

Issued on: December 17, 2002.

**Stanley M. Graczyk,**

*Project Development Engineer, Federal Highway Administration, St. Paul, Minnesota.*  
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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2002-13295]

#### Oregon Department of Transportation Application for Exemptions for Farmers

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

**ACTION:** Notice of application for exemptions; request for comments.

**SUMMARY:** The FMCSA has received an application from the Oregon Department of Transportation (ODOT) for exemptions from all the Federal regulatory requirements concerning parts and accessories necessary for the safe operation of commercial motor vehicles (CMVs) and concerning the inspection, repair and maintenance of CMVs on behalf of motor carriers certified by and registered with ODOT as farmers. ODOT believes that enforcing its general rules of the road and vehicle safety regulations would ensure that the level of safety for the farmers is equivalent to or greater than the level of safety that would be achieved by complying with the Federal regulations. The exemptions, if granted, would preempt inconsistent local requirements in Oregon applicable to interstate commerce.

**DATES:** We must receive your comments on or before January 27, 2003.

**ADDRESSES:** You can mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL, 401-400 Seventh Street, SW., Washington, DC 20590-0001. You can also submit comments at <http://dmses.dot.gov>. Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry W. Minor, Office of Bus and Truck Standards and Operations, (202) 366-

4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sections 31315 and 31136 of title 49 of the United States Code (U.S.C.) provide the FMCSA with authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). An exemption provides relief from one or more FMCSRs given to a person or class of persons subject to the regulations. An exemption provides the person or class of persons with relief from the regulations for up to two years, and may be renewed. These sections also require the agency to consider whether the terms and conditions for the exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulations when evaluating applications for exemptions.

On December 8, 1998, FMCSA published an interim final rule implementing section 4007 of the Transportation Equity Act for the 21st Century (TEA-21)(codified at 49 U.S.C. 31315) (*See* 63 FR 67600). The regulations at 49 CFR part 381 establish the procedures to be followed to request waivers and to apply for exemptions from the FMCSRs, and the provisions used to process them.

The agency must publish a notice in the **Federal Register** for each exemption requested, explaining the request that has been filed; providing the public with an opportunity to inspect the safety analysis and any other relevant information known to the agency; and requesting public comment on the exemption (*See* 49 U.S.C. 31136(e)(1) and 49 CFR part 381.315).

Before granting a request for an exemption, the agency must publish a notice in the **Federal Register** identifying: (1) who will receive the exemption, (2) what regulation is covered by the exemption, (3) how long the exemption is in effect, and (4) all terms and conditions of the exemption. The terms and conditions established by the FMCSA must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation.

##### ODOT Application for an Exemption

ODOT applied for exemptions from all the requirements of 49 CFR Parts 393 and 396 on behalf of all motor carriers

certified and registered with ODOT as farmers. A copy of the application is included in the docket referenced in the heading to this notice. There are currently 14,000 motor carriers in this category operating in both interstate and intrastate commerce. The exemption would apply only when these carriers engage in transportation related to farm operations and the commercial motor vehicle (CMV) is registered with ODOT as a farm vehicle. The exemption would not apply when a carrier operates as a for-hire carrier.

ODOT asserts the exemption would have no effect on the enforcement of Oregon laws and regulations concerning rules of the road and vehicle equipment. The State believes that its motor vehicle safety regulations would provide adequate safety requirements for the interstate operation of farm vehicles.

ODOT indicated that it requests the exemption primarily because the State may lose Motor Carrier Safety Assistance Program (MCSAP) funding from the FMCSA for having laws and regulations, applicable to interstate operations, that are less stringent than the Federal requirements. ODOT asserts that based on discussions with legislators and public meetings with farm groups, it is unlikely that the Oregon legislature would revise current law.

ODOT stated that the exemption would be consistent with the long-standing practice of Oregon safety officials. Since 1978, Oregon statutes have included an exemption for farm vehicles that are less than 80,000 pounds. Interstate farmers have been treated the same as intrastate farmers with regard to safety regulations. The State does not believe this practice has had an adverse impact on safety based on its review of reportable crashes in Oregon.

The State defines a reportable crash as one in which there is a fatality, injury, or damage exceeding \$1,000. From 1995 through 2001, commercial farm trucks were involved in 89 reportable crashes, resulting in 7 fatalities. The total number of crashes for all commercial vehicles during the same time period was 11,767 including 459 fatalities. With regard to crash causation, the State indicated that during calendar year 2001, only 3 percent of all reportable crashes in Oregon were attributable, in whole or in part, to the mechanical condition of the commercial vehicle.

##### Number of Commercial Motor Vehicles That Would Be Exempted

While there are approximately 14,000 motor carriers certified and registered with ODOT as farmers, only about half

of these carriers have been issued farm license plates. ODOT's Driver and Motor Vehicle Services Division has issued approximately 37,000 farm license plates for trucks operating in Oregon. However, because of the seasonal nature of farm work, it is estimated that only 13,000 farm plates are valid at any given time. The difference between the number of farmers and the number of farm license plates arises because the plates are issued for seasons, and depending on what the farmers are growing they only operate CMVs during certain times of the year.

**Method to Ensure an Equivalent or Greater Level of Safety**

ODOT believes the level of safety for farmers operating under the exemption would be equivalent to the level of safety that would be provided by the Federal safety regulations because the State would continue to enforce its rules of the road and equipment regulations applicable to all motorists and motor vehicles. Farm vehicles are currently required to comply with State requirements related to parts and accessories, including brakes, lights, mudguards and fenders, emissions and exhaust, windows, horns, mirrors, etc. Furthermore, ODOT has the authority to inspect any vehicle to verify compliance. By publication of this notice the FMCSA hopes to receive data enabling the agency to determine whether to grant or deny this exemption.

**Potential Impacts If the Exemption is Not Granted**

ODOT believes that if the exemption is not granted, the State would no longer

be eligible for participation in MCSAP. For fiscal year 2003, it is estimated that Oregon will receive \$2,009,000 in basic grant funds and an additional \$437,481 in incentive funds.

**Request for Comments**

In accordance 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment from all interested parties on ODOT's application for an exemption from all the Safety requirements of Subchapter B to Chapter III, title 49 of the CFR. The agency may grant or deny the application based on the comments received, and any other relevant information that is available to the agency.

Issued on: December 20, 2002.

**Annette M. Sandberg,**  
*Deputy Administrator.*

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**DEPARTMENT OF TRANSPORTATION**

**Research and Special Programs Administration**

**Office of Hazardous Materials Safety; Notice of Applications for Exemptions**

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applicants for exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is

hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before January 27, 2003.

**ADDRESS COMMENTS TO:** Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications (*see* Docket Number) are available for inspection at the New Docket Management Facility, PL-401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590 or at <http://dms.dot.gov>.

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 19, 2002.

**R. Ryan Posten,**  
*Exemptions Program Officer, Office of Hazardous Materials, Exemptions and Approvals.*

**NEW EXEMPTIONS**

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of Exemption thereof
13162-N .....	RSPA-02-13799	Exact Sciences Corporation, Maynard, MA.	49 CFR 171-180 .....	To authorize the transportation in commerce of diagnostic specimens, Division 6.2, in quantities greater than presently authorized, to be transported as unregulated. (Modes 1, 2, 3, 4.)
13172-N .....	RSPA-02-14007	Raytheon Co., Tewksbury, MA.	49 CFR 173.302(a), 175.3 .....	To authorize the transportation in commerce of helium, Division 2.2, in fully wrapped carbon-fiber reinforced aluminum lined non-DOT cylinders with a maximum service pressure of 3240 psi and a water capacity of 260 liters. (Modes 1, 2, 3, 4, 5.)
13173-N .....	RSPA-02-14003	Dynetek Industries Ltd., Calgary Alberta, Canada.	49 CFR 173.302(a), 175.3 .....	To authorize the manufacture, mark, sale and use of DOT-CFFC specification fully wrapped carbon fiber reinforced aluminum lined cylinders mounted in protective enclosures for use in transporting Division 2.1 and 2.2 hazardous materials. (Modes 1, 2, 3, 4, 5.)
13174-N .....	RSPA-02-14017	Carleton Technologies Inc., Orchard Park, NY.	49 CFR 173.302(a), 175.3 .....	To authorize the manufacture, mark, sale and use of non-DOT specification fully wrapped composite fiber reinforced aluminum lined cylinders for use in transporting helium, Division 2.2. (Modes 1, 2, 4.)