8:45 a.m. to 4:30 p.m., and Thursday, July 30, 2015 from 9:15 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at NASA Ames Research Center, Building N262, Room 100, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Hemdal, ATPAC Executive Director, 600 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, July 28 from 12:45 p.m. to 4:30 p.m., Wednesday, July 29, 2015 from 8:45 a.m. to 4:30 p.m., and Thursday, July 30, 2015 from 9:15 a.m. to 4:30 p.m.

The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures. It will also include:

1. Call for Safety Items.

2. Approval of minutes of the previous meeting.

3. Introduction of New Areas of Concern or Miscellaneous items.

4. Items of Interest.

5. Status updates to existing Areas of Concern.

6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify Ms. Heather Hemdal no later than July 20, 2015. Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC, on June 15, 2015.

Heather Hemdal,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 2015–14801 Filed 6–18–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0445]

Hours of Service of Drivers: California Farm Bureau Federation; Granting of Application for Exemption

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

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces the granting of an exemption from the 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for certain commercial motor vehicle (CMV) drivers transporting bees. FMCSA has analyzed both the exemption application submitted by the California Farm Bureau Federation (CFBF) on behalf of its members and other agricultural organizations and the public comments received in response to the Agency's January 8, 2015, **Federal Register** notice. The Agency has determined that it is appropriate to grant an exemption to ensure the well-being of Nation's bees during interstate transportation by CMV. The exemption is consistent with the goals and strategies to protect the health of honey bees and other pollinators as stated in the ''Presidential Memorandum Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators,'' issued on June 20, 2014. The exemption, subject to the terms and conditions imposed, will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. This exemption preempts inconsistent State and local requirements.

DATES: This exemption is effective June 19, 2015 and expires on June 19, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver, and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov*.

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 4007(a) of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107, 401, June 9, 1998) authorized exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or section 31136 of title 49 of the United States Code (49 U.S.C. 31136(e), 31315(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to 2 years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.87(e)(1) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to CMV programs and safety regulation.

Background Information

On December 27, 2011, FMCSA published a final rule amending its hours-of-service (HOS) regulations for drivers of property-carrying CMVs. The final rule included a new provision requiring drivers to take a rest break during the work day under certain circumstances. Drivers may drive a CMV only if a period of 8 hours or less has passed since the end of their last off-duty or sleeper-berth (S/B) period of at least 30 minutes. FMCSA did not specify when drivers must take the minimum 30-minute break, but the rule requires that they wait no longer than 8 hours after the last off-duty or S/B period of that length or longer to take the break if they want to drive a CMV. This requirement took effect on July 1, 2013.

On August 2, 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued its opinion on petitions for review of the 2011 HOS rule filed by the American Trucking Associations, Public Citizen, and others [*American Trucking Associations, Inc.,* v. *Federal Motor Carrier Safety Administration,* 724 F.3d 243 (D.C. Cir. 2013)]. The Court upheld the 2011 HOS regulations in all respects except for the 30-minute break provision as it applies to short-haul drivers.

The Court vacated the rest-break requirement of 49 CFR 395.3(a)(3)(ii) with respect to any driver qualified to operate under either of the ''short haul' '' exceptions outlined in 49 CFR 395.1(e)(1) or (2). Specifically, the following drivers are no longer subject to the 30-minute break requirement:

- All drivers (whether they hold a commercial driver's license (CDL) or not) who operate within 100 air-miles of their normal work reporting location and satisfy the time limitations and recordkeeping requirements of 49 CFR 395.1(e)(1), and

• All non-CDL drivers who operate within a 150 air-mile radius of the location where the driver reports for duty and satisfy the time limitations and recordkeeping requirements of 49 CFR 395.1(e)(2).

On October 28, 2013, the Agency published a final rule codifying the court decision (78 FR 64179).

Application for Exemption

On July 2, 2014, the California Farm Bureau Federation (CFBF) requested a 90-day waiver of the 30-minute rest-break requirement for drivers of CMVs engaged in the transportation of domesticated honey bees. CFBF is a trade organization representing various stakeholders in the beekeeping industry, including those who provide and utilize bee-pollination services. A copy of the request is included in the docket referenced at the beginning of this notice. The CFBF cited as a precedent for its request the 1-year exemption from the 30-minute break requirement granted the National Pork Producers Council on behalf of drivers transporting livestock. FMCSA regulations, however, do not recognize honey bees as livestock. CFBF subsequently requested a two-year exemption.

CFBF submitted its application on behalf of itself and the following organizations:

• American Beekeeping Federation;
• Blue Diamond Growers;
• California Beekeepers Association;
• California Association of Nurseries and Garden Centers;
• California Cherry Growers and Industry Foundation; and
• California Seed Association.

Because of the reduced number of colonies available, bees are transported long distances to provide crop pollination. CFBF said that honey bees require cool, fresh air to maintain healthful temperatures in the hives when being moved on trucks. CFBF stated that complying with the 30-minute rest break rule would jeopardize the health and welfare of the bees when excessive heat tends to build up during stops, especially during daytime stops in warm weather. They believe that every consideration should be given to provide the safest possible journey, as bees are transported to pollinate crops throughout the U.S., particularly in California which produces an abundance of fruits and vegetables for American consumers.

CFBF explained that there is no substitute for the pollination provided by bees, and cited a report concluding that in the absence of bee pollination, the U.S. could lose one third of its crops. CFBF stated that the number of bee colonies has been declining for several decades—from 5 million in the 1940's to only 2.5 million today. Furthermore, from late October to early February most migratory beekeepers ship their bees to the Central Valley of California to pollinate the more than 800,000 acres of almond trees which bloom in February through mid-March. California hosts 1,620,000 hives each year for the almond crop alone. Honey bees also pollinate apples, plums, cherries, and a large variety of other crops in California and across the nation.

CFBF maintained that if CMVs transporting hives were stopped for 30 minutes, particularly in warm weather, the risk of harm to the bees would be significant, and possibly fatal. Protecting and providing for the safe and healthy transportation of the bees is a priority for the agricultural community, which is heavily dependent upon the essential work of pollinating their crops. According to CFBF, there is simply no substitute or viable alternative to honey bees.

Presidential Memorandum

On June 20, 2014, President Obama issued a ''Presidential Memorandum Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators.'' The memorandum recognized that ''Honey bee pollination alone adds more than $15 billion in value to agricultural crops each year in the United States.'' The Memorandum referred to a serious loss of honey bees and other pollinators in recent years and stated that ''The problem is serious and requires immediate attention . . .''

A Pollinator Health Task Force was established by the President to create an action plan and perform other duties relative to protecting the health of pollinators. The Task Force, which is co-chaired by the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, includes representatives of other departments including the Department of Transportation.

This exemption complies with the goals and strategies to protect pollinator health, as stated in the Presidential Memorandum.

Population of Carriers Engaged in the Transportation of Bees

According to CFBF, in a subsequent email to the Agency, there are over 1,600 beekeepers that transport their hives all around the United States.

Public Comments in Response to the Exemption Application

On January 8, 2015, FMCSA published notice of the CFBF application for an exemption and requested public comment (80 FR 1069); 202 commenters responded, with 198 supporting the application (mainly through identical form letters) and four opposing it.

The comments in favor of the exemption were submitted both by individuals and by CFBF affiliates. These commenters essentially reaffirmed the arguments made by CFBF. In addition, the Owner-Operator Independent Drivers Association (OOIDA) filed a comment in support of exemption application, stating that the request would provide a level of safety equal to or greater than that achieved without the exemption. Granting the exemption, OOIDA said, would allow bees to be moved with the level of care which they deserve and to ensure that safety is the primary driver of decisions regarding these moves.

The Advocates for Highway and Auto Safety (Advocates) and three individuals opposed the exemption. Advocates stated that the CFBF application is deficient in that it provides no explanation of ''how [CFBF] would ensure that [the exempted operation] 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.'' Advocates further added that aside from any concern about the bees being transported, the application fails to address the potential fatigue and deleterious conditions imposed on the driver of the vehicle transporting the bees. Some of the individuals opposing the application contended that an exemption for any one group should be available to all driver or company groups. Others suggested that CFBF companies should hire additional drivers so that a 30-minute break would not be necessary or wait until temperatures drop before transporting the bees.

FMCSA Response

FMCSA has evaluated CFBF's application for exemption and the public comments submitted. Stakeholders in this industry have outlined in detail the various risks associated with stopping a CMV transporting bees.

The Agency finds the arguments in favor of the exemption to be persuasive. Stopping a CMV with bees on board in severe weather conditions, even for relatively brief periods, can jeopardize

the health and welfare of the bees. FMCSA believes there would be no decrease in safety for the traveling public associated with an exemption from the 30-minute rest break requirement. These drivers take short breaks as necessary, but the breaks may not be long enough to qualify under the rest-break regulatory requirement, or the breaks may not occur during the time periods specified in the regulation. Also, drivers may not be in compliance with the definition of off duty, even though they may be resting, similar to other drivers who are allowed to ''attend'' the parked vehicle if they perform no on-duty activities.

The number of beekeepers who transport hives around the country to pollinate crops is small—1,600 according to the CFBF—and the number of CMVs and drivers required for these operations is correspondingly small. One of the commenters noted that local movements of hives often occur at night, when temperatures have fallen and traffic has declined. But when daytime movements are required, the risk of crashes remains modest because exposure, *i.e.,* the total miles traveled by CMVs serving this economic niche, is so limited.

FMCSA Determination

In consideration of the above, FMCSA has determined that it is appropriate to provide a two-year exemption from the 30-minute break requirement for interstate motor carriers transporting bees. Based on the terms and conditions imposed, the CFBF application for exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Agency has decided to grant the exemption for a two-year period. As noted below, carriers utilizing the exemption will be required to report any accidents, as defined in 49 CFR 390.5, to FMCSA. The exemption would be eligible for renewal consideration at the end of the two-year period.

Terms and Conditions of the Exemption

Extent of the Exemption

This exemption is limited to drivers engaged in the interstate transportation of bees by CMV. The exemption from the 30-minute rest-break requirement is applicable during the transportation of bees and does not cover the operation of the CMVs after the bees are unloaded from the vehicle.

The exemption is further limited to motor carriers that have a ''satisfactory'' safety rating or are ''unrated;'' motor carriers with ''conditional'' or ''unsatisfactory'' safety ratings are prohibited from utilizing this exemption.

Safety Rating

Motor carriers that have received compliance reviews are required to have a ''satisfactory'' rating to qualify for this exemption. The compliance review is an on-site examination of a motor carrier's operations, including records on drivers' hours of service, maintenance and inspection, driver qualification, commercial driver's license (CDL) requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. The assignment of a ''satisfactory'' rating means the motor carrier has in place adequate safety management controls to comply with the Federal safety regulations, and that the safety management controls are appropriate for the size and type of operation of the motor carrier.

The FMCSA will also allow ''unrated'' carriers to use the exemption. Unrated motor carriers are those that have not received a compliance review. It would be unfair to exclude such carriers simply because they were not selected by for a compliance review, especially since carriers are prioritized for compliance reviews on the basis of known safety deficiencies.

The Agency is not allowing motor carriers with conditional or unsatisfactory ratings to participate because both of those ratings indicate that the carrier has safety management control problems. There is little reason to believe that carriers rated either unsatisfactory or conditional could be relied upon to comply with the terms and conditions of the exemption.

Drivers must have a copy of the exemption document in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.

Accident Reporting

Motor carriers must notify FMCSA by email addressed to *MCPSD@DOT.GOV* with 5 business days of any accident (as defined in 49 CFR 390.5) that occurs while its driver is operating under the terms of this exemption. The notification must include:

a. Identifier of the Exemption: ''BEES''
b. Name of operating carrier and USDOT number,
c. Date of the accident,
d. City or town, and State, in which the accident occurred, or closest to the accident scene,
e. Driver's name and license number,
f. Name of co-driver, if any, and license number
g. Vehicle number and state license number,
h. Number of individuals suffering physical injury,
i. Number of fatalities,
j. The police-reported cause of the accident,
k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
l. The total driving time and total on-duty time prior to the accident.

Period of the Exemption

FMCSA provides an exemption from the 30-minute break requirement [49 CFR 395.3(a)(3)(ii)] during the period of June 19, 2015 through June 19, 2017.

Safety Oversight of Carriers Operating Under the Exemption

FMCSA expects each motor carrier operating under the terms and conditions of this exemption to maintain its safety record. However, should safety deteriorate, FMCSA will, consistent with the statutory requirements of 49 U.S.C. 31315, take all steps necessary to protect the public interest. Authorization of the exemption is discretionary, and FMCSA will immediately revoke the exemption of any motor carrier or driver for failure to comply with the terms and conditions of the exemption.

Preemption

During the period the exemption is in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person or entity operating under the exemption [49 U.S.C. 31315(d)].

Issued on: June 8, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–15088 Filed 6–18–15; 8:45 am]

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