

Agency could impose a list of conditions, if the exemption were granted, in addition to the conditions listed in Pronto's own application.

## VI. FMCSA Decision

The FMCSA's HOS regulations set driving time limits for the work shift and prohibit driving after the 14th hour after coming on duty, following 10 consecutive hours off duty. The requirements are intended to reduce the risk of individuals experiencing fatigue during the work shift. FMCSA is not aware of data or information that would enable the Agency to determine whether the advanced technology described by Pronto reduces the workload for CMV drivers to such an extent that additional driving time during the work shift should be allowed, or that individuals should be allowed to operate an extended work shift. Neither Pronto nor commenters supporting the exemption application provided data or information that would help to explain why this exemption would not reduce safety.

Based on the numerous research studies concerning fatigue and hours of service that the Agency has reviewed in recent years, we do not believe there is a basis for allowing individuals to drive up to 13 hours during a work shift, or operate after the 14th hour after coming on duty (except during adverse driving conditions). The premise that the use of advanced technology should reduce the workload on drivers appears reasonable on the surface but the absence of data or information to quantify the impact on driver fatigue and alertness leaves the Agency with no choice but to deny the application.

In summary, after reviewing the application for an exemption and all the comments submitted to the public docket, FMCSA cannot ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations.

For these reasons, FMCSA denies the request for exemption.

**James W. Deck,**

*Deputy Administrator.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0215]

#### Hours of Service of Drivers: Right-A-Way LLC.; Application for Exemption

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

**ACTION:** Notice of final disposition; denial of application.

**SUMMARY:** FMCSA announces its decision to deny an application from Right-A-Way, LLC (Right-A-Way) requesting an exemption from the requirement that its short-haul drivers use electronic logging devices (ELDs) when they are required to prepare records of duty status (RODS) more than eight days in a 30 consecutive day period. FMCSA has analyzed the exemption application and has determined that the applicant would not achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. FMCSA therefore denies Right-A-Way's application for exemption.

**FOR FURTHER INFORMATION CONTACT:** Ms. La Tonya Mimms, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202) 366-9220 [MCPSPD@dot.gov](mailto:MCPSPD@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Currently, 49 CFR 395.1(e) provides exceptions from the requirement to prepare records of duty status (RODS) for drivers operating in short-haul operations, provided certain conditions are satisfied. Section 395.8(a)(1)(iii)(A)(1) allows motor carriers to require drivers to record drivers' duty status manually rather than use an ELD, if the drivers are operating commercial motor vehicles "in a manner requiring completion of a record of duty status not more than 8 days within any 30-day period." Drivers operating in short-haul operations are not required to prepare RODS, except for the days when they do not satisfy all the criteria provided in 49 CFR 395.1(e). These drivers may prepare paper RODS for those occasions as long as RODS are not required more than 8 days in a 30-day period. For operations where the short-haul drivers fail to satisfy the applicable criteria more than eight days in a 30-day period, the carrier and its drivers would be required to use ELDs.

## II. Request for Exemption

Right-A-Way explained that it is a pipeline contract service company who sub-contracts to maintain the pipeline's right-of-way corridor above ground. Right-A-Way's operation covers refined products, crude oil and natural gas covering 2,500 miles of pipeline in the states of Texas, Oklahoma, Kansas, Missouri, Arkansas and Colorado, with anticipated expansion to Minnesota, Iowa, North Dakota, South Dakota, Nebraska and Wyoming. In addition, Right-A-Way maintains 1,100 miles of ammonia pipeline that services the agricultural demand center in the Midwest.

Right-A-Way is requesting an exemption from the requirement to use ELDs when its drivers do not satisfy all the criteria for the short-haul exception to the RODS requirement. The exemption would enable the company's short-haul drivers to use paper RODS rather than ELDs for more than 8 days in a 30-day period. The applicant requested the exemption be granted for 5 years. The exemption if granted, would cover approximately eight drivers and eight CMVs.

The applicant believes that its operation is similar to the operations provided by drivers of utility service vehicles. Right-A-Way wrote that FMCSA determined there was no compelling safety argument to include drivers engaged in short-haul operations in the ELD requirements, and emphasized that Part 395 already provides some industry-specific exceptions for certain operations, including, oilfield operations, pipeline welding trucks, and utility service vehicles. The applicant contends that these exceptions and exemptions reflect the unique operating conditions of these industries, and assessment by Congress or FMCSA that the exceptions do not raise a compelling hazard.

To ensure an equivalent or greater level of safety absent the granted exemption, Right-A-Way offers daily safety training on all hazards on the job and driving conditions to its drivers and crews. A copy of the exemption application is included in the docket for this notice.<sup>1</sup>

## III. Public Comments

On April 28, 2020, FMCSA published notice of the application for exemption and asked for public comment (85 FR 23592). There were no comments submitted to the docket.

<sup>1</sup> You may view the notice and its supporting documentation online at <https://www.regulations.gov/docket?D=FMCSA-2019-0215>.

#### IV. FMCSA Decision

When FMCSA published the rule mandating ELDs it relied upon research indicating that the rule improves CMV safety and reduces the overall paperwork burden for both motor carriers and drivers by increasing the use of ELDs within the motor carrier industry, which will in turn, improve compliance with the HOS rules. The rule includes an exception allowing motor carriers up to 8 days in a 30-day period to operate under conditions subject to the ELD requirement, without being required to do so. The 8-day exception covers short-haul operations that occasionally exceed the distance or time limits for the short-haul exception to the RODS requirements. Right-A-Way did not demonstrate how expanding the 8-day exception would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption.

Right-A-Way did not provide an alternative means of ensuring compliance with the HOS rules if drivers rely on paper RODS for more than eight times in a 30-day period. FMCSA does not accept mere maintenance of RODS more than eight days as an alternative to ELDs. There must be additional measures such as safety management oversight processes to achieve an equivalent level of safety and the applicant has not provided an acceptable alternative. Thus, Right-A-Way's request for an exemption is denied.

James W. Deck,

Deputy Administrator.

[FR Doc. 2020-21326 Filed 9-25-20; 8:45 am]

BILLING CODE 4910-EX-P

#### DEPARTMENT OF TRANSPORTATION

##### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0032]

##### Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

**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 an exemption from the commercial driver's license (CDL) requirements for Mr. Thomas Passegger, a driver employed by Daimler Trucks North America. Mr. Passegger is Daimler's Project Manager for

Autonomous Trucks. He holds a valid German commercial license and wants to test drive Daimler vehicles on U.S. roads to better understand product requirements in "real world" environments and verify results. Daimler believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

**DATES:** This exemption is effective September 28, 2020 and expires September 29, 2025.

##### ADDRESSES:

**Docket:** For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year.

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; telephone: 202-366-4325; email: [MCPSPD@dot.gov](mailto:MCPSPD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

##### SUPPLEMENTARY INFORMATION:

##### I. Public Participation

###### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov) and insert the docket number, "FMCSA-2012-0032" in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m.

and 5 p.m., e.t., Monday through Friday, except Federal holidays.

##### II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from 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 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 the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### III. Request for Exemption

Daimler has applied for an exemption for Thomas Passegger from 49 CFR 383.23, which prescribes licensing requirements for drivers operating commercial motor vehicles (CMVs) in interstate or intrastate commerce. Mr. Passegger is unable to obtain a CDL in any of the U.S. States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA-2012-0032.

The exemption would allow Mr. Passegger to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to develop improved safety and emission technologies. Daimler stated that Mr. Passegger will typically drive for no more than 6 hours per day for one to two days, and 10 percent of the test driving will be on two-lane State highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.