

conditions of the road and traffic during the weather event will allow drivers to take their time and use caution as appropriate under the conditions at that time, rather than feeling pressure to comply with the HOS rules that are most appropriate for normal driving conditions. ABA/IDFA further adds that the exemption perhaps most importantly will allow families to stock supplies at their regular neighborhood stores and avoid the need for residents to drive unnecessarily looking for emergency supplies of essential food staples in advance of or during a disaster situation.

Regarding an equivalent level of safety, ABA/IDFA details the following in their application regarding HOS compliance following the exemption from 49 CFR 395.3: A weather “trigger” would start a 72-hour HOS exemption period leading up to an anticipated storm, which creates two possible scenarios following the exemption period: (1) FMCSA grants a wide-scale HOS exemption period for the impacted area or a State government declares a state of emergency and suspends the HOS requirements, or (2) the storms impact on the region is too insignificant to warrant an HOS exemption on either the State or Federal level. In the case of the first scenario, the HOS requirements for that period are already suspended and concerns of equivalent safety will have already been considered in existing regulations. In the second scenario, the applicants propose an equivalent level of safety as follows: (1) For the 11 hour driving time limit, for every 2 hours a driver surpasses this limit, an additional hour will be added to the original 10-hour rest limit to be completed between runs following the exemption period; and (2) for the 60/70 hour limits, should a driver surpass these normal limits during the exemption period, two additional hours will be added to the original 34-hour off duty period required following the exemption period. In order to verify compliance, the hours would continue to be documented through the use of electronic logging devices pursuant to the current rules in 49 CFR part 395, subpart B. The requested exemption is for 5 years. A copy of ABA/IDFA’s application for exemption is available for review in the docket for this notice.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018–27345 Filed 12–17–18; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0367]

#### Hours of Service of Drivers: Association of American Railroads and American Short Line and Regional Railroad Association; 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 Association of American Railroads and American Short Line and Regional Railroad Association (AAR/ASLRRA) requesting a limited exemption from the maximum driving time requirements of the hours-of-service (HOS) regulations for drivers of property-carrying vehicles. The applicants request the exemption to enable affected railroad employees, subject to the HOS rule, to respond to an unplanned event that occurs outside of or extends beyond the employee’s normal work hours. FMCSA requests public comment on AAR/ASLRRA’s application for exemption.

**DATES:** Comments must be received on or before January 17, 2019.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA–2018–0367 by any of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). See the *Public Participation and Request for Comments* section below for further information.
- *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. 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. Note that DOT posts all comments received without change to [www.regulations.gov](http://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](http://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.

*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](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366–4225; Email: [MCPSD@dot.gov](mailto: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–2018–0367), 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](http://www.regulations.gov) and put the docket number, “FMCSA–2018–0367” 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.

## II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 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. Request for Exemption

The Association of American Railroads and American Short Line and Regional Railroad Association (AAR/ASLRAA) contend that the HOS prohibitions on driving after a 14-hour period on duty, and after 60 or 70 hours on duty in a 7- or 8-day week without the required off-duty period, inhibit a railroad's ability to respond expeditiously to certain types of emergency situations. For this reason AAR/ASLRAA is requesting that a railroad employee responding to an unplanned event that affects interstate commerce, service or the safety of railway operations, including passenger rail operations, and that occurs outside of or extends beyond the employee's normal shift, be exempt from the provisions in 49 CFR part 395.3(a) and (b). Unplanned events include some of the following: A derailment; a rail failure or other report of dangerous track condition; a disruption to the electric propulsion system; a bridge-strike; a disabled vehicle on the track; a train collision; weather and storm-related events; a matter of national security; or a matter concerning public safety; a

blocked grade crossing, etc. The applicants request the exemption be granted for five years. If the exemption is granted it would cover 21,000 drivers and 11,000 commercial motor vehicles (CMVs).

In their application, AAR/ASLRAA compare the work of railroad employees responding to an emergency situation to that of utility employees responding to an emergency situation. The HOS rules do not apply to a driver of a utility service vehicle as defined in 49 CFR 395.2. In the same respect that utility employees use any CMV to repair and maintain pertinent services, railroad employees use vehicles as mobile supply facilities, transporting personnel, equipment and material needed for the driver to use at worksites within a region. Like utility employees, railroad employees will have unpredictable work hours when needed to address operational emergencies.

AAR/ASLRAA contend that the work done by these employees supports the railroad's effort to restore essential interstate commerce passenger rail operations and, in the event of a grade crossing incident, restore road and pedestrian access to the public. The applicants assert that there is no principled distinction between railroad employees responding to an unplanned event and those who operate utility service vehicles.

According to AAR/ASLRAA railroads work with local officials who have authority to declare an emergency in the case of unplanned events. However, the process is not well-defined and there are no assurances that a request made during off-hours would be reviewed in a timely manner. For example, one of AAR's member railroads has an internal process that often involves coordination among multiple jurisdictions due to the nature of the interstate railroad system. Despite the railroad's best efforts, a delay in response from a designated official outside of the normal work day can reportedly cause up to a five to seven-hour delay in the railroad's efforts to resolve the unplanned event. According to the applicants, this type of delay can have a crippling impact on the rail network, especially in congested areas of the country like the Northeast Corridor and Chicago.

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

AAR/ASLRAA explained that "the requested exemption will allow railroad employees to respond timelier to unplanned events to restore rail service without incurring extended blocked crossings, cascading effects to traffic on the rail network, delays to passenger rail

operations, and delayed customer service. Additionally, railroads will be able to improve public safety to motorists and pedestrians, if they are able to expeditiously clear blocked grade crossings."

The applicants propose to provide any employee required to drive within the terms of the requested exemption additional time off-duty in excess of the 10 consecutive hours required by 395.3(a)(1). For ease of recordkeeping, the applicants propose that:

- Any employee responding to an unplanned event that exceeds his/her 14 hours of duty time for 5 hours or less be given 5 additional consecutive hours off-duty for a total of 15 consecutive hours off-duty before driving again;
- Any employee responding to an unplanned event that exceeds his/her 14 hours of duty time for 5 hours up to a maximum of 10 hours be given 10 additional consecutive hours off-duty for a total of 20 consecutive hours off-duty before driving again; and
- Any employee who exceeds 60 or 70 hours on duty in a 7- or 8-day week due to responding to an unplanned event be given 34 hours of rest as prescribed in section 395.3 (c) prior to driving again.

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

Issued on: December 7, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018-27341 Filed 12-17-18; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0347]

### Commercial Driver's License Standards: Application for Exemption; Navistar, Inc. (Navistar)

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

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

**SUMMARY:** FMCSA announces that Navistar, Inc. (Navistar) has requested an exemption for one commercial motor vehicle (CMV) driver from the Federal requirement to hold a U.S. commercial driver's license (CDL). Navistar requests an exemption for Mr. Jerome Douay, a Product Engineer Senior Manager with MAN Truck & Bus AG (MAN) in Munich, Germany, who holds a valid German commercial license. MAN is