



4910-EX-P

DEPARTMENT OF TRANSPORTATION

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 final disposition; renewal of exemption.

SUMMARY: FMCSA reaffirms its renewal of the Recreation Vehicle Industry Association's (RVIA) exemption from the Federal commercial driver's license (CDL) requirements for drivers who deliver certain newly manufactured motorhomes and recreational vehicles (RV) to dealers or trade shows before retail sale (driveaway operations). The FMCSA announced its decision to renew RVIA's exemption on April 12, 2017, pending a review of any comments received in response to that notice. Three comments were submitted, none opposing the renewal. The Agency has determined that RVIA's operations may continue in accordance with the terms and conditions of the exemption renewal announced in April. The Agency believes that drivers who qualify for the exemption will maintain a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the CDL requirements.

DATES: This renewed exemption expires on April 6, 2022.

ADDRESSES:

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

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2014-0352 in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

The FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to renew exemptions for up to 5 years if it finds that “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption” (49 U.S.C. 31315(b)(1)). The FMCSA evaluated RVIA’s application on its merits and decided to renew the exemption from 49 CFR 383.91(a)(1)-(2) for a 5-year period, as previously announced in the **Federal Register** on April 12, 2017 (82 FR 17734).

III. Application for Renewal Exemption

The RVIA requested renewal of an exemption from the CDL requirement under 49 CFR 383.91(a)(1)-(2) to allow drivers engaged in driveaway deliveries of RVs with gross vehicle weight ratings of 26,001 pounds or more 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. The initial exemption was granted on April 6, 2015 (80 FR 18493) and expired on April 6, 2017.

V. Public Comments

On April 12, 2017, FMCSA published its decision to grant a 5-year renewal (until 2022) of RVIA’s original exemption, and asked for public comment (82 FR 17734). Three comments supported the exemption renewal; none opposed it. There were no opposing comments. Mr. Scott Munson in collaboration with Mr. Jack Alexander wrote, “We believe a change to the wording of this regulation could add significant clarity to the portion describing required weight ratings.”

An anonymous commenter stated that “This exemption should be promulgated as an amendment to 49 CFR 383.3.”

The American Truck Dealers Division of the National Automobile Dealers Association (ATD) also commented. The ATD wrote, “In lieu of renewing the existing exemption, ATD petitions the FMCSA to issue a direct final rule amending its CDL applicability regulation (49 CFR § 383.3) to codify a permanent exception. In addition, ATD urges the FMCSA to expand the exemption/exception to cover all new and empty CMVs with actual unloaded (curb) weights or combination weights of less than 26,000 lbs. As with RVs, an expanded exemption/exception would be limited to empty new vehicles, including trucks and tractors transported from vehicle manufacturer or importer facilities and holding areas to dealerships, and from dealerships to first purchasers.”

All comments are available for review in the docket for this notice.

Response to Public Comments and Agency Decision

The FMCSA has evaluated the public comments, and affirms its decision to renew the exemption. The RVs covered by the exemption all have gross vehicle weight ratings (GVWRs) above the 26,001-pound threshold for a CDL, but their actual weights, *i.e.*, their gross vehicle weights (GVWs), will remain below that level during the driveaway or towaway operation of these vehicles. The Agency has held since 1993 that the CDL regulations do not apply to drivers of RVs, “if the vehicle is used strictly for non-business purposes” [Guidance to Q. 3 under 49 CFR 383.3, 58 FR 60734, at 60735, Nov. 17, 1993; posted on www.fmcsa.dot.gov]. For decades private owners and drivers of larger RVs, like those addressed in this exemption, have operated without CDLs,

often at GVWs well above the 26,001-pound threshold, without generating any concern among law enforcement professionals that they pose a risk to highway safety.

Furthermore, most private RV owners almost certainly have less experience behind the wheel of the RV than drivers employed specifically to deliver such vehicles to a dealer or customer. While RVIA demonstrated that the manufacturers and dealers who now employ CDL-holders in driveaway/towaway operations have a recordable accident rate far below the level that would require an unsatisfactory safety rating, the Agency's experience with private RV owners suggests that the absence of a CDL would have no discernible effect on safety. That is especially likely because the drivers covered by this exemption are required to comply with all other applicable safety regulations, including medical standards and hours-of-service limits. The FMCSA continues to believe that it is impracticable for these drivers to obtain a CDL with a representative vehicle when the actual vehicle they will operate is an RV.

With regard to ATD's recommendation to issue a direct final rule to make this exception permanent, FMCSA does not believe such an action is appropriate at this time.

The Agency does not believe that drivers covered by this exemption will experience any deterioration of their safety record.

Unless exempt motor carriers fail to maintain the terms and conditions specified in the April 12, 2017, decision, the exemption will remain in effect through April 6, 2022.

Issued on: February 6, 2018.

Cathy F. Gautreaux,

Deputy Administrator.

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