



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0293]

Commercial Driver's License: Application for Exemption; American Public Transportation Association

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

ACTION: Notice of final disposition; grant in part, and deny in part, application for exemption.

SUMMARY: FMCSA announces its decision to grant, in part, and deny in part, the application from the American Public Transportation Association (APTA), on behalf of public transit agencies and their contractor partners. FMCSA grants the application request to allow State Driver Licensing Agencies (SDLAs) the option to waive the “under-the-hood” portion of the pre-trip vehicle inspection skills test requirement for commercial driver’s license (CDL) applicants seeking to operate commercial motor vehicles (CMVs) in public transportation. Drivers issued CDLs pursuant to the requested exemption are restricted to intrastate operation of transit buses only. FMCSA denies APTA’s application request to allow drivers issued a CDL under this exemption to operate in interstate commerce.

DATES: The exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires July 16, 2027.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202-366-2722; 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 any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2024-0293/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. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory 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 (Federal Docket Management System (FDMS)), which can be reviewed under the “Department Wide System of Records Notices” at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>. The comments are posted without edit and are searchable by the name of the submitter.

III. 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 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)).

IV. Background

Current Regulatory Requirements

Under 49 CFR 383.113(a), CDL applicants must possess basic pre-trip vehicle inspection skills for the vehicle class that they operate or expect to operate. Applicants must be able to identify each safety-related part on the test vehicle and explain what needs to be examined during a pre-trip vehicle inspection to ensure the safe operation of the CMV, including the engine compartment.

As prescribed in 49 CFR 383.153(a)(10)(ix), a State may impose restrictions on a CDL or create its own restrictions using additional codes for additional restrictions, as long as each such restriction code is fully explained on the front or back of the CDL document.

Applicant's Request

APTA's application for exemption was described in detail in a Federal Register notice published on December 26, 2024, (89 FR 105175) and will not be repeated as the facts have not changed.

V. Public Comments

In response to APTA's application, the Agency received 29 comments;¹ the majority of the comments were from transit-related agencies and associations, such as the Regional Transportation Commission of Southern Nevada, the New York State Metropolitan Transportation Authority, and the Central Ohio Transit Authority. Of the 29 comments, 25 were in support of granting the exemption, three were in opposition, and one comment offered no position either for or against but instead provided general comments.

The three opposing comments were from two individuals and a transit provider. Bryan Martin commented, "This would call for a separate transit/coach CDL or a restriction to a regular Class B CDL. Currently a bus driver can also drive ANY class B vehicle that they are endorsed for (air brake, tank, HazMat) as well as their bus/coach, but if you take away the small segment of the test for under the hood that would DQ [disqualify] them from traditional commercial trucks." Ozark Regional Transit also opposed granting the exemption and posed the following question: "If you make this change to the CDL, what measures will be in place to prevent a CDL driver to go to another state and start driving a dump truck without knowing the components of under the hood[?]" Bobby Tyner commented, "This could be the most unsafe thing that you could do."

The 25 commenters in support of granting the exemption were primarily transit agencies and associations. Some of the common reasons cited for granting the exemption included: a comparison to the school bus industry's relief from the "under-the-hood" skills test; that the "under-the-hood" test is unrelated to the driver's job responsibilities; and that the "under-the-hood" skills test creates an unnecessary barrier to entry for potential bus operators that further exacerbates the driver shortage. The Community Transportation Association of America commented, "FMCSA has already exempted the

¹ The docket on Regulation.gov lists 30 comments, but one is a duplicate.

school bus industry from the ‘under the hood’ CDL testing requirements for many of the same reasons the public transit industry now seeks relief and we urge a similar exemption for all public transit operators.” The Suburban Mobility Authority for Regional Transportation commented that under current CDL testing requirements, “public transit workers are compelled to study topics that are not pertinent to their day-to-day responsibilities.” Latinos in Transit commented, “we see firsthand how the under-the-hood testing requirement creates unnecessary barriers to entry for potential bus operators, further exacerbating this shortage.”

The Pennsylvania Department of Transportation (PennDOT) was neither for nor against granting the exemption and questioned if APTA wanted an exemption from the original or modernized under-the-hood skills test. PennDOT stated, “CDL Modernized test exempts applicants from mentioning four fluids (oil, transmission fluid, power steering fluid, and coolant (hydraulic fluid, if applicable)) during their test.” PennDOT also recommended that FMCSA adopt a single under-the-hood waiver to prevent confusion between CDL restrictions for school and transit bus operators. PennDOT agreed with the applicant’s claim that the under-the-hood portion of the test is unnecessary, stating “Like school bus operators, public transit bus operators have maintenance teams for vehicle servicing, making the under-the-hood portion of the test irrelevant to their job duties. As such, expanding the waiver to eliminate all under-the-hood testing requirements would be practical. This would maintain consistency and allow for interstate driving rather than limiting to intrastate driving only.”

Other commenters, including the American Bus Association and PennDOT, stated that they favored a two-year exemption term and not a five-year exemption as requested by APTA.

VI. FMCSA Decision

FMCSA evaluated APTA's application and public comments and grants the exemption request for a period of two years to permit SDLAs to waive the "under-the-hood" portion of the pre-trip vehicle inspection skills test requirement for CDL applicants seeking to operate transit buses in intrastate commerce. FMCSA denies APTA's request to extend the exemption to interstate commerce.

APTA argues that transit agencies are experiencing similar hiring and driver retention challenges as the school bus industry, and the transit industry should receive the same relief granted to the school bus industry, without the intrastate restriction.² FMCSA agrees that APTA's request is similar in many respects to the National School Transportation Association's (NSTA) request, and that similar relief is warranted. Like school buses, transit buses travel for relatively short distances and are operated in higher population density areas where mechanics or other qualified personnel are readily available to provide roadside assistance in the event of a vehicle malfunction. Unlike with other CMVs that are often operated for long distances and in remote areas, the risk of a malfunction to a transit bus in a location where only the driver is readily available to perform repairs is low.

Under the exemption, CDL applicants must continue to pass all remaining elements of the pre-trip vehicle inspection components of the skills test, as set forth in 49 CFR 383.113(a)(1)(ii-ix). This exemption is optional for SDLAs, and it may be adopted regardless of which version of the skills test the SDLA administers. All other State or local bus inspection maintenance standards and CDL requirements continue to apply.

FMCSA does not believe that extending the relief beyond the relief granted to the school bus industry, to allow States to issue unrestricted CDLs under the exemption (i.e.

² On October 27, 2022, FMCSA granted an exemption that allowed States to waive the engine compartment portion of the pre-trip vehicle inspection skills test, set forth in 49 CFR 383.113(a)(1)(i), for CDL applicants seeking the school bus and passenger endorsements, subject to school bus only and K restrictions on their CDLs limiting their operation to intrastate commerce (87 FR 65114). This exemption was renewed on December 2, 2024 (89 FR 95348).

authorizing interstate operation), would likely achieve an equivalent level of safety. The same reasoning for why FMCSA allowed only intrastate CDLs for school bus drivers under the NSTA exemption applies here as well. The intrastate K restriction required for CDLs issued under the NSTA exemption mitigates concerns about varying State requirements and maintains State authority over driver qualifications for school bus drivers. Allowing interstate operation for drivers issued CDLs under the NSTA exemption would require States that did not adopt the exemption to allow school bus drivers who did not pass the full CDL skills test to operate in their States. In addition, in response to NSTA's request to renew its exemption, the American Association of Motor Vehicle Administrators noted that if a driver received a CDL in a State that adopted the exemption and moved to another jurisdiction that did not adopt the exemption, the new jurisdiction of record would have no way to know that the applicant did not pass the full CDL skills test. FMCSA responded in its decision granting the exemption renewal that requiring States to include "school bus only" and K restrictions on CDLs issued under the exemption addressed concerns about drivers moving to a jurisdiction that did not adopt exemption (89 FR 95348, 95351). The reasoning of the NSTA exemption applies here, and FMCSA sees no grounds for granting APTA's request without a similar restriction allowing intrastate operations only.

Further, FMCSA believes that the required restrictions—transit bus only and intrastate only—on CDLs issued under this exemption address the points raised by the commenters who expressed concern about safety and confusion over States' differing rules.

A. Applicability of Exemption

This exemption covers States for the period of two years. Under this exemption, a State may, but is not required to, waive the engine compartment portion of the pre-trip vehicle inspection skills test, set forth in 49 CFR 383.113(a)(1)(i), for CDL applicants

seeking the P endorsement and issue them CDLs subject to the K restriction limiting their operation to intrastate commerce and subject to a transit bus only restriction. States issuing CDLs pursuant to this exemption are not subject to the requirement in 49 CFR 383.133(c)(1) that this portion of the pre-trip vehicle inspection test be administered in accordance with an FMCSA pre-approved examiner information manual.

FMCSA intends to closely monitor the safety impacts of the relief granted under this exemption. As necessary, FMCSA may take action to modify the exemption, including scaling back the regulatory relief provided, or to terminate the exemption sooner, if conditions warrant.

B. Terms and Conditions

States issuing CDLs pursuant to this exemption must abide by the following terms and conditions:

1. The State Driver Licensing Agency must submit the names and CDL numbers of drivers who are issued a CDL pursuant to the terms of this exemption, as authorized by 49 CFR 383.73(h) and 384.225(e)(2), monthly to MCPSD@dot.gov.
2. The CDL credential must conform to the requirements of 49 CFR part 383, subpart J.
3. When issuing a K-restricted CDL with the P endorsement pursuant to this exemption, States must continue to comply with the applicable provisions set forth in 49 CFR 383.73.
4. When issuing a K-restricted CDL with the P endorsement pursuant to this exemption, States must place a transit bus only restriction on the CDL in accordance with 49 CFR 383.153(a)(10)(ix).
5. States must conduct the remaining pre-trip vehicle inspection components of the skills test for drivers subject to this exemption, as set forth in 49 CFR 383.113(a)(1)(ii–ix).

6. This exemption applies only to the intrastate operation by an operator of a public transportation system of public transit buses within the State that issues the CDL. Public transit buses are defined as buses used in “public transportation,” as that term is defined in 49 U.S.C. 5302(15). An operator of a public transportation system is defined as any State, local governmental authority, and any other operator of a public transportation system, and its contractor partners, that is subject to the Federal Transit Administration’s safety oversight under 49 CFR part 673.

7. States must continue to comply with 49 CFR 383.133(c)(5), including that interpreters are prohibited and neither the applicant nor the examiner may communicate in a language other than English during the skills test.³

C. Termination

FMCSA does not believe that drivers issued CDLs under the exemption will experience any deterioration of safety below the level that would be achieved without the exemption. The exemption will be rescinded if: (1) States 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(b).

Sue Lawless,
Assistant Administrator.

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³ FMCSA’s regulatory guidance provides that a hearing-impaired driver satisfies the English language requirement if the driver is capable of reading and writing in the English language (79 FR 59139).