

detailed investigations on this matter, FCA has concluded that utilizing paper records of duty status (RODS) and/or an HOS compliance application other than an ELD is the most effective and accurate method of measuring and reporting HOS in a manner compatible with FCA's data loggers. FCA further includes a number of exhibits which demonstrate the problems described in the application when utilizing ELDS. The Company also includes HOS and other general compliance forms currently used to remain in compliance with the appropriate Federal Motor Carrier Safety Regulations.

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

#### V. Public Comments

On October 18, 2018, FMCSA published notice of this application and requested public comment (83 FR 52870). The Agency received one comment from an individual in opposition to the FCA exemption request. Excerpts from this comment were as follows: "Fiat's request creates a growing burden on the FMCSA's partners that enforce the Federal Motor Carrier Safety Regulations. Part 395.8(a)(1)(iii)(A)(1) has an exception from the ELD and for a driver to use a paper log for eight days in any 30-day period. If the staff at Fiat is doing 80%-90% of the work on its closed courses where no log is required then the exception in the regulation should be more than sufficient, *i.e.*, 80% of 31 days is 24.8 (25 days) meaning a driver would use a paper log for six days below the eight-day limit. . . . [R]oadside officers must attempt to try and keep track of the numerous exemptions allowed by the FMCSA. . . . The more exemptions that exist decreases [sic] the public's safety as carriers abuse the safety regulations. . . . Fiat could utilize the exception in Part 395.8 and avoid burdening the system with one additional exemption. Fiat should have to substantiate that utilization of the exception in Part 395.8 is not practicable and creates a significant burden on the organization."

#### VI. FMCSA Decision

When FMCSA published the final rule mandating ELDs, it relied upon research indicating that the rule improves CMV safety by improving compliance with the HOS rules. The rule also reduces the overall paperwork burden for both motor carriers and drivers.

In its application, FCA provides no analysis of the safety performance of

drivers who would operate using paper RODS under the exemption. FCA provides no analysis of how the risk of fatigue and crashes while operating a CMV without an ELD would be equivalent to the risk posed by operating a vehicle with one installed.

The FCA application does not consider practical alternatives or provide an analysis of the safety impacts the requested exemption may cause. It also does not provide countermeasures to be undertaken to ensure that the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. Furthermore, based on the information provided in their application, FCA may qualify for the general short-haul (8 days in 30) exemption from ELDs. For these reasons, FMCSA denies FCA's request for an exemption.

Issued on: April 8, 2019.

**Raymond P. Martinez,**

*Administrator.*

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### 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 final disposition; grant of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant an exemption to Navistar, Inc. (Navistar) for a commercial motor vehicle (CMV) driver employed by its business partner MAN Truck & Bus AG (MAN) of Munich, Germany. Navistar requested an exemption for Mr. Jerome Douay, a Product Engineer Senior Manager with MAN. He holds a valid German commercial license. MAN is partnering with Navistar to help develop technology advancements in fuel economy and emissions reductions. Mr. Douay wants to test drive Navistar vehicles on U.S. roads to better understand product requirements in "real world" environments, and verify results. Navistar believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the

level that would be obtained in the absence of the exemption.

**DATES:** This exemption is effective April 15, 2019 and expires April 15, 2024.

#### ADDRESSES:

**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 Federal Docket Management System (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: 202-366-4325. 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

###### 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](http://www.regulations.gov) and insert the docket number, "FMCSA-2018-0347" in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document 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 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 the safety analyses and the public comments, 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 reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

#### Request for Exemption

Navistar has applied for an exemption for Jerome Douay from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Mr. Douay is unable to obtain a CDL in any of the U.S. States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA–2018–0347.

The exemption would allow Mr. Douay to operate CMVs in interstate or intrastate commerce to support Navistar field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. Mr. Douay needs to drive Navistar vehicles on public roads to better understand “real world” environments in the U.S. market. According to Navistar, Mr. Douay will typically drive for no more than 6 hours per day for 2 consecutive days, 50 percent of the test driving will be on two-lane State highways, and 50 percent will be on Interstate highways. The driving will consist of no more than 250 miles per day, for a total of 500 miles during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Mr. Douay holds a valid German commercial license, and as explained by Navistar in its exemption request, the requirements for that license ensure that, operating under the exemption, he would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current

regulation. Furthermore, according to Navistar, Mr. Douay is familiar with the operation of CMVs worldwide. Navistar requests that the exemption cover the maximum allowable duration of 5 years.

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

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151)].

#### V. Public Comments

On December 18, 2018, FMCSA published notice of this application and requested public comments (83 FR 64930). One comment was submitted. Mr. Michael Millard wrote, in part, “If the FMCSA approves the application to allow the German engineer to operate in the US utilizing the European CDL then the FMCSA should set provisions in the exemption outlining the driver must possess a valid medical certificate per Part 391, be tested for controlled substance and alcohol per Part 382 and fully understand Parts 392 through 397.”

#### VI. FMCSA Decision

Based upon the merits of this application, including Mr. Douay's extensive driving experience and safety record, FMCSA has concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

#### VII. Terms and Conditions for the Exemption

FMCSA grants Navistar and Jerome Douay an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Douay to drive CMVs in this country without a State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350–399); (2) the driver must be in possession of the exemption document and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Navistar or its partner MAN; (4) at all times while operating a CMV

under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Navistar must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Navistar must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 5 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Douay fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

#### VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: April 8, 2019.

**Raymond P. Martinez,**  
Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0321]

#### Parts and Accessories Necessary for Safe Operation; SmartDrive Systems, Inc.

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

**ACTION:** Notice of final disposition.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant SmartDrive System, Inc.'s (SmartDrive) application for a limited 5-year exemption from 49 CFR 393.60(e)(1) to allow an Advanced Driver Assistance Systems (ADAS) camera to be mounted lower in the windshield than is currently permitted. The Agency has determined that the placement of the SmartDrive ADAS camera lower in the windshield area would not have an adverse impact on safety, and that