



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0184]

Hours of Service of Drivers: PTS Worldwide, Inc.; 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 PTS

Worldwide, Inc. (PTS) (USDOT 1835654) for an exemption from the hours-of-service (HOS) requirement that drivers utilizing the sleeper-berth (S/B) exception obtain a period of at least 8 consecutive hours in the S/B, plus an additional 2 hours either in the S/B, off duty, or any combination thereof. PTS transports highly sensitive cargo for the Department of Defense (DOD) and proposes that its team drivers be permitted to obtain 10 hours in the S/B in two periods, neither less than 4 hours long. This would allow the driver to split the required 10 hours into segments of 4/6, 5/5, or 6/4 hours. FMCSA requests public comment on PTS'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-2019-0184 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: Mr. Richard Clemente, 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-2019-0184), 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-2019-0184" 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 (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 and provide an opportunity for public comment on the request.

The Agency performs a review of 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 Agency will publish its decision 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 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

The Agency's HOS rules (49 CFR part 395) generally require operators of commercial motor vehicles (CMVs) transporting property to obtain 10 consecutive hours off duty before they can drive again after they accumulate the maximum 11 hours of driving or reach the end of the 14-hour duty period, whichever comes first (49 CFR 395.3). However, drivers whose CMV is equipped with a qualifying sleeper berth (S/B) may accumulate the equivalent of 10 consecutive hours off duty in two separate periods, one of at least 8 (but less than 10) consecutive hours in the S/B, and another of at least 2 consecutive hours off duty, whether in the S/B, off duty, or any combination thereof. It does not matter which of these two periods comes first. When the driver has obtained the two qualifying periods, the S/B rule provides the driver more on-duty and driving time.

PTS transports sensitive Department of Defense (DOD) property, including ammunition and explosives, in interstate commerce. For security reasons, this transportation requires a team of two drivers. PTS seeks by exemption to allow its team drivers to split the equivalent of 10 hours off duty into two S/B periods, neither less than 4 hours long. This would allow splits of 4/6, 5/5, or 6/4 hours. This request is limited to team operations and is in no way a request to apply any such exemption to solo driver operations.

PTS states that its team drivers travel over 1,100 miles per 24 hours, and average 60 hours on duty per week. After 5 weeks on the road, PTS drivers receive a week off duty at home. PTS asserts that due to the nature of its business, these drivers would be more alert if allowed to take shorter rest periods in the S/B. It believes that the shorter period would allow PTS drivers to obtain nighttime hours in the S/B and thereby minimize driver fatigue. PTS states that its vehicle and driver safety record is better than the national average and that it has one of the best safety, security, and service records of all DOD arms and ammunition transporters. All power units are equipped, and any new power units will be equipped, with on-board electronic recorders to track driving and on-duty time, and all power units are governed to 70 miles per hour.

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

To ensure an equivalent level of safety, PTS offers to split 10 off-duty hours into two periods, neither less than 4 hours long. This would allow splits of 4/6, 5/5, or 6/4 hours. In addition, the PTS request would be limited to team driver operations. PTS' exemption application references a study concerning the effects on sleep that found sleeper berth flexibility to be a better choice than consolidated daytime sleep when consolidated nighttime sleep is not possible. PTS referenced additional studies that identified sleeper berth flexibility as a contributor to normalizing sleeping patterns and reducing fatigue. PTS requests the exemption be granted for the maximum allowable period (5 years). A copy of PTS's application for exemption is available for review in the docket for this notice.

Issued on: October 9, 2019.

Larry W. Minor,
Associate Administrator for Policy.

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