



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0288]

Commercial Driver's License: Application for Exemption; James D. Welch

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

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

SUMMARY: FMCSA announces that it has received an application for an exemption from James D. Welch, a Weapons Safety Division Chief for the U.S. Air Force Reserve Command (AFRC). Mr. Welch requests an exemption for Air Reserve Technicians (ARTs) working under the AFRC from the requirement to obtain a commercial driver's license (CDL) to operate a commercial motor vehicle (CMV). Currently, the CDL regulations contain an exception for certain military drivers when operating CMVs for military purposes, but that exception does not cover U.S. Reserve technicians such as ARTs. FMCSA requests public comment on the applicant's request for exemption for ARTs and on whether, if granted, the exemption should apply to all U.S. Reserve technicians.

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 identified by Federal Docket Management System (FDMS) Number FMCSA-2024-0288 by 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:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001.

- *Fax:* (202) 493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2024-0288) for this notice. 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 20590, 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 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 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.

FOR FURTHER INFORMATION CONTACT: Ms. Bernadette Walker, Transportation Specialist, Driver and Carrier Operations Division; (202) 385-2415; bernadette.walker@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-2024-0288), 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-2024-0288” 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 maintain 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 reasons for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Applicant's Request

Mr. Welch¹ requests a five-year exemption from the requirements in 49 CFR part 383 for ARTs working under the AFRC. The CDL regulations in 49 CFR part 383 require every person who operates a CMV, as defined in 49 CFR 383.5, to obtain a CDL. Under 49 CFR 383.3(c), States are required to exempt individuals who operate CMVs for military purposes from 49 CFR part 383. The exception covers active-duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, national guard military technicians (civilians who are required to wear military uniforms); and active-duty U.S. Coast Guard personnel. The regulation states that the “exception is not applicable to U.S. Reserve technicians.” Accordingly, ARTs, when operating on a military facility that is open to public travel or public road, are subject to the requirements of 49 CFR part 383 and must obtain a CDL to operate a CMV.

Mr. Welch states that FMCSA previously granted his petition for rulemaking to consider amending 49 CFR 383.3 and he is submitting his exemption request to expedite the relief. A copy of the Agency’s letter granting Mr. Welch’s petition for rulemaking has been added to the docket for this notice. Mr. Welch believes the exclusion of ARTs from the exception places a hardship on ARTs. In his petition for rulemaking, he states, “The Air Reserve Technician program is currently experiencing difficulties in hiring and retaining employees and this current federal regulation further exacerbates the problem.” Mr. Welch further explains that without the exception, the AFRC is required to provide funding for training in order for the members to obtain a CDL.

Applicant’s Equivalent Level of Safety

¹ Mr. Welch submitted his request on ARFC letterhead and with his official title, but he did not indicate whether the applicant for the exemption was the ARFC or himself in his individual capacity.

The applicant states that ARTs transport items on an installation with multiple layers of safety requirements and preapproved routes. The applicant lists the following safeguards that he believes will maintain a level of safety equivalent to or greater than the level of safety that would be achieved by complying with the regulations. He says, “First and second line supervisors are present for daily operations, quality assurance conducts random inspections daily, the base safety office also has oversight and increased training requirements that must be completed. Placarding is always required.” The applicant also states that they “comply with all... regulations in addition to the safety requirements that our Air Force instructions require.”

A copy of Mr. Welch’s application for exemption is available for review in the docket for this notice.

IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Mr. Welch’s application to exempt ARTs from the requirements in 49 CFR part 383 while operating CMVs for military purposes. FMCSA also requests comment on whether, if granted, the exemption should apply to all U.S. Reserve technicians. 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 W. Minor,
Associate Administrator for Policy.

