## EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

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<th>Name of non-regulatory SIP provision</th>
<th>Applicable geographic or nonattainment area</th>
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<td>Huntington—Ashland 8-Hour Ozone Section 110(a)(1) Maintenance Plan.</td>
<td>A portion of Greenup County.</td>
<td>May 27, 2008 ....................</td>
<td>4/14/11 [Insert citation of publication].</td>
<td>For the 1997 8-hour ozone NAAQS.</td>
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<tr>
<td>Lexington 8-Hour Ozone Section 110(a)(1) Maintenance Plan.</td>
<td>Fayette and Scott Counties.</td>
<td>May 27, 2008 ....................</td>
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<td>Edmonson County 8-Hour Ozone Section 110(a)(1) Maintenance Plan.</td>
<td>Edmonson County ..........</td>
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<td>Owensboro 8-Hour Ozone Section 110(a)(1) Maintenance Plan.</td>
<td>Daviess County and a portion of Hancock County.</td>
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<td>For the 1997 8-hour ozone NAAQS.</td>
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</table>

**SUPPLEMENTARY INFORMATION:**

*Status:* The meeting will be open to the public.

*Purpose:* The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas (Committee) is to establish criteria and a comprehensive methodology for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield a consensus among technical experts and stakeholders on a new rule for designation of medically underserved populations and primary care health professions shortage areas, which would be published as an Interim Final Rule in accordance with Section 5602 of the Affordable Care Act, Public Law 111-148. The Flatbed Carrier Safety Group (FCSG) applied for an exemption to allow motor carriers transporting metal coils. The Federal Motor Carrier Safety Administration (FMCSA) grants an exemption from certain commodity-specific cargo securement rules applicable to motor carriers transporting metal coils.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed above at least 10 days prior to the meeting.

**Dated:** April 8, 2011.

**Reva Harris,**
Acting Director, Division of Policy and Information Coordination.

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 393**

[Docket No. FMCSA–2010–0177]

**Parts and Accessories Necessary for Safe Operation; Grant of Exemption for Flatbed Carrier Safety Group**

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

**ACTION:** Notice of final disposition.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) grants an exemption from certain commodity-specific cargo securement rules applicable to motor carriers transporting metal coils. The Flatbed Carrier Safety Group (FCSG) applied for an exemption to allow motor carriers transporting metal coils to secure them in a manner not provided for in current regulations, specifically to secure coils grouped in rows with eyes crosswise and the coils in contact with each other in the longitudinal direction.
Sec. 393.106(d).

3. Richard Moskowitz responded on behalf of the American Trucking Associations (ATA), a large trade association representing State CMV Associations. ATA supported the FCSG application for exemption and noted that the preamble to the September 2002 published exemption notice.

For the reasons stated above, FCSG requested that motor carriers be allowed to comply with the pre-January 2004 cargo securement provisions (then 49 CFR 393.100(c)) during the period of the exemption, if granted. FCSG believes that utilization of the pre-January 2004 regulations will allow carriers transporting metal coils to maintain a level of safety that is equivalent to the level of safety achieved without the exemption. A copy of FCSG’s application for exemption is available for review in the docket of this notice.

Comments

FMCSA received two comments to the published exemption notice.

1. Richard Moskowitz responded on behalf of the American Trucking Associations (ATA), a large trade association representing State CMV Associations. ATA supported the FCSG application for exemption and noted that the preamble to the September 2002
The metal coils tested as part of the 1997 CCMTA report weighed individually 18,220 lbs, 23,200 lbs, and 44,400 lbs. These coils could not be tested in groups, since any substantial grouping would push the trailer over the 34,000-pound tandem axle weight allowed on the Interstate System. Like the Illinois Transportation Research Center report, the CCMTA report provided a number of recommendations for the securement of metal coils. Similarly, none of these recommendations questioned the then-existing securement requirements for groups of coils with eyes crosswise, or addressed specific changes necessary to improve the securement of groups of coils with eyes crosswise.

Advocates stated that “Granting the exemption would * * * essentially reject the recommendations produced by the deliberations of leading cargo securement experts from the U.S. and Canada conducted over several years that supported strengthening securement requirements in numerous respects.” Representatives of both FMCSA and CCMTA who served on the North American Cargo Securement Harmonization Committee, including the Chairman for the subcommittee on metal coil securement, have been contacted regarding this issue. Each of these representatives has confirmed that the lack of specific securement methods for rows of coils grouped together with eyes crosswise appears to have been an inadvertent omission when the Model Regulation was developed. Subsequently, given that no such requirements exist in the Model Regulation, no requirements for this loading pattern were included in the 2002 revisions to the FMCSRs. This omission has been brought to the attention of the North American Cargo Securement Harmonization Public Forum for consideration.

FMCSA acknowledges that FCSG did not present specific studies or data concerning the safety impact of granting this exemption. However, for the reasons discussed above, the Agency believes that granting the temporary exemption to allow securement of rows of metal coils loaded to contact each other in the longitudinal direction, with relative motion between coils and between coils and the vehicle prevented by tiedown assemblies and timbers, provides a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption.
FMCSA has decided to grant FCSG’s exemption application. FMCSA encourages any party having information that motor carriers utilizing this exemption are not achieving the requisite level of safety immediately to notify the Agency. If safety is being compromised, or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b) and 31136(e), FMCSA will take immediate steps to revoke this exemption.

Terms and Conditions for the Exemption

Based on its evaluation of the application for an exemption, FMCSA has decided to grant FCSG’s exemption application. The Agency believes that the level of safety that will be achieved using the pre-2004 cargo securement regulations to secure of rows of metal coils with eyes crosswise during the 2-year exemption period will likely be equivalent to, or greater than, the level of safety achieved without the exemption.

The Agency hereby grants the exemption for a two-year period, beginning April 12, 2011, and ending April 12, 2013.

During the temporary exemption period, motor carriers must meet the following requirements while still meeting the aggregate working load limit requirements of 49 CFR 393.106(d).

**Coils with eyes crosswise:** If coils are loaded to contact each other in the longitudinal direction, and relative motion between coils, and between coils and the vehicle, is prevented by tiedown assemblies and timbers:

1. Only the foremost and rearmost coils must be secured with timbers having a nominal cross section of 4 x 4 inches or more and a length which is at least 75 percent of the width of the coil or row of coils, tightly placed against both the front and rear sides of the row of coils and restrained to prevent movement of the coils in the forward and rearward directions; and

2. The first and last coils in a row of coils must be secured with a tiedown assembly restricting against forward and rearward motion, respectively. Each additional coil in the row of coils must be secured to the trailer using a tiedown assembly.

Interested parties possessing information that would demonstrate that motor carriers using the cargo securement exemption for rows of metal coils with eyes crosswise are not achieving the requisite statutory level of safety should provide that information to the Agency, which will place it in Docket No. FMCSA–2010–0177. We will evaluate against such information, and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b)(4) and 31136(e), will take immediate steps to revoke this exemption.

**Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption to allow the securement of metal coils loaded with eyes crosswise, grouped in rows, in which the coils are loaded to contact each other in the longitudinal direction with respect to a person operating under the exemption.

Issued on: April 5, 2011.

Anne S. Ferro,

Administrator.

[FR Doc. 2011–8563 Filed 4–13–11; 8:45 am]

BILLING CODE 4910–EX–P

**DEPARTMENT OF COMMERCE**

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 070821475–91169–02]

RIN 0648–AV15

Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), establish regulations under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) to prohibit vessels from approaching killer whales within 200 yards (182.9 m) and from parking in the path of whales when in inland waters of Washington State.

Certain vessels are exempt from the prohibitions. The purpose of this final rule is to protect killer whales from interference and noise associated with vessels. We identified disturbance and sound associated with vessels as a potential contributing factor in the recent decline of this population during the development of the final rule announcing the endangered listing of Southern Resident killer whales and the associated Recovery Plan for Southern Resident killer whales (Recovery Plan). The Recovery Plan calls for evaluating current guidelines and assessing the need for regulations and/or protected areas. To implement the actions in the Recovery Plan, we developed this final rule after considering comments submitted in response to an Advance Notice of Proposed Rulemaking (ANPR) and proposed rule, and preparing an environmental assessment (EA). This final rule does not include a seasonal no-go zone for vessels along the west side of San Juan Island that was in the proposed rule. We will continue to collect information on a no-go zone for consideration in a future rulemaking.

**DATES:** This final rule is effective May 16, 2011.

**ADDRESSES:** Copies of this rule and the Environmental Assessment, Regulatory Impact Review and Finding of No Significant Impact related to this rule can be obtained from the Web site http://www.nwrr.noaa.gov. Written requests for copies of these documents should be addressed to Assistant Regional Administrator, Protected Resources Division, Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, WA 98115.

**FOR FURTHER INFORMATION CONTACT:** Lynne Barre, Northwest Regional Office, 206–526–4745; or Trevor Spradlin, Office of Protected Resources, 301–713–2322.

**SUPPLEMENTARY INFORMATION:**

Background

Viewing wild marine mammals is a popular recreational activity for both tourists and local residents. In Washington, killer whales (Orcinus Orca) are the principal target species for the commercial whale watch industry (Hoyt 2001, O’Connor et al. 2009). Since monitoring of this population segment has begun, the number of whales peaked at 97 animals in the 1990s, and then declined to 79 in 2001. At the end of 2010 there were 86 whales. NMFS listed the Southern Resident killer whale distinct population segment (DPS) as endangered under the ESA on November 18, 2005 (70 FR 69903). In the final rule announcing the listing, NMFS identified vessel effects, including direct interference and sound, as a potential contributing factor in the recent decline of this population. Based on monitoring data regarding the large number of vessels in close proximity to the whales (i.e., within 1/2 mile), research results regarding behavioral and acoustic impacts caused by vessels, and the risk of vessel strikes, NMFS is concerned that some whale watching activities may harm individual killer whales, potentially reducing their fitness and increasing the population’s risk of extinction.

**FOR FURTHER INFORMATION CONTACT:**

Lynne Barre, Northwest Regional Office, 206–526–4745; or Trevor Spradlin, Office of Protected Resources, 301–713–2322.