



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0188]

Hours of Service of Drivers: Palmetto State Armory; 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 an application from Palmetto State Armory (PSA) requesting an exemption to increase the 100 air-mile radius in “short-haul operations,” to 150 air-miles for its drivers. PSA requests the exemption to permit two of its commercial motor vehicle (CMV) drivers to record hours of service on time records instead of record of duty status (RODS) when operating between 100 and 150 air miles. FMCSA requests public comment on PSA’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 Number FMCSA-2019-0188 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. E.T., 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: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-4325; 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-2019-0188), 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 comment online, go to www.regulations.gov and put the docket number, "FMCSA-2019-0188" 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety 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 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 (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

Drivers qualifying for the HOS short-haul exception in 49 CFR 395.1(e)(1) do not have to maintain a record of duty status (RODS), provided that (among other things) they operate within a 100 air-mile radius of their normal work reporting location and return to that location and are released from work within 12 hours after coming on duty. A driver who exceeds the 100 air-mile radius or the 12-hour limit loses the short-haul exception and must immediately prepare RODS for the entire day, or use an electronic logging

device (ELD) if the driver is required to prepare RODS for more than eight days in a thirty day period, per 49 CFR 395.8(a)(1)(i).

PSA is requesting an exemption to increase the 100 air-mile radius in 49 CFR 395.1(e)(1) to 150 air-miles for its drivers. This proposed exemption would enable the drivers not exceeding the 150 air-mile radius to utilize time records instead of a RODS for that day.

PSA reported in its application that drivers pick up and deliver products between manufacturing facilities, many of whom are sister companies. Drivers also drive to PSA retail stores. They drive for short periods of time, usually less than two hours between stops. These stops or deliveries allow the driver to remain alert. All drivers operate property-carrying CMVs within 150 air-miles and return to their work reporting location at the end of each day.

PSA wrote that current operations include trips between 103 and 109 air-miles. PSA contends that the use of ELDs or maintaining driver logs adds substantial costs to its operation and does not increase the level of safety. PSA requests that the exemption cover the maximum allowable duration of 5 years.

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

To ensure an equivalent level of safety PSA offers monitoring CSA safety management scores, managing hours of service, requiring both pre-trip and post-trip vehicle inspection, as well as training in defensive driving. PSA reports that its CSA safety management scores are zero in all seven categories; with no recordable accidents during the past 24 months. A copy of the application for exemption is available for review in the docket for this notice .

Issued on: November 6, 2019.

Larry W. Minor,
Associate Administrator for Policy.

[FR Doc. 2019-24722 Filed: 11/13/2019 8:45 am; Publication Date: 11/14/2019]