

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed transportation project in Bell County, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Salvador Deocampo, District Engineer, District A, Federal Highway Administration, Texas Division, 300 East 8th Street, Rm 826, Austin, Texas 78701, Telephone 512-536-5950.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Texas Department of Transportation (TxDOT), will prepare an environmental impact statement (EIS) for the proposed extension of State Highway (SH) 201 from SH 195 to IH 35 in Bell County, Texas. Note: This project is listed in the Killeen-Temple Urban Transportation (K-TUTS) 2030 Project Rankings (long-range transportation plan) as "SH 201 Extension, Construct 2 lane divided roadway." The project length is approximately 17 miles long. Areas within the cities of Killeen, Harker Heights, Belton and Salado are included in the study.

The proposed roadway is listed in the Mobility 2030 Metropolitan Transportation Plan, developed by the K-TUTS for the region over the next 25 years. The SH 201 extension is considered necessary to alleviate congestion on US 190, improve traffic flow in southern Bell County, and provide direct access to the Killeen-Fort Hood Regional Airport. The EIS will evaluate a range of alternatives, including the proposed action and the alternative of no action.

Opportunities for public involvement exist during scoping and public review of the draft EIS. Two early scoping meetings will be held to determine the scope of environmental issues and alternatives to be addressed in the EIS. The public scoping meetings will be held on *Monday, March 26, 2007, at the Killeen Civic & Convention Center and Visitors Bureau located at 3601 South WS Young Drive, Killeen, Texas 76543 at 6:30 p.m. and on Tuesday, March 27, 2007, at the Salado Intermediate School located at 550 Thomas Arnold Road, Salado, Texas 76571 at 6:30 p.m.* All interested citizens are encouraged to attend these meetings. Maps of the study area will be displayed at each meeting. This will be the first in a series of meetings to involve the public in preparing the EIS.

The EIS will evaluate potential impacts from construction and operation of the proposed roadway including, but not limited to, the following: transportation impacts

(construction detours, construction traffic, and mobility improvement), air quality, and noise impacts from construction equipment and operation of the facilities, water quality impacts from construction area and roadway storm water runoff, impacts to waters of the United States including wetlands from right-of-way encroachment, impacts to historic and archeological resources, impacts to floodplains, and impacts and/or potential displacements to residents and businesses, land use, vegetation, wildlife, aesthetic and visual resources, socioeconomic resources, and cumulative impacts.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and private organizations and citizens who have previously expressed or are known to have interest in this proposal. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental review of Federal programs apply to this program.)

Issued: January 26, 2007.

**Ted West,**

*Urban Programs Engineer.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-27123]

#### Hours of Service of Drivers: Quality Driveaway, Inc. Application for Exemption

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

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

**SUMMARY:** FMCSA announces that it has received from Quality Driveaway, Inc. (Quality) an application for an exemption from the Federal Motor Carrier Safety Regulations regarding maximum driving time for drivers of passenger-carrying vehicles. The exemption would allow Quality drivers delivering new buses without any passengers to be governed by the hours-of-service (HOS) requirements for

drivers of property-carrying vehicles. Quality states that the level of safety will be equivalent or greater than the level of safety that would be obtained by complying with the HOS regulations for drivers of passenger-carrying vehicles. FMCSA requests public comment on Quality's application for exemption.

**DATES:** Comments must be received on or before March 5, 2007.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-2007-27123 using any of the following methods:

- *Web site:* <http://dmses.dot.gov/submit/>. Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.
- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the Agency name and docket number for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading for further information.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management System (DMS) is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11,

2000 (65 FR 19477, Apr. 11, 2000). This statement is also available at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC-PSD, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Telephone: 202-366-4009. E-mail: [MCPSD@fmcsa.dot.gov](mailto:MCPSD@fmcsa.dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. Under its regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the conducting of any safety analyses. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying or, in the alternative, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### Request for Exemption

Quality Driveaway, Inc. (Quality) is a registered motor carrier whose principal office is located in Goshen, Indiana. It provides extensive transportation services to manufacturers of various types of motor vehicles, including motor homes, tractors, trucks, and buses, and has more than 750 drivers delivering vehicles in a driveaway-towaway operation. A "driveaway-towaway operation" is defined in 49 CFR 390.5 as "an operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported:

- (1) Between vehicle manufacturer's facilities;
- (2) Between a vehicle manufacturer and a dealership or purchaser;
- (3) Between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;
- (4) To a motor carrier's terminal or repair facility for the repair of disabling damage (as defined in § 390.5) following a crash; or
- (5) To a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system; or
- (6) By means of a saddle-mount or tow-bar."

Quality was recently awarded a contract to transport buses in a driveaway-towaway operation from a manufacturing facility in Lafayette, Georgia, to purchasers. Quality uses approximately 300 experienced drivers to meet its contractual requirements.

The Federal hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers in 49 CFR 395.5 apply to motor carriers and drivers operating passenger-carrying vehicles. According to FMCSA's regulatory guidance, a driver of a CMV "designed or used to transport \* \* \* passengers \* \* \*" (49 CFR 390.5 definition of CMV) would be considered to be passenger-carrying regardless of whether there were actually any passengers in the vehicle. This prevents a requirement for drivers to switch to the HOS rules for property-carrying vehicles each time the bus becomes empty. However, this also means that drivers of the empty buses Quality delivers (drives) from the manufacturer to the dealer are always subject to the HOS rules for passenger vehicles.

Quality states that, given the variety of vehicles it delivers, its drivers are currently required to be familiar with HOS regulations applicable to property and passenger-carrying vehicles. Not only is compliance with these two sets of regulations difficult for the drivers, it is also extremely complex for Quality to audit the drivers' records of duty status (RODS) to ensure compliance because the applicable regulatory standard could change on every trip.

Quality submits that it does not make any "regulatory common sense" to apply the passenger-carrying HOS rule when the new bus is being delivered in a driveaway-towaway operation from a point of manufacture to a dealer, because there are never any passengers on the vehicle. Furthermore, unless the request for an exemption is granted, Quality will continue to be confronted with having to comply with two different sets of HOS regulations for a

significant class of its drivers, and also have to audit two different sets of RODS.

Quality therefore requests that the "described class" of drivers be granted an exemption from 49 CFR 395.5 when these drivers are delivering new buses without passengers from a point of manufacture in a driveaway-towaway operation. A copy of Quality's exemption application is in the docket identified at the beginning of this notice.

##### Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Quality's application an exemption from 49 CFR 395.5. The Agency will consider all comments received by close of business on March 5, 2007. Comments will be available for examination in the docket at the location listed under the "ADDRESSES" section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: January 26, 2007.

John H. Hill,  
Administrator.

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#### DEPARTMENT OF TRANSPORTATION

##### National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-25592]

##### Morgan Motor Company Limited; Denial of Application for a Temporary Exemption From Air Bag Provisions of Federal Motor Vehicle Safety Standard No. 208

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Denial of application for a temporary exemption from air bag provisions of Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*.

**SUMMARY:** This notice denies the petition of Morgan Motor Company, Limited (Morgan) for a temporary exemption from the air bag requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 208,