

- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the proposed information collection and supporting documents may be obtained from Jacqueline Robinson, U.S. Department of State, Office of Foreign Missions, Washington, DC 20520-3302, who may be reached at 202-895-3528. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202-395-3897.

Dated: April 24, 2003.

**Jacqueline D. Robinson,**

*Director, Accreditations & Diplomatic Motor Vehicles, Office of Foreign Missions, Department of State.*

[FR Doc. 03-11007 Filed 5-2-03; 8:45 am]

**BILLING CODE 4710-43-P**

**DEPARTMENT OF STATE****[Public Notice 4309]****Advisory Committee on International Law; Notice of Committee Meeting**

A meeting of the Advisory Committee on International Law will take place on Friday, May 16, 2003, from 10 a.m. to approximately 4 p.m., as necessary, in Room 1105 of the United States Department of State, 2201 C Street, NW., Washington, DC. The meeting will be chaired by the Legal Adviser of the Department of State, William H. Taft, IV, and will be open to the public up to the capacity of the meeting room. The meeting will discuss various issues related to international legal considerations relating to post-conflict Iraq; litigation relating to the Vienna Convention on Consular Relations, compensation for victims of terrorism, an update on developments relating to the Alien Tort Statute, and other current legal topics.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring access to the session should, by Wednesday, May 14, 2003, notify the Office of the Assistant Legal Adviser for United Nations Affairs (telephone (202) 647-2767) of their name, Social Security

number, date of birth, professional affiliation, address and telephone number in order to arrange admittance. This includes admittance for government employees as well as others. All attendees must use the "C" Street entrance. One of the following valid IDs will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. government agency ID. Because an escort is required at all times, attendees should expect to remain in the meeting for the entire morning or afternoon session.

Dated: April 25, 2003.

**Judith L. Osborn,**

*Attorney-Adviser, Office of United Nations Affairs, Office of the Legal Adviser, Executive Secretary, Advisory Committee on International Law, Department of State.*

[FR Doc. 03-11006 Filed 5-2-03; 8:45 am]

**BILLING CODE 4710-08-P**

**DEPARTMENT OF STATE****[Public Notice 4308]****Industry Advisory Panel Meeting Notice**

The Industry Advisory Panel of Overseas Buildings Operations will meet on Tuesday, May 20, 2003, from 9:45 until 11:45 a.m. and 1 until 3:30 p.m. eastern standard time. The meeting will be held in conference room 1105 at the Department of State, 2201 C Street, NW. (entrance on 23rd Street), Washington, DC. The purpose of the meeting is to discuss new technologies and successful management practices for design, construction, security, property management, emergency operations, the environment, and planning and development. An agenda will be available prior to the meeting.

The meeting will be open to the public, however, seating is limited. Prior notification and a valid photo ID are mandatory for entry into the building. Members of the public who plan to attend must notify Luigina Pinzino at 703/875-7109 before Wednesday, May 14th, to provide date of birth, Social Security number, and telephone number.

*For Further Information Contact:*  
Luigina Pinzino 703/875-7109.

Dated: April 22, 2003.

**Charles E. Williams,**

*Director/Chief Operating Officer, Overseas Buildings Operations, Department of State.*

[FR Doc. 03-11005 Filed 5-2-03; 8:45 am]

**BILLING CODE 4710-24-P**

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****Fitness Determination of Mid-Atlantic Freight, Inc., d/b/a OBXpress Air Shuttle**

**AGENCY:** Department of Transportation.

**ACTION:** Notice of order to show cause (Order 2003-4-19), Docket OST-02-14145.

**SUMMARY:** The Department of Transportation is proposing to find that Mid-Atlantic Freight, Inc. d/b/a OBXpress Air Shuttle is fit, willing, and able, to provide commuter air service under 49 U.S.C. 41738.

*Responses:* Objections and answers to objections should be filed in Docket OST-02-14145 and addressed to the Department of Transportation Dockets, PL-401, 400 Seventh Street, SW., Washington, DC 20590, and should be served on all persons listed in Attachment A to the order. Persons wishing to file objections should do so no later than May 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ms. Delores King, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2343.

Dated: April 25, 2003.

**Read C. Van De Water,**

*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 03-10942 Filed 5-2-03; 8:45 am]

**BILLING CODE 4910-62-P**

**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****[FMCSA Docket FMCSA-2002-13295]****Oregon Department of Transportation Application for Exemptions for Farmers**

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Notice of Secretarial Decision.

**SUMMARY:** The Secretary of Transportation (Secretary) is denying the Oregon Department of Transportation's (ODOT) application for exemptions from all the requirements of 49 CFR part 393, concerning parts and accessories necessary for the safe operation of commercial motor vehicles (CMVs), and 49 CFR part 396, concerning the inspection, repair and maintenance of CMVs, on behalf of motor carriers certified by and registered with ODOT as farmers. ODOT

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

granted but only for the purpose of providing ODOT with sufficient time to adopt compatible safety regulations for the interstate operation of farm vehicles. Advocates, the Georgia Department of Motor Vehicle Safety, and Michael Millard believe the ODOT's exemptions application should be denied.

#### *Commenters in Favor of Granting the Exemptions*

Generally, most of the commenters in favor of granting the exemptions believe that Oregon Revised Statutes (ORS) provide sufficient safety requirements for farm vehicles. They believe that the State's requirements concerning vehicle safety equipment and motor carrier operations would ensure safety. Most of the commenters also considered the Federal requirements to be redundant of the State regulations.

The commenters believe that denying the ODOT exemptions application would result in ODOT being required to adopt regulations that are compatible with agency rules applicable to interstate motor carriers, and to increase the State's enforcement activities concerning farm vehicle operations, such as conducting more roadside inspections of these vehicles.

Commenters indicated that accident involvement of farm vehicles is low compared to other types of commercial vehicle operations in the State and that limited enforcement resources should not be focused on farm vehicles. They indicated that most of the farm trucks are small trucks operated short distances at low speeds, and that the safety record for the operation of such vehicles suggests that it is unnecessary to apply the Federal safety rules to them.

Commenters in favor of granting the exemptions also emphasized that a significant portion of Oregon's truck safety program is funded through the Federal Motor Carrier Safety Administration's Motor Carrier Safety Assistance Program (MCSAP). They argued that ODOT's program would be greatly reduced if the State lost MCSAP funding.

#### *Commenters Opposed to Granting the Exemptions*

Advocates argued that (1) exemption authority cannot be used to evade compliance with Federal regulations; (2) procedurally, ODOT cannot apply for exemptions on behalf of entities who are not a part of ODOT, (3) there is insufficient information to support granting the exemptions, and (4) granting the exemptions would not make Oregon eligible for MCSAP grants. Advocates consider the exemptions to

be an effort to avoid the consequences of Oregon's failure to comply with the MCSAP requirements, and believe that the statute authorizing the exemptions does not indicate that a State governmental entity may apply for exemptions.

The Indiana State Police (Indiana) believe that granting the exemptions would be inconsistent with MCSAP goals of achieving uniformity and compatibility of State regulations with Federal rules. However, Indiana believes ODOT should be provided a temporary exemption to enable the Oregon legislature to amend the ORS. The Idaho State Police (Idaho) echoed those views. Idaho does not believe the public interest would be served by withholding MCSAP funds from Oregon.

#### **DOT Response to Comments**

The DOT does not believe there is sufficient information to support a determination that the exemptions are likely to achieve a level of safety equivalent to, or greater than, the level of safety obtained by complying with the applicable Federal safety rules.

Although ODOT and most of the commenters argued that the State rules provide sufficient safety requirements, there are too few details in the ORS and Oregon Administrative Rules (OARs) to ensure that all parts and accessories on CMVs operated by motor carriers certified by, and registered with, ODOT as farmers are maintained at the same level required of CMVs subject to 49 CFR parts 393 and 396. This is especially true given that OAR section 740-100-0010 adopts by reference the Federal Motor Carrier Safety Regulations, including parts 393 and 396. There is no clear indication what safety rules would remain in force if all of the requirements as presented in 49 CFR parts 393 and 396, and adopted by reference in OAR section 740-100-0010, are deemed unnecessary. Therefore, there is no readily apparent means to compare the safety requirements that ODOT would enforce under the terms and conditions of the exemptions, with the specific rules under 49 CFR parts 393 and 396. These requirements include whether motor carriers certified by and registered with ODOT as farmers, would be required to ensure that their vehicles have retroreflective sheeting and reflex reflectors to reduce the incidence of passenger vehicles crashing into CMVs at nighttime; automatic brake adjusters, and brake adjustment indicators (for air braked vehicles manufactured on or after October 20, 1994); antilock braking systems; rear impact guards and rear

impact protection; safe fuel systems and fuel tanks; and, adequate means of protection against shifting and falling cargo. While it may be possible to establish and enforce safety rules concerning these issues with less specificity than the current Federal regulations, doing so would certainly involve a lower standard of safety by failing to describe in meaningful detail minimum standards that would ensure an appropriate level of motor carrier safety.

Although the ODOT application cited ORS chapter 811, 815, and 816 as providing rules to ensure safety, the references are nothing more than statutory authority for the ODOT to develop detailed regulations. The statutes, in and of themselves, do not establish requirements applicable to motor carriers. A discussion of statutory authority, without describing in detail how that authority was exercised in the regulations promulgated, is not sufficient basis for concluding that the exemptions would not have an adverse impact on safety.

As for commenters who believe that the adoption of compatible regulations would necessitate increased inspections of farm-plated vehicles, there is no requirement for States participating in MCSAP to shift their enforcement focus from motor carriers with well-documented safety problems, to populations of motor carriers with better safety performance records, simply because the rules are applicable to the latter group. The MCSAP is a Federal grant program that provides financial assistance to States to reduce the number and severity of accidents and hazardous materials incidents involving CMVs. The goal of the MCSAP is to reduce CMV-involved accidents, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. Investing grant monies in appropriate safety programs will increase the likelihood that safety defects, driver deficiencies, and unsafe motor carriers practices will be detected and corrected before they become contributing factors to accidents. The MCSAP also establishes, under 49 CFR part 350, the conditions for participation by States and local jurisdictions and promotes the adoption and uniform enforcement of safety rules, regulations, and standards compatible with the FMCSRs and Federal Hazardous Materials Regulations (HMRs) for both interstate and intrastate motor carriers and drivers. While part 350 has the effect of requiring that States be aware of motor carrier safety problems within their jurisdiction and develop appropriate strategies for

improving safety, States have the flexibility and discretion to determine the level of enforcement warranted for a given segment of the motor carrier population operating in the State. The State would identify its planned activities in its annual Commercial Vehicle Safety Plan (CVSP) that must be submitted to the FMCSA. Therefore, ODOT would submit its CVSP identifying CMV enforcement activities, based on ODOT's analysis of safety data. The FMCSA would then review the plan to ensure compliance with the requirements of 49 CFR part 350.

The DOT is committed to working with ODOT to ensure compliance with the MCSAP requirements. This action does not take exception to ODOT's CVSP, but to the State's failure to rescind an incompatible statute applicable to CMVs operating in interstate commerce. Therefore, adopting compatible laws and regulations should not be considered a Federal mandate to include an expanded enforcement program for motor carriers certified by and registered with ODOT as farmers. Requiring compatible laws and regulations does not negate the State's flexibility in managing its enforcement program. The DOT will continue to work with ODOT officials to achieve full compliance with 49 CFR part 350.

With regard to the comments from Advocates, the Department agrees that exemptions must not be used to evade compliance with part 350. However, the Department does not consider ODOT's request to represent such an effort. ODOT presented an application in which the State proposed that its requirements, while significantly less specific than the applicable Federal rules, would achieve the requisite level of safety. After reviewing the public comments and the application for exemptions, the DOT concluded—as did Advocates—that there is insufficient information to support such a determination, and that the Department must therefore deny the application. The fact that the application had shortcomings should not be construed as an attempt by ODOT to evade compliance with the MCSAP requirements.

In response to Advocates comment about procedural requirements concerning exemptions applications, and the impact the exemptions would have on ODOT's MCSAP eligibility, the DOT disagrees. Neither the statutes authorizing the granting of exemptions (49 U.S.C. 31315 and 31136(e)), nor the implementing regulations under 49 CFR part 381 explicitly prohibit a State or other entity from submitting

applications for exemptions on behalf of motor carriers subject to the FMCSRs. Although it is unusual for a non-motor carrier entity to submit such a request, it is not prohibited and it is not unique. Exemptions have been granted in the past concerning fuel tank fill rates and certification markings on fuel tanks in response to applications from Ford Motor Company and General Motors Corporation submitted on behalf of motor carriers operating vehicles manufactured by those companies.<sup>1</sup>

In regard to MCSAP eligibility, the granting of the exemptions would only temporarily, and indirectly, resolve ODOT's incompatible regulation. Exemptions granted pursuant to 49 U.S.C. 31315 or 31136(e) preempt incompatible State rules. During the time period that exemptions are in effect, States are prohibited from enforcing any law or regulation that conflicts with or is inconsistent with the exemptions with respect to a person operating under the exemptions. This means that if the exemptions from 49 CFR parts 393 and 396 had been granted for motor carriers certified by and registered with ODOT as farmers, without limiting the applicability of the exemptions to interstate motor carrier operations within the State boundaries of Oregon, *all* States would have been prohibited from enforcing parts 393 and 396 against farm-plated vehicles from Oregon that traveled through their jurisdiction. The only vehicle-related safety requirements would have been provided through the terms and conditions of the exemptions itself rather than the current safety regulations applicable to other motor carriers operating CMVs in interstate commerce. Given that the exemptions would have automatically preempted any Oregon laws or regulations that were incompatible with its own terms, it is difficult to see how the exemption application could be granted and still withhold Oregon's MCSAP funds as punishment for failure to adopt parts 393 and 396, which ODOT would be prohibited from enforcing during the period of the exemptions. Furthermore, if there were sufficient information to

<sup>1</sup> On March 27, 2002, an exemption renewal was granted to the Ford Motor Company (Ford) (67 FR 14765) and General Motors Corporation (GM) (67 FR 14764) submitted on behalf of motor carriers operating certain vehicles built by these manufacturers. These exemptions enable motor carriers to continue operating commercial motor vehicles (CMVs) manufactured by Ford and GM which are equipped with fuel tanks that do not meet the FMCSA's requirements that fuel tanks be capable of receiving fuel at a rate of at least 20 gallons per minute and be labeled or marked by the manufacturer to certify compliance with the design criteria.

support granting the exemptions, the State would have been considered to have effectively demonstrated that the terms and conditions of the exemptions ensure a level of safety equivalent to or greater than the level of safety obtained by compliance with parts 393 and 396, which would suggest that the State requirements, while significantly less specific than the Federal requirements, are indeed compatible in terms of safety outcomes, and would therefore satisfy MCSAP requirements.

#### DOT Decision

In consideration of the comments submitted in response to the agency's December 26, 2002, notice and for the reasons stated above, the Secretary denies ODOT's application for exemptions from the requirements of 49 CFR parts 393 and 396, on behalf of motor carriers certified by and registered with ODOT as farmers. The exemption application does not demonstrate that the exemptions would achieve a level of safety equivalent to or greater than the level of safety that would be achieved by complying with the Federal regulations. The State of Oregon must adopt State laws or regulations compatible with 49 CFR parts 393 and 396, applicable to motor carriers certified by and registered with ODOT as farmers, that are operating in interstate commerce, in a timely manner, to fulfill its obligations under 49 CFR part 350. The DOT will work with ODOT to ensure to the greatest extent practicable, the continued funding of their CVSP while compatible laws or regulations are being developed.

Issued on: April 30, 2003.

**Norman Y. Mineta,**

*Secretary of Transportation.*

[FR Doc. 03-11080 Filed 5-2-03; 8:45 am]

BILLING CODE 4910-EX-P

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2003-22]

#### Petitions for Exemption; Summary of Petitions Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received.

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**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain