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FMCSA-1998-3706-55

FMCSA Categorical Exclusion Determination (CED)

"PUBLIC NOTICE - ALL INTERESTED PARTIES"

FMCSA CATEGORICAL EXCLUSION DETERMINATION FOR Hours of Service Supporting Documents

This regulation clarifies motor carrier's responsibilities to ensure that their drivers are in compliance with current hours of service (HOS) regulations. Carriers will be required to verify the accuracy of drivers' record's of duty status (RODS, or logbooks), including independent drivers or owner-operators while driving for the motor carrier. Carriers will also be required to ensure that each driver collects and submits to the employing motor carrier all supporting documents with the RODS. Motor carriers must also be familiar with the requirement to maintain supporting documents in a method that allows cross reference to the RODS. Finally, the regulation also proposes a supporting document based self-monitoring system that will be the carrier's primary method for ensuring compliance with the HOS regulations.

The FMCSA proposes to permit the use of electronic documents as a supplement to, and in certain circumstances, in lieu of paper supporting documents. This purpose of this rule is to provide clearer and more detailed definitions of "supporting documents", "employee", "driver", and a requirement for each motor carrier to use a self-monitoring system to verify the accuracy of drivers HOS and RODS.

This action is not expected to result in any significant adverse environmental impacts as described in the National Environmental Policy Act of 1969 (NEPA). The proposed action has been thoroughly reviewed by the FMCSA, and the undersigned have determined this action to be categorically excluded from further environmental documentation, in accordance with FMCSA's NEPA Implementing Procedures and Policy for Considering Environmental Impacts (FMCSA Order 5610.1), since implementation of this action will not result in any of the following:

- 1. Significant cumulative impacts on the human environment.
2. Substantial controversy or substantial change to an existing environmental condition.
3. Impacts that are more than minimal on properties protected under 4(f) of the DOT Act as superseded by Public Law 97-449, and Section 106 of the National Historic Preservation Act.
4. Inconsistencies with any Federal, State, tribal, or local laws or administrative determinations relating to the environment.

10/5/04
Date

[Signature]
\*Preparer/Environmental Project Manager (as applicable)

[Signature]
Regulatory Eval team
Title/Position

10/7/04
Date

[Signature]
Environmental Reviewer

Chief Director
MC-PR
Title/Position

In reaching my decision/recommendation on the FMCSA's proposed action, I have considered the information contained in this CED (and in any attached environmental checklists or other supplemental environmental analyses) on the potential for environmental impacts.

10/7/2004
Date

[Signature]
Responsible Official

Associate Administrator for Policy and Program Development (MC-P)

\* The FMCSA preparer signs for NEPA documents prepared in-house. The FMCSA environmental project manager signs NEPA documents prepared by an applicant, a contractor, or another outside party.

## **FMCSA Environmental Checklist**

**Action Name:**

Hours of Service Supporting Documents SNPRM, RIN 2126-AA76

**Action Location:**

Nationwide

**Action Description:**

This rulemaking clarifies several existing hours of service document requirements for drivers and motor carriers. It would clarify a number of definitions, specify how long supporting documents must be maintained, and require carriers to monitor their drivers' compliance with these regulations.

**Action Category:**

Regulation implementing prohibitions on motor carriers, drivers, or their agents from making fraudulent or intentionally false statements on any record required by the FMCSA.

## **ENVIRONMENTAL CHECKLIST**

**Project Description:**

This regulation clarifies motor carrier's responsibilities to ensure that their drivers are in compliance with current hours of service (HOS) regulations. Carriers would be required to verify the accuracy of drivers' hours of service and records of duty status (RODS, or logbooks), including independent drivers or owner-operators while driving for the motor carrier. Carriers would also be required to ensure that each driver collects and submits to the employing motor carrier all supporting documents with the RODS. Motor carriers also would be required to know of the requirement to maintain supporting documents in a method that allows cross reference to the RODS. Finally, the regulation proposes a supporting document based self-monitoring system that would be the carrier's primary method for ensuring compliance with the HOS regulations.

The FMCSA proposes to permit the use of electronic documents as a supplement to, and in certain circumstances, in lieu of paper supporting documents. The purpose of this rule is to provide clearer and more detailed definitions of "supporting documents", "employee", "driver", and a requirement for each motor carrier to use a self-monitoring system to verify accuracy of HOS and RODS.

**Activity Year:**

2004-2013, Long-Term

<b>Part I. Checklist Analysis.</b>		<b><u>YES</u></b>	<b><u>NO</u></b>	<b><u>NEED DATA</u></b>
1.	Is there greater size or scope than generally experienced for a particular category of action?		X	
2.	Is the proposed action located near a site that involves a unique characteristic of the geographic area, such as a historic or cultural resource, park land, wetland, wild and scenic river, ecologically critical area, or property requiring special consideration under 49 U.S.C. 303(c)?		X	
3.	Is there a likelihood that the proposed action would be highly controversial on environmental grounds?		X	
4.	Is there a potential for effects on the human environment that are highly uncertain or involve unique or unknown risks?		X	
5.	Will the action cause effects on the human or natural environment that may be precedent setting?		X	
6.	Are the action's impacts likely to create cumulatively significant impacts when considered along with other past, present, and reasonably foreseeable future actions?		X	
7.	Is the proposed action likely to have an impact on a district, site, highway, structure, or object that is listed on or eligible for listing on the National Register of Historic Places, or to cause the loss or destruction of a significant scientific, cultural, or historic resource?		X	
8.	Will the proposed action have a significant effect on species or habitats protected by the Endangered Species Act or other statute?		X	
9.	Is there a likelihood that the proposed action would be inconsistent with or cause a violation of any Federal, State, local, or tribal law or requirement imposed for the protection of the environment?		X	
10.	Is the action likely to have an impact that may be both beneficial and adverse? A significant impact may exist even if it is believed that, on balance, the effect will be beneficial such as likelihood that air emissions exceed de minimis levels or otherwise that a formal Clean Air Act conformity		X	

determination is required?			
11. Are there reportable releases of hazardous or toxic substances as specified in 40 CFR part 302, Designation, Reportable Quantities, and Notification in the vicinity of the proposed action?		X	
12. Are there reportable releases of petroleum, oils, and lubricants, application of pesticides and herbicides, or where the proposed action results in the requirement to develop or amend a Spill Prevention, Control, or Countermeasures Plan?		X	
13. Does the proposed action have the potential to degrade already poor environmental conditions? Does the initiation of degrading influence activity, or affect areas not already significantly modified from their natural condition?		X	
14. Does the proposed action have the potential to impact minority and/or low-income populations?		X	
Other environmental considerations not included on checklist.		X	

**Part II. Comments or Additional Information Related to Part I:**

The following space is provided to discuss the "yes" responses to the above categories (identify by corresponding number), or to provide any supplemental information.

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**Part III. Conclusions.**

1. This proposed action is a CE and it requires no further environmental review [ X ]

**Comments:**

The FMCSA published our environmental procedures Order 5610.1 on March 1, 2004 (69 FR 9680). Appendix 2 of the order specifies our categorical exclusions (CE). Section 6 of Appendix 2, bullet y.7, states that the following category of actions, unless consideration of the factors in Section D.3.a. of Chapter 2 triggers the need to conduct further analysis, are categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement. These categories of

activities have been found by FMCSA to not have the potential to significantly affect the quality of the human environment, except when "extraordinary circumstances" are involved:

**Regulations [and Actions Covered by [FMCSA Order 5610.1] Taken Pursuant to those Regulations]** implementing...Prohibitions on motor carriers, agents, officers, representatives, and employees from making fraudulent or intentionally false statements on any application, certificate, report, or record, including interstate motor carrier noise emission applications, certificates, reports, or records required by the FMCSA.

In addition to clarifying some unclear language and definitions, this proposed regulation is intended to assure that carriers and drivers comply with the hours of service regulations. The regulation would assure HOS compliance by requiring drivers and motor carriers to maintain all supporting documents (such as fuel and toll receipts, bills of lading, etc.) that they collect during their work. These documents allow the Agency to monitor drivers and carrier compliance, and prevent them from making false statements on their record of duty status (RODS, commonly know as a logbook). Therefore, this rulemaking is subject to the CE described above.

We also evaluated this rulemaking against the environmental checklist, to see if there were any special circumstances that would require further environmental analysis. This action will not have any impact on the human environment. It clarifies the definition of a number of terms already in the regulations, and merely explains the record preservation times and procedures for documents which can be used to verify driver's compliance with the hours of service regulations. Because it has no impact on the environment, no further environmental analysis is necessary.

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2. This proposed action is a CE, but it is recommended for further review under one or more of the environmental authorities noted below (list). [ ]

Comments:

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3. An EA is recommended for this proposed action.

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Comments:

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4. An EIS is recommended for this proposed action.

Comments:

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5. A SEIS is recommended for this proposed action.

Comments:

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6. A FEIS is recommended for this proposed action.

Comments:

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<u>10/5/04</u>	<u><i>[Signature]</i></u>	<u>Jean Seider</u>
Date	Preparer/Environmental Project Manager	Title/Position

<u>10/7/04</u>	<u><i>[Signature]</i></u>	<u>DIRECTOR</u>
Date	Environmental Reviewer	MC-FR Title/Position