



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0056]

Hours of Service of Drivers: R.J. Corman Railroad Services, Cranemasters, Inc., and National Railroad Construction and Maintenance Association, 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 for six months the exemption requested by R.J. Corman Railroad Services (R.J. Corman), Cranemasters, Inc. (Cranemasters), and the National Railroad Construction and Maintenance Association Inc. (NRC) from the prohibition against driving a property-carrying commercial motor vehicle (CMV) beyond the 14th hour after coming on duty and driving after accumulating 60 hours of on-duty time in 7 consecutive days, or 70 hours of on-duty time in 8 consecutive days. The exemption renewal is applicable to employees of R.J. Corman and Cranemasters operating CMVs in response to unplanned events that occur outside of or extend beyond the subject employees' normal work hours. FMCSA requests public comment on the application for exemption renewal.

DATES: This renewed exemption is effective March 4, 2025, and expires on September 4, 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-2019-0056 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-2019-0056). 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-notices. The comments are searchable by the name of the submitter and are posted without edit.

FOR FURTHER INFORMATION CONTACT: Bernadette Walker, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards;

FMCSA; (202) 385-2415; Bernadette.walker@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.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2019-0056), 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 e-mail 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, insert the docket number (FMCSA-2019-0056) in keyword box, and click on this notice, click “Comment,” and type your comment into the text box on the following screen.

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.

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.

B. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552),

CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the notice. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

C. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov> insert FMCSA-2019-0056 in the keyword box, select the document tab and choose the document to review. To view comments, click this notice, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Docket Operations on the ground floor of the DOT 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 Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) 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 absent such exemption, pursuant to 49 U.S.C. 31315(b)(1). 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 Regulatory Requirements

Under 49 CFR 395.3(a)(2), drivers are prohibited from driving after a period of 14 consecutive hours after coming on-duty following 10 consecutive hours off-duty.

Under 49 CFR 395.3(b)(1), drivers are prohibited from operating a CMV for any period after having been on duty 60 hours in any period of 7 consecutive days if the employing motor carrier does not operate CMVs every day of the week.

Under 49 CFR 395.3(b)(2), drivers are prohibited from operating a CMV for any period after having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier does operate CMVs every day of the week.

Application for Renewal of Exemption

R.J. Corman is a full-service railroad construction company, Cranemasters is a railroad contractor, and the NRC is a trade association for railroad contractors, suppliers,

and the railroad and rail transit construction industry. The applicants request a renewal of their exemption from the Hours of Service (HOS) regulations for the R.J. Corman and Cranemasters employees who use CMVs to transport equipment used to clear derailed or disabled trains or debris blocking tracks or railroad rights-of-way when responding to unplanned events that affect interstate commerce, service, or the safety of railway operations, including passenger rail operations.

The applicants assert in their original exemption application that many unplanned events occur outside of normal business hours and in many instances, the situation is locally contained. According to the applicants, it would not be practical for a local government official to declare an emergency that would exempt the applicants from the HOS regulations, because (1) many unplanned events occur in remote locations where it may not be clear who a railroad should contact to declare an emergency; (2) more than half of unplanned event call times typically occur between 4:00 p.m. and 7:00 a.m., including a large number between midnight and 7:00 a.m., making it virtually impossible for the railroads to contact an official to request an emergency declaration before they request a contractor to respond to the unplanned event; and (3) companies likely would not know if such an emergency declaration had been made before they respond to a call from a railroad.

The applicants compare the work of railroad employees responding to an emergency to that of utility service employees responding to an emergency situation. Utility service vehicles are exempt from the HOS regulations under 49 CFR 395.1(n). According to the applicants, the rationale for the utility service vehicle exemption applies with equal force to railroad emergency response contractors when they respond to unplanned events.

The applicants' current exemption applies to time spent by their drivers driving to the site of the unplanned event. The term "unplanned event" includes: a derailment; a rail

failure or other report of dangerous track condition; a track occupancy light; a disruption to the electric propulsion system; a bridge-strike; a disabled vehicle on the track; a train collision; weather and storm-related events; and a matter concerning national security or public safety, including a blocked grade crossing.

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

IV. Equivalent Level Of Safety

To ensure an equivalent level of safety, the applicants require drivers to stop operating a CMV after completing work until the drivers obtain the required 10 hours or 34 hours of rest, depending on their cumulative hours on duty for the day and week. The applicants list the following steps taken to ensure that safety is not compromised:

- Drivers will have at least one hour of lead time before mobilizing equipment and actively begin driving;
- During the one-hour lead time, drivers can participate in stretching and light exercise to improve alertness prior to driving;
- Drivers will drive in a convoy using escort vehicles in the front and back;
- Vehicles will be equipped with two-way radios and supervisors conduct routine radio checks every 30 to 45 minutes requiring response from drivers; and
- Supervisors will train employees to recognize fatigue and have a policy that no driver is required to drive a vehicle if feeling fatigued.

Because the relief is limited to the trip to the scene of the unplanned event and such events would happen only occasionally and not during a predictable number of times per week or per month, drivers would not operate CMVs after the 14th hour of coming on duty as a regular part of their schedules. Similarly, drivers would not regularly operate CMVs after accumulating on-duty time of 60 hours during seven consecutive

days, or 70 hours during eight consecutive days. Drivers' standard schedules would include adherence to the 14-hour rule and adherence to the 60- and 70-hour rules.

V. Grant of Provisional Renewal of Exemption

FMCSA provisionally renews the exemption for a period of six months, subject to the terms and conditions of this decision. The exemption from the requirements of 49 CFR 395.3(a)(2), 49 CFR 395.3(b)(1), and 49 CFR 395.3(b)(2) is effective beginning March 4, 2025, through September 4, 2025, 11:59 p.m. local time, unless revoked.

A. Applicability of Exemption

This exemption is restricted to individuals employed by R.J. Corman and Cranemasters while driving CMVs to the site of an "unplanned event" which includes the following:

- A derailment;
- a rail failure or other report of a dangerous track condition;
- a track occupancy light;
- a disruption to the electric propulsion system;
- a bridge-strike;
- a disabled vehicle on the train tracks;
- a train collision;
- weather- and storm-related events, including fallen trees and other debris on the tracks, snow, extreme cold or heat, rock and mud slides, track washouts, and earthquakes; and
- a matter concerning national security or public safety, including a blocked grade crossing.

B. Terms and Conditions

1. When operating under this exemption, drivers and carriers:
 - May extend the 14-hour duty period in 49 CFR 395.3(a)(2) to no

more than 17 hours;

- May not exceed 11 hours of driving time, following 10

consecutive hours off duty;

- May extend the 60- and 70-hour rule in 49 CFR 395.3(b) by no more

than 6 hours; and

- May not travel more than 300 air miles from the normal work-reporting location or terminal.

2. Drivers must comply with the applicable HOS limits after arriving at the site and drivers must record all time working to restore rail service as on duty, not driving time.
3. Drivers may take advantage of the Agency's personal conveyance regulatory guidance when travelling between the unplanned event work site and nearby lodging or dining facilities (June 7, 2018; 83 FR 26377). If that guidance is not applicable to the trip, CMV drivers who have reached the HOS limits must be transported from the work site by an individual who is not subject to HOS restrictions or use a vehicle that does not meet FMCSA's definition of a CMV (49 CFR 390.5) when they leave the site.
4. Drivers must complete the Driver Education Module 3 and the Driver Sleep Disorders and Management Module 8 of the North American Fatigue Management Program (NAFMP) (www.nafmp.org) prior to operating under the exemption; and
5. Motor carriers and drivers must comply with all other provisions of the Federal Motor Carrier Safety Regulations.

C. 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 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.

D. Notification to FMCSA

R.J. Corman and Cranemasters 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:

1. Identifier of the Exemption: "R.J. Corman/Cranemasters"
2. Name of operating carrier and USDOT number;
3. Date of the crash;
4. City or town, and State, in which the accident occurred, or closest to the crash scene;
5. Driver's name and license number;
6. Co-driver's name (if any) and license number;
7. Vehicle number and State license number;
8. Number of individuals suffering physical injury;
9. Number of fatalities;
10. The police-reported cause of the crash, if provided by the enforcement agency;
11. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations; and
12. 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.

E. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. However, the exemption will be rescinded if: (1) R.J. Corman, Cranemasters, or the drivers 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

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all persons interested in the application for an exemption renewal. All comments received before the close of business on the comment closing date 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.

Adrienne E. Camire,

Acting Administrator.

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