

Specialized Carriers & Rigging Association



January 31, 2015

Acting Administrator T.F. Scott Darling, III
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

RE: Limited Exemption for Crane Operators from Department of Transportation, Federal Motor Carriers Safety Administration, Hours of Service for Drivers [49 C.F.R. § 395.3(a)]

Dear Administrator Darling:

On behalf of the members of the Specialized Carriers & Rigging Association (and, pursuant to 49 C.F.R. § 381.310, I request an exemption on behalf of crane operators from the hours-of-service requirement set forth at 49 C.F.R. § 395.2(a) (the "Exemption").

The Specialized Carriers & Rigging Association ("SC&RA") was founded in 1948 and is an international trade association of more than 1,300 members from 43 nations. The Association's members are involved in crane and rigging operations, machinery moving and erecting, specialized transportation, industrial maintenance, millwrighting, crane and rigging operations, manufacturing, and rental services. SC&RA represents both national and multinational companies operating in every congressional district in the United States.

Exemption Application Requirements Pursuant To 49 C.F.R. § 381.310

1. Person or class of person covered by the Exemption.

The Exemption is requested on behalf of individuals who operate cranes with a rated lifting capacity of greater than 30 tons, who engage in specialized training and certification (the "Operators"). While the cranes subject to the Exemption and operated by the Operators (the "Cranes") are road-worthy and capable of near highway speeds, the Cranes primary function and intended use relates to off-road services. Photographs of the Cranes are attached as *Exhibit A*.

2. Contact information.

Beth A. O'Quinn
Vice President
Specialized Carriers & Rigging Association
5870 Trinity Centre Parkway, Suite 200
Centreville, Virginia, 20120
(703) 698-0291

3. Name of individual or motor carrier responsible for use of operations of CMVs.

The Exemption is requested on behalf of industry-wide Operators throughout the United States, rendering a list of responsible individuals or motor carriers too numerous for inclusion.

4. Principal place of business of the motor carrier.

Similarly, because an industry-wide exemption is requested, a specific principal place of business is not at issue.

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HEADQUARTERS

5870 Trinity Parkway
Suite 200
Centreville, VA 20120
United States
Phone: 703/698-0291
Fax: 703/698-0297
Email: info@scranet.org

International Offices
Southfields, Southview Road
Wadhurst East Sussex TN5 6TP
United Kingdom
Phone: (44) 1892-784088
Contact: James King

Rotterdam NL-3001 KL
P.O. Box 23474
The Netherlands
Phone: (31) 651-856228
Contact: Marcel Riemslag

Rua Batataes
391 CEP 01423-902
Jardim Paulista
São Paulo, Brazil
Phone: (55) 11 3887-3852
Contact: João Dominici

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5. USDOT identification number.

Again, because an industry-wide exemption is requested, a specific USDOT identification number is not at issue.

6. Reason the Exemption is needed.

On average, Operators spend only 1-2 hours of on-duty time each trip actually driving the Cranes to and from job sites. This is because the primary function of the Operators is to operate the Crane at the customer's site and not perform driving services. The Operators participate in extensive training in connection with the crane operations, including satisfying all crane-specific standards set forth pursuant to OSHA and by the American National Standards Institute, and must satisfy various certification requirements. Meaning, selection of the Operator is based solely on his or her ability, experience, skill level, and certifications with respect to the Crane's lifting function; driving is only a secondary function. A sample of safety training materials administered in 2013 and 2014 by SC&RA members are attached as *Exhibit B*, and sample safety manuals representative of those utilized by SC&RA members are attached as *Exhibit C*.¹

Crane operations are similar to that of oilfield operations in that they include "waiting time" on jobsites. The FMCSA Hours of Service for Drivers includes the following exemption for oilfield operations:

§ 395.1(d)(2). In the case of specially trained drivers of commercial motor vehicles that are specially constructed to service oil wells, on-duty time shall not include waiting time at a natural gas or oil well site. Such waiting time shall be recorded as "off duty" for purposes of §§ 395.8 and 395.15, with remarks or annotations to indicate the specific off-duty periods that are waiting time, or on a separate "waiting time" line on the record of duty status to show that off-duty time is also waiting time. Waiting time shall not be included in calculating the 14-hour period in § 395.3(a)(2). Specially trained drivers of such commercial motor vehicles are not eligible to use the provisions of § 395.1(e)(1).

On occasion, some jobs may be delayed because of a list of items below which would extend the anticipated workday beyond the norm and into the infraction of the 14 hour rule. Unlike truck drivers who stop for gas or mandatory breaks, Operators have multiple periods of unscheduled, miscellaneous breaks or times throughout the day in which the Operator may not be engaged in operating the Crane and is basically "at rest" or "on break". Examples of these times include, but are not limited to:

- waiting for the scheduled time of the lift
- waiting for the item to be rigged;
- waiting for the item to be lifted to arrive on the jobsite;
- lifting the item and holding it in place for hours or even days while it is being secured;
- holding onto an item for hours or days while it is being disassembled to be lowered to the ground;
- emergency situations requiring a crane to remove wrecked autos, or trucks on the roadways to relieve traffic;
- emergency situations requiring a crane to get a plane off a runway because of bad weather or emergency landings to allow runway openings;

¹ The enclosed exhibits have been redacted at the request of SC&RA members.



- jobsite delays extending the time on the site before driving the roadways then traffic delay issues returning to the yard;
- mechanical breakdowns requiring a service technician that's 2-3 hours of down time waiting on repairs;
- weather delays.

Without the Exemption, Operators are required to abandon the crane upon exhausting the 14 hours of service and are required to return to the vehicle the following day, as the crane-related services frequently cause the Operator to meet the 14-hour on-duty limitation. This not only significantly slows construction operations and creates substantial inefficiencies and unreasonably delay, but significantly increases costs on an industry-wide scale. The Exemption will be needed for two years from the date of its enactment.

Transporting most cranes to and from a jobsite requires multiple Oversize/Overweight (OS/OW) permits. The federal government delegates the regulation of OS/OW movement to each of the fifty states. Within each of these fifty states, thousands of municipalities, counties, and other government entities also set forth unique OS/OW permit regulations for cranes hauled on each roadway under their specific local jurisdiction. An OS/OW permit issued by most state and local entities is valid for up to 5 days, although some are valid for 3 to 7 days. The hours of operation in which a driver may transport a crane on a valid permit varies tremendously from state to state, and even among local jurisdictions within a state, differing in terms of the particular days of the week and the precise hours of the day that transit is allowed. Because hours in which an OS/OW load can travel are restricted by permit requirements, often times those hours will be in conflict with federal hours of service rules. A sampling of disparate jurisdictional regulations, which each driver must be aware of and comply with during transit, include combinations of the following:

Monday thru Friday Travel

- (IA) 11' W X 14'4" H X 100' L; Loads that exceed these dimensions 1/2 hour before sunrise and 1/2 hour after sunset
- (IL) 1/2 hour prior to sunrise to 1/2 hour after sunset *unless permit has a provision 9
- (IN) Over 110' L X 10'-14'4" W X up to 15' H 7 Days a week 1/2 hour before sunrise to 1/2 hour after sunset
- (KY) No travel in various areas 7 a.m. and 9 a.m. and from 4 p.m. to 6 p.m.
- (MI) Daylight hours only, beginning 1/2 hour before sunrise ending 1/2 hour after sunset

Weekend Travel

- (IA, KS) All day Saturday and Sunday
- (MO) All day Saturday and Sunday 14' Wide or less - Daylight hours only
- (IL) Over dimension loads up to 12 wide, 13-6 high, 115 long may move additionally on Saturdays to 1/2 hour after sunset and Sundays 1/2 hour before sunrise to noon.
- (IN) Saturday until noon/no Sunday
- (MI) Saturday and Sunday daylight until 3 p.m.
- (OH) Sunrise until 3 p.m. on Saturday / Sunday
- (KY) Saturday only Mobile homes daylight hours
- (MN) Memorial Day to Labor Day – no travel after 2 p.m. on Friday and Sundays until 2 a.m. the following day – otherwise all weekend

The crane industry is proficient at planning both intrastate and cross country interstate trips. However, in spite of effective planning, the aforementioned regulations frequently can cause drivers to put the motoring public at risk, since the



driver is required by law now to park their cranes for hours, and even days, at state lines/borders while they wait for the next jurisdiction's OS/OW permit days/hours of operation to allow compliant passage.

An average OS/OW crane load may measure approximately 10-16 feet wide. Each driver has the additional burden of finding a place large enough to accommodate and park their crane until passage is permitted. Several parking shortage studies have been conducted, including the Commercial Motor Vehicle Parking Shortage, released in May 2012. This study and others referenced within the report acknowledge the existing parking shortage, and further provide evidence that locating adequate parking space for such over-dimensional loads is extremely challenging.

Most importantly, the parking concerns raise safety issues. In addition it often adds additional miles, time, and thus, cost to the project. Occasionally, the safest and singular option for drivers is to park such oversize cranes on the shoulders of interstates, highways and ramps. This decision requires the driver to protect and alert the motoring public by employing traffic control measures such as setting up safety cones, etc. In some cases, the OS/OW load is so large and/or the road shoulder width is so limited, the crane cannot be completely parked off the roadway and therefore takes up an entire lane of the road. The scenarios mentioned above raise safety risks for the general motoring public, the driver, and public and emergency personnel. These safety issues are compounded in inclement weather conditions. Drivers may be driving down the road at a high speed, when they quickly realize an OS/OW load is parked on the shoulder and/or partly on the roadway, and immediately need to change lanes to avoid a collision with the OS/OW parked load. Additionally, depending on the location and time of day, blocking off lanes, or parts of lanes, because it is the only place to park an OS/OW load to maintain Hours of Service compliance, can cause significant traffic delays and problems.

The Hours of Service Regulations, effective July 1, 2013 uniquely affects OS/OW crane movement and has exacerbated the number of instances in which drivers have had to park their cranes roadside, consequently, impacting the safety of both the general public, and the driver.

7. Regulation from which exemption is requested.

This application seeks an exemption from the hours-of-service requirements set forth at 49 C.F.R. § 395.3(a).

8. Estimated total number of driver and CMVs covered by the Exemption.

As of the signing of this document, there are currently approximately 85,000 trained, and currently certified mobile crane Operators in the United States. Of this number, approximately 65,000 operate Cranes over 30 tons lifting capacity.

On average, the number of Operators utilized by each crane company varies and ranges between 10 and 166 Operators. Similarly, a smaller crane company could have as few as 3 Cranes while a large company could have as many as 100.

9. Average length of daily operations.

On average, the Operators' daily operations last between 8-10 hours, of which 6-8 hours are dedicated to onsite operations and less than two hours are spent driving. As explained in our response to *Question 2 - Reason the Exemption is Needed*, there are occasions when jobs may be delayed which would extend an anticipated workday.



10. Average number of daily loads delivered by crane operators.

On average, Operators move only a single load per crane per day; however, a single delivery may span several days.

11. Percent of interstate deliveries.

On average, the percent of Operators who cross state lines in furtherance of their services is less than 5%. The movements of the Cranes are purely congruent with the location of the branch and the area it serves. Larger cranes generally stay within a 30-mile radius of the branch location and many times traveling only 12-15 miles. The smaller lifting-capacity Cranes may travel beyond this distance but are still well within the air-mile radius rule.

12. Safety Impacts.

SC&RA does not anticipate any change in industry-wide safety factors as a result of the Exemption. SC&RA, on behalf of the crane, rigging, and specialized transportation industry, is proud of its continued attention to safety as reflected in its superior safety procedures and low accident rates. Operators are required to undergo extensive and ongoing training. A sample of the safety training materials administered in 2013 and 2014 by SC&RA members are enclosed as *Exhibit B*.

13. Ensuring continued safety.

SC&RA is assured the Exemption will not impact the industry's current safety practices. Operators are generally restricted to driving during specific times of the day as a result of permitted red zones and, as a result, Operators do not travel during the peak travel times with third-party motorists. When Operators must move during restricted time periods, they move with (1) pilot cars, (2) lights, (3) warning signs, and (4) additional assistance charged with the duty to observe third-party motorists' movement in combination with the Crane's movement. Furthermore, when traveling through dense urban settings, the Cranes are generally moved with the aid of city and/or state police and state troopers, along with flashing lights and reduced speeds. Finally, the Operators generally travel at a slower speed than the posted limit on any given road, further ensuring the ultimate level of safety. All of these practices will remain in effect. Operators will also continue to engage in safety training implemented by SC&RA members. *See Exhibit B*.

Research conducted through National Highway Traffic Safety Administration, Federal Highway Administration, SC&RA, and SC&RA's members did not reveal crane transportation-related accidents with the general public that involved U.S. Department of Transportation reportable incidents. While there is a small percentage - less than 2% of all incidents with regard to the above mentioned equipment - that resulted in incidents, these are minor and include traffic-related merging, rubbing tires, and/or fenders with the motoring public.

14. Impact to the industry if the Exemption is not granted.

As addressed above, the industry will continue to suffer from substantial delays in construction projects, including the installation of necessary pipelines, implementation of interstate infrastructure projects, unreasonable delay, and considerable inefficiencies that will not only impact the provided services but the attendant costs.



15. Referenced publications and documents.

Enclosed with this Exemption are details regarding current safety protocol and required training and certification implemented by SC&RA members with which Operators must comply. *See Exhibit B.*

SC&RA appreciates your attention to this matter. Upon review, please feel to contact me to further discuss this request.

Sincerely,

A handwritten signature in dark ink, reading "Beth A. O'Quinn". The signature is written in a cursive, flowing style.

Beth A. O'Quinn
Vice President

Attachments