

Issued on: June 4, 2010.

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-2010-0166]

#### Parts and Accessories Necessary for Safe Operation; Applications for an Exemption From Con-Way Freight, TK Holdings, Inc., and Iteris, Inc.

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

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

**SUMMARY:** FMCSA requests public comment on applications for exemption from Con-way Freight (Con-way), TK Holdings, Inc. (Takata), and Iteris, Inc. (Iteris) regarding the placement of lane departure warning system sensors at the top of the windshields of commercial motor vehicles (CMVs). Each applicant requests that FMCSA permit the mounting of the lane departure warning system sensors near the top of the windshield, and within the swept area of the windshield wipers, which is currently prohibited by the Agency's regulations. The lane departure warning system would be used to alert a driver when he or she unintentionally drifts out of their lane of travel, thus promoting improved safety performance of CMV drivers. Each applicant contends that this mounting position does not adversely impact driver visibility.

**DATES:** Comments must be received on or before July 14, 2010.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-2010-0166 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, (202) 366-0676; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

#### 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. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

#### Applications for Exemption

On November 11, 2009, Con-way applied for an exemption from 49 CFR 393.60(e)(1) to allow it to install lane departure warning system sensors on 1,272 of its newly purchased power units. Takata and Iteris submitted nearly identical exemption applications on December 15, 2009 and on February 25, 2010, respectively. Copies of each of the applications are 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.

Each of the applicants note that over the past several years, FMCSA has collaborated with the trucking industry to test, evaluate, and encourage the deployment of several promising onboard safety systems for CMVs in an effort to enhance the safety of all roadway users. From a motor carrier perspective, Con-way states that it would like to make an investment in

three of these safety systems—forward collision warning systems, roll stability control systems, and lane departure warning systems, on its newly purchased power units. From a supplier perspective, both Takata and Iteris would like to ensure that motor carriers are able to utilize the safety systems that they manufacture, to enhance highway safety, while maintaining compliance with the applicable FMCSRs.

The applicants note that the lane departure warning system requires, as a necessary element, a lane departure warning sensor to be installed to the inside of the tractor windshield. For the warning sensor to be effective, it must be mounted inside the area swept by the windshield to insure maximum visibility.

The applicants state that over the last several years, truck manufacturers have increased the windshield area to maximize driver visibility. As a result, manufacturers have voluntarily installed larger windshield wipers on these windshields that increase the swept area beyond that which is minimally required by Federal Motor Vehicle Safety Standard (FMVSS) No. 104, "Windshield Wiping and Washing Systems." FMVSS No. 104 establishes the requirements applicable to vehicle and equipment manufacturers for windshield wiper system coverage for passenger cars, multi-purpose passenger vehicles, trucks and buses.

In the exemption applications, the applicants provided diagrams and photos showing the sensor dimensions and mounting location on the windshield. Specifically, the sensor device itself measures 2 inches by 3.5 inches, and it is mounted approximately 2 inches below the top of the windshield—within the 6-inch limit specified in 49 CFR 393.60(e)(1). The applicants state that this mounting position does not adversely impact the driver's visibility.

In support of the exemption applications, each applicant cited the findings of a report published by FMCSA's Office of Analysis, Research and Technology titled "Benefit-Cost Analyses of Onboard Safety Systems," that summarizes the projected safety benefits for various CMV onboard safety systems, including lane departure warning systems. Using low and high estimates of efficacy rates ranging from 23 percent to 53 percent, the report estimated that, based on industry-wide use of lane departure warning systems, these systems have the potential to reduce approximately 1,609–2,463 single-vehicle roadway departure collisions, 627–1,307 single-vehicle roadway departure rollovers, 1,111–

2,223 same-direction lane departure sideswipes, 997–1,992 opposite-direction lane departure sideswipes, and 59–118 opposite-direction lane departure head-on collisions. The applicants state that without the exemption, motor carriers will be unable to (1) implement the lane departure warning system, and (2) realize the potential safety benefits that can be expected with the utilization of this technology as estimated in the report described above.

#### Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the applications for an exemption from 49 CFR 393.116(a)(3) submitted by Conway, Takata, and Iteris. 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** 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.

Issued on: June 4, 2010.

**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-2010-0177]

#### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From the Flatbed Carrier Safety Group

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

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

**SUMMARY:** FMCSA requests public comment on an application for exemption from the Flatbed Carrier Safety Group (FCSG) regarding the securement of metal coils on a flatbed vehicle, in a sided vehicle, or in an intermodal container loaded with eyes

crosswise, grouped in rows, in which the coils are loaded to contact each other in the longitudinal direction. FCSG wants to use the pre-January 1, 2004 cargo securement regulations for the transportation of groups of metal coils with eyes crosswise.

**DATES:** Comments must be received on or before July 14, 2010.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-2008-0224 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