

**§ 502.703 Applicant or licensee response.**

Upon receiving the materials described in § 502.702(b), the administrative law judge will issue a notice advising the applicant or licensee of the right to respond in support of an OTI application or continuation of a current OTI license. The response must be:

(a) Filed with the administrative law judge within 30 days of the administrative law judge's notice; and

(b) Include any supporting information or documents, such as affidavits of fact, memoranda, or written argument. [Rule 703.]

**§ 502.704 Reply.**

The Bureau of Enforcement may, within twenty (20) days of service of the response filed by the applicant or licensee, file with the administrative law judge and serve upon the applicant or licensee a reply memorandum accompanied by appropriate affidavits and supporting documents.

**§ 502.705 Additional information.**

The administrative law judge may require the submission of additional affidavits, documents, or memoranda from the Bureau of Enforcement or the licensee or applicant. [Rule 705.]

**§ 502.706 Request for an oral hearing or argument.**

(a) In the usual course of disposition of matters filed under this subpart, no oral hearing or argument will be held, but the administrative law judge, in their discretion, may order such hearing.

(b) A request for oral hearing or argument may be incorporated in the applicant or licensee's response or in the Bureau of Enforcement's reply to the response. Requests for oral hearing or argument will not be entertained unless they set forth in detail the reasons why the filing of affidavits or other documents will not permit the fair and expeditious disposition of the claim, and the precise nature of the facts sought to be proved or issues to be addressed at an oral hearing or argument.

(c) The administrative law judge will rule upon a request for oral hearing or argument within ten (10) days of its receipt.

(d) In the event oral hearing or argument is ordered, it will be held in accordance with the rules applicable to other formal proceedings, as set forth in subparts A through Q of this part. [Rule 706.]

**§ 502.707 Intervention.**

Intervention will ordinarily not be permitted. [Rule 707.]

**§ 502.708 Decision.**

(a) Except as described in paragraph (b) of this section, the administrative law judge will issue a decision within forty (40) days after the submission of the Bureau of Enforcement's reply.

(b) If oral hearing or argument is conducted or additional information is required, then the decision will be issued within forty (40) days after the oral proceeding or the deadline for submission of additional information, whichever is later.

(c) The decision of the administrative law judge will be final, unless, within twenty-two (22) days from the date of service of the decision, either party files exceptions under § 502.227(a)(1) or the Commission makes a determination to review under § 502.227(a)(3) and (d). [Rule 708.]

**§ 502.709 Applicability of other rules to this subpart.**

(a) Except as otherwise specifically provided in this subpart or in paragraph (b) of this section, the sections in subparts A through Q, inclusive, of this part do not apply to proceedings covered by this subpart.

(b) The following sections in subparts A through Q apply to proceedings covered by this subpart: §§ 502.1–502.11, 502.13 (Filing requirements, Document requirements, and General rules); 502.21–502.23 (Appearance, Authority for representation, Notice of appearance, Substitution, and Withdrawal of representative); 502.42 (Bureau of Enforcement); 502.43 (Substitution of parties); 502.101–502.105 (Computation of time); 502.114, 502.116–502.117 (Service of documents); 502.223–502.230 (Decisions). [Rule 709.]

**PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES**

■ 4. The authority citation for part 515 continues to read as follows:

**Authority:** 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. 305, 40102, 40104, 40501–40503, 40901–40904, 41101–41109, 41301–41302, 41305–41307; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

■ 5. Revise § 515.17 to read as follows:

**§ 515.17 Hearing Procedures governing denial, revocation, or suspension of OTI License.**

All hearing requests under §§ 515.15 and 515.16 shall be submitted to the Commission's Secretary. The hearing will be adjudicated under the procedures set forth in subpart X of part 502 of this chapter.

By the Commission.

**Rachel Dickon,**  
*Secretary.*

[FR Doc. 2019–18742 Filed 8–30–19; 8:45 am]

**BILLING CODE 6731-AA-P**

**DEPARTMENT OF TRANSPORTATION  
[4910-EX-P]****Federal Motor Carrier Safety  
Administration****49 CFR Parts 383 and 384**

[Docket No. FMCSA–2013–0353]

RIN [2126-AA70 Revise]

**Article 19–A of the State of New York's  
Vehicle and Traffic Law**

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

**ACTION:** Notice of petition for determination of preemption; reopening of the comment period.

**SUMMARY:** On September 12, 2013, FMCSA published a request for comments on petitions submitted by Motor Coach Canada (MCC) and the American Bus Association (ABA) seeking a determination that Article 19–A of the State of New York's Vehicle and Traffic Law governing drivers of passenger-carrying interstate motor vehicles is preempted by Federal Law. The comment period closed on November 12, 2013. The Agency received 6 comments. In view of the passage of time since the initial request for comments, and because ABA recently requested that the docket be reopened for additional comments, FMCSA is reopening the comment period for 30 days to ensure that all interested parties have an opportunity to comment or provide new information.

**DATES:** Comments must be received on or before October 3, 2019.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2013–0353 using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- Fax: (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the

**SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles Medalen, Regulatory and Legislative Affairs Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 0001; by email at [charles.medalen@dot.gov](mailto:charles.medalen@dot.gov), or by telephone at 202-366-1354. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation and Request for Comments**

*A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA-2013-0353), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA-2013-0353, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

*B. Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble

as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2013-0353, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

*C. Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking and other processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

**II. Background**

On September 12, 2013, FMCSA published notice of a petition for determination of preemption, under 49 U.S.C. 31141, of Article 19-A of the State of New York’s Vehicle and Traffic Law and its implementing regulations (15 CRR-NY Ch.6) [78 FR 56267]. Article 19-A and the implementing regulations establish a wide range of requirements applicable to both interstate and intrastate passenger carriers operating in New York. Under this regulatory scheme, all interstate passenger carriers must file an annual compliance affidavit certifying that their drivers are not disqualified under State law and reporting the number of days and vehicle miles of bus service provided in New York during the previous year. An interstate carrier is generally exempt from the rest of Article 19-A, which includes requirements related to employment, driver medical qualifications, reporting, recordkeeping and other matters affecting both drivers and carriers, unless it operates certain types of school buses or operates in New York for more than 100 days or more than 10,000 vehicle miles annually. However, interstate carriers that exceed the 10,000-mile thresholds can apply for a waiver for bus drivers who operate less than 30 days per year in New York. Otherwise, an interstate passenger carrier operating in New York is required to comply with Article 19-A. The New York Department of Motor Vehicles (NY DMV) makes information about compliance with Article 19-A

available through the following web link: <http://www.dmv.ny.gov/art19.htm>.

Section 31141 of title 49, United States Code, prohibits States from enforcing a law or regulation on commercial motor vehicle safety that the Secretary of Transportation (Secretary) has determined to be preempted. To determine whether a State law or regulation is preempted, the Secretary must decide whether that law or regulation (1) has the same effect as a regulation prescribed under 49 U.S.C. 31136, which is the authority for much of the Federal Motor Carrier Safety Regulations; (2) is less stringent than such a regulation; or (3) is additional to or more stringent than such a regulation [49 U.S.C. 31141(c)(1)]. If the Secretary determines that a State law or regulation has the same effect as a regulation based on § 31136, it may be enforced [49 U.S.C. 31141(c)(2)]. A State law or regulation that is less stringent may not be enforced [49 U.S.C. 31141(c)(3)]. And a State law or regulation the Secretary determines to be additional to or more stringent than a regulation based on § 31136 may be enforced unless the Secretary decides that the State law or regulation (1) has no safety benefit; (2) is incompatible with the regulations prescribed by the Secretary; or (3) would cause an unreasonable burden on interstate commerce [49 U.S.C. 31141(c)(4)]. To determine whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the cumulative effect that the State’s law or regulation and all similar laws and regulations of other States will have on interstate commerce [49 U.S.C. 31141(c)(5)]. The Secretary’s authority under § 31141 has been delegated to the FMCSA Administrator by 49 CFR 1.87(f).

**Comments Requested**

On July 2, 2019, ABA asked the Administrator to re-open the docket “for any additional public comments on matters that might have arisen since the September 12, 2013 notice and to issue a final determination of preemption as soon as practicable.” The ABA letter is available in the docket for this proceeding. In view of this request and the time that has passed since the publication of the 2013 notice, FMCSA is re-opening the comment period to allow the public another opportunity to review the MCC and ABA applications for a determination of preemption, which are in the docket listed above, and to offer comments. Although preemption is a legal determination reserved to the judgment of the Agency, FMCSA welcomes comment on any

issues raised by MCC and ABA, or that otherwise may be relevant to this proceeding.

Issued on: August 26, 2019.

**Raymond P. Martinez,**  
Administrator.

[FR Doc. 2019-18949 Filed 8-30-19; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 395

[Docket No. FMCSA-2018-0248]

RIN 2126-AC19

#### Hours of Service of Drivers

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

**ACTION:** Notice of public listening session.

**SUMMARY:** The FMCSA announces that it will hold a public listening session concerning potential changes to its hours-of-service rules for truck drivers. On August 22, 2019, FMCSA published a Notice of Proposed Rulemaking (NPRM) seeking comment on proposed changes to its hours-of-service (HOS) requirements to provide greater flexibility for drivers who are subject to the HOS rules without adversely affecting safety. The listening session will allow interested persons to present comments, views, and relevant research on topics mentioned above. All comments will be transcribed and placed in the rulemaking docket for the FMCSA's consideration. The session will be webcast to allow interested parties to participate remotely.

**DATES:** The listening session will be held on September 17, 2019. The listening session will begin at 1:00 p.m. local time and end at 3 p.m., or earlier, if all participants wishing to express their views have done so.

**ADDRESSES:** The listening session will be held at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

You may submit comments identified by Docket Number FMCSA-2018-0248 using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* 202-493-2251.

• *Submissions Containing Confidential Business Information (CBI):* Mr. Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the

**SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

**FOR FURTHER INFORMATION CONTACT:** For special accommodations for any of these HOS listening sessions, such as sign language interpretation, contact Shannon L. Watson, Senior Policy Advisor, (202) 385-2395 or at [FMCSAregs@dot.gov](mailto:FMCSAregs@dot.gov) to allow us to arrange for such services. For information concerning the hours-of-service rules, contact Ms. La Tonya Mimms, Chief, Driver and Carrier Operations Division, (202) 366-4325, [mcpsd@dot.gov](mailto:mcpsd@dot.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Public Participation and Request for Comments**

###### *A. Submitting Comments*

If you submit a comment, please include the docket number for this NPRM (Docket No. FMCSA-2018-0248), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA-2018-0248, in the keyword box, and click "Search." When the new screen appears, click on the "Comment Now!" button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period for the ANPRM. Late comments will be considered to the extent practicable.

#### Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your submission contains commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the listening session, it is important that you clearly designate the submitted comments as CBI. Please mark any page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM and associated listening sessions. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590. Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period for the NPRM.

###### *B. Viewing Comments and Documents*

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2018-0248, in the keyword box, and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.