

Exemption to allow an alternative to the on-duty time limit before having to take 24 hours off in cycle 2 under the *Commercial Vehicle Drivers Hours of Service Regulations*

Tracking Number – ASF-2024- 02E

Pursuant to section 16 of the *Motor Vehicle Transport Act*, after consulting with the affected provinces and being of the opinion that the exemption is in the public interest and is not likely to affect motor carrier safety, I hereby exempt Canadian Pacific Railway, an extra-provincial truck undertaking, and its maintenance of way workers who drive commercial vehicles as part of their duties, from the requirement to take 24 hours of off-duty time after completing 70 hours of on-duty time under cycle 2 of the *Commercial Vehicles Drivers Hours of Service Regulations* (the Regulations). The exemption is subject to the conditions set out below.

Purpose

The purpose of this exemption is to allow Canadian Pacific Railway and its maintenance of way workers who drive commercial vehicles as part of their duties to take larger periods of daily consecutive off-duty time as an alternative to meeting the mandatory off-duty time requirements of clause 27(b) of the *Regulations*.

Application

This exemption applies only to maintenance of way workers who drive commercial vehicles as part of their duties and who are working on a 7&7 schedule or an 8&6 schedule under cycle 2 of the *Regulations* in the provinces of Quebec, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia.

Definitions

Unless the context requires otherwise, words and expressions used in this exemption have the same meaning as in the *Commercial Vehicle Drivers Hours of Service Regulations*.

“7&7 schedule” means a work arrangement whereby 7 working days are followed by 7 off-duty days.

“8&6 schedule” means a work arrangement whereby 8 working days are followed by 6 off-duty days.

“elapsed-time” means the period of time that elapses between two mandatory consecutive off-duty time periods.

"base jurisdiction" means the province or territory where the commercial vehicle operated by the extra-provincial undertaking is registered or base-plated.

Conditions

This exemption is subject to the following conditions:

1. Prior to commencement of operations under this exemption, Canadian Pacific Railway shall:

(a) notify in writing the provincial hours of service director of the base jurisdiction of its intention to operate under this exemption;

(b) provide to the provincial hours of service director of the base jurisdiction documentation that will contain the following information:

- i. the legal operating name of the motor carrier;
- ii. carrier identification number (i.e. CVOR or NSC);
- iii. current safety rating (e.g. Satisfactory Unaudited);
- iv. contact coordinates (i.e. name, phone number, address);
- v. the commercial vehicles that are to be operated;
- vi. the licence plate numbers of those vehicles and the province of issuance;
- vii. the names of drivers who will operate the commercial vehicles;
- viii. the drivers' driving licence numbers and province of issuance; and,
- ix. an acknowledgment that the motor carrier is fully aware of and will comply with all terms and conditions of the exemption;

(c) obtain and review a driver's abstract for each qualified driver that is expected to operate under this exemption;

(d) provide fatigue management training to all supervisors operating under the exemption using the Transport Canada approved training material;

(e) ensure that no driver operates a commercial motor vehicle under this exemption prior to having been trained with Transport Canada approved fatigue management training and log the information in each employee's file once they are trained;

(f) keep record of every employee that received the fatigue management training;

2. While operating under this exemption, Canadian Pacific Railway shall:

(a) keep the provincial hours of service director of the base jurisdiction informed of any changes to the list referred in paragraph 1(b) so that the director may accurately and quickly identify the commercial vehicles or the drivers. These changes are to be reported by means of monthly reports;

- (b) hold a valid safety fitness certificate that has been assigned a Satisfactory Safety Rating or a Satisfactory Unaudited Safety Rating by the base jurisdiction pursuant to the *Motor Vehicle Transport Act* and the *Motor Carrier Safety Fitness Certificate Regulations*;
- (c) require that a copy of the exemption and any acknowledgement letter of intention to operate that has been received from the provincial hours of service director of the base jurisdiction, is placed in the commercial vehicles that are operated in accordance with the conditions of this exemption;
- (d) keep at their principal place of business a copy of the exemption and any acknowledgement letter of intention to operate that has been received from the provincial hours of service director of the base jurisdiction as well as daily logs and other supporting documents that demonstrate compliance with the conditions of this exemption, and shall at the request of an inspector or provincial hours of service director, immediately make available for inspection such documentation;
- (e) during a minimum of 5 work days in a 7&7 schedule or a minimum of 6 work days in an 8&6 schedule, not request, require or allow a driver that operates under the provisions of this exemption to drive after accumulating more than 13 hours of on-duty time in a day;
- (f) during a maximum of 2 work days in a 7&7 or an 8&6 schedule, not request, require or allow a driver that operates under the provisions of this exemption to drive after accumulating more than 13 hours of driving time or 14 hours of on-duty time in a day;
- (g) during the minimum 5 work days of a 7&7 schedule or the minimum 6 work days of an 8&6 schedule when on-duty time is limited to 13 hours, not request, require or allow a driver that operates under the provisions of this exemption to drive after accumulating more than 14 hours of elapsed-time in a day;
- (h) during the maximum two work days of both the 7&7 and the 8&6 schedules when the on-duty time is limited to 14 hours, not request, require or allow a driver that operates under the provisions of this exemption to drive after accumulating more than 15 hours of elapsed-time in a day;
- (i) not request, require or allow a driver that operates under the provisions of this exemption to drive without having first taken a minimum of 10 hours of consecutive off-duty time if the employee was on-duty 13 hours or less on the previous day;
- (j) not request, require or allow a driver that operates under the provisions of this exemption to drive without having first taken a minimum of 9 hours of consecutive off-duty time if the employee was on-duty more than 13 hours on the previous day;

- (k) not request, require or allow a driver operating under the provisions of this exemption on a 7&7 schedule to drive after accumulating 86 hours of on-duty time in any period of 14 days without having first taken a minimum of 72 hours of consecutive off-duty time;
- (l) not request, require or allow a driver operating under the provisions of this exemption on an 8&6 schedule to drive after accumulating 88 hours of on-duty time in any period of 14 days without having first taken a minimum of 72 hours of consecutive off-duty time;
- (m) formally encourage employees to rest prior to departing after the last work day of the cycle, and if employees wish to rest, make best efforts to provide them with sleeping facilities for a period of 8 consecutive hours;
- (n) monitor that all drivers of commercial vehicle operating under the conditions of this exemption comply with its requirements and where non-compliance is observed, ensure immediate remedial actions are taken;
- (o) conduct and document timely reviews of all collision reports involving their commercial vehicle drivers and if it is found that a driver had been operating under the exemption at the time of the collision, the motor carrier is to determine if there was evidence of non-compliance with the Regulations, the Permit or the terms and conditions of the exemption; the causality or preventability of the collision; and take mitigating action if necessary in order to prevent a reoccurrence;
- (p) annually submit a monitoring report to the federal director and the provincial hours of service director of the base jurisdiction, which should include, but be not limited to:
 - i. describing the motor carrier's efforts to monitor compliance with the exemption during the previous year and any subsequent findings in that regard;
 - ii. providing the names of drivers that operated under the exemption during that time and the driver's licence numbers for those drivers;
 - iii. summarizing the results of reviews conducted on reports of collisions involving drivers who were operating under the exemption at the time of the collision, including any determinations made with respect to the causality or preventability of the collision and any mitigating action to prevent a re-occurrence; and
 - iv. describing in general terms, how the exemption was used and under what circumstances and after interviewing drivers and supervisors, report whether it is felt that drivers feel rested and alert.

(q) comply with all the other applicable requirements of the *Commercial Vehicle Drivers Hours of Service Regulations*;

(r) no later than six months before requesting a renewal of the exemption, provide the federal director with a report detailing the operational efficiency of the exemption, including but not limited to:

- i. number of motor vehicle crashes, with a narrative explaining motor vehicle crashes (nature of injuries, time-of-day, causality and preventability and any mitigating action to prevent reoccurrence);
- ii. information on number and percentage of maintenance of way employees who took the opportunity to sleep prior to leaving after the last day of the shift;
- iii. perceived operational benefits of operating under the exemption.

3. While operating under this exemption, the driver shall:

(a) complete hours of service daily logs and indicate in the "Remarks" section of each daily log if the exemption is being used on that day;

(b) during a minimum of 5 work days in a 7&7 schedule or a minimum of 6 work days in an 8&6 schedule, not operate a commercial vehicle after accumulating more than 13 hours of on-duty time in a day;

(c) during a maximum of 2 work days in a 7&7 or an 8&6 schedule, not operate a commercial vehicle after accumulating more than 13 hours of driving time or 14 hours of on-duty time in a day;

(d) during the minimum 5 work days of a 7&7 schedule or the minimum 6 work days of an 8&6 schedule when on-duty time is limited to 13 hours, not operate a commercial vehicle after accumulating more than 14 hours of elapsed-time in a day;

(e) during the maximum two work days of both the 7&7 or the 8&6 schedules when on-duty time is limited to 14 hours, not operate a commercial vehicle after accumulating more than 15 hours of elapsed-time in a day;

(f) not operate a commercial vehicle without having first taken a minimum of 10 hours of consecutive off-duty time if the employee was on duty 13 hours or less on the previous day;

(g) not operate a commercial vehicle without having first taken a minimum of 9 hours of consecutive off-duty time if the employee was on duty more than 13 hours on the previous day;

- (h) if working on a 7&7 schedule, not operate a commercial vehicle for any motor carrier after accumulating 86 hours of on-duty time in any period of 14 days without having first taken a minimum of 72 hours of consecutive off-duty time;
- (i) if working on an 8&6 schedule, not operate a commercial vehicle for any motor carrier after accumulating 88 hours of on-duty time in any period of 14 days without having first taken a minimum of 72 hours of consecutive off-duty time;
- (j) comply with all the other applicable requirements of the *Commercial Vehicle Drivers Hours of Service Regulations*.

Validity

This exemption comes into effect on May 8th 2024 00:01 MST and remains valid until the earliest of the following:

- 1. 36 months after the date that it comes into effect, 23:59 MST;
- 2. Until The date on which the exemption is cancelled in writing by the Minister where he is of the opinion that it is no longer in the public interest, or that it is likely to affect motor carrier safety.



Melanie Vanstone
Director General, Multimodal and Road Safety Programs
(on behalf of the Minister of Transport)

April 22, 2024

Date