

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)).

III. Request for Exemption

Background—Regulatory Requirements

Currently, 49 CFR 382.105, concerning FMCSA's controlled substances and alcohol testing regulations, requires that each employer ensure all alcohol or controlled substances testing conducted on CDL holders complies with the procedures under 49 CFR part 40. All parties who conduct controlled substances and alcohol tests required by the Department must follow the Part 40 requirements on how to conduct the test and what procedures to use. Currently, Part 40 only allows urine testing for controlled substances. Congress, through the Omnibus Transportation Employee Testing Act (OTETA) of 1991 (Pub. L. 102-143, Title V, 105 Stat. 952). OTETA requires the Department to follow the HHS Mandatory Guidelines for scientific testing issues. While DOT has discretion concerning many aspects of the regulations governing testing in the transportation industries' regulated programs, we must follow the HHS Mandatory Guidelines for the laboratory standards and procedures the Department will use for regulated testing.

Section 382.301 provides requirements concerning pre-employment testing of commercial driver's license (CDL) holders for controlled substances, while 49 CFR part 383 prescribes requirements for individuals who must obtain a CDL. With limited exceptions, an employer must conduct pre-employment testing for controlled substances prior to the first time a driver performs "safety-sensitive functions," as defined in 49 CFR 382.107. Employers must not allow a driver whom the employer intends to

hire or use to perform safety-sensitive functions unless the employer has received a controlled substances test result from the medical review officer (MRO) or consortium/third-party administrator (C/TPA), as those terms are defined in 49 CFR 40.3, indicating a verified negative test result for that driver.

Application for Exemption

The Applicants have requested an exemption from 49 CFR 382.105 and 382.301 with specific authorization for release of and obtaining hair test results to comply with 49 CFR 391.23, *Investigations and inquiries*. Under the exemption, the carriers would conduct pre-employment tests using hair analysis only, rather than hair analysis in addition to urine testing, and individuals with negative test results would be permitted to perform safety-sensitive functions for the employer. Individuals testing positive would not be allowed to perform safety-sensitive functions until the driver completes the return-to-duty process under Subpart O of 49 CFR part 40. In addition, the Applicants would share the positive hair testing results with prospective employers in response to safety-performance inquiries required by 49 CFR 391.23.

The carriers that would be covered by the exemption already use hair analysis as a method for pre-employment controlled substances testing of drivers on a voluntary basis. However, they also conduct urine testing for drugs because it is the only screening method accepted under the Department's regulations. The Applicant's view their use of multiple screening methods as an unnecessary and redundant financial burden. Also, the Applicants consider urine testing to be less effective in pre-employment screening for drugs than hair analysis.

A copy of the exemption application and all supporting documents submitted by the Applicant is available for review in the docket referenced at the beginning of this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on the application for an exemption from 49 CFR 382.105 and 382.301.

The Agency will consider all comments received by close of business on February 21, 2017. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the

public docket after the closing date of the comment period.

Issued on: January 13, 2017.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0450]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Hino Motors Manufacturing U.S.A., Inc.

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 Hino Motors Manufacturing U.S.A., Inc. (Hino) to allow an Automated Emergency Braking (AEB) system and a Lane Departure Warning (LDW) system camera to be mounted lower in the windshield than is currently permitted. Mounting the camera in this location does not meet the prohibition on obstructions to the driver's field of view requirements for windshields in the Federal Motor Carrier Safety Regulations (FMCSR) which requires devices meeting the definition of "vehicle safety technology" to be mounted not more than 4 inches below the upper edge of the area swept by the windshield wipers, or 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. Because the camera will be mounted outside of the driver's normal sight lines to all mirrors, Hino believes that they will 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 February 21, 2017.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2016-0450 using 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-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, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site as well as the DOT's <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mrs. Amina Fisher, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-2782, 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 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)).

Hino's Application for Exemption

Hino has applied for an exemption from 49 CFR 393.60(e) to allow an Automated Emergency Braking (AEB) system and a Lane Departure Warning (LDW) system camera to be mounted lower in the windshield than is currently permitted. 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 at the top 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 § 390.5 as including "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 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 outside the driver's sight lines to the road and highway signs and signals.

In its application, Hino states:

Hino is making this request so that it becomes possible to introduce an Automated Emergency Braking (AEB) system and a Lane Departure Warning (LDW) system as optional equipment on some Hino commercial motor vehicles. This system, like many other similar systems which FMCSA has granted exemptions for, requires that a camera be mounted to the upper center area of the windshield in an area where the windshield is swept by the windshield wipers to provide a clear view to the lane markings on the road.

In the Hino installation, the camera housing supplied by Meritor Wabco is approximately 4.67 inches wide by 4.30 inches tall. We propose to mount the camera such that is in the approximate center of the windshield and such that the bottom edge of the camera is approximately 7 inches below the upper edge of the windshield, outside of the driver's and passenger's normal sight lines to all mirrors, highway signs, signals and view of the road ahead. This location will allow for the optimal functionality of the advanced safety systems supported by the camera.

Hino has created a CAD layout of a typical Hino conventional type truck to verify that we do not significantly obstruct the FMVSS 104 specified zones A, B or C for passenger cars of 1730 or more mm overall width [Figure 1 of application]. In fact, we obstruct 0.0% of zone C, 0.1% of zone B and 1.4% of zone A.

Hino has installed one prototype camera housing in a Hino conventional type model 258LP (low profile) test vehicle with the lowest cab height we offer to assess, through a jury evaluation, the impact of the camera on driver and passenger visibility [Figure 2 of application].

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. Also, one driver noted that the camera did not interfere with the normal range of motion of the sun visor and that the sun visor lower edge extended lower than the camera housing [Figure 3 of application].

The exemption would apply to all CMV operators driving Hino vehicles with the AEB/LDW system camera installed. Hino believes that mounting the system as described will maintain a

level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Hino'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** 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: January 13, 2017.

Larry W. Minor,

Associate Administrator for Policy.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket FTA-2017-0001]

Notice of Establishment of Emergency Relief Docket for Calendar Year 2017

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: By this notice, the Federal Transit Administration (FTA) is establishing an Emergency Relief Docket for calendar year 2017 so grantees and subgrantees affected by national or regional emergencies may request temporary relief from FTA administrative and statutory requirements.

FOR FURTHER INFORMATION CONTACT:

Bonnie L. Graves, Attorney-Advisor, Office of Chief Counsel, Federal Transit Administration, 90 Seventh Street, Ste. 15-300, San Francisco, CA 94103; phone: (202) 366-0944, fax: (415) 734-9489, or email, *Bonnie.Graves@dot.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to title 49 CFR part 601, subpart D, FTA is establishing the Emergency Relief Docket for calendar year 2017. Subsequent to an emergency or major disaster, the docket may be opened at

the request of a grantee or subgrantee, or on the FTA Administrator's own initiative.

In the event a grantee or subgrantee believes the Emergency Relief Docket should be opened and it has not been opened, that grantee or subgrantee may submit a petition to www.regulations.gov for posting in the docket (FTA-2017-0001). Alternatively, a grantee or subgrantee may submit a petition in duplicate to the FTA Administrator, via U.S. mail or hand delivery, to: Federal Transit Administration, 1200 New Jersey Ave. SE., Washington, DC 20590; via telephone, at: (202) 366-4011; via fax, at: (202) 366-3472; via email, to *Bonnie.Graves@dot.gov*; or via U.S. mail or hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave. SE., Room W12-140, Washington, DC 20590, requesting opening of the Docket for that emergency and including the information set forth below.

All petitions for relief from a provision of chapter 53 of title 49, U.S.C. or FTA administrative requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly available and can be accessed 24 hours a day, seven days a week, via the Internet at www.regulations.gov. Any grantee or subgrantee submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA-2017-0001. Grantees and subgrantees making submissions to FTA or to the docket by mail or hand delivery should submit two copies. Grantees and subgrantees are strongly encouraged to contact their FTA regional office and notify FTA of the intent to submit a petition to the docket.

In the event a grantee or subgrantee needs to request immediate relief and does not have access to electronic means to request that relief, the grantee or subgrantee may contact any FTA regional office or FTA headquarters and request that FTA staff submit the petition on its behalf.

Federal public transportation law at 49 U.S.C. 5324(d) provides that a grant awarded under Section 5324 or under 49 U.S.C. 5307 or 49 U.S.C. 5311 that is made to address an emergency shall be subject to the terms and conditions the Secretary determines are necessary. This language allows FTA to waive statutory, as well as administrative, requirements. Therefore, grantees affected by an emergency or major disaster may request waivers of provisions of chapter 53 of title 49, U.S.C. when a grantee or subgrantee demonstrates the

requirement(s) will limit a grantee's or subgrantee's ability to respond to an emergency. Grantees must follow the procedures set forth below when requesting a waiver of statutory or administrative requirements.

A petition for relief shall:

(a) Identify the grantee or subgrantee and its geographic location;

(b) Identify the section of chapter 53 of title 49, U.S.C., or the FTA policy statement, circular, guidance document and/or rule from which the grantee or subgrantee seeks relief;

(c) Specifically address how a requirement in chapter 53 of title 49 U.S.C., or an FTA requirement in a policy statement, circular, agency guidance or rule will limit a grantee's or subgrantee's ability to respond to an emergency or disaster; and

(d) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

A petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted thereto. FTA may contact the grantee or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and the comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

A petition for relief from statutory requirements will not be conditionally granted and requires a written decision from the FTA Administrator.

Pursuant to 49 CFR 604.2(f) of FTA's Charter Rule, grantees and subgrantees may assist with evacuations or other movement of people that might otherwise be considered charter transportation when that transportation is in response to an emergency declared by the President, governor, or mayor, or in an emergency requiring immediate action prior to a formal declaration,