

interstate and intrastate pipelines to maintenance and repair work for utilities. These projects vary in duration, from a few weeks to six months or more on a major construction project. PLCA's members typically hire workers on a project-by-project basis who will work on multiple jobs each year, typically traveling all over the United States to do so. Pipeline construction companies operate fleets of CMVs, most of which are operated by holders of commercial driver's licenses (CDLs). PLCA believes that the current HOS regulations are ill-suited to address the needs and safety concerns of pipeline industry drivers. Pipeline contractors are skilled tradesman and driving is ancillary to their primary role as construction workers, as they typically spend only a few hours a day operating CMVs on public roads.

PLCA requested exemption from the following HOS provisions:

(1) The short-haul exception (49 CFR 395.1(e)(1)) was recently amended by the final rule adopted on June 1, 2020, with an effective date of September 29, 2020 (85 FR 33396). It retains the requirement that drivers return to the work reporting location from which they were dispatched in the morning. PLCA requested that drivers for its member companies who otherwise meet the requirements of the short-haul exception be allowed to return to a different location than the one where they started their workday.

(2) Drivers subject to the Agency's HOS regulations are required to use ELDs if they must complete RODS on more than 8 days in any 30-day period (49 CFR 395.8(a)(1)(iii)(A)(1)). PLCA requested that drivers for its member companies be allowed to use paper RODS unless RODS are required on more than 16 days in any 30-day period.

(3) Drivers are prohibited from driving CMVs after having been on duty for 70 hours in a period of 8 consecutive days (49 CFR 395.3(b)(2)). PLCA requested that drivers for its member companies be prohibited from driving only after having been on duty for 80 hours in 8 days. PLCA also requested that drivers of CMVs used exclusively in the construction and servicing of pipelines be allowed the same HOS exceptions currently available for oilfield operations (49 CFR 395.1(d)).

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

PLCA asserted that granting the exemptions sought would not negatively impact safety. According to PLCA, drivers working for its member companies are not engaged in continuous driving; they work on the

pipeline right-of-way, often operating different construction vehicles. Because of the different jobs they normally perform and the minimal driving they do, they are less susceptible to fatigue. The applicant added that as its members' employees spend most their day on the pipeline right-of-way and typically drive only at the start and end of the workday, their total driving time would not be extended. Pipeline drivers very rarely, if ever, utilize their entire 11 hours of allowable daily driving time. PLCA develops and administers, in conjunction with the industry's labor unions, robust training programs for union employees, including CMV drivers, focused on safe operations. PLCA member companies and their drivers have excellent safety records and the applicant did not anticipate any reduction in safety attributable to the granting of the exemptions sought. A copy of the exemption application is available for review in the docket for this notice.

V. Public Comments

On July 22, 2020, FMCSA requested public comments on PLCA's exemption application (85 FR 44356). The Agency received 25 comments. The Commercial Vehicle Safety Alliance (CVSA) and the American Academy of Sleep Medicine (AASM) opposed the application. CVSA commented that "regardless of the amount of time spent driving, extended periods of on-duty time would subject a driver to fatigue. This fatigue would be greatest at the end of the workday, when PLCA says these drivers are most likely to be operating the commercial motor vehicle." CVSA added that "the Federal Motor Carrier Safety Regulations are put into place to provide a framework of the minimum requirements to operate commercial motor vehicles safely. An exemption to those safety regulations should not be granted simply because it will increase productivity." The AASM also raised the issue of added driver fatigue in its comments.

There were 23 comments supporting PLCA's exemption request, 21 of which were identical form letters from its member companies. One individual also commented, and PLCA itself wrote: "Now more than ever, pipeline contractors require flexibility to complete work quickly and efficiently."

VI. FMCSA Safety Analysis and Decision

FMCSA has evaluated PLCA's application and the public comments and decided to deny the exemption. The HOS regulations limit when and how long an individual may drive, to ensure that drivers stay awake and alert while

driving, and to help reduce the possibility of driver fatigue.

Recent amendments to the HOS rules which took effect September 29, 2020, increase the flexibility available to short-haul operations. However, the Agency did not amend the requirement that short-haul drivers return to the normal work reporting location, despite docket comments requesting such a change. PLCA did not provide enough data to demonstrate that the HOS changes it requested would achieve an equivalent level of safety. PLCA has not submitted any new evidence or safety data to support exemptions from the current HOS provisions.

PLCA provided no analysis of the safety performance of drivers who would operate using paper records of duty status under the exemption, nor did it provide analysis of how the risk of fatigue and crashes when operating without an ELD would be equivalent to the risk posed with a device installed on the vehicle. The PLCA application did not consider practical alternatives or provide an analysis of the safety impacts the requested exemption may cause and failed to offer countermeasures to ensure that the exemptions would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. The application is therefore denied.

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022-12872 Filed 6-14-22; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0082]

Entry-Level Driver Training: Application for Exemption; Western Area Career and Technology Center

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

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

SUMMARY: FMCSA announces that Western Area Career and Technology Center (WACTC) has requested an exemption from the Theory and Behind-the-Wheel (BTW) instructor requirements contained in the entry-level driver training (ELDT) regulations for one prospective instructor. WACTC seeks an exemption from the requirement that instructors have at least two years of driving experience of

the same or higher class and/or the same endorsement level as the commercial motor vehicle (CMV) to be operated to satisfy the instructor requirements under the ELDT regulations.

DATES: Comments must be received on or before July 15, 2022.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2022–0082 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:* Docket Operations, 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. E.T., 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 (FMCSA–2022–0082). 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 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 Docket Operations.

Privacy Act: In accordance with 5 U.S.C. 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: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202–366–2722 or MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Operations, 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–2022–0082), 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 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 www.regulations.gov and put the docket number, “FMCSA–2022–0082” in the “Search” box, and click “Search.” When the new screen appears, click on “Documents” button, then click the “Comment” button associated with the latest notice posted. Another screen will appear, insert the required information. Choose whether you are submitting your comment as an individual, an organization, or anonymous. Click “Submit Comment.”

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 materials received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain 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 (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulation(s)/Requirements

The ELDT regulations required compliance by February 7, 2022 and established minimum training standards for individuals applying for certain commercial driver’s licenses (CDL) and defined curriculum standards for Theory and BTW training. It also established an online training provider registry (TPR), eligibility requirements for providers to be listed on the TPR, and requirements for instructors. Under 49 CFR 380.713, a training provider must use instructors who meet the definitions of “theory instructor” and “behind-the-wheel (BTW) instructor” in 49 CFR 380.605. The definitions of “theory instructor” and “BTW instructor” in 49 CFR 380.605 require that instructors hold a CDL of the same (or higher) class, with all endorsements necessary to operate the CMV for which training is to be provided; have either: (1) a minimum of 2 years of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement; or (2) at least two years of experience as a BTW CMV instructor; and meet all applicable State qualification requirements for CMV instructors.

Applicant’s Request

WACTC requests an exemption from the requirement in 49 CFR 380.713 that a training provider use instructors who meet the definitions of “theory instructor” and “BTW instructor” in 49 CFR 380.605. WACTC specifies that it would like to use one driver training instructor who does not have two years of required driving experience.

WACTC states that it has been difficult to find qualified instructors. WACTC indicates that it has found one potential instructor, Drew Ley, who is more than capable of implementing a curriculum and training program that not only meets the ELDT regulations but will also ensure safe, knowledgeable, and skilled CMV drivers. WACTC states that Mr. Ley will meet the ELDT

regulation's requirement for two years of driving experience with a Class A CDL in August 2022.

WACTC states that it conducts monthly classes in which students achieve 160 hours of practical training, with four students per class. The ratio of instructor to students (1 to 4) "provides a more individualized training approach as well as the ability to address individual student needs and/or concerns as they may arise." According to WACTC, the impact of this exemption being denied would be devastating not only to its CDL program, but to the Adult Education Department as a whole. WACTC asserts that its CDL program is the most popular and successful program offered and helps stabilize other struggling programs through a steady stream of revenue.

A copy of the WACTC application for exemption is included in the docket for this notice.

IV. Equivalent Level of Safety

WACTC believes that Mr. Ley makes up for his failure to have two years of required driving experience with his experience with the FMCSA regulations and his current and previous qualifications. Prior to FMCSA's implementation of the ELDT regulations, Mr. Ley successfully trained four WACTC classes and achieved a 100% student completion rate. As an employee of the Commonwealth of Pennsylvania DOT (PennDOT), Mr. Ley audited and verified third-party testing sites, routes, and CDL examiners to assure compliance with PennDOT regulations. He also assisted in the training and bi-annual reviews of experienced and new CDL examiners and has extensive knowledge operating Class B vehicles with school bus and passenger endorsements. In addition, Mr. Ley has obtained a School Bus Instructor Certification, Certified Inspection Mechanic (class 7), certification as a licensed private Class C instructor, and has had a Class A CDL for a year and a half without restrictions. Furthermore, WACTC indicates that the exemption, if granted, would only be necessary until August 2022, when Mr. Ley will have had his Class A CDL for the required two years.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on WACTC's application for an exemption from the requirement in 49 CFR 380.713 to use instructors who meet the definitions of "Theory instructor" and "Behind-the-wheel (BTW) instructor" in 49 CFR 380.605. 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.

[FR Doc. 2022-12873 Filed 6-14-22; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0180]

Commercial Driver's License (CDL) Testing; Application for Exemption: State of Minnesota

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

ACTION: Notice of final disposition: Denial of reconsideration of request for exemption.

SUMMARY: FMCSA announces its decision to deny the State of Minnesota's request for reconsideration of the Agency's 2017 denial of an application for exemption from the regulations governing the commercial driver's license (CDL) skills testing procedures and practices. Specifically, the Agency denies Minnesota's request to perform the CDL skills test in the order specified in the CDL regulations. The Agency denies Minnesota's requested relief from the requirement to use the American Association of Motor Vehicle Administrators' (AAMVA) 2005 Test Model Score Sheet and from the requirement that skills tests be conducted in three parts.

DATES: This decision is effective June 15, 2022.

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. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets operations.

FOR FURTHER INFORMATION CONTACT: Ms. Pearl Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202-366-4225 or MCPSPD@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, go to www.regulations.gov, insert the docket number "FMCSA-2016-0180" in the keyword box, and click "Search." Next, sort the results by "Posted (Newer-Older)," choose the first notice listed, click "Browse Comments."

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number "FMCSA-2016-0180" in the keyword box, click "Search," and chose the document to view.

If you do not have access to the internet, you may view the docket online by visiting 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., 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 to grant exemptions from certain portions 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 the safety analyses and the 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 compliance with the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49