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FPMSA-OS-224660-3

PATRICK R. DONAHUE
CHIEF OPERATIONS OFFICER
AND ELECTRICITY MANAGEMENT



August 11, 2004

Ms. Annette M. Sandberg
Administrator
Federal Motor Carrier Safety Administration
United States Department of Transportation
400 7th Street, SW, Room 8202
Washington, DC 20590-0001

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UNITED STATES DEPARTMENT OF TRANSPORTATION
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Dear Ms. Sandberg:

We understand that the District of Columbia Circuit Court of Appeals has vacated the new hours of service regulations and remanded the matter back to the Federal Motor Carrier Safety Administration. Nonetheless, in accordance with 49 CFR 381.210, the United States Postal Service (USPS) is requesting an exemption to the new hours of service regulations (49 CFR 395). We are requesting this exemption to apply to what we will characterize as "short haul" contracted carriers. Note that the regulations provide the USPS an exemption applicable to drivers employed by the federal government. We are also seeking the exemption for contracted carriers and drivers. While it is not practical for us to provide the names, addresses, and United States Department of Transportation (DOT) identification numbers of all the operators covered under the request, we will provide you information showing that the exemption is necessary, prudent, and will provide appropriate coverage consistent with the underlying safety goals of the regulations.

As we mentioned in our correspondence dated December 17, 2003, the USPS has over 17,000 highway transportation contracts for the movement of mail between postal facilities and, in some instances, providing in-home mailbox delivery services to rural America. Our request applies to a small segment of those 17,000 contracts. Our data suggests that we will require the exemption for a maximum of 5,096 contracts. We arrive at this number by first eliminating the 7,214 "box delivery" contracts we have, which would not require the exemption due to the nature of their vehicles and hours. Further, we are not seeking the exemption for our "long haul" contracts, which eliminates another 3,097 contracts. Another 1,617 contracts use equipment that is beneath the Federal Motor Carrier Safety Administration threshold of 10,000 pounds GVW. The bottom line is that the USPS is only seeking an exemption for an estimated 30 percent of our 17,000 contracted routes.

It is also important to note that a sampling of the routes for which we are seeking the exemption shows that the average round trip mileage per trip is only 61 miles (30.4 miles one-way). Even based on conservative driving speeds, this represents less than two hours of driving.

The contracts under which our suppliers work do not require or encourage unsafe operating practices. Our suppliers are provided with schedules to which they are contractually bound. They are not rewarded for arriving and departing early, as opposed to other businesses that may reward and encourage service that exceeds or improves upon the established standard. They are required to arrive and depart on time, but not earlier or later. Any failure to adhere to the schedules in the contract will result in either on-time performance failures or unwanted congestion in USPS trailer yards. The USPS does not control these suppliers and their drivers other than they must adhere to a schedule and comply with basic DOT regulations.

Virtually all of our contracts are awarded and paid based on annual rates. These annual rate contracts contain no financial incentive to cover mileage more quickly than is established in the schedule. Rate-per-mile appears only nominally on the contracts and drivers are not paid at this rate (we actually back in to this rate based on the annual rate divided by the annual miles). The USPS uses a driver screening process administered by the U.S. Postal Inspection Service that supports safe operation of routes, both from the micro and macro levels. We have found that our method of screening is more stringent than those of many private sector companies ensuring that very safe drivers operate our highway contract routes. Additionally, at a higher level, the USPS mandates that no contractors have an "Unsatisfactory" DOT rating.

We have noted that motorcoach vehicles (those carrying passengers) remain subject to the old regulations. Our understanding is that this is due to the "split shift" nature of the work that motorcoach drivers perform, with the assumption being that the driver is not responsible for the motorcoach (and, therefore, not considered on duty) during the period which the passengers are engaged in their touring activity. The USPS believes that the drivers for whom we are seeking this exemption fit the same mold as these motorcoach drivers. The USPS-contracted drivers enjoy the same amount of freedom as do the motorcoach drivers, as our schedules do not include time periods where drivers must wait for lengthy periods of time to be unloaded. This is, by nature, "split shift" work that was previously discussed under the old regulations, and we feel that the previous consideration is still valid and should be afforded to the USPS.

Under the old regulations, drivers who worked split shifts were able to take advantage of the 100-air-mile radius exemption if they returned to work-reporting location, they operated within a 100-air-mile radius of their work-reporting location, spent less than 12 hours, in the aggregate, on duty each day, are off duty for more than 8 consecutive hours before reporting for their first shift of the day, and did not exceed a total of 10 hours driving time. These are the routes for which we are seeking an exemption under the new rules.

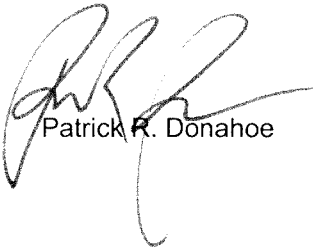
Per 49 CFR 381.210(c)(4), we believe that this exemption would succeed in achieving a level of safety that is "equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation." By allowing a driver the extra hour provided under the old regulations, drivers can enjoy the benefits of "sleeping in his or her own bed," the benefits of which exceed the minimal incremental benefit in changes to driving and on-duty time between the old and new regulations. Conversely, the change will, in nearly all cases, require an additional driver to run the same route and in many/most cases, require an additional vehicle (and fuel) to run the same route. The changes will require drivers (the original driver and the extra driver) to have overnight stays in places other than their own beds.

Again, we believe that the downside of more drivers and trucks on the roads outweighs the improvement assumed due to the minimal incremental difference in driving and on-duty time between the old and new regulations. We are zeroing in on those routes which are short haul and directly affected by the change from the 15-hour cumulative clock to the 14-hour consecutive on-duty clock.

The USPS has little or no room for compression of scheduled operations. We are already operating on schedules dependent upon departure and arrival of trips and the fact that they are built around processing operations. The incremental costs incurred by the additional drivers and equipment cannot be recouped by simply adjusting (compressing) our operation. As stated previously, the contract schedules have been carefully developed with operational efficiency and driver safety in mind. Additionally, the National Star Route Mail Contractors' Association has provided the USPS with data published by the Highway Safety Council which demonstrates the exemplary record of the USPS highway contracting industry.

In conclusion, we want to be clear that we are aware and want to stress the fact that the mail and the sanctity of it are of extraordinary importance to the public. The USPS has gone to great lengths to ensure that our contractors' schedules are designed to not only fulfill the logistical challenges facing the USPS every day, but also that they operate safely.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick R. Donahoe', with a large, sweeping flourish extending to the right.

Patrick R. Donahoe