



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2011-0165]

Parts and Accessories Necessary for Safe Operation; Grant of Exemption for Transecurity LLC (Transecurity)

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 an exemption to Transecurity LLC (Transecurity) that will allow the placement of an onboard safety monitoring system (OBMS) at the bottom of windshields on commercial motor vehicles (CMVs). The Federal Motor Carrier Safety Regulations (FMCSRs) currently require antennas, transponders, and similar devices to be located not more than 6 inches below the upper 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. Transecurity is coordinating the development and installation of camera-based monitoring systems in up to 500 CMVs operating throughout the United States in support of research being conducted on behalf of FMCSA. The exemption would enable motor carriers to participate in a field operation test to evaluate the system and allow for on-road data collection. FMCSA believes that permitting the OBMS to be mounted lower than currently allowed, but still outside the driver's sight lines to the road and highway signs and signals, will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: This exemption is effective from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until November 28, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, at (202) 366-0676 or luke.loy@dot.gov, 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. 107, 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the FMCSRs. A rule implementing section 4007 was published on December 8, 1998 (63 FR 67600). Under this rule, FMCSA must publish a notice of each exemption request in the Federal Register (49 FR 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.

Transecurity’s Application for Exemption

Transecurity applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of camera-based OBMS in up to 500 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.

Transecurity has applied for the exemption because it wants to install the camera-based OBMS equipment in up to 500 CMVs operating throughout the United States in support of research being conducted on behalf of the FMCSA Analysis, Research and Technology Division. Transecurity contends that it must be able to mount the camera-based OBMS lower than allowed under 49 CFR 393.60(e)(1) "because the safety equipment must have a clear forward facing view of the road, and low enough to accurately scan facial features for detection of impaired driving." Transecurity's mounting preference for the camera-based OBMS and necessary brackets is at the bottom of the windshield; the best position is within and/or below three inches of the bottom of the driver side windshield wiper sweep, and out of the driver's sightlines to the road and highway signs and signals.

FMCSA Grant of Waiver to Transecurity

Pursuant to 49 U.S. C. 31315(a) and 49 CFR part 381, subpart B, FMCSA granted Transecurity a 90-day waiver on July 23, 2012, to allow the placement of the OBMS at the bottom of windshields on CMVs, outside of the area permitted by 49 CFR 393.60. This waiver was effective from July 24, 2012, through October 23, 2012. Up to 500 OBMS were to be installed on CMVs operated by the motor carriers listed below:

1. DOT # 90792; Eagle Transport Corporation-Rocky Mount, NC.
2. DOT # 252234; Holiday Tours Inc.-Randleman, NC.

3. DOT # 16377; H&W Trucking Co. Inc.-Mt. Airy, NC.
4. DOT # 348258; Associated Grocers-Baton Rouge, LA.
5. DOT # 2222676; AM Express Inc.-Escanaba, MI.

During the waiver period, these motor carriers participating in the FMCSA research field operation test must ensure that the OBMS is mounted within and/or below three inches of the bottom of the driver side windshield wiper sweep, and out of the driver's sightlines to the road and highway signs and signals as much as practicable.

Comments

On August 23, 2012, FMCSA published notice of the Transecurity application and asked for public comment (77 FR 51104). The Agency received no comments. While FMCSA acknowledges that Transecurity did not present specific studies or data showing that safety will not be degraded, the Agency believes that placement of the OBMS within and/or below three inches of the bottom of the driver side windshield wiper sweep (1) will be outside the drivers' sight lines, and therefore (2) will not have an adverse impact on safety. The FMCSA encourages any party having information that motor carriers utilizing this exemption are not achieving the requisite level of safety immediately to notify the Agency. If safety is being compromised, or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b) and 31136(e), FMCSA will take immediate steps to revoke the exemption.

Terms and Conditions for the Exemption

Based on its evaluation of the application for an exemption, FMCSA grants Transecurity's request. The Agency believes that the safety performance of motor

carriers during the 2-year exemption period will likely achieve 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 OBMS would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position which greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within and/or below three inches of the bottom of the driver side windshield wiper sweep, and out of the driver's sightline is reasonable and enforceable at roadside. Without the exemption, FMCSA would be unable to test this innovative onboard safety monitoring system. The Agency hereby grants the exemption for a two-year period, beginning October 24, 2012 and ending October 23, 2014.

During the temporary exemption period, up to 500 OBMS will be installed on CMVs operated by the motor carriers listed below:

1. DOT # 90792; Eagle Transport Corporation-Rocky Mount, NC.
2. DOT # 252234; Holiday Tours Inc.-Randleman, NC.
3. DOT # 16377; H&W Trucking Co. Inc.-Mt. Airy, NC.
4. DOT # 348258; Associated Grocers-Baton Rouge, LA.
5. DOT# 2222676; AM Express Inc.-Escanaba, MI.

These motor carriers must ensure that the OBMS is mounted within and/or below 3 inches of the bottom of the driver side windshield wiper sweep, and out of the driver's sightlines to the road and highway signs and signals.

Preemption

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

Issued on: November 21, 2012.

Anne S. Ferro,
Administrator.

**[FR Doc. 2012-28823 Filed 11/27/2012 at 8:45 am; Publication Date:
11/28/2012]**