



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, Application for Exemption

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

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

SUMMARY: FMCSA announces that it has received an application from McKee Foods Transportation, LLC (MFT) for a renewal of its exemption from the hours-of-service (HOS) regulation pertaining to the use of a sleeper berth. The exemption renewal would allow MFT team drivers to take the equivalent of 10 consecutive hours off duty by splitting sleeper berth time into two periods totaling 10 hours, provided neither of the two periods is less than 3 hours. MFT currently holds an exemption for the period March 27, 2015, through March 27, 2020. FMCSA requests public comment on MFT's application for exemption. The application for a renewal is available for review in the docket referenced at the beginning of this notice.

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-2014-0071 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.

- 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 Federal Docket Management System 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: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety

Standards; Telephone: (202) 366-4225. 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-2014-0071), 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-2014-0071" 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. An option to upload a file is provided. 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. 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. MFT's Request for a Renewal

MFT requested a renewal of its exemption from 49 CFR 395.1(g)(1)(ii)(A)(1-2) pertaining to the use of a sleeper berth. The exemption renewal would allow MFT team

drivers to continue to take the equivalent of 10 consecutive hours off duty by splitting sleeper berth time into two periods totaling 10 hours, provided neither of the two periods is less than 3 hours. The application for a renewal is available for review in the docket referenced at the beginning of this notice.

FMCSA granted MFT a one-year exemption on March 27, 2015 (80 FR 16503). On April 20, 2016 (81 FR 23349) the Agency extended its expiration date to March 27, 2020, in response to Section 5206(b)(2)(A) of the “Fixing America’s Surface Transportation Act” (FAST Act). The statute extended 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.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b)(6), FMCSA requests public comment from all interested persons on MFT’s application for an exemption. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the “Addresses” section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

Issued on: January 27, 2020

Larry W. Minor,

Associate Administrator for Policy.

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