

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

Custom harvesters are businesses that supply the equipment and labor to assist farmers with harvesting during their busiest seasons. Typically, there are two different classes of operations, grain harvesting and forage harvesting. A grain harvester uses combines to harvest wheat, corn, barley, canola, sunflowers, soybeans, and grain sorghum, among others. These crop products are transported to an elevator or on-farm storage, where the crop is stored and later transported elsewhere to be processed into products for public use. A forage harvester uses a chopper to harvest whole-plant crops such as corn, sorghum, milo, triticale, and alfalfa. These crops are used for silage to feed livestock in dairies and feedlots. Some operators harvest crops such as cotton that require other specialized equipment. Custom harvesters travel from State to State and can spend from a few days to several months cutting crops for one farmer.

USCHI states that custom harvesters are experiencing a problem with the exemption they have utilized since the early 1970s (49 CFR 391.2(a)). Under this provision, drivers of CMVs controlled and operated by a person engaged in custom harvesting are exempt from all of part 391, including the requirement to be at least 21 years of age to operate a CMV in interstate commerce. USCHI members frequently employ drivers 18–21 years of age, who are issued CDLs with a “K” restriction that makes the license valid only for operations within the issuing State (49 CFR 383.153(a)(10)(vii)). The problem

arises when law enforcement officers interpret the “K” restriction to mean that the license is invalid outside the issuing State, even though section 391.2(a) exempts younger custom harvester drivers from the 21-year-old age requirement when operating in interstate commerce. This has caused drivers employed by some of USCHI’s members to be cited for CDL violations during inspections. This is an issue not only for the individual driver, but also for the custom harvester employer, whose safety record is adversely affected.

Therefore, USCHI asks that the Agency grant an exemption under the following terms and conditions:

- (1) Drivers for custom harvesters operating in interstate commerce shall be exempt from any intrastate-only “K” restriction on their CDLs (49 CFR 383.153(a)(10)(vii));
- (2) Drivers to be included in this exemption are identified in 49 CFR 391.2 as those operating a CMV to:
  - (1) Transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or
  - (2) Transport custom-harvested crops to storage or market.

In its application, USCHI cites regulatory guidance to 49 CFR 383.155, entitled “Special topics—State Reciprocity,” which reads as follows: “Question 1: May a State place an ‘intrastate only’ or similar restriction on the CDL of a driver who certifies that he or she is not subject to part 391?; Guidance: Yes; however, this restriction would not apply to drivers in interstate commerce who are exempted or exempted from part 391 under the provisions of parts 390 or 391.” USCHI believes that this guidance clearly indicates that the “intrastate only” restriction should not be applied to custom harvester drivers; however, USCHI states that this guidance does not seem to have been widely circulated among State law enforcement personnel or is not followed consistently.

To ensure that the driver is authentically operating as a custom harvester, USCHI specifies that he/she should be able to provide at least three of the following methods of verification:

- The driver shall have on hand a valid custom harvesting document such as a current date agricultural commodity scale sheet, a current date custom harvesting load sheet, an official company document stating the company purpose, etc.;
- The CMV may have license plates specific to custom harvesting, or the verbiage “Harvesting” may be part of the business signage on the vehicle;

- The CMV must be designed to haul a harvested agricultural commodity or equipment for harvesting, or be a support vehicle for custom-harvesting operations such as a service truck;

- The CMV may be hauling a harvested agricultural commodity or equipment for the purpose of custom harvesting;

- The CMV may have newly harvested commodity or remnants on board;

- The driver will provide a verifiable location of current harvesting operation or delivery location for a harvested commodity.

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

One requirement of any exemption issued under 49 CFR part 381 is that it be likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. In this case interstate operations by custom harvester drivers is already authorized by 49 CFR 391.2(a), but could be construed as prohibited by the conflicting requirements of 49 CFR 383.153(a)(10)(vii). By clarifying the nature of permitted transportation, USCHI believes this exemption would not have any impact on safe operation of CMVs and is therefore likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 391.2(a)).

USCHI requests the exemption for the maximum available period of five years. A copy of USCHI’s application for exemption is available for review in the docket for this notice.

Issued on: April 21, 2017.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA–2006–24216]

#### Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 28, 2017, and March 27, 2017, the Sacramento Regional Transit District (RT) petitioned the Federal Railroad Administration (FRA) for an extension of an amendment to its existing waiver of compliance from certain provisions of the Federal

railroad safety regulations contained at 49 CFR part 222—Use of Locomotive Horns at Public Highway Rail Grade Crossings, 49 CFR 229.125—*Headlights and auxiliary lights*, and 49 CFR 234.105(c)(3)—*Activation failure*. RT is also requesting a change of the waiver's scope to include regulatory relief for new service on a 4-mile extension of its Blue Line which runs south to Cosumnes River College. FRA assigned the petition Docket Number FRA–2006–24216.

RT seeks to modify and extend the terms and conditions of its shared use waivers for portions of its rail fixed guideway public transit Blue Line and Gold Line (also known as Folsom Line) that share corridors, including highway-rail grade crossings, with the Union Pacific Railroad (UP).

FRA most recently granted conditional relief to RT from the regulatory sections specified above in 2012. FRA notes that the relief from the requirements of 49 CFR part 222 is currently applicable only at the 17 shared highway-rail grade crossings on the Gold Line. On August 4, 2015, RT extended its Blue Line to Cosumnes River College Station, adding four station stops. RT would like to expand the scope of all relief granted to date to include this Blue Line extension to Cosumnes River College Station.

This Blue Line extension added one additional shared grade crossing at Meadowview Road. After crossing Meadowview Road, the light rail alignment immediately moves out of the shared right-of-way and into exclusive RT right-of-way. For the short distance that the Blue Line extension is in the shared corridor with UP, there is a 50-foot track separation between the two rail operations. Due to the distance separating the tracks in the shared corridor, RT does not require special procedures for operating past either stopped or moving UP trains.

RT states that the Meadowview crossing was redesigned to accommodate RT's light rail system, was placed into service with the approval of the California Public Utilities Commission, and was added to RT's Operations and Maintenance Agreement with UP covering joint operations in the shared corridor. There have been no significant incidents involving the Meadowview crossing since RT began its operations. RT notes that this crossing is also a part of the City of Sacramento's quiet zone for this corridor.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at

the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by June 15, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://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>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**Robert C. Lauby**,  
Associate Administrator for Railroad Safety,  
Chief Safety Officer.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA–2017–0008]

#### Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that on January 18, 2017, the Middletown & Hummelstown Railroad Company (MIDH) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations at 49 CFR part 230, Steam Locomotive Inspection and Maintenance Standards. FRA assigned the petition Docket Number FRA–2017–0008.

Specifically, MIDH's letter requests relief from performing the 1,472 service day inspection (SDI) for No. 91, a 2–6–0 "Mogul" type steam locomotive built by the Canadian Locomotive Company in 1910 for the Canadian National Railway. MIDH's request pertains to the inspection of the boiler every 15 calendar years or 1,472 service days, as required by 49 CFR 230.17. MIDH is requesting an additional 19 calendar months before performing a 1,472 SDI. The previous SDI was completed on May 30, 2002, and expires on May 30, 2017. Granting relief will allow No. 91 an SDI period of 16 calendar years and 7 calendar months while not exceeding 1,472 service days. MIDH operated No. 91 from 2002 to 2009. It has been stored in serviceable condition, but has not operated since 2009 due to the lack of an experienced mechanical staff. MIDH's justification for requesting relief is that No. 91 has only operated for a total of 116 service days within the 15-calendar year period.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or