

#### IV. FMCSA Decision

When FMCSA published the rule mandating ELDs it relied upon research indicating that the rule improves CMV safety and reduces the overall paperwork burden for both motor carriers and drivers by increasing the use of ELDs within the motor carrier industry, which will in turn, improve compliance with the HOS rules. The rule includes an exception allowing motor carriers up to 8 days in a 30-day period to operate under conditions subject to the ELD requirement, without being required to do so. The 8-day exception covers short-haul operations that occasionally exceed the distance or time limits for the short-haul exception to the RODS requirements. Right-A-Way did not demonstrate how expanding the 8-day exception would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption.

Right-A-Way did not provide an alternative means of ensuring compliance with the HOS rules if drivers rely on paper RODS for more than eight times in a 30-day period. FMCSA does not accept mere maintenance of RODS more than eight days as an alternative to ELDs. There must be additional measures such as safety management oversight processes to achieve an equivalent level of safety and the applicant has not provided an acceptable alternative. Thus, Right-A-Way's request for an exemption is denied.

James W. Deck,

Deputy Administrator.

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#### DEPARTMENT OF TRANSPORTATION

##### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0032]

##### Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

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

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant an exemption from the commercial driver's license (CDL) requirements for Mr. Thomas Passegger, a driver employed by Daimler Trucks North America. Mr. Passegger is Daimler's Project Manager for

Autonomous Trucks. He holds a valid German commercial license and wants to test drive Daimler vehicles on U.S. roads to better understand product requirements in "real world" environments and verify results. Daimler believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

**DATES:** This exemption is effective September 28, 2020 and expires September 29, 2025.

**ADDRESSES:**

*Docket:* For access to the docket to read background documents or comments, go to [www.regulations.gov](http://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 (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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://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; email: [MCPSD@dot.gov](mailto: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](http://www.regulations.gov) and insert the docket number, "FMCSA-2012-0032 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

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from 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 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)).

#### III. Request for Exemption

Daimler has applied for an exemption for Thomas Passegger from 49 CFR 383.23, which prescribes licensing requirements for drivers operating commercial motor vehicles (CMVs) in interstate or intrastate commerce. Mr. Passegger is unable to obtain a CDL in any of the U.S. States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA-2012-0032.

The exemption would allow Mr. Passegger to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to develop improved safety and emission technologies. Daimler stated that Mr. Passegger will typically drive for no more than 6 hours per day for one to two days, and 10 percent of the test driving will be on two-lane State highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Mr. Passegger holds a valid German commercial license. As explained by Daimler in its exemption request, the requirements for that license ensure that, when operating under the exemption, he would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. Daimler requests that the exemption cover the maximum allowable duration of five years.

#### IV. Method To Ensure an Equivalent or Greater Level of Safety

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2015, FMCSA has granted Daimler drivers similar exemptions: March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410); July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151); September 10, 2018 (83 FR 45742).

#### V. Public Comments

On September 24, 2019, FMCSA published notice of this application and requested public comments (84 FR 50096); no comments were submitted.

#### VI. FMCSA Decision

Based upon the merits of this application, including Mr. Passegger's extensive driving experience and safety record, FMCSA has concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

#### VII. Terms and Conditions for the Exemption

FMCSA grants Daimler and Thomas Passegger an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Passegger to drive CMVs in this country without a State-issued CDL, subject to the following terms and conditions:

- (1) The driver and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350–399);
- (2) The driver must be in possession of the exemption document and a valid German commercial license;
- (3) The driver must be employed by and operate the CMV within the scope of his duties for Daimler;
- (4) At all times while operating a CMV under this exemption, the driver

must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled;

(5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and

(6) Daimler must notify FMCSA in writing within 5 business days if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 5 years unless revoked earlier by the FMCSA.

The exemption will be revoked if:

- (1) Mr. Passegger fails to comply with the terms and conditions of the exemption;
- (2) The exemption results in a lower level of safety than was maintained before it was granted; or
- (3) Continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

#### VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

**James W. Deck,**

*Deputy Administrator.*

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### DEPARTMENT OF TRANSPORTATION

#### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0044]

#### Commercial Driver's License: Ohio Department of Public Safety; Application for Exemption

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to deny the Ohio Department of Public Safety's (DPS) request for an exemption to modify the mandatory skills test requirements for qualified military veterans. FMCSA has determined that the applicant did not provide an alternative to ensure that an equivalent level of safety would be achieved under the exemption.

Furthermore, although a majority of the docket comments favored the exemption, none provided supporting data.

**DATES:** This decision is effective September 28, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Telephone: (202) 366–2722; Email: [MCPSD@dot.gov](mailto: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](http://www.regulations.gov) and insert the docket number, FMCSA–2019–0044 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

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. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the 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's decision 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 specify the effective period (up to 5 years) and explain its terms and conditions. The