

§ 381.215

(1) Describes the unique, non-emergency event for which the waiver would be used, including the time period during which the waiver is needed;

(2) Identifies the regulation that you believe needs to be waived;

(3) Provides an estimate of the total number of drivers and CMVs that would be operated under the terms and conditions of the waiver; and

(4) Explains how you would ensure that you 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.

[72 FR 67608, Dec. 8, 1998, as amended at 72 FR 55699, Oct. 1, 2007]

§ 381.215 What will the FMCSA do after the agency receives my request for a waiver?

(a) The Federal Motor Carrier Safety Administration will review your request and make a recommendation to the Administrator. The final decision whether to grant or deny the application for a waiver will be made by the Administrator.

(b) After a decision is signed by the Administrator, you will be sent a copy of the document, which will include the terms and conditions for the waiver or the reason for denying the application for a waiver.

§ 381.220 How long will it take the agency to respond to my request for a waiver?

You should receive a response from the agency within 60 calendar days from the date the Administrator receives your request. However, depending on the complexity of the issues discussed in your application, and the availability of staff to review the material, a final decision may take up to 120 days.

§ 381.225 Who should I contact if I have questions about the information I am required to submit to the FMCSA or about the status of my request for a waiver?

You should contact the Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and

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Operations (MC–PS), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

[63 FR 67608, Dec. 8, 1998, as amended at 72 FR 55699, Oct. 1, 2007]

Subpart C—Procedures for Applying for Exemptions

§ 381.300 What is an exemption?

(a) An exemption is temporary regulatory relief from one or more FMCSR 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.

(b) An exemption provides the person or class of persons with relief from the regulations for up to two years, and may be renewed.

(c) Exemptions may only be granted from one or more of the requirements contained in the following parts and sections of the FMCSRs:

(1) Part 382—Controlled Substances and Alcohol Use and Testing;

(2) Part 383—Commercial Driver's License Standards; Requirements and Penalties;

(3) Part 391—Qualifications of Drivers;

(4) Part 392—Driving of Commercial Motor Vehicles;

(5) Part 393—Parts and Accessories Necessary for Safe Operation;

(6) Part 395—Hours of Service of Drivers;

(7) Part 396—Inspection, Repair, and Maintenance (except for § 396.25); and

(8) Part 399—Step, Handhold and Deck Requirements.

§ 381.305 How do I determine when I may apply for an exemption?

(a) You may apply for an exemption if one or more FMCSR prevents you from implementing more efficient or effective operations that would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption.

(b) Before you decide to apply for an exemption you should carefully review the regulation to determine whether there are any practical alternatives already available that would allow you to conduct your motor carrier operations. You should also determine whether you need an exemption from

all of the requirements in one or more parts of the regulations, or whether a more limited exemption from certain sections within one or more parts of the regulations would provide an acceptable level of regulatory relief. For example, if you need regulatory relief from one of the recordkeeping requirements concerning driver qualifications, you should not request regulatory relief from all of the requirements of part 391.

§ 381.310 How do I apply for an exemption?

(a) You must send a written request (for example, a typed or handwritten (printed) letter), which includes all of the information required by this section, to the Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590-0001.

(b) You must identify the person or class of persons who would be covered by the exemption. The application for an exemption must include:

(1) Your name, job title, mailing address, and daytime telephone number;

(2) The name of the individual or motor carrier that would be responsible for the use or operation of CMVs;

(3) Principal place of business for the motor carrier (street address, city, State, and zip code); and

(4) The USDOT identification number for the motor carrier.

(c) You must provide a written statement that:

(1) Describes the reason the exemption is needed, including the time period during which it is needed;

(2) Identifies the regulation from which you would like to be exempted;

(3) Provides an estimate of the total number of drivers and CMVs that would be operated under the terms and conditions of the exemption;

(4) Assesses the safety impacts the exemption may have;

(5) Explains how you would ensure that you could achieve a level a safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation; and

(6) Describes the impacts (e.g., inability to test innovative safety management control systems, etc.) you could

experience if the exemption is not granted by the FMCSA.

(d) Your application must include a copy of all research reports, technical papers, and other publications and documents you reference.

[63 FR 67608, Dec. 8, 1998, as amended at 72 FR 55700, Oct. 1, 2007]

§ 381.315 What will the FMCSA do after the agency receives my application for an exemption?

(a) The Federal Motor Carrier Safety Administration will review your application and prepare, for the Administrator's signature, a FEDERAL REGISTER notice requesting public comment on your application for an exemption. The notice will give the public an opportunity to review your request and your safety assessment or analysis (required by § 381.310) and any other relevant information known to the agency.

(b) After a review of the comments received in response to the FEDERAL REGISTER notice described in paragraph (a) of this section, the Federal Motor Carrier Safety Administration will make a recommendation(s) to the Administrator to either to grant or deny the exemption. Notice of the Administrator's decision will be published in the FEDERAL REGISTER.

(c)(1) If the exemption is granted, the notice will identify the provisions of the FMCSRs from which you will be exempt, the effective period, and all terms and conditions of the exemption.

(2) If the exemption is denied, the notice will explain the reason for the denial.

(d) A copy of your application for an exemption and all comments received in response to the FEDERAL REGISTER notice will be included in a public docket and be available for review by interested parties.

(1) Interested parties may view the information contained in the docket by visiting the Department of Transportation, Docket Management Facility, 1200 New Jersey Ave., SE., Washington, DC 20590-0001. All information in the exemption docket will be available for examination at this address from 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

(2) Internet users can access all information received by the Department of