



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0347]

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

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

ACTION: Notice of provisional renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to provisionally renew the exemption currently held by Navistar, Inc. (Navistar) from the commercial driver's license (CDL) regulations for one of its commercial motor vehicle (CMV) drivers. The provisional exemption renewal allows Mr. Thomas Nickels, Senior Vice President of the Cabin and Chassis R&D Group for Navistar's parent company, TRANTON SE, to test drive various Navistar test fleet vehicles on U.S. roads. The provisional exemption renewal is limited to six months. After a review of the public comments to this notice, FMCSA will issue a decision whether the exemption should be renewed through November 2029.

DATES: The provisional renewal of the exemption is effective from November 21, 2024, and expires on May 21, 2025. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2018-0347 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:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building, Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001 between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493-2251.

Each submission must include the Agency name and the docket number for this notice (FMCSA-2018-0347). 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 the ground level of the U.S. Department of Transportation, West Building, at 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 Dockets Operations.

Privacy Act: In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption renewal request. DOT posts these comments, 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 under the “Department Wide System of Records Notices” at www.dot.gov/privacy/privacy-act-system-records-notice. The comments are searchable by the name of the submitter and are posted without edit.

FOR FURTHER INFORMATION CONTACT: Pearlie Robinson, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; FMCSA; (202)366-4225; pearlie.robinson@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (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-2018-0347), 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-2018-0347 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, on which you will 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 material received during the comment period. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

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 (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 the applicant's safety analyses. 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(a)). The Agency must publish the decision in the Federal Register (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision from which the applicant will be exempt and the effective period and will explain all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reason for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulation(s) Requirements

Under 49 CFR 383.23, no person shall operate a CMV without having taken and passed knowledge and driving skills tests for a commercial learner's permit or CDL that meet the Federal standards contained in subparts F, G, and H of Part 383 for the CMV that person operates or expects to operate. Such drivers are also subject to the controlled substances and alcohol testing requirements of 49 CFR part 382.

Application for Renewal of Exemption

Navistar has requested an exemption renewal for one of its engineers from 49 CFR 383.23 for five years. The driver, Thomas Nickels, holds a valid German commercial license but due to residency requirements would be able to obtain only a non-

domiciled CDL. Mr. Nickels is the Senior Vice President of the Cabin & Chassis R&D group for Navistar's parent company, TRATON SE in Germany.

FMCSA initially granted an exemption covering Mr. Nickels and another Navistar driver on November 21, 2019 (84 FR 64400). This exemption was effective on November 21, 2019, and expired on November 21, 2024. Navistar requested a renewal only for Mr. Nickels.

The exemption renewal would allow Mr. Nickels to test drive various Navistar test fleets in interstate or intrastate commerce. Mr. Nickels would be driving Class 6 trucks and Class 8 tractor trailers with Navistar's new integrated technologies to support Navistar field tests on public roads to better understand product requirements for these systems in "real world" environments in the U.S. market. According to Navistar, Mr. Nickels will drive for no more than 8 hours per day for 2 consecutive days with 50 percent of the test driving on two-lane State highways and 50 percent on Interstate highways. The driving will consist of no more than 600 miles during a two-day period, at most 300 miles per day. In all cases, he will be accompanied by an individual who holds a State-issued CDL, who is familiar with the routes to be traveled. A copy of the application is in the docket.

IV. Equivalent Level Safety

To ensure an equivalent level of safety, Navistar states that the requirements for a German commercial license ensure the same level of safety as if Mr. Nickels held a State-issued CDL. Navistar explained that Mr. Nickels is familiar with the operation of CMVs worldwide. In addition, Navistar provided a statement of driving history for Mr. Nickels.

FMCSA is unaware of any evidence of a degradation of safety attributable to the current exemption for Mr. Nickels. Further, there is no indication that renewal of this exemption would have an adverse impact on safety.

In 2019, the Agency granted similar exemptions to Navistar drivers on two occasions [April 15, 2019 (84 FR 15283); December 27, 2019 (84 FR 71525)]. FMCSA concludes that provisionally renewing the exemption granted on November 21, 2019, for six months, under the terms and conditions listed below, will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

V. Exemption Decision

A. Grant of Provisional Renewal of Exemption

FMCSA provisionally renews the exemption for a subsequent period of six months, instead of the five years requested by Navistar, subject to the terms and conditions of this decision and the absence of adverse public comments that would cause the Agency to terminate the exemption. If evidence of insufficient safety is not provided, FMCSA anticipates granting a full five-year exemption on or before the provisional exemption expires. The exemption from the requirements of 49 CFR 383.23 is otherwise effective beginning November 21, 2024, through May 21, 2025, 11:59 p.m. local time, unless revoked.

B. Applicability of Exemption

This exemption applies only to Navistar's driver Thomas Nickels. This driver is granted an exemption from the CDL requirement in 49 CFR 383.23 to allow him to drive CMVs in the United States without a State-issued CDL. Consequently, this driver is not subject to the requirements of 49 CFR part 382.

C. Terms and Conditions

When operating under this exemption, Navistar and Mr. Nickels are 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;

(4) At all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a State-issued 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 the driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

(7) Navistar must implement a drug and alcohol testing program substantially equivalent to the applicable requirements in 49 CFR part 382, subparts A-F, and require that Mr. Nickels be subject to those requirements. Navistar must provide documentation of its drug and alcohol testing program upon request to FMCSA.

D. 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. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

E. Notification to FMCSA

Navistar must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs operating under the terms of this exemption. The notification must include the following information:

- a. Identifier of the Exemption: "Navistar - Nickels;"

- b. Name of operating carrier and USDOT number;
- c. Date of the crash;
- d. City or town, and State, in which the accident occurred, or closest to the crash scene;
- e. Driver's name and license number;
- f. Co-driver's name (if any) and license number;
- g. Vehicle number and State license number;
- h. Number of individuals suffering physical injury;
- i. Number of fatalities;
- j. The police-reported cause of the crash, if provided by the enforcement agency;
- k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and
- l. The total on-duty time accumulated during the 7 consecutive days prior to the date of the crash, and the total on-duty time and driving time in the work shift prior to the crash.

Reports filed under this provision shall be e-mailed to mcpsd@dot.gov.

F. Termination

FMCSA does not believe the driver covered by this exemption will experience any deterioration of their safety record. However, the exemption will be rescinded if: (1) Navistar or the driver operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objects of 49 U.S.C. 31136(e) and 31315(b).

VI. Request for Comments

FMCSA requests public comment from all interested persons regarding Navistar's application for a renewal of the exemption. The Agency will evaluate any adverse

evidence submitted and, if it determines safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA may take immediate steps to revoke or modify the exemption.

Vincent G. White,

Deputy Administrator.

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