

19. Title VI of the Civil Rights Act of 1964, as amended;

20. Executive Order 12898, Federal Actions to Address Environmental 18. Executive Order 13112, Invasive Species;

21. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303 and 23 U.S.C. 138);

22. National Historic Preservation Act of 1966, as amended (54 U.S.C. 306108 *et seq.*);

23. Migratory Bird Treaty Act;

24. Executive Order 13112, Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1)

Issued on: November 19, 2019.

**Tashia J. Clemons,**

*Director, Planning and Environment, Federal Highway Administration, California Division.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2019-0091]

#### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Navistar Inc.

**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 Navistar Inc.'s (Navistar) application for a limited 5-year exemption to allow its advanced driver-assistance systems (ADAS) to be mounted lower in the windshield on Navistar's commercial motor vehicles (CMV) than is currently permitted. The Agency has determined that lower placement of the ADAS 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 November 25, 2019 and ending November 25, 2024.

**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](http://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 FMCSRs. 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)).

##### Navistar's Application for Exemption

Navistar applied for an exemption from 49 CFR 393.60(e)(1) to allow its ADAS to be mounted lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a location that allows optimal functionality of the camera system. 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. 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 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 (3) outside the driver's sight lines to the road and highway signs and signals.

In its application, Navistar states that its ADAS currently includes features such as enhanced rear-end collision mitigation, adaptive cruise control along with following distance alerts, stationary object alerts, lane departure warning, alerts when speeding, and automatic braking on stationary vehicles. Navistar states that the proposed exemption will increase safety by providing these ADAS features on its CMVs. Navistar notes that the exemption will also allow it to enable additional safety features in the future that will provide further safety benefits such as traffic sign recognition, active lane keeping, and driver fatigue monitoring. In addition, Navistar states that the ADAS will become a critical enabler for future technology such as autonomous vehicles.

The camera housing is approximately 120 mm (4.72 inches) wide by 120 mm (4.72 inches) tall, and will be mounted in the approximate center of the top of the windshield such that the bottom edge of the camera housing is approximately 8 inches below the upper edge of 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 proper installation (including connectors and cables) for optimal functionality of the advanced safety systems supported by the camera.

Navistar states that mounting the ADAS in this location does not significantly obstruct specified zones A, B, or C for passenger cars in Federal

Motor Vehicle Safety Standard No. 104, “Windshield wiping and washing systems.”<sup>1</sup>

Navistar installed prototype camera housings in several of its CMVs, and operated them in typical over-the-road conditions for a period of six months. Navistar 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 m

Without the proposed exemption, Navistar states that it will be unable to mount the ADAS on its CMVs 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 Navistar vehicles equipped with its ADAS mounted on the windshield. Navistar 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.

#### Comments

FMCSA published a notice of the application in the **Federal Register** on April 18, 2019, and asked for public comment (84 FR 16328). The Agency received no comments.

#### FMCSA Decision

FMCSA has evaluated the Navistar exemption application. The ADAS camera system housing is approximately 4.72 inches tall, and is mounted near the top of the center of the windshield with the bottom of the camera housing located approximately 8 inches below the top of the area swept by the windshield wipers. The camera needs to be mounted in this location for optimal functionality of the ADAS system. 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 ADAS 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 ADAS 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 inches below the upper edge of the windshield and out of the driver’s normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of ADAS 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 showing 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 November 25, 2019 and ending November 25, 2024. During the temporary exemption period, motor carriers will be allowed to operate CMVs equipped with Navistar’s ADAS in the approximate center of the top of the windshield and such that the bottom edge of the camera housing is approximately 8 inches below the upper edge of the windshield, outside of the driver’s and passenger’s normal sight lines to the road ahead, highway signs and signals, and all mirrors. 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 Navistar CMVs equipped with its ADAS 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: November 18, 2019.

**Jim Mullen,**

*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA–2019–0089]

#### Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on October 28, 2019, Norfolk Southern Corporation (NS), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 231, *Railroad Safety Appliance Standards*. Specifically, NS seeks relief from § 231.6(a)(3)(i) for a designated series of NS maintenance-of-way (MW) flat cars (NS 980011, NS 986906, CR 62753, CR 58574, CR 58568, CR 58535, CR 58515, CR 58563, and CR 58708). FRA assigned the petition Docket Number FRA–2019–0089.

In line with the requirements of § 231.6(a)(3)(i), on June 15, 1998, FRA issued Technical Bulletin MP&E 98–69, *Safety Appliance Arrangements on Flat Cars*, recommending an additional handhold for any flat car with a low-mounted side hand brake to allow for the safe operation of the hand brake while the car is in motion. NS seeks relief to permit these MW cars to remain in service with their current hand brake arrangement and without the additional handhold outlined in MP&E 98–69.

NS indicates it will not operate the hand brake on these MW cars while the cars are in motion. NS states that these cars have had a long-standing service life with no detriment to the hand brake operation. NS contends that the supplemental handholds, as outlined in MP&E 98–69, could obstruct the loading or unloading of track equipment. NS posits that this could result in damage

<sup>1</sup> FMVSS No. 104 does not specify minimum swept areas for truck and buses.