



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0133]

Commercial Driver's License: U.S. Custom Harvesters, Inc.; Application for Exemption Renewal

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

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

SUMMARY: FMCSA announces that the U.S. Custom Harvesters, Inc. (USCHI) has requested a renewal of the exemption from the “K” intrastate restriction on commercial driver’s licenses (CDLs) held by custom harvester drivers under the age of 21 operating in interstate commerce. FMCSA’s regulations currently provide an exception to the minimum age requirements for drivers of commercial motor vehicles (CMV) controlled and operated by a person engaged in interstate custom harvesting. However, under the Agency’s CDL regulations, States must include an intrastate-only (or “K”) restriction for these drivers. FMCSA requests public comment on USCHI’s application to renew its exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2017-0133 by 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:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

To avoid duplication, please use only one of these four methods. Each submission must include the Agency name and the docket number (FMCSA-2017-0133) for this notice. 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: To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2017-0133/document> and choose the document to review. To view comments, click this notice, then click “Browse Comments.” If you do not have access to the internet, you may view the docket in person by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., 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), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice DOT/ALL-14 FDMS (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards,

FMCSA; (202) 366-2722; richard.clemente@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2017-0133), 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 e-mail 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, insert the docket number (FMCSA-2017-0133) in keyword box, and click on this notice, click “Comment,” and type your comment into the text box on the following screen.

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.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552),

CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin brian.g.dahlin@dot.gov, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) 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 the applicant’s safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, 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 absent such exemption pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the Federal Register (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt, the

effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)).

If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

USCHI requested a renewal of its current exemption. USCHI stated that it frequently employs drivers younger than 21 years of age, who are issued CDLs with a "K" restriction. Under an exception that has been in place since 1971, the requirement that commercial motor vehicle (CMV) drivers must be at least 21-years old does not apply to a someone who drives a CMV in interstate commerce while engaged in custom-harvesting operations, provided that certain conditions are met (49 CFR 391.2(a)). Under the exemption in section 391.2(a), drivers under 21 are therefore allowed to drive in interstate custom harvesting operations, but remain subject to the the "K" restriction which makes their licenses invalid outside the State of issuance. The current exemption allows holders of "K"-restricted CDLs to operate in interstate commerce.

USCHI states that, even though CMV drivers engaged in custom harvesting are excepted from the 21-year-old requirement, they are frequently cited during roadside inspections because of the presence of the "K" restriction on their licenses. USCHI states that this issue negatively impacts the safety records of drivers and employers. USCHI asks the Agency to renew its exemption, subject to terms and conditions, that would allow law enforcement officers to determine that the driver is operating in custom harvester operations. For example, USCHI proposes that the driver be required to provide at least three methods of verification while en route.

A copy of USCHI's request for an exemption renewal is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on USCHI's application for an exemption from the "K" intrastate restriction on CDLs held by custom harvester drivers under the age of 21 operating in interstate commerce (49 CFR 391.2; 49 CFR 383.23(a)(2) and 49 CFR 383.153(a)(10)(vii)). All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,
Associate Administrator for Policy.

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