



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0098]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption from Traditional Trucking Corporation.

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 Traditional Trucking Corporation's (TTC) application for a limited 5-year exemption on behalf of motor carriers operating commercial motor vehicles (CMVs) to allow a Global Positioning System (GPS) device to be mounted on the interior of the windshield of a CMV within the areas allowed for "vehicle safety technology" devices. The Agency has determined that the placement of the GPS device in the windshield area 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. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-0676, 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

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of 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 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 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 reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also

specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

TTC's Application for Exemption

TTC applied for an exemption from 49 CFR 393.60(e)(1)(i) to allow a GPS device to be mounted on the interior of the windshield of a CMV within the areas allowed for devices with "vehicle safety technology" as defined in the FMCSRs. 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. Section 393.60(e)(1)(i) does not apply to vehicle safety technologies, as defined in 49 CFR 390.5, including a "a fleet-related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, active cruise control system, and transponder." Section 393.60(e)(1)(ii) requires devices with vehicle safety technologies to be mounted (1) not more than 100mm (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 outside the driver's sight lines to the road and highway signs and signals. GPS is not a "vehicle safety technology" under the definition in the regulation, and, as such, GPS devices are not permitted to be mounted on the interior of the windshield and within the area swept by the windshield wipers

TTC's application stated:

The exemption is necessary because the dash is not suitable for mounting the fixture to hold the GPS unit, and the location of the GPS unit (if mounted on the top of the dash) is in the same location as currently allowed for “vehicle safety technologies” mounted on the windshield. The GPS fixture cannot be mounted to the “face” of the control panel as that area is covered with controls and displays necessary for the operation of the commercial vehicle...

We do not believe that there will be any potential impacts to safety due to the requested temporary exemption. The size of GPS units is approximately the same size as the currently allowed “vehicle safety technologies” and the current location is much lower within the CMV which takes the driver’s eyes farther from the road to determine his/her vehicle’s correct lane, bridge height, speed, etc. The current allowed location is a more unsafe operating condition.

The exemption would be for any carrier who wishes to mount a GPS device on the windshield within the area defined for “vehicle safety technology” – not more than 4 inches below the upper edge of the windshield wipers, and not more than 7 inches above the lower edge of the area swept by the windshield wipers and outside the driver’s sight lines to the road and highway signs and signals. This would yield an equivalent level of safety for GPS devices as compared to those “vehicle safety technologies,” and it would be a potentially safer location than lower in the CMV where the driver must take his/her eyes off the road to look at the location of his CMV on the GPS device. Back in August of 2016, in the BASIC SMS, our Unsafe-driving category was in the cautionary status. Only one of the violations was not due to speeding; all of those with violations said it was due to a speed limit change and they were keeping with what they thought was the speed limit. GPS systems display the posted speed limit and flash in red when they are traveling above the posted speed limit.

The exemption would apply to all CMV operators driving vehicles with GPS devices. TTC believes that the exemption will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because the GPS device is approximately the same size as vehicle safety technology devices, and the current compliant mounting location is much lower in the vehicle which causes the driver to look away from the road to view the GPS device.

Comments

FMCSA published a notice of the application in the **Federal Register** on March 22, 2018, and asked for public comment (83 FR 12643). The Agency received eleven

comments. Mr. Ben Biondi, Mr. Keith Neighbor, Mr. Robert Smith, Mr. Jeffrey Baumann, Mr. Marc Winooski, Mr. Kenneth Farnham, Mr. Tim Higgins, Mr. Randy Littleton, and 2 anonymous commenters supported the exemption application. Several of these commenters stated that the GPS device should be allowed to be mounted on the windshield so the driver of the vehicle can obtain vehicle location information without taking their eyes off the road, and several believe that GPS should be considered a vehicle safety technology device under the regulation. One anonymous commenter opposed the exemption application, stating that GPS devices are not safety technologies, but rather luxury items meant only to be used as a convenience.

FMCSA Decision

The FMCSA has evaluated the TTC exemption application, and the comments received. The Agency believes that granting the temporary exemption to allow the placement of GPS devices in the same location permitted for vehicle safety technologies as identified in Section 393.60(e)(1)(ii), “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,” 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 GPS devices would obstruct drivers’ views of the roadway, highway signs and surrounding traffic; and (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and there will be no impairment of available sight lines to the road and highway signs and

signals. In addition, the Agency believes that the use of GPS devices 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 vehicle safety technologies on CMVs outside the driver's sight lines to the road and highway signs and signals. FMCSA is not aware of any evidence showing that the installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Section 392.80 of the FMCSRs prohibits (a) drivers from engaging in texting while driving, and (b) motor carriers from allowing or requiring its drivers to engage in texting while driving. The term "texting" is defined in section 390.5 of the FMCSRs as "manually entering alphanumeric text into, or reading text from an electronic device," and includes, but is not limited to, "short message service, emailing, instant messaging, a command or request to access a World Wide Web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication." While the definition of "texting" in section 390.5 of the FMCSRs expressly excludes "Inputting, selecting, or reading information on a global positioning system or navigation system," FMCSA strongly encourages CMV drivers utilizing GPS devices under this temporary exemption to minimize/avoid possible distraction associated with using these devices by (1) programming the device before starting to drive, (2) stopping to reprogram the device if necessary, and (3) enabling the voice command on the device (instead of muting it) to help avoid glancing at the device display.

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 equipped with GPS devices 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.

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 GPS devices mounted on the windshield in the same location as vehicle safety technologies 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. 31313(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: August 15, 2018

Raymond P. Martinez
Administrator

[FR Doc. 2018-17977 Filed: 8/21/2018 8:45 am; Publication Date: 8/22/2018]