



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 exemption; renewal of exemption.

SUMMARY: FMCSA announces its final decision to renew 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 (RVs) to dealers or trade shows before retail sale (driveaway operations), subject to revised terms and conditions. FMCSA announced its decision to provisionally renew RVIA's exemption on May 19, 2022, pending a review of any comments received in response to that notice. Four comments were submitted to the docket and are discussed later in this notice. 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 was effective April 6, 2022, and expires on April 6, 2027.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 366-4225 or by e-mail at pearlie.robinson@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number “FMCSA-2014-0352” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number “FMCSA-2014-0352” in the keyword box, click “Search,” and choose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations 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., 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.

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 five-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.” (49 U.S.C. 31315(b)(1). FMCSA evaluated RVIA’s application and provisionally renewed the exemption from 49 CFR 383.91(a)(1)-(2) for a five-year period as previously announced in the **Federal Register** on May 19, 2022 (87 FR 30553).

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.

III. Application for Renewal of Exemption

The RVIA requested a second renewal of an 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 provided 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. Public Comments

On May 19, 2022, FMCSA published its decision to provisionally grant a five-year renewal (until 2027) of RVIA's original exemption and asked for public comment (87 FR 30553). Four comments were submitted to the docket. Two commenters opposed the exemption, one commenter did not oppose or support the exemption, and one commenter supported the exemption.

AWM Associates, LLC (AWM) and James Underwood opposed the exemption. James Underwood said, "All drivers using a vehicle for commercial purpose should have a commercial license. Hence the name of the license."

AWM asserted that FMCSA's grant of an exemption from the CDL requirements "tramples a state's rights." AWM reported a list of states that require RV owners of large RVs to obtain a CDL. AWM contends that "it is not FMCSA's obligation to facilitate economic issues," but rather to require safe operation of commercial motor vehicles (CMVs).

The American Truck Dealers Division of the National Automobile Dealers Association (ATD) supported the exemption, and it urged FMCSA to amend its regulations to make the exemption permanent and to expand its application to “all new and empty CMVs with actual unloaded (curb) weights or actual combination weights of less than 26,000 lbs.”

V. Response to Public Comments and Agency Decision

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 above the 26,001-pound threshold for a CDL, but their actual weights, *i.e.*, their gross vehicle weights, will remain below that level during the driveaway or towaway operation of the vehicles. In response to the comments that opposed the exemption, private owners and drivers of larger RVs, like the RVs addressed in this exemption, have operated without CDLs, often at GVWs well above the 26,001-pound threshold, for decades without generating concern among law enforcement professionals that they pose a risk to highway safety. Furthermore, drivers employed specifically to deliver such vehicles to a dealer or customer have more experience behind the wheel of the RV than most private RV owners operating the vehicle for recreational purposes. 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 result in an unsatisfactory crash rating under FMCSA’s safety fitness rating methodology.¹ That result is likely related to the fact that drivers covered by this exemption are required to comply with all other applicable FMCSA safety regulations, including medical standards and hours-of-service limits.

¹ 49 CFR part 385, Appendix B.

With regard to ATD's suggestion to amend the regulation to make this exemption permanent, such an action is outside the scope of this proceeding, but FMCSA notes that parties may petition the Agency for rulemaking under 49 CFR part 389.

The Agency continues to believe that drivers covered by this exemption will not experience any deterioration of their safety record. FMCSA modifies the terms and conditions specified in the May 19, 2022, notice to clarify that the exemption does not apply to the transportation of RVs as cargo in another CMV. The exemption applies only to the operation of the empty RV itself (driveaway deliveries). Unless exempt motor carriers fail to maintain the terms and conditions specified in the May 19, 2022, decision, the exemption will remain in effect through April 6, 2027.

VI. Exemption Decision

A. Grant of Exemption.

FMCSA renews the exemption for a period of five years subject to the terms and conditions of this decision. The exemption from the requirements of 49 CFR 383.91(a)(1)-(2) is 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 empty RVs as a driveaway delivery, with the RV's wheels on the surface of the roadway, 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. The exemption does not apply to the transportation of an RV as cargo in another CMV.

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 parts 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.

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 e-mailed to MCPSD@DOT.GOV.

F. Termination

Based on the safety record of drivers operating under the exemption up to this point, FMCSA has no basis to believe the drivers covered by this renewed exemption will experience any deterioration of their safety record. The exemption will be rescinded, however, 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 objectives of 49 U.S.C. 31136(e) and 31315.

Robin Hutcheson,
Administrator.

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