



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2014-0071]**

**Hours of Service of Drivers: McKee Foods Transportation LLC, Exemption; FAST Act Extension of Expiration Date**

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

**ACTION:** Notice; extension of exemption.

**SUMMARY:** FMCSA announces the extension of the exemption granted to McKee Foods Transportation, LLC, (MFT) on March 27, 2015, for transportation by their team drivers utilizing the sleeper-berth (S/B). The Agency extends the expiration date from March 27, 2015, to March 27, 2020, in response to Section 5206(b)(2)(A) of the “Fixing America’s Surface Transportation Act” (FAST Act). That section extends the expiration date of hours-of-service (HOS) exemptions in effect on the date of enactment of the FAST Act to 5 years from the date of issuance of the exemptions. The MFT exemption from the Agency’s S/B requirement is limited to team drivers employed by MFT to allow these drivers to split S/B time into two periods totaling at least 10 hours, provided neither of the two periods is less than 3 hours in length. The Agency previously determined that the commercial motor vehicle operations of MFT drivers under this exemption would likely achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

**DATES:** This limited exemption is effective from March 27, 2015, through March 27, 2020.

**SUPPLEMENTARY INFORMATION:**

**Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)].

Section 5206(b)(2)(A) of the FAST Act requires FMCSA to extend any exemption from any provision of the HOS regulations under 49 CFR part 395 that was in effect on the date of enactment of the Act to a period of 5 years from the date the exemption was granted. The exemption may be renewed. Because this action merely implements a statutory mandate that took effect on the date of enactment of the FAST Act, notice and comment are not required.

### **MFT Exemption**

MFT, a private motor carrier, applied for an exemption to eliminate the requirement that S/B time include a period of at least 8 but less than 10 consecutive hours in the S/B and a separate period of at least 2 but less than 10 consecutive hours either in the S/B or off duty, or any combination thereof [49 CFR 395.1(g)(1)(ii)(A)(1)]. The exemption is limited to team drivers, and these team drivers are allowed to split S/B time into two periods totaling at least 10 hours, provided neither of the two periods is less than 3 hours in length.

FMCSA reviewed MFT's application and the public comments and concluded that 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. A Notice of Final Determination granting the MFT exemption was published on March 27, 2015 [80 FR 16503].

The substance of the exemption is not affected by this extension. The exemption covers only the split S/B requirement [49 CFR 395.1(g)(1)(ii)(A)(1-2)]. The exemption

is restricted to MFT team drivers, who utilize electronic logging devices to track records of duty status; have a minimum 26-hour off-duty period, at home, from Friday night to Saturday night; and are limited to 10 hours of driving following their required 10 consecutive hours off duty, or the S/B equivalent.

The FMCSA does not believe the safety record of any driver operating under this exemption will deteriorate. However, should deterioration in safety occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA has the authority to terminate the exemption at any time the Agency has the data/information to conclude that safety is being compromised.

Issued on: April 13, 2016

---

T.F. Scott Darling, III  
Acting Administrator

[FR Doc. 2016-09112 Filed: 4/19/2016 8:45 am; Publication Date: 4/20/2016]