

applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

### III. Request for Comments

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

### IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the eight applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The eight drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, for commercial driver's license (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of March 17, 2023, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Kenneth Elder (KY)  
Demetris Furman (SD)  
Scott Habeck (SD)  
Todd Hines (OH)  
Scott Ready, Sr. (WI)  
Harold Seaton (KY)  
Thomas Smutnik (PA)  
Tara Vanhorne (PA)

The drivers were included in docket number FMCSA–2015–0323, FMCSA–

2016–0007, FMCSA–2016–0008, FMCSA–2018–0052, FMCSA–2019–0036, FMCSA–2020–0046, or FMCSA–2020–0047. Their exemptions are applicable as of March 17, 2023 and will expire on March 17, 2025.

### V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) the person fails 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).

### VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

### VII. Conclusion

Based on its evaluation of the eight exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2023–0071]

### Parts and Accessories Necessary for Safe Operation; Exemption Application From Waymo LLC, and Aurora Operations, Inc.

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

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

**SUMMARY:** FMCSA announces that it has received an application from Waymo LLC, and Aurora Operations, Inc. (Waymo/Aurora) for a 5-year exemption from the required placement of warning devices around stopped commercial motor vehicles (CMVs); the requirement that lamps for warning devices be steady-burning; and the utilization of a warning device for stopped vehicles not currently allowed by Agency rules. The exemption sought would allow Waymo and Aurora to operate CMVs operated by a Level 4 automated driving system (ADS) equipped with warning beacons mounted on the truck cab in lieu of traditional warning devices placed around a stopped autonomous CMV, as required by current regulations. FMCSA requests public comment on the applicant's request for exemption.

**DATES:** Comments must be received on or before April 3, 2023.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2023–0071 by any of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). See the Public Participation and Request for Comments section below for further information.

- *Mail:* Dockets Operations, 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, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

- *Fax:* (202) 493–2251.

Each submission must include the Agency name and the docket number (FMCSA–2023–0071) for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

**Docket:** For access to the docket to read background documents or comments, 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. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

**Privacy Act:** In accordance with 49 U.S.C. 31315(b), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov). As described in the system of records notice DOT/ALL 14—FDMS, which can be reviewed at <https://www.transportation.gov/privacy>, the comments are searchable by the name of the submitter.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke Loy, Vehicle and Roadside Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA, at (202) 366-0676 or [mcpsv@dot.gov](mailto:mcpsv@dot.gov). If you have questions on viewing or submitting material to the docket, contact Dockets Operations at (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

#### I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

##### *Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA-2023-0071), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov) and put the docket number “FMCSA-2023-0071” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you

are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

#### II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (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 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 Agency must publish its decision 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 specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

#### III. Applicant's Request

Waymo and Aurora seek an exemption from the regulations that require specific placement of warning devices around a stopped CMV. Waymo and Aurora believe it is possible to achieve the safety purpose of the warning device in an alternative way by using forward- and rearward-facing amber flashing lights mounted on the cab at a height above the upper edge of the sideview mirrors. Waymo and Aurora each separately tested variants of such devices and have concluded that the use of the cab-mounted warning devices was equally or more effective in enabling road users to recognize and react to the potential hazard presented by the stopped CMV.

Waymo and Aurora therefore request an exemption from the warning device

placement requirements of 49 CFR 392.22(b), the utilization of a warning device that does not meet the steady-burning lamp requirement of 49 CFR 393.25(e), and the utilization of a warning device for stopped vehicles that is not currently identified in 49 CFR 393.95(f). The exemption sought would allow motorcarriers to operate Waymo and Aurora autonomous CMVs which come to a stop upon the traveled portion or the shoulder of a highway for any cause other than necessary traffic stops, to utilize a warning device consisting of forward- and rearward-facing cab mounted flashing amber lamps mounted at a height above the upper edge of the sideview mirrors in lieu of the currently allowed warning devices placed around the CMV, as described in 49 CFR 392.22(b).

A copy of Waymo/Aurora's application for exemption and supporting documentation is available for review in the docket for this notice.

#### IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Waymo and Aurora's application for a 5-year exemption from the warning device placement requirements of 49 CFR 392.22(b), the requirement that warning devices be steady burning (49 CFR 393.25(e)), and the requirement that warning devices comply with 49 CFR 393.95(f). 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.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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