



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0352]

Commercial Driver's License Standards: Recreation Vehicle Industry Association Application for Exemption

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

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

SUMMARY: FMCSA announces its decision to renew a 2015 exemption from the Federal commercial driver's license (CDL) requirements for drivers who deliver certain newly manufactured motorhomes and recreational vehicles (RVs) to dealers or trade shows before retail sale (driveaway operations). The Recreation Vehicle Industry Association (RVIA) requested that the exemption be renewed because compliance with the CDL requirements prevents its members from implementing more efficient operations due to a shortage of CDL drivers. The exemption renewal is for five years and covers employees of all U.S. driveaway companies, RV manufacturers, and RV dealers transporting RVs between manufacturing sites and dealer locations and for movements prior to first retail sale. Drivers engaged in driveaway deliveries of RVs with gross vehicle weight ratings of 26,001 pounds or more will not be required to have a CDL as long as the empty RVs have gross vehicle weights or gross combination weights that do not meet or exceed 26,001 pounds, and any RV trailers towed by other vehicles weigh 10,000 pounds or less. RV units that have a combined gross vehicle weight exceeding 26,000 pounds are not covered by the exemption.

DATES: This renewed exemption is effective April 6, 2017 and expires on April 6, 2022. Comments must be received on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2014-0352 using 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 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. Thomas 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-2014-0352), 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-2014-0352” 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 review all comments received and determine whether the renewal of the exemption is consistent with the requirements of 49 U.S.C. 31315 and 31136(e). Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the certain portions 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 the safety analyses and the public comments, 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 reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or

provisions from which the exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Application for Renewal Exemption

The RVIA's initial exemption application from the provisions of 49 CFR 383.91(a)(1)-(2) was submitted in 2014; a copy of the application is in the docket identified at the beginning of this notice. The 2014 application describes fully the nature of the RV deliveries by commercial motor vehicle (CMV) drivers. The exemption was originally granted on April 6, 2015 (80 FR 18493).

The RVIA requests renewal of an exemption from the requirement under 49 CFR 383.91(a)(1)-(2) to hold a CDL when transporting RVs with an actual vehicle weight not exceeding 26,000 pounds, or a combination of RV trailer/tow vehicle with the actual weight of the towed unit not exceeding 10,000 pounds and the gross combined weight not exceeding 26,000 pounds. In other words, RVIA requested that CDLs not be required for driveaway operations of single or combination vehicles with a gross vehicle weight rating at or above 26,001 pounds, as long as the actual weight of the vehicle or combination is below 26,001 pounds. RV units that have a ship weight and combined gross vehicle weight exceeding 26,000 pounds would not be covered by the exemption. RVIA contends that compliance with the CDL rule prevents its members from implementing more efficient operations due to a shortage of drivers who hold a CDL. RVIA asserts that FMCSA should look at the actual weight of the RV when it is manifested as empty and should not require a CDL during the short time the RV is not

loaded, does not carry freight, and is transported from the factory where it is manufactured, or from a holding area, to a dealership site.

In its initial application, RVIA contended that a shortage of drivers with CDLs had a significant impact on the RV industry, which was just recovering from the 2008-2009 economic downturn. A large percentage of RV sales occur during the spring buying season. The jump in RV shipments trends stronger each month, increasing consistently from February through June. These excess units regularly accumulate in RV transporters' yards. It is in this period that there is insufficient commercial driver capacity for RV transportation. The seasonal commercial driver shortage creates delays in the delivery of product to consumers and potentially reduces the RV sales.

Consumers who wish to purchase an RV may have to wait weeks or months to receive delivery of their purchase because there are not enough drivers with CDLs to transport the vehicles from the factory to the dealership, especially since each RV must be individually transported. While these delays are costly and inconvenient to the RV industry and consumers, the greater costs result in potential lost sales to consumers who are unwilling to wait for their purchase.

RVIA states that the exemption would apply to all individuals who are employees of driveaway-towaway companies, RV manufacturers, and RV dealers. RVIA contends that, due to the class nature and the number of parties that would be affected by the exemption, it is not feasible or practicable to provide the names of individuals or transporters responsible for use or operation of these CMVs.

Method to Ensure an Equivalent or Greater Level of Safety

RVIA contends that if the exemption were granted, the level of safety associated with transportation of RVs from manufacturers to dealers would likely be equivalent to, or greater than, the level of safety obtained by complying with the CDL requirements for the following reasons:

- On average, drivers employed by RV manufacturers and dealers to deliver RVs have substantially more experience operating RVs than a typical driver operating an RV for recreational purposes. RVIA noted that owners of these RVs are not required to hold a CDL when operating them for non-business purposes.
- According to RVIA, an analysis using the FMCSA Safety Measurement System revealed that the majority of RV driveaway-towaway companies' accident frequency average is far less than the national benchmark average. Further details are provided in the RVIA exemption application, which is contained in the docket for this notice.
- Compared to drivers using RVs for recreational purposes, RV manufacturers and driveaway-towaway companies have substantially greater economic incentive to systematically train, monitor and evaluate their RV drivers with respect to safe operation of RVs because of the substantially greater number of miles they run, and the corresponding exposure to liability for any traffic accidents.
- As with any new motor vehicle, newly manufactured RVs are much less likely to present a safety concern due to mechanical failures.
- Travel distances between the manufacturing sites and dealer locations are on average much shorter than typical distances which RVs travel when in recreational use, and the highway presence of RVs transported from

manufacturers to dealers is negligible even during the peak spring delivery season.

RVIA asserts that without the exemption, drivers making deliveries of new RVs with a gross vehicle weight rating (GVWR) exceeding 26,000 pounds, or a gross combination weight rating exceeding 26,000 inclusive of a towed vehicle with a GVWR of 10,001 pounds or higher, will remain subject to CDL requirements even though end-users of RVs purchasing them from dealers in the same States would not be subject to those requirements and regulations. This anomalous situation would continue to materially curb the growth of the RV industry without a countervailing safety or other benefit to the public. In particular, RV manufacturers and dealers would continue to experience a shortage of CDL operators during the busy spring season.

Terms and Conditions of the Exemption

Period of the Exemption

This exemption from the requirements of 49 CFR 383.91(a)(1)-(2) is effective April 6, 2017 through April 6, 2022, 11:59 p.m. local time, unless renewed.

Extent of the Exemption

The exemption is restricted to employees of driveaway-towaway companies, RV manufacturers, and RV dealers transporting RVs between the manufacturing site and dealer location and for movements prior to first retail sale. Drivers covered by the exemption will not be required to hold a CDL when transporting RVs with a gross vehicle weight not exceeding 26,000 pounds, or a combination of RV trailer/tow vehicle with the gross weight of the towed unit not exceeding 10,000 pounds and the gross

combined weight not exceeding 26,000 pounds. These drivers must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations.

Preemption

In accordance with 49 U.S.C. 31315(d), during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Notification to FMCSA

Exempt motor carriers must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of its CMVs operating under the terms of this exemption. The notification must include the following information:

- (a) Name of the exemption: “RVIA”
- (b) Name of the operating motor carrier,
- (c) Date of the accident,
- (d) City or town, and State, in which the accident occurred, or closest to the accident scene,
- (e) Driver’s name and license number,
- (f) Vehicle number and State license number,
- (g) Number of individuals suffering physical injury,
- (h) Number of fatalities,
- (i) The police-reported cause of the accident,
- (j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
- (j) The driver’s total driving time and total on-duty time period prior to the accident.

Reports filed under this provision shall be e-mailed to MCPSD@DOT.GOV.

Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record.

Interested parties or organizations possessing information that would otherwise show that any or all of these motor carriers are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemption is inconsistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will immediately take steps to revoke the exemption of the company or companies and drivers in question.

Issued on: April 5, 2017

Daphne Y. Jefferson
Deputy Administrator

[FR Doc. 2017-07315 Filed: 4/11/2017 8:45 am; Publication Date: 4/12/2017]