



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0148]

Commercial Driver's License: Application for Exemption; National School Transportation Association

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

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

SUMMARY: FMCSA announces that it has received an application from the National School Transportation Association (NSTA) to renew its exemption that permits all commercial driver's license (CDL) applicants seeking a school bus endorsement to forgo the engine compartment portion of the pre-trip vehicle inspection skills testing requirement, known informally as the "under-the-hood" testing requirement. Drivers issued CDLs pursuant to the requested exemption are restricted to intrastate operation of school buses only. The current exemption is effective from November 28, 2022, through November 28, 2024, and NSTA has requested a three-year extension of the exemption. FMCSA requests public comment on NSTA's request for exemption.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2022-0148 using any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Washington, DC, 20590-0001.

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

Each submission must include the Agency name and the docket number for this notice (FMCSA-2022-0148). Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment.

Please see the **Privacy Act** heading below.

Docket: If you do not have access to the internet, you may view the docket by visiting Docket Operations on the ground floor of the DOT 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, including any personal information the commenter provides, to 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>. The comments are posted without edit and are searchable by the name of the submitter.

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 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-2022-0148), indicate the specific section of this document to which the comment applies, and provide a reason for your 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 and put the docket number “FMCSA-2022-0148” in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment” 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.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you

actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from 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 the applicant’s safety analyses. The Agency must 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(a)). The Agency must publish its decision in the Federal Register (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) 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)).

III. Background

Current Regulatory Requirements

FMCSA's CDL regulations in 49 CFR 383.113(a) require that applicants for a CDL 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 inspected to ensure a safe operating condition of each part.

On January 3, 2022, in response to a request from NSTA, FMCSA issued a three-month waiver from 49 CFR 383.113(a)(1)(i), which requires CDL applicants to demonstrate familiarity with the engine compartment, the so-called "under-the-hood" requirement. The waiver responded to the unique circumstances resulting from the school bus driver shortage, which was exacerbated by the COVID-19 pandemic. FMCSA issued two subsequent three-month waivers, on March 28, 2022, and June 30, 2022.

FMCSA published notice of NSTA's application for a longer-term exemption from the "under-the-hood" skills testing requirement on August 11, 2022 (87 FR 49646). The Agency analyzed the application and public comments and determined that granting it was likely to achieve a level of safety equivalent to or greater than the level of safety that would be achieved in the absence of the exemption. On October 27, 2022, FMCSA granted a two-year "under-the-hood" exemption which will expire on November 27, 2024 (87 FR 65114). The exemption applies to CDL applicants seeking the school bus (S) and passenger (P) endorsements and the intrastate only (K) restriction. Consequently, drivers issued a CDL pursuant to the exemption are restricted to the intrastate operation of school buses only.

IV. Applicant's Request

NSTA applied for renewal of the exemption on February 28, 2024. NSTA is a membership organization for school bus contract-operators engaged primarily in transporting students to and from school and school-related activities. Its members range from small family businesses serving one school district, to large corporations operating tens of thousands of buses across multiple states all with a stated commitment to the safe, efficient, and economical transportation of students. According to NSTA, private school bus contractors account for 38 percent of the nation's pupil transportation services and employ more than 250,000 individuals as bus drivers, mechanics, maintenance workers, dispatch workers, and office workers. School transportation represents the largest form of mass transportation in the United States, and daily almost 26 million K-12 students are transported by an estimated 480,000 yellow school buses.

NSTA requests renewal of the exemption for a three-year period because NSTA claims it has aided in the successful recruitment of school bus drivers who otherwise may not have obtained a CDL. According to NSTA, the industry's CDL training resources are limited, and the exemption helps ensure that the limited resources are used to train school bus drivers, rather than operators of other kinds of CMVs. NSTA indicates that the current exemption has had a demonstrably positive impact on student transportation thus far, and notably with no negative impact on safety.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on NSTA's application for the renewal of the exemption from the requirement in 49 CFR 383.133(a)(1)(i) that requires CDL applicants seeking a school bus endorsement, to perform the engine compartment portion of the pre-trip vehicle inspection skills testing requirement. 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.

Larry Minor,
Associate Administrator for Policy.

[FR Doc. 2024-11869 Filed: 5/29/2024 8:45 am; Publication Date: 5/30/2024]