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A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information should be submitted only by fax to Gloria Blue at (202) 395-3475. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov>. The non-confidential summary will be placed in the docket and open to public inspection.

Comments will be placed in the docket and open to public inspection, except confidential business information. Comments may be viewed on the <http://www.regulations.gov> Web site by entering docket number USTR-2009-0010 in the search field on the home page.

**Carmen Suro-Bredie,**

*Chair, Trade Policy Staff Committee.*

[FR Doc. E9-8548 Filed 4-14-09; 8:45 am]

BILLING CODE 3190-W9-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2009-11]

#### Petitions for Exemption; Summary of Petitions Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received; Extension of comment period.

**SUMMARY:** In accordance with 14 CFR 11.47(c), the FAA has received a petition from NetJets Aviation, Inc. That petition requested an extension of the comment period for a petition from CitationShares Management LLC. The FAA will extend the comment period for 40 days after date of publication.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before May 26, 2009.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2009-0083 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202-493-2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

#### Background

The comment period for the Summary of Petition Received published on March 25, 2009 (74 FR 12924) and

closes on April 14, 2009. However, NetJets Aviation, Inc. petitioned the FAA to extend the comment period. This notice extends the comment period.

**FOR FURTHER INFORMATION CONTACT:** Tyneka Thomas (202) 267-7626 or Laverne Brunache (202) 267-3133, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on April 10, 2009.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. E9-8607 Filed 4-14-09; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2008-0312]

#### Parts and Accessories Necessary for Safe Operation; Grant of Exemption for DriveCam, 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 an exemption to DriveCam, Inc. (DriveCam) that will enable video event recorders to be mounted on commercial motor vehicles lower in the windshield than is currently permitted by the Agency's regulations. DriveCam requested the exemption so that commercial motor vehicle operators would be able to use video event recorders to increase safety through (1) identification and remediation of risky driving behaviors such as distracted driving and drowsiness; (2) enhanced monitoring of passenger behavior for CMVs in passenger service; and (3) enhanced collision review and analysis. FMCSA believes that permitting video event recorders 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 April 15, 2009 through April 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and

Truck Standards and Operations, MC-PSV, (202) 366-0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the prohibition on obstructions to the driver's field of view requirements in 49 CFR 393.60(e) for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption" (49 CFR 381.305(a)).

**DriveCam's Request for Exemption**

DriveCam applied for an exemption from 49 CFR 393.60(e)(1) to allow the use of video event recorders on all commercial motor vehicles.

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.

DriveCam states that one of the primary deployers of video event recorders has been the motorcoach industry. DriveCam notes that over the last several years, the structural and aesthetic design of buses has changed considerably to include windshields that encompass a larger percentage of the front area of a motor coach and that extend well beyond the driver's useable sight line. As a result, manufacturers have voluntarily installed larger windshield wipers on these windshields that increase the swept area beyond the minimum required by Federal Motor Vehicle Safety Standard (FMVSS) No. 104, "Windshield wiping and washing systems." FMVSS No. 104 establishes the requirements applicable to vehicle and equipment manufacturers for windshield wiper system coverage for passenger cars, multi-purpose passenger vehicles, trucks and buses.

DriveCam states that video event recorders, for optimal effectiveness, are mounted on the vehicle windshield on the interior of the vehicle in a position that enables the video-capture of what is happening in front of the vehicle as well as an internal video-capture of the driver (and passengers in passenger carrier vehicles). The view toward the front requires that the forward lens of

the recorder be in the swept area of the windshield for a clear view in inclement weather. DriveCam states:

Section 393.60(e)(1) was designed to avoid placement of devices on the windshield that would obstruct a driver's useful view of the roadway. However, because of the increase of the size of motorcoach windows and the corresponding increase in the area swept by the windshield wipers, video event recorders now must be mounted so high on the window as to limit the view of drivers, passengers, and collision events. Thus, the level of safety that can be produced by use of video event recorders is limited by the current regulation. By comparison, the proposed alternative will enable DriveCam to lower the placement of the video event recorders to a level, which will maximize the external and internal views of the recorders while still having them mounted high enough so as not to limit the field of vision of the driver.

DriveCam notes in its exemption application that the Commercial Vehicle Safety Alliance (CVSA) submitted a petition for rulemaking to FMCSA on October 18, 2007, to amend 49 CFR 393.60(e). The CVSA petition requests that the FMCSRs be amended to permit video event recorders and similar devices that require a clear forward facing visual field to be mounted not more than 50 mm (2 inches) below the upper edge of the area swept by the windshield wipers, provided that they are located outside the driver's sight lines to the road and highway signs and signals. DriveCam proposes that motor carriers utilizing the exemption be required to comply with the standard proposed in the CVSA petition if it is adopted during the 2-year exemption period. Copies of DriveCam's application for exemption and the CVSA petition are available for review in the docket for this notice.

DriveCam contends that video event recorders, once intergrated into fleets, have been shown to reduce the incidence of preventable vehicle incidents and crashes by 30-40 percent when used with a program to (1) review non-crash events, and (2) coach drivers to improve driving behavior. DriveCam provided a number of case studies of commercial fleets that it has conducted to support these claims.

**Comments**

On October 31, 2008, FMCSA published notice of the DriveCam application and asked for public comment (73 FR 65008). The Agency received two comments.

1. Mr. Richard L. Cofer, of Southern Company, a large utility with over 2,500 commercial motor vehicles, stated that Southern supports the use of video event recorders, and does not object to

granting the exemption. Mr. Cofer stated that the devices present relatively minor visual obstruction when placed directly under the rear view mirror. Mr. Cofer stated that if an exemption is granted, the Agency should specifically identify where the devices can be placed.

*FMCSA Response:* DriveCam proposed to require motor carriers to mount video event recorders not more than 50 mm (2 inches) below the upper 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 accordance with the CVSA petition for rulemaking. As noted below, the Agency has adopted these parameters as conditions of the exemption.

2. The California Highway Patrol (CHP) stated that the windshield visibility requirements in the California Vehicle Code (CVC), Section 26708, are based on the preemptive requirements of the Federal Motor Carrier Safety Standards (FMVSS) (49 CFR part 571.104) and cannot be changed without a statutory amendment. Until that step is taken, CHP asserted that the installation of video event recorders as proposed by DriveCam would be prohibited in California. In addition, CHP expressed concern regarding the lack of any safety studies and related supporting data to support the exemption application.

*FMCSA Response:* While FMCSA acknowledges that DriveCam did not present specific studies or data showing that safety will not be degraded, the Agency believes that placement of video event recorders just below the top of the swept area of the windshield wipers will (1) be well outside the drivers' sight lines, (2) allow the Agency to test, on an interim basis, an innovative safety management control system, and (3) not negatively affect 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.

FMVSS 104, Windshield Wiping and Washing Systems (49 CFR 571.104), applies to vehicle manufactures, while this exemption applies to individuals or businesses that purchase and operate the vehicles. Pursuant to 49 U.S.C. 31315(d) (as implemented by 49 CFR 381.600), "[d]uring the period that a[n] \* \* \* exemption \* \* \* is in effect \* \* \* no State shall enforce any law or regulation that conflicts with or is

inconsistent with the \* \* \* exemption \* \* \* with respect to a person operating under the \* \* \* exemption \* \* \*." To the extent CVC 26708 conflicts with this exemption, it is preempted by Federal law and may not be enforced.

#### Terms and Conditions for the Exemption

Based on its evaluation of the application for an exemption, FMCSA grants DriveCam's exemption application. 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 video event recorders 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 the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline should be reasonable and enforceable at roadside. In addition, the Agency believes that the use of video event recorders by fleets to deter unsafe driving behavior is likely to improve the overall level of safety to the motoring public. Without the exemption, FMCSA would be unable to test this innovative safety management control system.

The Agency hereby grants the exemption for a two-year period, beginning April 15, 2009 and ending April 15, 2011.

During the temporary exemption period, motor carriers using video event recorders must ensure that the devices are mounted not more than 50 mm (2 inches) below the upper edge of the area swept by the windshield wipers, and outside the driver's sight lines 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: April 6, 2009.

**William A. Quade,**

*Acting Chief Safety Officer.*

[FR Doc. E9-8595 Filed 4-14-09; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in California

**AGENCY:** Federal Highway Administration (FHWA), DOT

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(I)(1). The actions relate to a proposed highway project along Interstate 805 from the proposed Carroll Canyon Road Direct Access Ramp (DAR) to the I-805/I-5 merge in the County of San Diego, State of California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(I)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before October 13, 2009. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Susanne Glasgow, Deputy District Director, Division of Environmental Analysis, California Department of Transportation, 4050 Taylor Street, San Diego, CA 92110, Regular Office Hours 8 a.m. to 5 p.m., Telephone number 619-688-0100, e-mail: [Susanne.Glasgow@dot.ca.gov](mailto:Susanne.Glasgow@dot.ca.gov).

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned and the California Department of Transportation (Caltrans) assumed environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans and the USFWS have taken final agency actions subject to 23 U.S.C. 139(I)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California. The California Department of Transportation (Caltrans) proposes to extend Carroll Canyon Road under Interstate 805 (I-805), construct north facing Direct Access Ramps (DARs) from the extension of Carroll Canyon Road to I-805, and add north and southbound High Occupancy Vehicle (HOV) lanes on I-805 from the DARs, north to the I-805 junction with

I-5. The project extends for a length of 2.2 mi (3.5 km). The project would provide additional access for motorists to I-805 that are currently experiencing substantial delay at the existing Mira Mesa Boulevard/Sorrento Valley Road interchange. The actions by the Federal agencies and the laws under which such actions were taken are described in the Final Environmental Assessment (EA), and a Finding of No Significant Impact (FONSI) was issued for the project on April 2, 2009. The EA/FONSI and other project records are available by contacting Caltrans at the address provided above. The EA/FONSI and other project records can be viewed and downloaded from the project web site at: [http://www.dot.ca.gov/dist11/Env\\_docs/I-805CCRFinal\\_4-09.pdf](http://www.dot.ca.gov/dist11/Env_docs/I-805CCRFinal_4-09.pdf). This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken including but not limited to:

1. Council on Environmental Quality regulations;
2. National Environmental Policy Act (NEPA);
3. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU);
4. Department of Transportation Act of 1966;
5. Federal Aid Highway Act of 1970;
6. Clean Air Act Amendments of 1990;
7. Clean Water Act of 1977 and 1987;
8. Endangered Species Act of 1973;
9. Migratory Bird Treaty Act;
10. Farmland Protection Policy Act of 1981;
11. Title VI of the Civil Rights Act of 1964;
12. Uniform Relocation Assistance and Real Property Acquisition Act of 1970;
13. National Historic Preservation Act of 1966;
14. Historic Sites Act of 1935;
15. Executive Order 11990, Protection of Wetlands;
16. Executive Order 13112, Invasive Species;
17. Executive Order 11988, Floodplain Management; and
18. Executive Order 12898, Environmental Justice.

(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(I)(1).