



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0397]

Commercial Driver's License: Oregon Department of Transportation; Application for Exemption

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

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

SUMMARY: FMCSA announces that it has received an application from the Oregon Department of Transportation (ODOT) for a limited exemption from the Agency's commercial learner's permit (CLP) requirement in 49 CFR 383.25(c). The regulation provides that the CLP be valid for no more than 180 days from the date of issuance. The State of issuance may renew the CLP for an additional 180 days without requiring the CLP holder to retake the general and endorsement knowledge tests. ODOT proposes that it be allowed to extend the 180-day timeline to one year for CLPs issued to its drivers for multiple reasons. ODOT believes that there would be no impact on safety if the exemption is granted. FMCSA requests public comment on ODOT's application for exemption. In addition, because the issues concerning ODOT's request could be applicable to each State, FMCSA requests public comments whether the exemption, if granted, should apply to all State Driver's Licensing Agencies (SDLAs).

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

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA FMCSA-2015-0397 using any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, 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., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251

Each submission must include the Agency name and the docket number 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: For access to the docket to read background documents or comments, go to 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. The on-line FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, 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 www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. 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 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-2015-0397), 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 and put the docket number, "FMCSA-2015-0397" in the "Keyword" box, and click "Search." When the new screen appears, click on "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 and may grant or not grant this application based on your comments.

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-2015-0397” in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of 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 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 and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

ODOT requests an exemption from the Agency's CLP requirement in 49 CFR 383.25(c). The regulation provides that the CLP be valid for no more than 180 days from the date of issuance. The State may renew the CLP for an additional 180 days without requiring the CLP holder to retake the general and endorsement knowledge tests. ODOT proposes that it be allowed to extend the 180-day timeline to one year for CLPs issued to its drivers.

ODOT provided multiple reasons for regulatory relief from the CLP rule. First, ODOT believes that the 180-day time line required to renew the CLP adds nothing to the effectiveness of the rule itself, the purpose of which is to "enhance safety by ensuring that only qualified drivers are allowed to operate commercial vehicles on our nation's highways" (76 FR 26854, May 9, 2011). ODOT asserts that neither FMCSA staff nor the States were able to identify any highway safety enhancement arising from this requirement. ODOT states that it is unaware of any data suggesting that persons who have not renewed their CLP or obtained their CDL within six months pose less risk on the Nation's highways.

Second, ODOT agrees that requiring CLP holders to retake the knowledge test after not obtaining a CDL within one year improves highway safety, but disagrees that the requirement for renewal at six months is needed. According to ODOT, if the exemption is granted, ODOT's CLP would have a validity period of one year with no renewal allowed. All applicable knowledge tests would be required before a new CDL could be issued, which would accomplish the objective of not allowing a person to have a CLP longer than one year without passing knowledge tests.

The third reason for the request ODOT advises; is that Oregon's "Department of Motor Vehicle (DMV) field offices have a very large volume of work to accomplish and, at best, limited resources with which to accomplish it. Adding the bureaucratic requirement for a CLP holder to visit a DMV office and pay a fee in order to get a second six months of CLP validity will add unnecessary workload to offices already stretched to the limit. ODOT is confident there would be no negative impact on safety if the exemption is granted."

According to ODOT, "If this exemption is not granted, Oregon drivers with CLPs who have not passed the CDL skills test within six months of CLP issuance would have to go to a DMV office and pay for a renewal of the CLP. This would cause undue hardship to the drivers, from the perspectives of both their time and their pocketbooks. It would also cause undue hardship to our agency, where scarce resources would be used to process bureaucratic transactions that add nothing to highway safety." ODOT advises that it would not be able to change the validity period of the CLP until a statutory change can be made.

In addition, because the issues concerning ODOT's request could be applicable in each State, FMCSA requests public comment on whether the exemption, if granted, should apply to all SDLAs.

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

Issued on: November 6, 2015.

Larry W. Minor,
Associate Administrator for Policy.

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