



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2020-0171]

Hours of Service of Drivers: Association of American Railroads and American Short Line and Regional Railroad Association; Application for Exemption Renewal

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 renew provisionally for six months the exemption requested by the Association of American Railroads and the American Short Line and Regional Railroad Association and member railroads (collectively “the Associations”) from the prohibitions against driving after the 14th hour from the beginning of the work shift (the 14-hour rule) and against driving after accumulating 60 hours of on duty time within 7 consecutive days, or 70 hours of on duty time within 8 consecutive days (the 60-hour/70-hour rule). The exemption will enable the employees of the Associations’ member railroads, subject to the hours-of-service (HOS) rules, to respond to unplanned events that occur outside of, or extend beyond, an employee’s normal work hours. The Associations are seeking a five-year renewal of this exemption. FMCSA requests public comment on the application for exemption renewal.

DATES: The provisional renewal of the exemption is effective from December 18, 2025, and expires on June 18, 2026. 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 Docket Number FMCSA-2020-0171 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:** 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Each submission must include the Agency name and the docket number (FMCSA-2020-0171) for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information provided in a comment. Please see the Privacy Act heading below.

Privacy Act: In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. 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 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>. The comments are posted without edit and are searchable by the name of the submitter.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; richard.clemente@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (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-2020-0171), indicate the specific section of this document to which the comment applies, and provide a reason for your 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 <https://www.regulations.gov/docket/FMCSA-2020-0171/document>, 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 via email at 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-2020-0171 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 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. 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 analysis. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the application, 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 absent such

exemption, pursuant to the standard set forth in 49 U.S.C. 31315(b)(1). The Agency must publish notice of its decision in the Federal Register (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the applicant will be exempt, the effective period, and 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), a driver may not drive after a period of 14 consecutive hours after coming on-duty following 10 consecutive hours off-duty.

Under 49 CFR 395.3(b), no motor carrier shall permit or require a driver of a property-carrying commercial motor vehicle (CMV) to drive, nor shall any driver drive a property-carrying CMV, regardless of the number of motor carriers using the driver's services, for any period after having been on duty 60 hours in any period of 7 consecutive days or 70 hours in any period of 8 consecutive days.

Application for Renewal of Exemption

The Associations seek a renewal of the exemption from 49 CFR 395.3(a)(2) and (b). The Associations believe the HOS prohibitions in the 14-hour rule and the 60-hour/70-hour rule inhibit a railroad's ability to respond expeditiously to certain types of emergency situations. The Associations request that a railroad employee responding to an unplanned event that affects railroad operations (including passenger rail operations) and that occurs outside of, or extends beyond, the employee's normal shift, be exempt from these requirements. Unplanned events include: 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; a matter concerning public safety; and a blocked grade crossing.

The exemption renewal request mirrors the request submitted by R.J. Corman Railroad Services, Cranemasters, Inc., and the National Railroad Construction and Maintenance Association, Inc., which FMCSA granted on March 4, 2020 (85 FR 12818) and renewed effective March 4, 2025, for five years (90 FR 34956). The exemption renewal request provides that, while operating under this exemption, drivers and carriers would be allowed to extend the 14-hour rule in § 395.3(a)(2) to no more than 17 hours; would not be allowed to exceed 11 hours of driving time following 10 consecutive hours off-duty; would be allowed to extend the 60-hour/70-hour rule in § 395.3(b) by no more than 6 hours; and, drivers would not be allowed to travel more than 300 air miles from their normal work-reporting location or terminal.

In addition, drivers covered by the exemption renewal would comply with the applicable HOS limits after arriving at the site and would record all time working to restore rail service as on-duty, not driving time. Drivers would also have the benefit of FMCSA's personal conveyance guidance when travelling between the unplanned event work site and nearby lodging or dining facilities. To the extent that guidance is not applicable, CMV drivers who have reached the HOS limits would be transported from the work site after onsite duties are completed by an individual who is not subject to HOS restrictions, or would use a vehicle that does not meet FMCSA's definition of a CMV in 49 CFR 390.5T.

Applicant's Equivalent Level of Safety

The Associations state that drivers operating under the exemption would receive resources on fatigue management appropriate to the rail working environment and emergency response to unplanned events. Specifically, drivers would complete the

Driver Education Module 3 and Driver Sleep Disorders and Management Module 7 of the North American Fatigue Management Program (NAFMP) or would refer to the Federal Railroad Administration's (FRA) website, the "Railroaders' Guide to Healthy Sleep" (<https://railroaderssleep.fra.dot.gov/>), as an alternative resource on strategies and resources to help railroad employees manage fatigue. The Associations request that the exemption be renewed for five years. The exemption would cover approximately 20,000 drivers and 11,000 CMVs.

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

IV. Grant of Provisional Renewal of Exemption

FMCSA determined in 2020 that the exemption, subject to the terms and conditions imposed, would likely achieve a level of safety that is equivalent to the level that would be achieved absent such exemption. The Agency does not believe the requested relief would compromise safety when used occasionally to respond to unplanned events while the Agency seeks comment, and issues a final decision, on the renewal request.

FMCSA provisionally renews the exemption for a period of six months, subject to the terms and conditions outlined below. The exemption from the prohibitions in the 14-hour rule and the 60-hour/70-hour rule is effective from December 18, 2025 through June 18, 2026, 11:59 p.m. local time, unless revoked.

A. Applicability of Exemption

This exemption is restricted to individuals employed by the member railroads of the Associations 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 mudslides, 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 rule in § 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-hour/70-hour rule in § 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, including that 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 traveling between the unplanned event work site and nearby lodging or dining facilities (83 FR 26377 (June 7, 2018)). 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 390.5T) when they leave the site;

4. Drivers must complete the Driver Education Module 3 and the Driver Sleep Disorders and Management Module 7 of the NAFMP (www.nafmp.org) prior to operating under the exemption; railroads subject to the exemption could direct CMV drivers to the DOT's FRA's website, the "Railroaders' Guide to Healthy Sleep" (<https://railroadersleep.fra.dot.gov/>) as an alternative resource if NAFMP's website is unavailable;
5. Motor carriers and drivers must comply with all other provisions of the Federal Motor Carrier Safety Regulations;
6. Upon request, the Associations must provide to FMCSA a list of the U.S. Department of Transportation (USDOT) numbers of motor carriers operating under this exemption; and
7. Notification to FMCSA. The Associations must notify FMCSA within five business days of any accident, as defined in 49 CFR 390.5T, involving any of the motor carrier's CMVs operating under the terms of this exemption. Reports filed under this provision shall be e-mailed to MCPSD@DOT.GOV.

The notification must include the following information:

- a. Identifier of the Exemption: "The Associations;"
- 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 or motor carrier safety regulations; and
- l. The total on-duty time accumulated during the seven 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.

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 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. Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration in their safety performance. However, the exemption will be revoked if: (1) the Associations 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 objectives of 49 U.S.C. 31136(e) and

31315(b).

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on 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.

Derek Barrs,
Administrator.

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