

18 applicants, no drivers were involved in crashes and no drivers were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 18 applicants listed in the notice of July 12, 2016 (81 FR 45214).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 18 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49

CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

#### V. Discussion of Comments

FMCSA received no comments in this proceeding.

#### VI. Conclusion

Based upon its evaluation of the 18 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Travis A. Beckum (GA)  
Steve Benton (TX)  
Caleb E. Boulware (KS)  
David E. Campbell (NY)  
James G. Cothren (GA)  
Nenad Harnos (NJ)  
Matthew D. Hormann (MN)  
James W. Jones (AL)  
Louis M. Jones (LA)  
Duane R. Martin (PA)  
Roger S. Orr (IA)  
Johnny A. Peery, Jr. (MD)  
J.W. Ray (ID)  
Richard D. Shyrock (MO)  
Steven D. Soddors (OH)  
Jerry M. Stearns, Jr. (AR)  
Keith R. Tyler (NC)  
James L. Yingst (IL)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails 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 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 15, 2016.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2016-23357 Filed 9-27-16; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0111]

#### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From the International Institute of Towing and Recovery

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

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

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from the International Institute of Towing and Recovery (IITR) (on behalf of the Towing and Recovery Association of America (TRAA) and the towing and recovery industry) to allow commercial motor vehicle operators to secure automobiles, light trucks, and vans using a total of four tiedowns—two fixed and two adjustable—instead of using a minimum of two tiedowns, both of which need to be adjustable. While the Federal Motor Carrier Safety Regulations (FMCSRs) require each tiedown, or its associated connectors or attachment mechanisms, to be adjustable, IITR believes that the use of four tiedowns instead of the two that are minimally required by the FMCSRs to secure automobiles, light trucks, and vans will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption even though two of the four tiedowns are not adjustable. IITR is requesting the temporary exemption in advance of petitioning FMCSA to conduct a rulemaking to amend 49 CFR 393.112.

**DATES:** Comments must be received on or before October 28, 2016.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2016-0111 using any of the following methods:

- **Web site:** <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility, U.S. Department of Transportation,

Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- **Hand Delivery:** Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

**Instructions:** All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the "Public Participation" heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the "Privacy Act" heading for further information.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**Public participation:** The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site as well as the DOT's <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Amina Fisher, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-2782, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA-21) [Pub. L. 105-178, June 9, 1998, 112

Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with 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 the safety analyses and the 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 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)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

##### IITR's Application for Exemption

IITR has applied for an exemption from 49 CFR 393.112 to allow the use of two non-adjustable tiedowns in addition to the two adjustable tiedowns currently required. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.112 of the FMCSRs, "Must a tiedown be adjustable?" states "Each tiedown, or its associated connectors, or its attachment mechanisms must be designed, constructed, and maintained so the driver of an in-transit commercial motor vehicle can tighten them." Section 393.128, "What are the rules for securing automobiles, light trucks and vans?" states in paragraph (b)(1) that "Automobiles, light trucks, and vans must be restrained at both the front and rear to prevent lateral, forward, rearward, and vertical movement using a minimum of two tiedowns."

In its application, IITR states:

The use of chains as a tiedown securement has been an industry standard for many years. While there are other methods of

securement many operators believe that properly rated chains are the best option for securement of heavy loads. A tiedown chain is secured to the vehicle at one end of the load, adjusted for length and then dropped into a keyhole slot. Then at the other end of the vehicle, tiedowns are secured, and then the tension for the cargo securement is adjusted by using a chain binder ratchet assembly. Tightening one end of the assembly also tightens the other end.

As an example of current industry practice, once the disabled vehicle has been winched forward onto the carrier bed a safety chain is installed to prevent rollback. Two tiedown chains are then attached to the rear of the disabled vehicle, dropped through two of the keyhole slots at the rear of the carrier bed, and snugged up or adjusted by using the winch to remove any slack in the chains. Then two chains or straps are attached and ratcheted to secure the front of the vehicle. Tightening the two front tiedowns subsequently tighten the two rear tiedowns.

49 CFR 393.112 states that each tiedown, or its associated connectors, or its attachment mechanisms must be designed, constructed, and maintained so the driver of an in-transit commercial motor vehicle can tighten them. Looking at the definition of a tiedown and "its associated connectors" and the method by which a disabled vehicle is secured to the carrier bed, each chain or tiedown is completely adjustable. Specifically in the example above, when a chain is dropped into a keyhole slot the length of the chain is easily adjustable and the tension can be further adjusted by either the winch, tilt of the bed, or a chain binder or ratchet assembly—by tightening the front end of the tiedown assembly the rear is also tightened.

As a further note, using only two chains as prescribed in 393.128, one at the front and one at the rear, may not meet the cargo securement performance requirements of 0.8g as described in 393.102, particularly in hard stop or crash situations.

The towing and recovery industry faces the continuing challenge of operating in the safest and most expeditious manner. Following the current roadside enforcement interpretations of 393.112 and 393.128 and how they are being enforced will push tow operators into using one chain on the front and one on the rear of the disabled vehicle, which the industry considers to be a "shortcut". Using only two chains in this manner could easily result in the disabled vehicle moving on the bed, leading to possible loss of control of the truck, leading to possible injuries and/or death.

The exemption would apply to all car carrier-type tow trucks. IITR believes that using two non-adjustable tiedowns in addition to the two adjustable tiedowns minimally required will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

##### Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public

comment from all interested persons on IITR's application for an exemption from 49 CFR 393.112. All comments received before the close of business on the comment closing date indicated at the beginning of this notice 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.

Issued on: September 15, 2016.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2016-23358 Filed 9-27-16; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0489]

#### Commercial Driver's License Standards: Application for Exemption; State of Idaho, Idaho Transportation Department (ITD)

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

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

**SUMMARY:** FMCSA announces that it has denied an application for exemption from the requirement that third-party commercial driver's license (CDL) testers maintain a bond in an amount determined by the State that employs them. The bond is intended to be sufficient to pay for re-testing drivers in the event that the third party or its examiners is involved in fraudulent activities related to CDL skills testing. The Division of Motor Vehicles, Idaho Transportation Department (ITD) submitted the application for exemption. FMCSA published ITD's application, reviewed the public comments received, and denied the application because available information did not allow the Agency to conclude that the proposed exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained absent the exemption.

**DATES:** FMCSA denied the application for exemption by letter dated August 8, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; Telephone: 614-942-6477. Email: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of 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 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 and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### ITD Application for Exemption

The Idaho Transportation Department (ITD) is responsible for State transportation infrastructure and oversees the disbursement of Federal, State, and grant funding for Idaho transportation programs.

The ITD applied for an exemption from the regulations in 49 CFR 383.75(a)(8)(v) that require third party testers to initiate and maintain a bond in an amount determined by the State to be sufficient to pay for re-testing drivers in the event that the third party or one or more of its examiners is involved in fraudulent activities related to conducting skills testing of CDL applicants. The ITD requested the exemption because the regulation creates a financial hardship for testing examiners who must be bonded but conduct only a few tests monthly. ITD

said that the State has had no instances of fraud in its third-party testing organizations.

##### Public Comments

On March 9, 2016, FMCSA published in the **Federal Register** notice of the ITD application and requested public comment (81 FR 12443). The Agency received three comments, all of which opposed the exemption. One commenter objected to all exemptions in general. The Commercial Vehicle Training Association stated that exempting Idaho from the bond requirement is unnecessary because the State has the authority to determine what the amount of these bonds should be. Therefore, if Idaho determines that the current bond requirement is too high, it can simply reduce the requisite amount. The Surety and Fidelity Association of America listed various reasons why a surety bond has value to the State and is in the public interest.

No commenters supported the ITD exemption request.

##### FMCSA Decision

The Agency's decision is based upon the information provided by the applicants, and its review of comments received in response to the **Federal Register** notice. The Agency concluded that the ITD application failed to demonstrate how by eliminating the requirement for third party testers to initiate and maintain a bond would achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. The Agency believes the regulation provides the proper balance, protecting the public interest while imposing only minimal costs on small third-party testers. The bond requirement is a business standard that not only provides a higher degree of assurance that the CDL tests performed meet FMCSA and State requirements, but that the tests are also performed by qualified individuals as agents of the State. ITD did not provide any data, studies or research supporting its request, or explain why a reduced bond amount would not achieve the same result as an exemption. Therefore, the Agency cannot determine that ITD's proposed exemption would meet the statutory requirement to maintain the required levels of safety. Accordingly, FMCSA denied ITD's application for exemption by letter dated August 8, 2016.

Issued on: September 14, 2016.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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