

published a notice of final disposition announcing its decision to exempt these seven Volvo drivers from the CDL requirement in 49 CFR 383.23. The decision to renew the exemption for these drivers was based on the merits of each driver's demonstrated knowledge and skills about the safe operation of CMVs, and only after careful consideration of the comments submitted in response to the April 23, 2007 original notice. The notice of application for exemption indicated that detailed information about the qualifications and experience of each of the drivers was provided in Volvo's application and that a copy of the application is in the docket referenced at the beginning of this notice.

Interested parties or organizations possessing information that would otherwise show that any or all of these drivers are not currently achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse information submitted and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will take immediate steps to revoke the exemption of the driver(s) in question.

Issued on: January 29, 2009.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. E9-2433 Filed 2-4-09; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2008-0313]

#### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Turnpike Global Technologies LLC

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

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Turnpike Global Technologies LLC (Turnpike) to allow the placement of electronic on board data event recorders at the bottom of the windshields on commercial motor vehicles (CMV). The exemption would enable any motor carrier using Turnpike's RouteTracker electronic on-board data event recorders

to mount the devices lower in the windshield than currently permitted by the Agency's regulations in order to maximize the ability of the device to collect safety and regulatory compliance data. Turnpike believes this mounting position would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

**DATES:** Comments must be received on or before March 9, 2009.

**ADDRESSES:** You may submit comments identified by FDMS Docket ID Number FMCSA-2008-0313 by any of the following methods:

- *Web site:* <http://www.regulations.gov>.

Follow the instructions for submitting comments on the Federal electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

- *Hand Delivery:* Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

**Instructions:** All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the "Public Participation" heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the "Privacy Act" heading for further information.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://www.regulations.gov>.

**Public participation:** The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get

electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site and also at the DOT's <http://docketsinfo.dot.gov> Web site. If you want us to notify you that we received your comments, please include a self addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations (MC-PSV), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, phone (202) 366-0676, or e-mail [luke.loy@dot.gov](mailto:luke.loy@dot.gov).

#### 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 also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption (49 CFR 381.315(c)). The exemption may be renewed (49 CFR 381.300(b)).

##### Turnpike's Application for Exemption

On April 2, 2008, Turnpike applied for an exemption from 49 CFR

393.60(e)(1) to allow the installation of the RouteTracker electronic on board data event recorder on CMVs. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

Turnpike applied for the exemption because it wants to install RouteTracker devices in its customers' vehicles throughout the United States. Turnpike contends that it must be able to mount the recorder in a position that is lower on the windshield than what is currently allowed under 49 CFR 393.60(e)(1) "in order to maximize the ability of the device to collect safety and regulatory compliance data." Turnpike noted that the preferred installation location is in the lower right side of the windshield, and outside the area swept by the windshield wipers. Turnpike stated "The windshield mount is the preferred installation to prevent driver tampering and ensure twenty-four hour communication relay."

In its application, Turnpike noted that the Commercial Vehicle Safety Alliance (CVSA) submitted a petition for rulemaking to FMCSA on October 18, 2007, to amend 49 CFR 393.60(e). The CVSA petition requests that the FMCSRs be amended to permit video event recorders and similar devices that require a clear forward facing visual field to be mounted not more than 50 mm (2 inches) below the upper edge of the area swept by the windshield wipers, provided that they are located outside the driver's sight lines to the road and highway signs and signals. A copy of the CVSA petition has been placed in the docket referenced at the beginning of this notice.

Turnpike recommended that FMCSA—as a condition of the exemption if it were granted—require Turnpike to comply with the mounting provisions proposed in the CVSA petition as described above during the period of the exemption. Turnpike stated that doing so would "enable Turnpike to maximize the use of RouteTracker in collecting safety and regulatory compliance data while abiding by a mounting standard that the CVSA has determined is safe and appropriate."

On November 7, 2008, Turnpike sent FMCSA an amendment to its exemption application. Turnpike notes that its preferred mounting location is in the lower right edge of the windshield, outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals. A copy of the amended application is included in the docket referenced at the beginning of this notice. As such, complying with CVSA's proposed mounting location—not more than 2 inches below the upper edge of the area swept by the windshield wipers—as proposed in its original application dated April 2, 2008, would not be consistent with Turnpike's preferred mounting location at the bottom right of the windshield.

The amended application requests that FMCSA grant an exemption to § 393.60(e)(2) that would permit installation of its RouteTracker device in the lower right side of the windshield, outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals. Turnpike notes that while § 393.60(e)(2) permits CVSA inspection decals, and stickers and/or decals required under Federal or State laws to "be placed at the bottom or sides of the windshield provided such decals or stickers do not extend more than 4½ inches from the bottom of the windshield and are located outside the area swept by the windshield wipers, and outside the drivers' sight lines to the road and highway signs or signals," this section applies only to decals and stickers—and not to transponders or similar devices such as its RouteTracker device. Given that the RouteTracker device has dimensions of 4" x 3.5" x 1.25", Turnpike contends that mounting its RouteTracker device in the lower right side of the windshield and outside the drivers' sight lines to the road and highway signs or signals is consistent with that allowed for decals and stickers described above, and will not degrade safety.

#### Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Turnpike's application for an exemption from 49 CFR 393.60. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the ADDRESSES caption 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.

Issued on: January 29, 2009.

**Larry W. Minor**,  
Associate Administrator for Policy and  
Program Development.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2002-12844; FMCSA-2002-12423; FMCSA-2004-19477]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 5 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective February 25, 2009. Comments must be received on or before March 9, 2009.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-02-12844; FMCSA-02-12423; FMCSA-04-19477, using any of the following methods.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140,