



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2022-0075]

Parts and Accessories Necessary for Safe Operation; Exemption for Daimler

Coaches North America, LLC

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: The FMCSA announces its decision to grant Daimler Coaches North America, LLC's (Daimler Coaches) application for a limited five-year exemption to allow its driver assistance camera technology (DACT) device to extend beyond the current mounting location limits in the lower area of the windshield on Tourrider commercial motorcoaches. The Agency has determined that higher placement of Daimler Coaches' DACT device would not have an adverse impact on safety and that adherence to the terms and conditions of the exemption would likely achieve a level of safety equivalent to, or greater than, the level of safety provided by the regulation.

DATES: This exemption is effective [INSERT DATE 5 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER] and ending June 22, 2028.

FOR FURTHER INFORMATION CONTACT: Mr. Jose R. Cestero, Mechanical Engineer, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; or via telephone: (202) 366-5541; or email: jose.cestero@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to www.regulations.gov, insert the docket number “FMCSA-2022-0075” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to www.regulations.gov, insert the docket number “FMCSA-2022-0075” in the keyword box, click “Search,” and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain Federal Motor Carrier Safety Regulations. 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 Agency’s decision 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 (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Current Regulatory Requirements

Current Regulatory Requirements

Section 393.60(e)(1) currently requires vehicle safety technologies mounted along the lower edge of the swept area to not extend more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers and be outside the driver's sight lines to the road and highway signs and signals.

Applicant's Request

Daimler Coaches has applied for an exemption to allow its DACT device to be mounted on the windshield of Tourrider luxury motorcoaches in a location extending approximately 2.44 inches beyond the lower mounting area limits specified in 49 CFR 393.60(e)(1)(ii)(B). Daimler reports that this exemption would apply to approximately 200 Tourrider motorcoaches annually.

In its application, Daimler Coaches states that the DACT device manages the functionality of the Lane Departure Warning, Adaptive Cruise Control, and Active Brake Assist 5 (ABA5) systems. These systems are each part of the minimum standard safety system equipped on the vehicle and are integral to the Electronic Stability Program. ABA5 uses both existing radar and the new DACT device for both pedestrian and vehicle recognition, commonly referred to as a "forward collision mitigation system."

Daimler Coaches has noted previous exemptions granted by the Agency for similar technologies on other commercial vehicles and supplier technologies. For example, the Agency has previously granted exemptions for Bendix Commercial Vehicle Systems LLC, 85 FR 77336 (April 06, 2021), Netradyne, Inc. 85 FR 82575 (Dec 18, 2020), J.J. Keller & Associates, Inc. 85 FR 75106 (November 24, 2020), Samsara

Networks, Inc. 85 FR 68409 (Oct. 28, 2020), Nauto Inc. 85 FR 64220 (Oct. 9, 2020), Lytx Inc. 85 FR 30121 (May 21, 2020), and Navistar Inc. 84 FR 64952 (Nov. 25, 2019).

Without the proposed exemption, Daimler Coaches states that its clients will be fined for violating current regulations.

IV. Method to Ensure an Equivalent or Greater Level of Safety

Daimler Coaches contends that its DACT device was developed and used in individual Daimler trucks, buses, and motorcoaches in Europe and subject to months of prototype on-road testing and that it has confirmed that the system did not obstruct the driver's normal sight lines on the road, highways signs, signals, or mirrors. Further, it contends that the location of the device – within the sweep of the left side windshield wiper – also ensures the safe operation of the system in inclement weather, where the sensors' field of view is wiped clean by normal use of the windshield wiper system.

Finally, Daimler Coaches states that it believes that mounting the DACT device will maintain a level of safety that is “at the very least equivalent to, but in our evaluations, far greater than the level of safety achieved without the exemption not only for the motorcoach in operation, but also for other road users, plus pedestrians and cyclists in urban areas.”

FMCSA considered the development of the DACT device, the driver seating position, and the minimal amount of additional protrusion beyond the permitted area within the swept area of the windshield wiper when assessing the impact of the exemption on safety.

V. Public Comments

FMCSA published a notice of the application in the **Federal Register** on August 5, 2022, and asked for public comment (87 FR 48063). The Agency received no comments.

VI. FMCSA Decision

FMCSA has evaluated the Daimler Coaches exemption application. The DACT device housing is approximately 187 mm (7.36 inches) tall by 277 mm (10.9 inches) wide and will be mounted 100 mm (3.8 inches) from the center of the windshield on the driver's side with the edge of the housing extending approximately 240 mm (about 9.44 inches) above the lower edge of the area swept by the windshield wipers. Daimler Coaches stated in its petition that similar safety camera technologies have been granted by the Agency. FMCSA notes that those technologies, while similar, have different mounting location requirements than the driver assistance technology developed by Daimler Coaches. Other safety camera technologies are mounted on the upper edge of the area swept by the windshield wipers, whereas Daimler Coaches' safety system is installed on the lower edge of the area swept by the windshield wipers.

The DACT device will be mounted outside the driver's normal sight lines to the road ahead, signs, signals, and mirrors. Daimler Coaches states that this location will allow for optimal functionality of the safety features supported by the device. The location of the technology—within the sweep of the windshield wiper—also ensures the safe operation of the system in inclement weather, where the sensors' field of view can be wiped 'clean' through normal use of the windshield wiper system. Additionally, because of the sweep pattern of the windshield wiper, only the corner of the DACT device housing extends into the prohibited mounting area. Daimler Coaches believes this location to be critical for optimal functionality of the DACT device safety system, which would not be achieved by mounting it (1) higher in the windshield, and (2) within the location limits specified in section 393.60(e)(1)(ii).

The Agency agrees with Daimler Coaches that installation of an operational driver assistance technology such as the DACT device system provides a greater level of safety than would be provided if the technology were not available. FMCSA does not believe that the location of Daimler Coaches' camera technology will impede driver

visibility of normal sightlines towards signs, signals, and mirrors because (1) the safety device minimally exceeds the lower edge of the area swept by the windshield wipers; (2) generally, motorcoaches have an elevated seating position that greatly improves the forward visual field of view, and any resultant impairment of available sight lines would be minimal; and (3) the mounting location of Daimler Coaches' camera technology will be reasonable and enforceable at roadside.

In addition, the Agency believes the use of Daimler Coaches' DACT device by fleets is likely to improve the overall level of safety for the motoring public. For these reasons, the Agency believes that allowing placement of the Daimler Coaches' DACT device beyond the area of the lower windshield currently permitted by Agency regulations will likely provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

VII. Terms and Conditions for the Exemption

During the temporary exemption period, motor carriers are allowed to operate Daimler Tourrider commercial motorcoaches equipped with Daimler Coaches' DACT device mounted not more than 240 mm (9.5 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. When operating under this exemption, motor carriers are subjected to the following terms and conditions:

1. This exemption is limited to Daimler Coaches' DACT device on Tourrider commercial motorcoaches and does not apply to any other camera safety technology device or commercial motor vehicle (CMV).
2. This exemption is subject to revocation prior to the 5-year expiration in the event that FMCSA obtains information supporting and makes a determination that use of the DACT safety device on Tourrider motorcoaches does not achieve the requisite statutory level of safety or the exemption is not consistent with

49 U.S.C. 31136(e). Interested parties possessing information demonstrating that motor carriers utilizing Daimler Coaches' DACT safety device on Tourrider motorcoaches are not achieving the requisite statutory level of safety should immediately notify FMCSA at *MCPST@DOT.GOV*. 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.

Termination

The exemption is valid for 5 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) motor carriers operating Tourrider commercial motorcoaches 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).

Robin Hutcheson,
Administrator.

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