

SUPPLEMENTARY INFORMATION: On September 7, 2011, FHWA published a “Notice of Final Federal Agency Actions on Proposed Highway in Washington” in the **Federal Register** at 76 FR 55459 for the SR 520, I-5 to Medina: Bridge Replacement and HOV Project. Notice is hereby given that, subsequent to the earlier FHWA notice, FHWA has taken final agency actions within the meaning of 23 U.S.C. 139(l)(1) by issuing a NEPA re-evaluation for the SR 520 SR 520, I-5 to Medina: Bridge Replacement and HOV Project: I-5 Design Refinements (hereafter “re-evaluation”). The action(s) by FHWA and the laws under which such actions were taken, are described in the re-evaluation and the associated agency records. That information is available by contacting FHWA at the addresses provided above.

The project proposed to improve safety and mobility for people and goods across Lake Washington by replacing the SR 520 Portage Bay and Evergreen Point bridges and improve existing roadway between Interstate 5 (I-5) in Seattle and Evergreen Point Road in Medina spanning 5.2 miles. The Final Environmental Impact Statement (EIS) for the project was published in January 2011 and the Record of Decision (ROD) was issued in August 2011.

Since issuance of the FHWA ROD, the design and construction approach has been refined such that a reversible north-south transit and high occupancy vehicle lane connecting Mercer Street and SR 520 along the I-5 express lanes would be constructed; and additional design changes would be implemented, including stormwater treatment improvement, revisions to the heights of proposed retaining walls, and replacement of fiber optic cable within the I-5 right-of-way. The re-evaluation considering these refinements was prepared in October 2019. It identifies and documents potential effects associated with the refinement. This notice only applies to the re-evaluation.

Information about the re-evaluation and associated records are available from FHWA and WSDOT at the addresses provided above and can be found at: <https://www.wsdot.wa.gov/Projects/SR520Bridge/Library/I5Medina.htm>. This notice applies to all Federal agency decisions related to the re-evaluation as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4347]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, as amended [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 6(f) of the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 4601]; Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. *Wildlife:* Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(g)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801 *et seq.*].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (25 U.S.C. 3001–3013).

6. *Wetlands and Water Resources:* Clean Water Act, (Section 319 [33 U.S.C. 329]); Safe Drinking Water Act [42 U.S.C. 300(f)–300(j)(6)].

7. *Navigation:* Rivers and Harbors Act of 1899 [33 U.S.C. 403]; General Bridge Act of 1946 [33 U.S.C. 9 and 11].

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

Authority: 23 U.S.C. 139(l)(1), as amended by Moving Ahead for Progress in the 21st Century Act, (Pub. L. 112–141, 126 Stat. 405).

Issued on: November 4, 2019.

Daniel M. Mathis,

FHWA Division Administrator, Olympia, WA.

[FR Doc. 2019–24571 Filed 11–8–19; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0246]

Hours of Service of Drivers: HEPACO, LLC; Heritage Environmental Services, LLC; Lewis Environmental, Inc.; and Moran Environmental Recovery, LLC; Application for Exemption

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to deny the joint application from HEPACO, LLC; Heritage Environmental Services, LLC; Lewis Environmental, Inc.; and Moran Environmental Recovery, LLC, for exemption from the hours-of-service (HOS) regulations for drivers engaged in providing direct assistance in actual and potential environmental emergencies. FMCSA analyzed the exemption application and the public comments received in response to the Agency’s August 9, 2018, notice announcing receipt of the request. The Agency has concluded there is no basis for determining that the terms and conditions of an exemption would achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: This decision is effective November 12, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Telephone: (202) 366–2722; email: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, FMCSA–2018–0246 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must specify the effective period (up to 5 years) and explain its terms and conditions. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

The following companies applied for this exemption: HEPACO, LLC; Heritage Environmental Services, LLC; Lewis Environmental, Inc. and Moran Environmental Recovery, LLC. They all are members of the Spill Control Association of America (SCAA), which filed the exemption application on their behalf. Together, the four companies have 758 commercial driver's license holders and 840 commercial motor vehicles (CMVs). In responding to emergency incidents, these companies work alongside a mix of both private industry and public agencies. Often, their work often has a direct impact on protecting both public safety and the environment. They are required contractually to provide direct assistance to responsible parties who are experiencing actual or potential environmental emergencies, defined as a sudden threat to the public health or the well-being of the environment, arising from the release of oil, radioactive materials, or hazardous chemicals into the air, land or water. Their employees are hybrid driver/operator/technicians, whose work challenges the limits on total on-duty time, especially after hours. In addition, the applicant references the current driver shortage and argues that obtaining drivers with the necessary additional skills and experience is problematic.

The applicants requested relief from 49 CFR 395.3(a)(2), commonly known as the "14-hour rule." The applicants state that the HOS limitations have always been an issue for emergency response companies. They request this exemption to allow these four companies to respond to a release or threat of a release of oil and other hazardous materials, subject to the following conditions for each driver:

- The on-duty period may not exceed 4.5 additional hours for a total of 18.5 hours of non-consecutive on-duty time before the required reset;
- Driving time for drivers who exceed the 14-hour period may not exceed 8 hours;
- Driving is not permitted after 70 hours on duty in 8 days;
- Drivers must take 10 hours off duty following the duty day; and
- All drivers must comply with the electronic logging device rule.

According to the applicants, the initial response hours are the most critical in an environmental emergency and the ability to quickly respond is vital. These companies' drivers typically drive 1–2 hours each way to and from the incident. In no case, would these companies' drivers exceed 8 hours of drive time per incident. SCAA states that if the exemption is not granted, there could be a disruption of national/regional commerce, including delays in power restoration and protection of interstate commerce and infrastructure.

The applicants believe that the proposed relief, and the parameters in which their drivers operate, would continue to provide the highest level of safety and compliance, while prudently responding to incidents that threaten public safety and the environment. A copy of the application for exemption is available for review in the docket for this notice.

IV. Public Comments

On August 9, 2018, FMCSA published notice of this application and requested public comment (83 FR 39498). The Agency received six comments—two from spill response contractors and four from individuals. Three individuals and both spill response contractors support the proposed exemption.

One commenter opposed the application, stating "[p]lease do not allow this exemption. This is a wonderful opportunity to hire more employees, should they need to work more than 14 hours in a day. This has been in effect for many years, and for safety no driver should be allowed to work more than 14 hours."

V. FMCSA Decision

FMCSA has evaluated SCAA's application and the public comments submitted and hereby denies the exemption. When the Agency established the rules mandating HOS, it relied upon research indicating that the rules improve CMV safety. These regulations put limits in place for when and how long an individual may drive to ensure that drivers stay awake and

alert while driving and to reduce the possibility of driver fatigue.

Based on the body of research underlying the HOS requirements, there is no basis for granting an exemption that would allow an individual to drive after the 18th hour of coming on duty. Although SCAA explained that drivers would not exceed 8 hours of driving time during a work shift, the Agency does not believe there is a basis for concluding that the 8-hour limit on driving time offsets the potential increase in safety risks associated with an 18.5 hour driving window.

Except for the limit on driving time, the applicants would comply with all the other applicable HOS requirements, including using electronic logging devices and requiring drivers to take 10 consecutive hours off-duty at the end of the work shift. The applicants are essentially requesting that the 14-hour rule be extended by 4.5 hours in exchange for a 3-hour reduction in the driving time limit. The Agency does not find this safety tradeoff to be persuasive.

The SCAA application does not analyze the safety impacts the exemption may cause nor does it provide countermeasures to ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations. Furthermore, the applicant did not clearly define the conditions that would trigger the exemption.

Issued on: November 5, 2019.

Jim Mullen,

Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0066]

Petition for Waiver of Compliance and Notice of Public Hearing

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a letter dated April 23, 2019, the National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) for an exemption from certain requirements of chapter 203, title 49 of the United States Code (U.S.C.). FRA assigned the petition Docket Number FRA–2019–0066.

Amtrak's request for relief relates to its planned operation of new high-speed trainsets built to Tier III passenger equipment safety standards (49 CFR part