



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0288]

Commercial Driver's License: James D. Welch; Application for Exemption

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

ACTION: Notice of final disposition; grant of application for exemption for the U.S. Air Force Reserve Command, Air Reserve Technicians.

SUMMARY: FMCSA announces its decision to grant James D. Welch's application for an exemption on behalf of Air Reserve Technicians (ARTs) working under the U.S. Air Force Reserve Command (AFRC) from the requirement to obtain a commercial driver's license (CDL) to operate a commercial motor vehicle (CMV). The Agency has considered the training these individuals must complete on the operation of the U.S. Air Force's CMVs and determined that the terms and conditions of the exemption will likely achieve an equivalent level of safety as would be achieved absent the exemption.

DATES: The exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires May 20, 2030.

FOR FURTHER INFORMATION CONTACT: Bernadette Walker, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202-385-2415; Bernadette.walker@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 any documents mentioned as being available in the docket, go to

<https://www.regulations.gov/docket/FMCSA-2024-0288/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 online 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.

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 safety analyses and 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 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 will explain 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. Background

Current Regulatory Requirements

The CDL regulations in 49 CFR part 383 require every person who operates a CMV, as defined in 49 CFR 383.5, to obtain a CDL. Under 49 CFR 383.3(c), States are required to exempt individuals who operate CMVs for military purposes from 49 CFR part 383. The exception covers active-duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, national guard military technicians (civilians who are required to wear military uniforms); and active-duty U.S. Coast Guard personnel. The regulation states that the “exception is not applicable to U.S. Reserve technicians.” The Controlled Substances and Alcohol Use and Testing regulations in 49 CFR part 382 do not apply to employers and their drivers who are included in the exception in 49 CFR 383.3(c) (49 CFR 382.103(d)(2)).

Applicant’s Request

The application from Mr. Welch was described in detail in a Federal Register notice published on January 13, 2025, (90 FR 2774) and will not be repeated here as the facts have not changed. Also, on March 11, 2024, FMCSA granted Mr. Welch’s petition for rulemaking to amend 49 CFR 383.3(c) to include ARTs in the exception to the CDL requirements.

IV. Public Comments

The Agency received three comments. One individual supported granting the exemption, and one commenter, AWM Associates LLC (AWM), submitted two comments in opposition to granting the exemption.

AWM’s first comment questioned if Mr. Welch’s application covered the transportation of hazardous materials and referenced 49 CFR 171.1(d) as a regulation that would provide the requested relief. AWM stated, “If the request is strictly bound to the HMR [Hazardous Materials Regulations], then the concern is moot whereas, government employees transporting hazardous materials are excepted from the HMR and if they

placarded, it would be allowed vs required negating the need of a hazardous materials endorsement on a CDL. AWM's second comment stated, "Any request for an exemption for reserve technicians should come from the Department of Defense, not an individual command."

Michael Ravnitzky commented in support of granting the exemption: "Air Reserve Technicians operate primarily on military installations, where there are multiple layers of safety requirements, including daily supervision, quality assurance inspections, and base safety oversight. These controlled environments and preapproved routes ensure that ARTs maintain a high level of safety in their operations, equivalent to or greater than that provided by the CDL regulations."

V. FMCSA Decision

FMCSA has reviewed the comments and Mr. Welch's application and grants an exemption to ARTs working under the AFRC from the CDL requirements in 49 CFR part 383.

In response to AWM's comments, the government exception to the Hazardous Materials Regulations in 49 CFR 171.1(d)(5) does not provide relief from the CDL requirements in 49 CFR part 383. In addition, FMCSA may consider the exemption request even though Mr. Welch, and not the Department of Defense, submitted the request. Under 49 CFR 381.310, exemption applications must identify the person or class of persons who would be covered by the exemption. FMCSA's regulations do not limit who may apply on behalf of a person or class of persons.

The applicant explains that the exemption would apply to ARTs who have been trained in their military capacities to transport hazardous materials . The applicant states that there are multiple layers of safety in place. First and second line supervisors are present for daily operations, quality assurance conducts random daily inspections, and the

base safety office also provides oversight. In addition, only approved routes may be used while transporting hazardous material and required placarding is used.

FMCSA has previously determined that military training, including Air Force training, to operate heavy-duty vehicles is “thorough and comprehensive” and compatible with the requirements of FMCSA’s Entry-Level Driver Training Rule (83 FR 48964, 48970).

Just like the National Guard military technicians who are included in the exception, ARTs are civilians who are, since 2007, required to wear military uniforms. In addition, FMCSA does not have any evidence or information that would weigh against granting the exemption.

VI. Exemption Decision

A. Applicability of Exemption

FMCSA grants an exemption, that the AFRC may choose to utilize, from the CDL requirements in 49 CFR part 383 to ARTs working under the AFRC while they are operating CMVs for military purposes. Under this exemption, ARTs are not subject to the drug and alcohol testing requirements in 49 CFR part 382, which apply only to drivers who are subject to the CDL requirements in 49 CFR part 383.

B. Terms and Conditions

Prior to utilizing this exemption, the U.S. Air Force Reserve Command must notify FMCSA that it is doing so, by sending an email to MCPSD@DOT.GOV from an official U.S. Air Force Reserve Command email address, with the subject line “Air Reserve Technicians” and a statement in the body of the email that it will begin using the exemption.

When operating under this exemption, the U.S. Air Force Reserve Command and ARTs drivers are subject to the following terms and conditions:

1. Drivers must be ARTs and operating the CMV within the scope of their

- duties for the U.S. Air Force Reserve Command;
2. Drivers must be trained by the U.S. Department of Defense to transport hazardous materials;
 3. Drivers must use only routes approved by the U.S. Air Force Reserve Command while transporting hazardous material and must comply with applicable placarding requirements;
 4. The U.S. Air Force Reserve Command must continue the other safety oversight activities stated in Mr. Welch's application:
 - a. Supervisors must be present for daily operations;
 - b. Random daily inspections must be conducted;
 - c. The base safety office must provide oversight.

C. 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 person operating under the exemption.

D. Notification to FMCSA

The U.S. Air Force Reserve Command must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving drivers operating under this exemption. The notification must include the following information:

1. Identifier of the Exemption: "Air Reserve Technicians"
2. Date of the accident;
3. City or town, and State, in which the accident occurred, or closest to the accident scene;
4. Driver's name;
5. Number of individuals suffering physical injury;

6. Number of fatalities;
7. The police-reported cause of the crash, if provided by the enforcement agency; and
8. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations.

Reports filed under this provision shall be e-mailed to MCPSD@DOT.GOV.

E. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety records. However, the exemption will be rescinded if: (1) the AFRC or the 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(b).

Sue Lawless,
Assistant Administrator.

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