



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2014-0406]**

**Commercial Driver's License Standards: Application for Exemption; C.R. England**

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

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

**SUMMARY:** FMCSA announces its decision to re-affirm renewal of an exemption granted to C.R. England from the regulation that requires a commercial learner's permit (CLP) holder to be 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 performs behind-the-wheel training on public roads or highways. Under this exemption, a CLP holder who has documentation of passing the CDL skills test may drive a commercial motor vehicle (CMV) for C.R. England without being accompanied by a CDL holder in the front seat of the vehicle. The exemption enables CLP holders to drive as part of a team like other C.R. England team drivers. FMCSA has analyzed the public comments in response to the exemption renewal and has determined that the renewed exemption, subject to the terms and conditions imposed, will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

**DATES:** The exemption is effective from June 13, 2017, through June 12, 2022.

**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](mailto:MCPSD@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

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)).

**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 granted on June 11, 2015 (80 FR 33329) and renewed for 5 years on June 12, 2017 (82 FR 26975).

The 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. C.R. England believed 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.

### **Public Comments**

In response to the notice renewing the exemption, the Agency received six docket comments from truck drivers, driver-trainers, and other individuals, all opposing that decision. These respondents do not believe that it is safe for a CLP holder to operate a CMV without the supervision of a CDL driver-trainer in the front seat of the vehicle.

### **FMCSA Response and Decision**

The premise of respondents opposing the exemption is that CLP holders lack experience and are safer drivers when observed by a CDL driver-trainer who is on duty and in the front seat of the vehicle. The fact is that CLP holders who have passed the

CDL skills test are qualified and eligible to obtain a CDL. If these CLP holders had obtained their CLPs and training in their State of domicile, they could immediately receive their CDL at the State driver licensing agency and begin driving a CMV without any on-board supervision. There is no evidence that having a CDL holder accompany a CLP holder who has passed the skills test improves safety. Because these drivers have passed the CDL skills test, the only thing necessary to obtain the CDL is to visit the Department of Motor Vehicles in their State of domicile.

C.R. England's overall safety performance is reflected in its "satisfactory" safety rating. The exemption is restricted to C.R. England's CLP holders who have documentation that they have passed the CDL skills test. The exemption will enable these drivers to operate a CMV as a team driver without requiring the accompanying CDL holder be on duty and in the front seat while the vehicle is moving. FMCSA therefore reaffirms its decision to renew the exemption because it will likely enable C.R. England drivers to achieve a level of safety equivalent to, or greater than, the level of safety achieved without the exemption (49 CFR 381.305(a)).

## **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 from 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, 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](mailto:MCPSD@DOT.GOV), and include the following information:

- a. Exemption Identifier: "C.R. England"
- b. Date of the accident,
- c. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,
- d. Driver's name and driver's license number,
- e. Vehicle number and State license number,
- f. Number of individuals suffering physical injury,
- g. Number of fatalities,
- h. The police-reported cause of the accident,
- i. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and

- j. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

Termination

The FMCSA does not believe the CLP-holders covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

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Daphne Y. Jefferson  
Deputy Administrator

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