



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0176]

Parts and Accessories Necessary for Safe Operation; Daimler Trucks North

America LLC Application for Exemption

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Daimler Trucks North America LLC's (DTNA) application for a limited 5-year exemption allowing motor carriers operating commercial motor vehicles (CMVs) manufactured by the company to use an Attention Assist and Lane Departure Warning system camera mounted lower in the windshield than is currently permitted. The Agency has determined that lower placement of the Attention Assist and Lane Departure Warning system camera would not have an adverse impact on safety and that adherence to the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

DATES: This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE FIVE YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Jose R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV,

(202) 366-5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to 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 document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA– 21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the Federal Register (49 CFR 381.315(a)). The Agency must provide the public with 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)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must 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 381.315(c) and 49 CFR 381.300(b)).

DTNA's Application for Exemption

DTNA applied for an exemption from 49 CFR 393.60(e)(1) to allow an Attention Assist and Lane Departure Warning system camera to be mounted lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a mounting location that allows optimal functionality of the system camera. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1)(i) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the interior of the windshield. Antennas and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield, and outside the driver's sight lines to the road and highway signs and signals. However, § 393.60(e)(1)(i) does not apply to vehicle safety technologies, as defined in § 393.5, that include "a fleet-related incident management system, performance or behavior management system, speed management system, forward collision warning or mitigations system, active cruise control system, and transponder." Section 393.60(e)(1)(ii) requires devices with safety technologies to be mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers;

or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers; and (3) outside the driver's sight lines to the road and highway signs and signals.

DTNA states that the exemption, in addition to providing attention assist and lane departure warning functions, would allow DTNA to enable additional safety features in the future that will provide further safety benefits such as traffic sign recognition, active lane keeping, video capture, and intelligent headlight control. DTNA states that the Attention Assist and Lane Departure Warning system camera will become a critical enabler for future technology such as autonomous vehicles. The camera housing is approximately 102 mm (4.01 inches) wide by 177 mm (6.97 inches) tall, and will be mounted in the approximate center and near the top of the windshield with the bottom edge of the camera system approximately 8.5 inches below the upper edge of the area swept by the windshield wipers, outside of the driver's (and passenger's) normal sight lines to the road ahead, highway signs and signals, and all mirrors. This location will allow for the optimal functionality of the advanced safety systems supported by the camera. DTNA states that mounting the camera in this location does not significantly obstruct the Federal Motor Vehicle Safety Standard No. 104, "*Windshield wiping and washing systems*," specified zones A, B, or C for passenger cars of 1730 or more mm overall width.¹

DTNA has installed prototype camera housings in fifteen DTNA conventional type vehicles and assessed the impact of the camera on driver and passenger visibility on over 50 CDL drivers and over 900,000 miles. This includes over-the-road mileage accumulation through a mixture of mountain, freeway, highway, and city routes. DTNA

¹ FMVSS No. 104 does not specify minimum swept areas for trucks and buses.

states that all drivers and passengers agreed that there was no noticeable obstruction to the normal sight lines to the road ahead, highway signs, signals, or any mirrors.

Without the proposed exemption, DTNA states that the customer will be unable to use Attention Assist and Lane Departure Warning system cameras on DTNA commercial motor vehicles due to concerns that (1) its “customers may be in violation of the current regulation,” and (2) “the camera will not perform adequately to provide the safety benefit intended by the systems.”

The exemption would apply to all CMV operators driving DTNA vehicles with the Attention Assist and Lane Departure Warning systems camera installed. DTNA believes that mounting the Attention Assist and Lane Departure Warning system camera within 7 inches below the upper edge of the windshield will allow for optimal functionality of the advance safety systems while providing visibility of the road ahead, highway signs, signals, and all mirrors.

Comments

FMCSA published a notice of the application in the **Federal Register** on June 26, 2017, and asked for public comment (82 FR 28930). No comments were received.

FMCSA Decision

The FMCSA has evaluated the DTNA exemption application. The Attention Assist and Lane Departure Warning system camera is approximately 7 inches tall, and is mounted near the top of the center of the windshield with the bottom of the camera system located approximately 8.5 inches below the top of the area swept by the windshield wipers. The camera system needs to be mounted in this location to properly perform its functions of monitoring the driver and the roadway for lane markings. The

size of the camera system precludes mounting it (1) higher in the windshield, and (2) within 4 inches from the top of the area swept by the windshield wipers to comply with § 393.60(e)(1)(ii)(A).

The Agency believes that granting the temporary exemption to allow the placement of the Attention Assist and Lane Departure Warning system camera lower than currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the Attention Assist and Lane Departure Warning system camera would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the mounting location 8.5 inches below the top of the area swept by the windshield wipers and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of Attention Assist and Lane Departure Warning system cameras by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency action permitting the placement of similarly-sized devices on CMVs outside the driver's sight lines to the road and highway signs and signals. FMCSA is not aware of any evidence that the installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 5-year period, beginning [INSERT

DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE FIVE YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. During the temporary exemption period, motor carriers will be allowed to operate CMVs manufactured by DTNA equipped with the Attention Assist and Lane Departure Warning system camera mounted in the approximate center of the windshield such that the bottom edge of the camera is not more than 8.5 inches below the top of the area swept by the windshield wipers and outside the driver's sight lines to all mirrors, highway signs, signals, and view of the road ahead. The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles 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).

Interested parties possessing information that would demonstrate that motor carriers operating DTNA CMVs equipped with the Attention Assist and Lane Departure Warning system camera are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

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.

Issued on: January 25, 2018

Cathy F. Gautreaux
Deputy Administrator

[FR Doc. 2018-01943 Filed: 1/30/2018 8:45 am; Publication Date: 1/31/2018]