



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0174]

Commercial Driver's License Standards: Wilson Logistics

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant Wilson Logistics an exemption from the regulation that requires a commercial learner's permit (CLP) holder operating a commercial motor vehicle (CMV) to be accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements, in the passenger seat. Wilson Logistics requested an exemption to allow CLP holders who have passed the CDL skills test, but have not yet obtained the CDL document from their State of domicile, to drive a CMV without having a CDL holder in the passenger seat. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions imposed, will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires February 23, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; Telephone: (202) 366-4225. E-mail: MCPSD@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 comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, FMCSA-2019-0174, in the “Keyword” box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket in person by visiting the Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., 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 certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). 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 (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

The Agency's commercial driver's license (CDL) regulations in 49 CFR 383.25(a)(1) require that a commercial learner's permit (CLP) holder always be accompanied by the holder of a valid CDL who has the proper CDL group and endorsement(s) necessary to operate the commercial motor vehicle (CMV). The CDL holder must be physically present in the front seat of the vehicle next to the CLP holder or, in the case of a passenger vehicle, directly behind or in the first row behind the driver and must have the CLP holder under observation and direct supervision.

Wilson Logistics is a nationwide motor carrier with a fleet of over 700 CMVs seeking an exemption from 49 CFR 383.25(a)(1) under which a CDL holder would remain in the vehicle – but not in the front seat – while a CLP holder who has passed the CDL skills test is driving. The carrier believes this would allow the CLP holder to participate more independently in a revenue-generating trip to obtain the CDL document from the State of domicile. Wilson Logistics advised that, if granted, 400-500 CLP holders would operate under the terms of the exemption each year.

Wilson Logistics states that 49 CFR 383.25(a)(1) creates undue burdens on the company and its CLP holders. The carrier noted that, previously:

it was not uncommon for States to issue temporary CDLs to CLP holders for the return trip to collect the CDL document from their State of domicile. During that time, CDL holders were neither required to log themselves 'on duty' when supervising the CLP holder who had a

temporary CDL, nor did they always remain in the passenger seat of the CMV. Under that scenario, the productivity of the CMV, the earnings capacity of the CDL and CLP holders, and the logistics of the motor carrier's freight network were all protected. Currently carriers must assign a second CDL holder to the vehicle to accomplish the on-duty work that was previously performed by the CLP holder who had a temporary CDL.

Wilson Logistics contends that compliance with the CDL rule leaves it with the following two options: (1) secure some mode of public transportation from the State of training to the State of domicile to allow the CLP holder to pick up his/her CDL document before returning to Wilson Logistics; or (2) route the team of drivers directly to the CLP holder's State of domicile, often against the natural flow of the freight network. Securing public transportation for each of the CLP holders under the first option entails extreme cost burdens to the company; and the second option, according to Wilson Logistics, introduces extreme cost inefficiencies. The exemption sought would apply only to those Wilson Logistics drivers who have passed the CDL skills test and hold valid CLPs.

IV. Method to Ensure an Equivalent or Greater Level of Safety

Wilson Logistics has a company-sponsored, hands on, on-the-job training program in which CLP holders will spend at least two or three weeks driving over-the-road with a CDL instructor in the passenger seat, and the instructor will supervise all driving and non-driving aspects of the job, including backing and vehicle inspections. Its CLP holders deliver actual loads to real customers on the Nation's highways in all manner of weather and traffic conditions. They are trained on the obstacles of the job well in advance of taking their CDL skills test, and this type of training far better prepares the employees for every part of the job.

If not allowed to run as a team, because the training instructor must sit in the passenger seat until the CLP holder can obtain the CDL document, then the truck can only “perform” at the level of a solo driver. In all aspects of their training program, Wilson Logistics ensures that its drivers are held to a higher standard and can therefore achieve a level of safety equal to or greater than the level of a typical new CDL holder. The company does and will provide the required training and recordkeeping to ensure that the equivalent-level-of-safety standard is upheld.

V. Public Comments

On November 6, 2019, FMCSA published notice of the Wilson Logistics application for exemption and requested public comment [84 FR 59761]. A total of 59 comments were filed, one from the Truckload Carriers Association (TCA) and 58 from individuals. Six commenters, including TCA, favor granting the exemption request. TCA noted that the Agency had already granted a similar exemption to C.R. England. TCA added that the regulation creates an undue burden by restricting qualified drivers from piloting a CMV simply because they do not yet have a physical copy of their CDL, despite having passed all necessary written exams and skills tests. TCA reiterated that the drivers covered by this exemption would have in their possession proof of having passed the skills test while on the road; if they had taken the skills test in their State of domicile, they would already have obtained their CDL license document. TCA stated that FMCSA should allow these drivers the flexibility to operate a CMV with a CDL holder present in the vehicle but not in the passenger seat while they are traveling to the CLP holder’s State of domicile to obtain that licensing document. Fifty-three individuals opposed the Wilson Logistics request. One stated that “Wilson Logistics is just looking to profit [from] this and seems not

to care about the possible consequences of having a very inexperienced driver at the wheel while the trainer is asleep in the sleeper.” Other opponents said that the Wilson Logistics request does not meet a level of safety equivalent to the current regulations, and that it is primarily a profit-incentivized request.

VI. FMCSA Decision and Safety Analysis

FMCSA has evaluated Wilson Logistics’ application for exemption and the public comments. The Agency is not aware of data or information that would suggest that Wilson Logistics’ has lapses in its safety management controls, especially those involving its supervision of CMV drivers. Because the exemption is restricted to Wilson Logistics’ CLP holders who have documentation that they have passed the CDL skills test and could operate the CMV at any time upon receipt of the CDL document from the State of domicile, the Agency believes the exemption will achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption (49 CFR 381.305(a)). The exemption will enable these drivers to operate a CMV as a team driver without requiring that the accompanying CDL holder be on duty and in the front seat while the vehicle is moving. Because these drivers have already met all the requirements for a CDL, but have yet to pick up the CDL document from their State of domicile, their safety performance is expected to be the same as any other newly-credentialed CDL holder.

FMCSA has previously granted similar exemptions to C.R. England – initially in 2015, renewed in 2017 [82 FR 48889, October 20, 2017] – and to CRST – initially in 2016, and subsequently renewed in 2018 [83 FR 53149, October 19, 2018].

A copy of Wilson Logistics' application for exemption is available for review in the docket for this notice.

VII. Terms and Conditions of the Exemption

Extent of the Exemption

The exemption from 49 CFR 383.25(a)(1) will allow Wilson Logistics drivers who hold a CLP and have successfully passed a CDL skills test, to drive a CMV without a CDL holder being present in the front seat of the vehicle. The CDL holder must remain in the vehicle, but not in the front seat, at all times while the CLP holder is driving. The exemption is contingent upon Wilson Logistics maintaining USDOT registration, minimum levels of public liability insurance, and not being subject to any “imminent hazard” or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemption must maintain a valid driver’s license and CLP with the required endorsements, have in his or her possession documentation that he or she has passed the CDL skills test, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

Preemption

During the period this exemption is in effect no State may enforce any law or regulation that conflicts with or is inconsistent with the exemption with respect to a person or entity operating under the exemption (49 U.S.C. 31315(d)).

Notification to FMCSA

Wilson Logistics must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while utilizing this exemption. The notification must include the following information:

(a) Date of the accident;

- (b) City or town, and State, in which the accident occurred, or which is closest to the scene of the accident;
- (c) Driver's name and license number;
- (d) Vehicle number and State license number;
- (e) Number of individuals suffering physical injury;
- (f) Number of fatalities;
- (g) The police-reported cause of the accident;
- (h) Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations; and
- (k) The driver's total driving time and the total on-duty time of the CMV driver at the time of the accident.

Reports filed under this provision shall be emailed to MCPSD@dot.gov.

VIII. TERMINATION

The FMCSA does not believe the team drivers covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

John W. Van Steenburg,

Assistant Administrator.

[FR Doc. 2021-03685 Filed: 2/22/2021 8:45 am; Publication Date: 2/23/2021]