



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0120]

Hours of Service of Drivers: Application for Exemption; G4S Secure Solutions (USA), Inc. (G4S)

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

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

SUMMARY: FMCSA announces that G4S Secure Solutions (USA), Inc. (G4S) has requested an exemption from the electronic logging device (ELD) requirements in 49 CFR part 395 as applied to its drivers of customer/government-owned vehicles used intermittently to perform passenger transportation. The G4S request is limited to operations involving customer/government-owned equipment. G4S states that this exemption, if granted, would have no adverse impact on the safety of their operations, as its drivers would continue to remain subject to the HOS regulations and would complete paper records of duty status (RODS), when applicable. FMCSA requests public comment on G4S's application for exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2017-0120 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. See the Public Participation and Request for Comments section below for further information.

- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division;

Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614-942-6477. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2017-0120), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to www.regulations.gov and put the docket number, "FMCSA-2017-0120" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-

addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. 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 (FMCSRs). 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 any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, 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 reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

G4S states that it is an international security solutions group, with operations in more than 100 countries and more than 54,000 employees in North America alone. G4S

offers its customers a suite of products and services, including risk consulting and investigations, systems integration, security software and technology, and security professionals. A component of G4S's operations is detainee and prisoner transport. Government agencies across the country, including the U.S. Immigration and Customs Enforcement and state/county police departments, contract G4S to safely and securely transport prisoners, offenders, and illegal aliens. In order to perform these transportation services, G4S is registered with the FMCSA as a for-hire motor carrier. While the company maintains a relatively small fleet of vehicles, a significant portion of its transportation services are performed by G4S employees in customer/government-owned equipment (e.g., buses and 15-passenger-vans).

G4S is aware of the upcoming ELD mandate and fully supports the Agency's efforts to curb fatigued driving. Moreover, the company has already started the process of selecting and installing compliant ELDs in its own fleet of vehicles. G4S, however, believes an exemption is in order for instances when its drivers operate customer/government-owned equipment to perform passenger transportation services.

In these instances, it is the customer, not G4S that owns and maintains the vehicles. For its part, G4S provides qualified drivers to operate the vehicles and is explicitly precluded, often by contract, from making any modifications to or installing any equipment in the vehicles. In numerous cases, G4S drivers operate different customer-owned vehicles each and every trip – depending on which vehicles the customer makes available – making it that more impracticable to install any type of equipment in the vehicles. As the vehicles are different each trip, it is possible, and even probable, that any ELD equipment G4S might choose to employ for its own fleet of

vehicles would not be compatible with the customer-owned vehicles, and the company's drivers would not be aware of that fact until it came time to operate the equipment on a given day.

According to G4S, in some cases, these customer-owned vehicles may have been manufactured prior to the model year 2000 – excluding them from the ELD mandate – but again, G4S drivers would not necessarily be privy to that fact until it came time to operate the vehicle. It is also possible that in some instances G4S's drivers may not operate the equipment beyond a 100 air-mile radius of their normal work reporting location and may, therefore, fall under the short-haul exemption, but that also is not always the case.

In these ways, G4S claims that its operations are indistinguishable from driveaway-towaway operations, which, are excluded from the ELD mandate. In these instances, neither the carriers nor the drivers own the vehicles being driven, nor are they authorized to make any modifications to those vehicles. Similarly, in both cases, the vehicles at issue may only be operated by the carrier's drivers for single trip.

The only distinction between G4S's operations and those of traditional driveaway-towaway companies is that the customer/government-owned equipment operated by G4S's drivers is not the commodity being moved. Although this is a distinction that precludes G4S from taking advantage of the driveaway-towaway exemption, it is not one that would, from a safety perspective, warrant ELDs in G4S's case any more so than driveaway-towaway companies. In fact, the company perceives no adverse impact to safety if the FMCSA were to grant this exemption request, particularly in light of the existing driveaway-towaway exemption. On the other hand, if the request

was to be denied by FMCSA, G4S stands to potentially lose its customer contracts with several government agencies which, as explained, often contractually prohibit the company from installing any equipment in their vehicles.

IV. Method to Ensure an Equivalent or Greater Level of Safety

For these reasons, G4S respectfully requests an exemption from the ELD mandate for the operation of customer/government-owned equipment to provide intermittent passenger transportation. G4S states that the company believes that this exemption proposal achieves a level of safety that is equivalent to the ELD mandate that takes effect on December 18, 2017 – because its drivers would still be subject to the hours-of-service (HOS) restrictions contained in 49 CFR Part 395 and would continue to (when required) record their duty status on paper logbooks, just as driveaway-towaway drivers are authorized to do.

A copy of G4S's application for exemption is available for review in the docket for this notice.

Issued on: April 14, 2017

Larry W. Minor
Associate Administrator for Policy

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