

and the vast majority of persons responding to the December 26, 2002, notice published by the Federal Motor Carrier Safety Administration (FMCSA) believe the exemptions would have little if any impact on highway safety. The Department of Transportation (DOT) finds that granting the exemptions would not achieve a level of safety equivalent to, or greater than, the level of safety that would be achieved by complying with the Federal regulations. Neither ODOT nor the persons submitting comments in support of the exemptions application presented specific alternatives to the Federal requirements concerning safety equipment on CMVs, and the inspection, repair and maintenance of such vehicles, which the agency could consider likely to achieve the requisite level of safety.

DATES: The decision is effective on May 5, 2003.

ADDRESSES: You can review the docket comments discussed in this document by visiting the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. You can also see the comments at <http://dmses.dot.gov>. Please use the docket number that appears in the heading of this document to locate the comments. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Bus and Truck Standards and Operations, (202) 366-4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Sections 31315 and 31136 of title 49 of the United States Code (U.S.C.) provide the authority to grant exemptions from certain portions of the Federal Motor Carrier Safety Regulations (FMCSRs). An exemption provides time-limited regulatory relief from one or more FMCSRs given to a person or class of persons subject to the regulations, or who intend to engage in an activity that would make them subject to the regulations. An exemption provides the person or class of persons with relief from the regulations for up to two years, and may be renewed. These sections also require the agency

to consider whether the terms and conditions for the exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulations when evaluating applications for exemptions.

An interim final rule implementing section 4007 of the Transportation Equity Act for the 21st Century (TEA-21) (codified at 49 U.S.C. 31315) was published on December 8, 1998 (63 FR 67600). These regulations at 49 CFR part 381 establish the procedures to be followed by persons requesting waivers, or applying for exemptions from the FMCSRs, and the procedures used to process them.

A notice must be published in the **Federal Register** for each exemption requested, explaining the request that has been filed; providing the public with an opportunity to inspect the safety analysis and any other relevant information; and requesting public comment on the exemption (49 U.S.C. 31315(b)(4)(A)) and 49 CFR 381.315).

In granting a request for an exemption, a notice must be published in the **Federal Register** identifying: (1) The person or class of persons who will receive the exemption; (2) what regulation is covered by the exemption; (3) how long the exemption is in effect; and (4) all terms and conditions of the exemption. The terms and conditions established by the agency must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation.

ODOT Application for Exemptions

ODOT applied for exemptions from all the requirements of 49 CFR parts 393 and 396 on behalf of all motor carriers certified and registered with ODOT as farmers. A copy of the application is included in the docket referenced at the beginning of this notice. The exemptions would be applicable only when these carriers are engaged in transportation related to farm operations and the commercial motor vehicle (CMV) is registered with ODOT as a farm vehicle. The exemptions would not be applicable when these carriers operate as for-hire carriers.

ODOT indicated that it was requesting the exemptions primarily because the State could lose Motor Carrier Safety Assistance Program (MCSAP) funding from FMCSA for having laws and regulations, applicable to interstate operations, that are less stringent than the Federal requirements. ODOT believed that, based on discussions with legislators and public meetings with

farm groups, it was unlikely that the Oregon legislature would revise the law.

ODOT believed the level of safety for farmers operating under the exemptions would be equivalent to the level of safety that would be provided by the Federal safety regulations because the State would continue to enforce its rules of the road and equipment regulations applicable to all motorists and motor vehicles. Farm vehicles in Oregon are currently required to comply with State requirements related to parts and accessories, including brakes, lights, mudguards and fenders, emissions and exhaust, windows, horns, mirrors, etc. Furthermore, ODOT has the authority to inspect any vehicle to verify compliance.

Request for Comments

On December 26, 2002 (67 FR 78855), the agency requested public comment from all interested parties on ODOT's application for exemptions in accordance with 49 U.S.C. 31315(b)(4) and 31136(e). Interested persons were requested to consider each exemption separately, to the greatest extent practicable. The notice indicated that a decision could grant or deny either or both portions of the application based on the comments received, and any other relevant information.

Discussion of Comments

One hundred and fourteen comments were received in response to the December 26 notice. The comments included those from: Advocates for Highway and Auto Safety (Advocates); Commercial Vehicle Safety Alliance (CVSA); farmers and other agricultural-related businesses, associations, or groups in Oregon (101 comments); the Oregon Trucking Associations, Inc.; and four State motor carrier enforcement agencies (Georgia Department of Motor Vehicle Safety; Idaho State Police; Indiana State Police; ODOT, Motor Carrier Transportation Division). Comments were also received from Michael Millard, an individual who did not identify his occupational interest. In addition, comments were received from two members of the U.S. House of Representatives (Darlene Hooley and Greg Walden) and three members of the Oregon State House of Representatives (Alan Brown, Chairman of the House Transportation Committee; Jeff Kropf, Chairman of the House Agriculture and Natural Resources Committee; and Karen Minnis, Speaker of the House).

The overwhelming majority (109 out of 114) of the commenters were in favor of granting the exemption application. The Idaho State Police and Indiana State Police believe an exemption should be