

IV. Equivalent Level of Safety

Oak Harbor states that Mr. McLaughlin's experience and expertise in the HM field would supersede HM training offered by other theory and BTW training instructors and would enhance their HM materials and safety program. Oak Harbor provided the following list of Mr. McLaughlin's credentials:

- Over 20 years' experience as a certified truck inspector holding certifications in CVSA Part A and B, Hazardous Materials, Tank and other bulk packagings, Motor Coach and Multi Surface HM Transportation.
- 18 years' experience as a NTC Basic HM instructor
- Previous Region IV Cooperative Hazardous Materials Enforcement Development (COHMED) Program Vice Chairman
- Current COHMED Industry Liaison
- Former Training Lieutenant, Supervisory Lieutenant and District Captain in charge of CVSA and Hazardous Materials training and recertification programs for the Montana Motor Carrier Services
- Certified civilian CVSA Hazardous Materials Instructor
- Former Sergeant, Lieutenant and Captain overseeing CMV inspectors at the Montana/Alberta Joint Use Vehicle Inspection Station Coultts, AB regulating enforcement of FMCSA and Transport Canada regulations pertaining to vehicle safety and hazardous material/dangerous goods regulations

V. Public Comments

On September 8, 2021, FMCSA published notice of this application and requested public comment (86 FR 50426). The Agency received four comments. Two respondents, Railsback HazMat Safety Professionals, LLC (Railsback) and the Washington Trucking Associations (WTA) submitted comments favoring the exemption application. The other two respondents, J. Walker and an anonymous commenter, opposed or questioned the exemption application, respectively.

J. Walker stated the following: "Oak Harbor Freight Lines should not be granted this exemption as the reason for so many accidents on the roads today is Large Carriers get exemptions on training drivers and the majority of new drivers on the road have no clue what they are doing. Two weeks of classroom training and they are turned lose on the highways with no clue about regulations or even how to drive a truck."

An anonymous commenter said that it would be unwise for the FMCSA

leadership to grant the exemption "without conducting a comprehensive evaluation of the credentials and competencies possessed by Oak Harbor's safety supervisor Jeff McLaughlin." The commenter further stated: "Having worked in a factory that was both a producer and a consumer of hazardous waste, I question how an individual acting as a safety supervisor could possess the competencies needed to train transportation workers how to safely engage in the commercial transportation of hazardous materials. Reflecting on my past experience, the rules and regulations pertaining to issues of this nature were constantly changing."

Railsback submitted the following comment in favor of the exemption: "Without a doubt, I believe that former FMCSA, NTC Associate Staff Instructors have a better understanding of the ELDT Theory requirements, than 50–75% of driver/trainers, with CDLs. Not only do former Associate Staff Instructors know the regulations, but also the application of said regulations to real life roadside situations. Additionally, former Associate Staff Instructors experience goes beyond that of a driver/trainer, who has only worked/trained in one or two particular areas of the motor carrier industry."

WTA stated that it "believes Mr. McLaughlin's credentials and significant hazardous materials experience should exceed FMCSA's threshold to maintain the current level of safety. Additionally, due to the current driver shortage and the nationwide labor shortage, denial of the exemption application would likely prevent Oak Harbor from implementing a more efficient and effective hazardous materials endorsement training program to support the company's operations. For those reasons, WTA strongly supports Oak Harbor's exemption application."

VI. FMCSA Response to Comments and Decision

FMCSA has evaluated Oak Harbor's application for exemption and the public comments. The Agency conducted a comprehensive review of Oak Harbor's safety performance, which included a review of the Motor Carrier Management Information System safety records, and inspection and accident reports submitted to FMCSA by State agencies. Oak Harbor has an active USDOT registration, minimum levels of insurance as required by 49 CFR part 387 and is not subject to any imminent hazard or other out-of-service orders. FMCSA independently verified Mr. McLaughlin's professional credentials

identified in the exemption application, as suggested by the anonymous respondent. While J. Walker opposed the application, they did not specifically challenge any of Mr. McLaughlin's credentials or HM training experience, focusing instead on the ability of newly trained drivers to safely operate a CMV. As Oak Harbor stated in its application, their entry level drivers will receive the required BTW training from instructors fully meeting the qualification requirements set forth in definition of "BTW instructor" in 49 CFR 380.605. Therefore, based on Mr. McLaughlin's extensive experience as both an HM instructor and inspector, and his stellar reputation in the HM training community, FMCSA has decided to grant the exemption. FMCSA believes that the exemption will likely achieve a level of safety that is equivalent to or greater than the level that will be achieved absent such exemption, in accordance with § 381.305(a).

Extent of the Exemption

This exemption is granted to Oak Harbor on behalf of their instructor Mr. Jeff McLaughlin. The exemption from the qualification requirements set forth in the definition of "theory instructor" in 49 CFR 380.605 will allow Mr. McLaughlin to provide ELDT theory instruction for the H endorsement curriculum in Appendix E of Part 380 without meeting these requirements. The exemption is effective May 19, 2022 and expires May 19, 2027.

Robin Hutcherson,

Deputy Administrator.

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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), Department of Transportation (DOT).

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

SUMMARY: FMCSA announces its decision to provisionally renew a 2017 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 5 years and covers employees of all 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 RVs have actual 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 at the time of transportation. RVs that have a gross vehicle weight or gross combined weight exceeding 26,000 pounds are not covered by the exemption.

DATES: This renewed exemption is effective April 6, 2022 and expires on April 6, 2027. Comments must be received on or before June 21, 2022.

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. See the Public Participation and Request for Comments section below for further information.
- *Mail:* Docket Operations, 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:* (202) 493–2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA–2014–0352). 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. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public to better inform its exemption 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: Ms. Pearlle Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4225. Email: 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 email 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 the “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(b)(2) and 49 CFR 381.300(b) to renew an exemption from the Federal Motor Carrier Safety Regulations for a 5-year period if it finds “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.” RVIA has requested a five-year extension of the current exemption in Docket No. FMCSA–2014–0352.

III. Background

Current Regulation(s) Requirements

The CDL regulations require drivers to hold a CDL when operating vehicles in Groups A and B (49 CFR 383.91(a)(1) and 383.91(a)(2)). Group A vehicles are any combination of vehicles with a gross combination weight rating (GCWR) of 26,001 pounds or more, provided the gross vehicle weight rating (GVWR) of the towed unit is over 10,000 pounds. Group B vehicles are any single vehicle with a GVWR of 26,001 pounds or more, or any such vehicle towing a vehicle not over 10,000 pounds. The GVWR is the value specified by the manufacturer as the loaded weight of the vehicle.

Application for Renewal of Exemption

FMCSA published notice of RVIA’s initial application for exemption from 49 CFR 383.91(a)(1)–(2) to this docket on October 1, 2014 (79 FR 59343). That notice described the nature of the RV deliveries by commercial motor vehicle (CMV) drivers. FMCSA published a notice granting RVIA’s exemption request on April 6, 2015, which was effective through April 6, 2017 (80 FR 18493). FMCSA found that RVIA would achieve a level of safety that was equivalent to, or greater than, the level of safety that would be obtained by complying with the CDL requirements. FMCSA published a notice granting RVIA’s request to renew its exemption to this docket on April 12, 2017 (82 FR 17734). The exemption expires on April 6, 2022.

RVIA has now requested a second renewal of the exemption from the CDL requirement in 49 CFR 383.91(a)(1)–(2). The exemption allows drivers of RVs with GCWRs and GVWRs of 26,001 pounds or more to operate without a CDL as long as the RV has an actual vehicle weight of less than 26,001 pounds. A combination of RV trailer and tow vehicle must have a gross

combined weight of less than 26,001 pounds and the actual weight of the towed unit must not exceed 10,000 pounds.

IV. Equivalent Level of Safety Analysis

FMCSA determined in 2015 and again in 2017 that the level of safety associated with the 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. FMCSA noted in its April 12, 2017 notice that RVIA asserted that drivers who deliver RVs have substantially more experience than a typical driver operating an RV for recreational purposes. RVIA also stated that RV driveaway-towaway companies have a lower crash rate than the national benchmark average. RVIA contended that RV manufacturers and driveaway-towaway companies have economic incentives to train, monitor, and evaluate their RV drivers because of their exposure to liability for any traffic accidents. RVIA also asserted that newly manufactured vehicles have a low risk of mechanical failures and that travel distances between the manufacturer and dealer are shorter than the typical distance which RVs travel when in recreational use. (82 FR 17734). When FMCSA affirmed the renewal in 2018, FMCSA concluded that private owners and drivers have operated large RVs for years without CDLs without generating any concern among law enforcement professionals that they pose a risk to highway safety.

In its March 15, 2022 application for renewal, RVIA asserts that RV manufacturers and driveaway-towaway companies do not seek an exemption from other safety regulations such as safe driving (49 CFR part 392), driver qualifications (49 CFR part 391), and hours of service (49 CFR part 395). RVIA also states that the exempt RVs would always be empty and their actual weight would not exceed 26,000 pounds.

FMCSA is unaware of any evidence of a degradation in safety attributable to the current exemption for employee-drivers 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. There is no indication of an adverse impact on safety while operating under the terms and conditions specified in the April 6, 2015, notice of final determination (80 FR 18493).

FMCSA concludes that provisionally extending the exemption granted on April 6, 2015 for another five years,

under the same terms and conditions, will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

V. Exemption Decision

A. Grant of Exemption

FMCSA provisionally renews the exemption for a period of five years subject to the terms and conditions of this decision and the absence of public comments that would cause the Agency to terminate the exemption under Sec. V.F. below. The exemption from the requirements of 49 CFR 383.91(a)(1)–(2) is otherwise effective April 6, 2022 through April 6, 2027, 11:59 p.m. local time, unless renewed or rescinded.

B. Applicability of 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.

C. Terms and Conditions

When operating under this exemption, motor carriers and drivers are subject to the following terms and conditions:

(1) The drivers and motor carriers must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR part 350–399);

(2) The drivers must be able to provide this exemption document to enforcement officials; and

(3) The drivers must be in possession of a valid State driver's license.

D. 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 that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

E. Notification to FMCSA

Motor carriers using exempt drivers 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
- (k) The driver's total driving time and total on-duty time period prior to the accident.

Reports filed under this provision shall be emailed to MCPSPD@DOT.GOV.

F. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. The exemption will be rescinded if: (1) Motor carriers and drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315.

VI. Request for Comments

FMCSA requests comments from parties with data concerning the safety record of drivers employed by 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. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to rescind the exemption of the company or companies and drivers in question.

Robin Hutcheson,
Deputy Administrator.

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