



## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0428]

**Hours of Service of Drivers: Truck Renting and Leasing Association, Inc.**

**(TRALA); Application for Exemption Renewal**

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

**ACTION:** Notice of provisional renewal of exemption; request for comments.

**SUMMARY:** FMCSA announces its decision to provisionally renew the Truck Renting and Leasing Association, Inc. (TRALA) exemption from the provisions that require a motor carrier to install and require each of its drivers to use an electronic logging device (ELD) to record the driver's hours-of-service (HOS). The exemption allows drivers of property carrying commercial motor vehicles (CMVs) rented for 8 days or less, regardless of reason, to not use an ELD in the vehicle. These drivers remain subject to the standard HOS limits and must maintain a paper record of duty status (RODS) if required. The exemption renewal is for 5 years.

**DATES:** This renewed exemption is effective October 12, 2022, and expires on October 12, 2027. Comments must be received on or before **[INSERT DATE 30 DAYS**

**AFTER PUBLICATION IN THE FEDERAL REGISTER.]**

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2016-0428 by any of the following methods:

- **Federal eRulemaking Portal:** [www.regulations.gov](https://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, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2016-0428) for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the **Privacy Act** heading below.

**Docket:** For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, 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.

**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, 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 <https://www.transportation.gov/privacy>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 385-2415 or by e-mail at [richard.clemente@dot.gov](mailto: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.

### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2016-0428), 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](http://www.regulations.gov) and put the docket number (“FMCSA-2016-0428”) in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

## **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b)(2) and 49 CFR 381.300(b) to renew an exemption from the Federal Motor Carrier Safety Regulations for a 5-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.”

TRALA has requested a five-year extension of the current exemption in Docket No. FMCSA-2016-0428.

### **III. Background**

#### *Current Regulatory Requirements*

Under FMCSA's electronic logging device (ELD) regulations in 49 CFR 395.8(a)(1)(i) a motor carrier subject to the requirements of part 395 must require each driver used by the motor carrier to record the driver's duty status for each 24-hour period using the method prescribed in § 395.8(a)(1)(i)-(iv), as applicable. Subject to § 395.8(a)(1)(ii) and (iii), a motor carrier operating CMVs must install and require each of its drivers to use an ELD to record the driver's duty status in accordance with 49 CFR part 395, subpart B, no later than December 18, 2017.

#### *Application for Renewal of Exemption*

FMCSA published notice of TRALA's initial application for exemption from 49 CFR 395.8(a)(1)(i) on March 22, 2017 (82 FR 14789) describing the nature of TRALA's operations and application. FMCSA published a notice granting TRALA's exemption request on October 11, 2017. TRALA's current exemption will expire on October 11, 2022 (82 FR 47306). In granting the exemption, FMCSA found that TRALA would achieve a level of safety that was equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

TRALA requests a renewal of the exemption for a 5-year period.

### **IV. Equivalent Level of Safety**

In granting the original exemption request, FMCSA determined that exempt drivers and motor carriers would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved without the exemption. FMCSA noted in its October 11, 2017, notice that the Agency believed that an exemption period of up to 8 days for drivers of rental CMVs would give most carriers sufficient time to repair or replace their

usual vehicles while minimizing any temptation to extend non-ELD operations. The use of paper RODS would not create an undue risk of noncompliance when limited to this short period of time.

The Agency reasoned that the 8-day exemption period coincides with 49 CFR 395.34(d), which allows a driver an 8-day window to use paper RODS when the motor carrier receives or discovers information about an ELD malfunction. Furthermore, while operating under this exemption, drivers would remain subject to the standard HOS limits, maintain a paper RODS if required, and maintain a copy of the rental agreement on the vehicle.

In its June 25, 2022, application for renewal, TRALA describes the technical and practical difficulties of providing rental CMVs with ELDs that are compatible with renters' own systems, and the problems that would be encountered if the renting motor carrier attempted to use their own ELDs in the rental vehicle. TRALA states that the exemption will not serve as an incentive for motor carriers to use short-term rentals to avoid the ELD requirements generally. Short-term rentals have a substantially higher per day or weekly rental fee than vehicles leased for longer periods, making it significantly more costly for companies to continually rent for 8 days at a time over the long term. TRALA also states that enforcement officers can readily determine that the vehicle is a short-term rental because drivers are required to provide a copy of the rental agreement to the officer on demand.

FMCSA is unaware of any evidence of a degradation of safety attributable to the current exemption for TRALA. There is no indication of an adverse impact on safety while operating under the terms and conditions specified in the initial exemption. FMCSA concludes that provisionally extending the original exemption granted on October 11, 2017, for another five years, under the terms and conditions listed below,

will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

## **V. Exemption Decision**

### **A. Grant of Exemption.**

FMCSA provisionally renews the exemption for a period of five years subject to the terms and conditions of this decision and the absence of public comments that would cause the Agency to terminate the exemption under Sec. V.F. below. The exemption from the requirements of 49 CFR 395.8(a)(1)(i), is otherwise effective October 12, 2022, through October 12, 2027, 11:59 p.m. local time, unless renewed or rescinded.

### **B. Applicability of Exemption**

The exemption excuses motor carriers and drivers of property-carrying CMVs rented for a period of eight days or fewer from the requirement to install and use an ELD to record the driver's RODS. This exemption covers a rental period of eight days or fewer, regardless of reason for the rental.

### **C. Terms and Conditions**

When operating under this exemption, TRALA and its member company drivers are subject to the following terms and conditions:

- (1) TRALA and its drivers must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR part 350-399).
- (2) Evidence that a carrier has replaced one rental CMV with another on eight-day cycles or attempted to renew a rental agreement for the same CMV for an additional eight days will be regarded as a violation of the exemption and subject the carrier and driver to the penalties for failure to use an ELD.
- (3) Drivers must have a copy of this notice in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.

- (4) Drivers must have a copy of the rental agreement in the CMV, and make it available to law enforcement officers on request. The agreement must clearly identify the parties to the agreement, the vehicle, and the dates of the rental period.
- (5) Drivers must possess copies of their RODS for the current day and the prior seven days, if required on those days.

#### **D. 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 applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

#### **E. Notification to FMCSA**

Carriers operating under this exemption must notify FMCSA within five business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's drivers operating under the terms of this exemption. The notification must include the following information:

- (a) Identity of Exemption: "TRALA"
- (b) Date of the accident,
- (c) City or town, and State, in which the accident occurred, or closest to the accident scene,
- (d) Driver's name and license number,
- (e) Co-driver's name and license number,
- (f) Vehicle number and State license number,
- (g) Number of individuals suffering physical injury,

- (h) Number of fatalities,
- (i) The police-reported cause of the accident,
- (j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
- (k) The total driving time and total on-duty time period prior to the accident.

Reports filed under this provision shall be e-mailed to [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

#### **F. Termination**

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. The exemption will be rescinded if: (1) Motor carriers and 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.

#### **VI. Request for Comments**

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on TRALA's application for an exemption from the provisions in 49 CFR 395.8(a)(1)(i) that require a motor carrier to install and require each of its drivers to use an ELD to record the driver's HOS. The exemption allows drivers of property carrying CMVs rented for 8 days or less, regardless of reason, to not use an ELD in the vehicle. 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.

**Robin Hutcheson,**

*Deputy Administrator.*

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