



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0174]

Commercial Driver's License: Wilson Logistics; Application for Renewal of Exemption

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

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

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on Wilson Logistics' application for renewal of an exemption from the requirement that the holder of a Commercial Learner's Permit (CLP) be accompanied by the holder of a Commercial Driver's License (CDL), seated in the front seat, while the commercial motor vehicle (CMV) is being driven by the CLP holder.

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 Docket Number FMCSA-2019-0174 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.
- **Hand Delivery or Courier:** 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2019-0174) 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.

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 (Federal Docket Management System (FDMS)), which can be reviewed 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: Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; (771) 216-2436; or 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.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2019-0174), 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 email 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 <https://www.regulations.gov/docket/FMCSA-2019-0174/document>, click on this notice, click “Comment,” and type your comment into the text box on the following screen.

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.

FMCSA will consider all comments and material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

B. 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.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, insert FMCSA-2019-0174 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click “Browse Comments.” 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--0001, 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from 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 the applicant’s safety analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, 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 absent such exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish its decision in the Federal Register (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision 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. Applicant's Request

Current Regulatory Requirements

The Agency's CDL regulations in 49 CFR 383.25(a)(1) require that a CLP holder always be accompanied by the holder of a valid CDL for the group (e.g., Group A or B) and with any endorsement(s) necessary to operate the 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.

Applicant's Request

Wilson Logistics seeks a renewal of its exemption from the provision in 49 CFR 383.25(a)(1), which FMCSA originally granted on February 23, 2021, and remains in effect through February 23, 2026 [86 FR 11050]. Wilson Logistics is a nationwide motor carrier, with its own pre-apprentice CDL training program. It is also a registered training provider and a certified third-party CDL tester in the State of Missouri. Wilson Logistics administers the CDL test for prospective Wilson Logistics driver employees (called "pre-apprentices") that have completed its CDL training program. Since the initial granting of its exemption in 2021, the applicant has trained 1,381 prospective driver employees and successfully tested and approved 1,264 or 91.5% of these individuals. The applicant describes its program as a company-sponsored, hands-on, on-the-job, pre-apprentice CDL training program accessible only to Wilson Logistics prospective driver employees. While participating in the driver training, the pre-apprentices are not employed by Wilson Logistics. Once pre-apprentices obtain their CDL, they receive an offer of employment from Wilson Logistics.

Applicant's Equivalent Level of Safety

The applicant believes its safety data shows that its process works, and that it has maintained an equivalent level of safety while operating under the exemption. During the company's three-week training program, CLP holders learn how to safely operate a CMV, including basic backing maneuvers, and are subsequently transitioned to a minimum of two weeks driving over-the-road while a CDL instructor is observing and providing feedback from the passenger seat. The instructor supervises while instructing all non-driving aspects of the job, including pre- and post-trip inspections, coupling and uncoupling, trip planning, and backing. Wilson Logistics CLP holders deliver actual loads to real customers on the Nation's highways in all types of conditions and traffic patterns. The applicant believes that providing hands-on, highly supervised training at a one-on-one level of instructor to trainee is the best practice.

As a third-party tester, Wilson Logistics's four CDL examiners are continuously examined by the State of Missouri throughout the year for compliance. Wilson Logistics's testing policy permits a pre-apprentice to take the CDL skills test no more than twice. If a pre-apprentice fails the CDL test the first time, he or she receives an additional 3 to 4 days of training, before attempting to take the CDL skills test again. If a pre-apprentice fails twice, then he or she is disqualified from Wilson's pre-apprenticeship program. According to Wilson Logistics, pre-apprentices have a 95% first-time pass rate.

Once the pre-apprentice has passed the test, a Wilson Logistics trainer accompanies the CLP holder for the first 30,000 miles. For the first 10,000 miles the trainer is in the front passenger seat of the CMV; during the remaining 20,000 miles the trainer is in the CMV, although not necessarily in the front seat of the vehicle. Trainers also accompany the CLP holders when they return to their State of Domicile to receive their CDL after having passed the test.

Wilson Logistics states that it ensures an equivalent level of safety by verifying that no applicant will ever operate its CMVs without passing the State CDL exam

administered by Wilson Logistics as a third-party tester and by requiring drivers to keep a copy of their passing CDL exam score, permit and license in their possession.

A copy of the Wilson Logistics 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 the Wilson Logistics application for an exemption from the requirement in 49 CFR 383.25(a)(1), which requires a CLP holder always be accompanied by the holder of a valid CDL in the front seat of the CMV who has the proper CDL group and endorsement(s) necessary to operate the vehicle. All comments received before the close of business on the comment closing date 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 of Policy.