



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2023-0089]**

#### **Entry-Level Driver Training: Application for Exemption; Alaska's Ice Road**

##### **Driving School**

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

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

**SUMMARY:** FMCSA announces its decision to deny the application from Alaska's Ice Road Driving School requesting an exemption from certain portions of the behind-the-wheel (BTW) entry-level driver training (ELDT) requirements for driver trainees. The applicant explained that because of the unique road system and challenging terrain in Alaska, it is difficult to adhere to the driver training regulations, and further explained that the road configurations lead to only a few major established safe road systems in Alaska. The applicant believes that the road skills test for a Commercial Driver's License (CDL) applicant can safely be administered by the State test examiner because set routes can be established and approved without the CDL applicant completing certain portions of the mandatory BTW training. FMCSA analyzed the application and determined that the exemption would not likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202-366-2722 or [richard.clemente@dot.gov](mailto:richard.clemente@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, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number “FMCSA-2023-0089” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “View Related Comments.”

If you do not have access to the internet, you may view the docket by visiting Dockets Operations 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 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 also provide an opportunity for public comment on the request.

The Agency reviews 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 decision of the Agency 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 also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **III. Background**

#### *Current Regulatory Requirements*

Under 49 CFR 383.3(e) the State of Alaska may waive certain knowledge and skills tests requirements and issue restricted CDLs, subject to certain conditions. To be eligible for a restricted CDL under 49 CFR 383.3(e), which is not valid outside Alaska, drivers must operate exclusively over roads that are not connected to the State highway system and are not connected to any highway or vehicular way with an average daily traffic volume greater than 499 (§383.3(e)(2)). The Federal Highway Administration, FMCSA's predecessor agency, set the daily traffic volume limit at 499 in 1996 (54 FR 33230).

The ELDT regulations, implemented on February 7, 2022, and set forth in 49 CFR 380, subparts F and G, established minimum training standards for individuals applying for certain CDLs and defined curriculum standards for theory and BTW training. The ELDT curriculum in 49 CFR part 380, appendix A, section A3.1, requires Class A CDL applicants to demonstrate proficiency in proper techniques for initiating vehicle movement, executing left and right turns, changing lanes, navigating curves at speed, entry and exit on the interstate or controlled access highway, and stopping the vehicle in a controlled manner. Under 49 CFR 380.603(a)(2), drivers issued a restricted CDL by the State of Alaska are exempt from the ELDT requirements.

#### *Applicant's Request*

Alaska's Ice Road Driving School seeks an exemption from the requirements, set forth in 49 CFR part 380, Appendices A and B, that driver trainees seeking a Class A or Class B CDL demonstrate proficiency in BTW maneuvers related to entering the on ramp, exiting the off ramp, right turns, and left turns. The applicant states that due to Alaska's unique road system they believe that the exemption would benefit Alaska's driver training schools and give them confidence to take on prospective students and

complete the required BTW training safely. Alaska's Ice Road Driving School requests the exemption regarding routing prescriptions that are specific to exact off and on ramps, and right and left turns, adding that it will aid in the safe administration of road tests by the Alaska State Department of Motor Vehicles. The applicant seeks the exemption on behalf of itself and all State and local commercial driving schools in Alaska as well as individuals qualified as third-party testers in the State of Alaska.

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

Alaska's Ice Road Driving School believes that the specified portions of the ELDT regulation could be waived safely by allowing the school and the State of Alaska to prescribe routes based upon the area in which the road skills exam would be administered. The applicant further believes that the road skills test for a CDL applicant can safely be administered by the State test examiner as set routes can be established and approved without the CDL applicant completing certain portions of the mandatory BTW training.

#### **V. Public Comments**

On April 20, 2023, FMCSA published Alaska's Ice Road Driving School's application and requested public comment [88 FR 24463]. The Agency received no comments in response to the notice.

#### **VI. FMCSA Safety Analysis and Decision**

FMCSA evaluated Alaska's Ice Road Driving School application and denies the exemption request. The applicant failed to establish that they would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption. Granting the exemption would result in drivers receiving a CDL even though they had not demonstrated proficiency in the three driving skills from which exemption is requested. In addition, on December 28, 2022, the Agency granted an exemption to the State of Alaska [87 FR 79932] which allows the State to waive specified portions of the CDL

skills test for drivers in 14 defined geographical areas that lack infrastructure to allow completion of the full skills test. Drivers who receive a restricted CDL under the provisions of the 2022 exemption are also exempt from the ELDT regulations. The relief requested by Alaska's Ice Road Driving School falls within the scope of that exemption to the extent that drivers would not be subject to ELDT requirements if, pursuant to the 2022 exemption, they received a restricted CDL allowing them to operate a commercial motor vehicle only within 14 designated geographical areas of the State. This exemption for the State of Alaska is effective from December 28, 2022, through December 30, 2024. The Agency does not believe it is appropriate to grant a State-wide exemption when the previous exemption provides a targeted solution in 14 specific regions of the State where there are challenges to achieving full compliance with the rules. In addition, there were no comments filed in support of Alaska's Ice Road Driving School's request.

For the above reasons, Alaska's Ice Road Driving School's exemption application is denied.

**Earl Stanley Adams Jr.,**

*Deputy Administrator.*

[FR Doc. 2023-19614 Filed: 9/11/2023 8:45 am; Publication Date: 9/12/2023]