by connecting to the MTA LIRR Main Line and Port Washington tracks. LIRR provides service to 124 stations on 11 branch lines, within five counties in New York State: New York County, Kings County, Nassau County, Suffolk County, and Queens County. The East Side Access will be the LIRR's largest system expansion in over 100 years. The East Side Access project will open a second Manhattan gateway, greatly expanding its LIRR service by connecting Queens and Long Island with East Midtown Manhattan. With direct LIRR service to Midtown East, LIRR will further increase its market share by saving up to 40 minutes per