addresses provided above and can be found at: https://www.wsdot.wa.gov/Projects/SR520Bridge/Library/15Medina.htm. This notice applies to all Federal agency decisions related to the re-evaluation as of the issuance date of Federal-Aid Highway Act [23 U.S.C. 109].

2. Air: Clean Air Act, as amended [42 U.S.C. 7401–7671(g)].


Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 11287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

means of exit from a sleeper berth into the
driver's seat or compartment.

4. Section 393.76(f).

"Communication with the driver," requires a sleeper berth which is not
located within the driver's compartment
and has no direct entrance into the
driver's compartment to be equipped
with a means of communication
between the occupant and the driver.
The means of communication may
consist of a telephone, speaker tube,
buzzer, pull cord, or other mechanical
or electrical device.

5. Section 393.76(h), "Occupant
restraint," requires a motor vehicle
manufactured on or after July 1, 1971,
and equipped with a sleeper berth to be
-equipped with a means of preventing
ejection of the occupant of the sleeper
berth during deceleration of the vehicle.
The restraint system must be designed,
installed, and maintained to withstand
a minimum total force of 6,000 pounds
applied toward the front of the vehicle
and parallel to the longitudinal axis
of the vehicle.

The applicant states that he is the
owner/operator of Castignoli, and is the
"solo driver of a hot shot hauler, F350
1-ton pickup with trailer . . . "1 The
applicant states that as a solo driver,
"there is no ready need for access
between the sleeper berth and the
driver's compartment." In addition, the
applicant states:

I plan to incorporate the sleeper berth into
the bed of the tow vehicle. The utilization of
this type of sleeper berth, would allow
myself (as the sole driver) to meet the hours
of (10-hour) service rest period requirements
by utilizing a sleeper berth incorporated into
the bed of the vehicle (Rear covered,
ventilated, insulated, bed with cap and full
size twin mattress) in lieu of a motel each
night. The tow vehicle/trailer combination
would be operating on the roadway
during my 10-hour rest period, so there is no
benefit in having the access requirements to
the driver compartment, nor any need for
communication with the driver (myself),
or any occupant restraint requirement as
the vehicle is not moving while I am sleeping.
The sleeper berth is separate from the trailer
behind the tow vehicle, and is therefore
separate from the cargo.

The current FMCSR regulatory
requirements for sleeper berth access seem to
rely on the assumption that one driver is
driving while another driver is in the sleeper
berth, and that the truck is moving always.
The situation that I have as a single driver
is that when I am off duty, the vehicle is not
moving and therefore direct access to the
sleeper berth area should not be required,
and since the vehicle is not moving there is
no need for occupant restraint systems nor a
means for communication with the driver.
All other dimensional requirements,
ventilation, and protection against exhaust
and fuel leaks will be met.

The applicant states that because of
mobility issues associated with a
partially fused spine, it is easier for him
to access a sleeper berth installed in the
bed of the pickup truck as opposed to
a sleeper berth that could be installed in the
back seat of the pickup truck that
meets the requirements of the FMCSRs.
The exemption would apply only to
Castignoli’s solo driver and pickup
truck. Castignoli believes that the
sleeper berth installed in the bed of the
pickup truck will maintain a level of
safety that is equivalent to, or greater
than, the level of safety achieved
without the exemption.

Comments

FMCSA published a notice of the application in the Federal Register on
April 24, 2018, and asked for public
comment (83 FR 17883). The Agency
received sixty-five comments, all from
individuals. Nearly all of the
commenters (61) supported the
exemption application. These
commenters stated that sleeper berth
requirements should be flexible enough
to allow a sleeper berth to be accessed
from outside the driver compartment for
solo operators, and without the
regulatory requirements pertaining to
access, exit from the berth,
communication with the driver, and
occupant restraint for vehicles that are
not moving during the sleeper berth rest
period. Two commentators opposed the
exemption application, expressing
concerns that a sleeper berth installed in
the bed of a pickup truck will not be
large enough to allow the driver enough
space to get adequate rest. Two
commenters did not express support or
oppose the exemption application.

FMCSA Decision

The FMCSA has evaluated the
Castignoli exemption application, and the
comments received. The Agency
believes that granting the temporary
exemption to allow a sleeper berth to be
installed in the pickup truck bed will
provide a level of safety that is

equivalent to, or greater than, the level
of safety achieved without the
exemption. Sleeper berths provide an
option for drivers to obtain the rest
necessary under the hours-of-service
rules in part 395 of the FMCSRs without
having to pay lodging costs at a hotel/motel. In the case of team driving
operations, a sleeper berth allows one
person to obtain the necessary rest (a
"relief driver") while the other person is
driving, allowing a vehicle to be
operated continuously and thereby
increasing productivity.

Previous rulemakings have
specifically noted the use of sleeper
berths by relief drivers in team driving
operations. The sleeper berth
requirements were revised in April 1974
to increase the minimum interior
dimensional requirements for sleeper
berths in CMVs (39 FR 14710). In that
final rule, the Federal Highway
Administration’s Bureau of Motor
Carrier Safety (the predecessor to
FMCSA) stated that “In sleeper berth
trucking operations it is of critical
importance that relief drivers be fresh
and alert when they assume their
driving tasks.” [Emphasis added.]

Additionally, when considering
possible changes to the shape of the
sleeper berth, the Bureau of Motor
Carrier Safety stated that use of “slant-
back” cab designs which incorporate a
slanted rear cab wall and do not provide
a rectangular sleeper berth compartment
was not permissible because it
"represents an intrusion into the relief
driver’s sleeping space." [Emphasis
added.]

In team driving operations, it is
important for the person in the sleeper
berth (i.e., the relief driver) to be able
to communicate with the person driving
the vehicle, to be able to directly access
the driver’s seat or compartment, and to
be restrained when the vehicle is in
motion. These provisions are not
applicable, however, in the case of
Castignoli where a solo driver is
operating a pickup truck and a trailer,
and the sleeper berth is only used by the
solo driver when the vehicle is not in
motion. In this operating scenario,
FMCSA believes that as long as the
sleeper berth dimensional
(§ 393.76(a)(1)), shape (§ 393.76(a)(2)),
equipment (§ 393.76(e)), ventilation
(§ 393.76(f)), and protection against
exhaust and fuel leaks and exhaust heat
(§ 393.76(g)) provisions are satisfied, the
solo driver will be able to obtain the
necessary rest and there will be no
degradation in safety. Additionally, the
Agency believes that allowing flexibility
in the location of the sleeper berth is
likely to improve the overall level of
safety to the motoring public by
allowing drivers additional options to
get their mandatory rest periods.

Terms and Conditions for the
Exemption

The Agency hereby grants the
exemption for a 5-year period,
beginning October 19, 2018 and ending
Thursday, October 19, 2023. During the temporary exemption period, Castignoli will be allowed to utilize a sleeper berth installed in the bed of a pickup truck that, when operated in combination with certain trailers, is a CMV. The sleeper berth must comply fully with the requirements of § 393.76(a)(1), § 393.76(a)(2), § 393.76(e), § 393.76(f), and § 393.76(g). The sleeper berth shall be used only by the owner/operator of Castignoli, and no other person is permitted to be in the sleeper berth while the vehicle is in motion.

The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Castignoli fails 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).

Interested parties possessing information that would demonstrate that Castignoli’s use of a sleeper berth installed in the bed of a pickup truck when operating as a CMV is not unproductive, as the company must achieve any 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 name of the 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 (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

II. Legal Basis
FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain 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 also 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 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 name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted.

III. Request for Exemption
CRST’s initial exemption application from the provisions of 49 CFR 383.25(a)(1) was submitted in 2015: a copy is in the docket identified at the beginning of this notice. The 2015 application described fully the nature of the CRST’s operations and CMV drivers. The exemption was originally granted on September 23, 2016 (81 FR 65696) for a two-year period. CRST now requests a renewal of the exemption. The current exemption excuses CRST from the requirement that a driver accompanying a CLP holder must be physically present at all times in the front seat of a CMV, on the condition that the CLP holder has successfully passed an approved CDL skills test. CRST’s 2015 application argued that the existing requirement is inefficient and unproductive, as the company must incur added expense to send the driver...