

08/26/05

Below is a response that I received today from the Federal Motor Carrier Safety Administration (FMCSA) for the hours-of-service (HOS) exemption for utility drivers. Please pass on to others in your company.

Thank you for contacting the Federal Motor Carrier Safety Administration (FMCSA) at the U.S. Department of Transportation for information.

On August 10, 2005, the President signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU). Section 4132 exempts the operators of utility service vehicles from all FMCSA hours-of-service regulations and prohibits States, their political subdivisions, interstate agencies, or any other entity consisting of two or more States from enacting or enforcing "any law, rule, regulation, or standard that imposes requirements on the driver of a utility service vehicle that are similar to the requirements" in FMCSA's HOS rule.

For purposes of the HOS exemption, the term utility service vehicle "means any commercial motor vehicle - (A) used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service; (B) while engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and (C) except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility."

Although a period of time is necessary to modify an agency's regulations, an exemption of this nature goes into effect at the time the legislation is effective even though agency regulations to the contrary may not have yet been changed.

I hope this information will be of assistance to you.

Tom Yager
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THIS E-MAIL IS FOR INFORMATIONAL PURPOSES and does not express an official FMCSA interpretation of policies or regulations, which are provided only in response to written and signed requests.

-----Original Message-----

I have a question regarding the final HOS rule that is effective October 1, 2005 and the exemption given to utility service vehicles(USVs) in the Motor Carrier Safety Act of 2005. Will FMCSA publish further guidance on the exemption given to USVs? When will the exemption for USVs become effective - October 1, 2005?

I noticed on FAQ page for the final rule that the Agency does recognize exemptions provided under the Motor Carrier Safety Act but there were no specifics. Any information that you could give me on this would be greatly appreciated.

Thank you