

impaired is available through FIRS at (800) 877-8339.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Decided: March 16, 2017.

By the Board, Board Members Begeman, Elliott, and Miller.

**Raina S. Contee,**  
*Clearance Clerk.*

[FR Doc. 2017-05553 Filed 3-20-17; 8:45 am]

**BILLING CODE 4915-01-P**

## **SURFACE TRANSPORTATION BOARD**

### **Release of Waybill Data**

The Surface Transportation Board has received a request from a professor at Carnegie Mellon University. (WB17-14-2/23/17) for permission to use certain unmasked data from the Board's 1984-2015 Carload Waybill Samples. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245-0319.

**Brendetta S. Jones,**  
*Clearance Clerk.*

[FR Doc. 2017-05513 Filed 3-20-17; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2016-0342]

### **Hours of Service of Drivers: American Concrete Pumping Association (ACPA); 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 American Concrete Pumping Association (ACPA) and others an exemption from the 30-minute rest break requirement in the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers. The exemption enables all concrete pump operators, concrete pumping companies, and drivers who

operate concrete pumps in interstate commerce to count on-duty time while attending equipment but performing no other work-related activity, toward the 30-minute rest break provision of the HOS regulations. FMCSA has analyzed the exemption application and the 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 on March 21, 2017 and expires on March 21, 2019.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver, and Vehicle Safety Standards; Telephone: (614) 942-6477. Email: [MCPSPD@dot.gov](mailto:MCPSPD@dot.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety 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 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 reasons for denying or granting the application and, if granted, the specific 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 of the exemption, and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### **Request for Exemption**

The American Concrete Pumping Association (ACPA) represents more than 600 member companies who employ over 7,000 workers nationwide. The exemption would be applied to all interstate concrete pumper trucks and their operators, regardless of the motor carrier or membership in ACPA.

Although many of the trucks operate intrastate and would therefore not be covered by an FMCSA exemption, an unknown number of the pumping trucks are operated in metropolitan areas and do routinely cross State lines.<sup>1</sup>

ACPA requests an exemption from the 30-minute rest break provision in 49 CFR 395.3(a)(3)(ii). The exemption would apply industry-wide to all concrete pump operators, concrete pumping companies and drivers who deliver, set-up, and operate concrete pumps in interstate commerce across the United States. ACPA requests the exemption because it states that the mandatory 30-minute rest break increases the risk of dangerous conditions on job sites. A mandatory break during which the concrete pump operator is considered to be "off duty" would require the pump to be shut down and likely cleaned out. Stopping the flow of concrete through the pump creates the risk of introducing air in the pump's pipe system which in turn could cause hose-whipping that can injure not only the pump operator, but any personnel within reach of the hose. Concrete pump operators also already take rest breaks throughout the typical day that reflect the work flow at the job site, so an additional 30-minute rest break does not enhance job safety.

ACPA added that concrete is a perishable product. The perishable nature of concrete also creates difficult schedule coordination issues due to concrete being needed on a just-in-time basis. Concrete pump operators cannot plan the timing of the 30-minute break, as they cannot interrupt their work activity without the threat of failure—failure to accept and deliver concrete within its perishable limits and failure to comply with their contracts. Once the ingredients of ready-mixed concrete have been combined, there is a brief window during which the product can be pumped (roughly 90 minutes before the concrete hardens). Should the concrete pump operator be required to take the 30-minute rest break, it would cause a ripple effect on the ready-mixed concrete trucks in line to supply the pump. Such a delay could cost thousands of dollars to rectify and could potentially violate a delivery contract, according to ACPA. Once the concrete pump starts to receive a delivery, it must be completed without disruption

<sup>1</sup> FMCSA does not have jurisdiction over intrastate transportation; however, most States have commercial motor vehicle statutes and regulations that are compatible with Federal regulations. An FMCSA exemption only applies to interstate transportation, although some States honor them for intrastate traffic.