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DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0406]

Commercial Driver's License Standards: C.R. England, Inc.; Granting of Renewal of 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 an exemption for C.R. England, Inc. (C.R. England) requirements that a commercial learner's permit (CLP) holder is always accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements, seated in the front seat of the vehicle while the CLP holder operates it on public roads or highways. The exemption renewal allows CLP holders who have passed the skills test but not yet received the CDL document to drive a C.R. England commercial motor vehicle (CMV) accompanied by a CDL holder who is not necessarily in the passenger seat, provided the driver has documentation of passing the skills test. C.R. England currently holds an exemption for the period June 11, 2015 through June 12, 2017. FMCSA requests public comment on the renewal of C.R. England's exemption.

DATES: This exemption renewal is effective June 13, 2017, through June 12, 2022.

Comments must be received on or before [INSERT DATE 30 DAYS AFTER

PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2014-0406 using any of the following methods:

- Federal eRulemaking Portal: Go to 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., ET, 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-2014-0406), 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-2014-0406” 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.

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 in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the exemption, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment.

The Agency reviews safety analyses and public comments submitted, and determines whether renewal of 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 Renewal

C.R. England's initial exemption application from the provisions of 49 CFR 383.25(a)(1) was submitted in 2014; a copy is in the docket identified at the beginning of this notice. The 2014 application described fully the nature of the C.R. England

operations and CMV drivers. The exemption was originally granted on June 11, 2015 (80 FR 33329). C. R. England now requests a renewal of the exemption.

The current exemption excuses C.R. England from the requirement that a driver accompanying a CLP holder must be physically present at all times in the front seat of a CMV, on the condition that the CLP holder has successfully passed an approved CDL skills test. C.R. England's 2014 application argued that the existing requirement is inefficient and unproductive, as the company must incur added expense to send the driver to his or her home State to collect a CDL document. Under that rule, the driver is not only unable to utilize newly acquired driving skills, but must also forego compensation before obtaining a CDL. C.R. England believes that FMCSA should renew the exemption for an additional 5-year period because it results in safer drivers. It allows C.R. England to foster a more productive and efficient training environment by allowing CLP holders to hone their recently acquired driving skills through on-the-job training and to begin earning an income right away, producing immediate benefits for the driver, the carrier, and the economy as a whole.

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

C.R. England states that the exemption does not negatively affect safety outcomes. Instead, it allows drivers trained out-of-state to obtain on-the-job experience in C.R. England's comprehensive training program while avoiding significant delays and skill degradation. The exemption creates immediate economic and safety benefits for both the CLP holders and C.R. England – the driver earns an income as part of a team operation while improving driver skills and gaining valuable experience.

C.R. England indicated in its renewal application that 3,046 drivers had utilized the original exemption. Its safety data show that drivers using the exemption demonstrated better safety outcomes than non-exempt drivers. Through the end of 2016, C.R. England reported 11 accidents to FMCSA involving drivers utilizing the exemption, none of which resulted in a fatality. The renewal of the exemption would be effective for 5 years, the maximum period allowed by § 381.300.

V. Terms and Conditions of the Exemption

Period of the Exemption

This exemption from the requirements of 49 CFR 383.25(a)(1) is effective during the period of June 13, 2017, through June 12, 2022.

Extent of the Exemption

The exemption is contingent upon C.R. England maintaining USDOT registration, minimum levels of public liability insurance, and not being subject to any “imminent hazard” or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemption must maintain a valid driver’s license and CLP with the required endorsements, document that he or she has passed the CDL skills test, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

Preemption

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

FMCSA Accident Notification

C.R. England must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while utilizing this exemption. The notification must be by email to MCPSD@DOT.GOV, and include the following information:

1. Name of the Exemption: “C.R. England CLP”
2. Date of the accident,
3. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,
4. Driver’s name and driver’s license number,
5. Vehicle number and State license number,
6. Number of individuals suffering physical injury,
7. Number of fatalities,
8. The police-reported cause of the accident,
9. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and
10. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

VI. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on the renewal of C.R. England’s exemption from the provisions in 49 CFR 383.25(a)(1). The Agency will consider all comments received by close of business on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL

REGISTER]. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

VII. Safety Oversight

FMCSA expects C.R. England, operating under the terms and conditions of this exemption, to maintain its safety record. However, should safety deteriorate, FMCSA will, consistent with the statutory requirements of 49 U.S.C. 31315, take all steps necessary to protect the public interest. Authorization of the exemption is discretionary, and FMCSA will immediately revoke the exemption for failure to comply with the terms and conditions of the exemption.

Issued on: June 6, 2017

Randi F. Hutchinson
Chief Counsel

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