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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2015-0238]

**Parts and Accessories Necessary for Safe Operation; Application for an Exemption From TowMate, LLC**

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

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

**SUMMARY:** FMCSA announces its decision to renew for a period of 5 years TowMate, LLC's (TowMate's) current exemption allowing motor carriers to operate rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations. Under the Federal Motor Carrier Safety Regulations (FMCSRs), all required lamps, with the exception of battery-powered lamps used on projecting loads, must be powered by the electrical system of the motor vehicle. The Agency has concluded that granting this exemption renewal would not have an adverse impact on safety, and that use of rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations would likely achieve a level of safety equivalent to or greater than the level of safety provided by the regulation. However, the Agency requests comments and information on the exemption, especially from anyone who believes this standard will not be maintained.

**DATES:** This decision takes effect February 9, 2018. Comments must be received on or before February 20, 2018.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2015-0238 using any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey

Avenue SE, Washington, DC 20590-0001.

• **Hand Delivery:** Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

**Instructions:** All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the "Public Participation" heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the "Privacy Act" heading for further information.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking 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 [www.dot.gov/privacy](http://www.dot.gov/privacy).

**Public participation:** The <http://www.regulations.gov> website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> website as well as the DOT's <http://docketsinfo.dot.gov> website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amina Dines, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-2782, [Amina.Dines@dot.gov](mailto:Amina.Dines@dot.gov), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:**

**Background**

FMCSA has authority under 49 U.S.C. 31315 and 31136(e) to grant exemptions from certain Federal Motor Carrier

Safety Regulations (FMCSRs). This authority is codified in 49 CFR part 381. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 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.

The Agency reviews the safety analyses and the public comments 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(a)).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

**TowMate's Application for Exemption**

TowMate applied for an exemption from 49 CFR 393.23 to allow motor carriers to operate rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.23, "Power Supply for Lamps," provides that "All required lamps must be powered by the electrical system of the motor vehicle with the exception of battery powered lamps used on projecting loads."

The application stated:

TowMate is making this request because the use of conventional hard wired temporary stop, turn, and tail lights has many drawbacks that wireless tow lights solve. These include broken connections, frayed wires, burnt out incandescent bulbs, and the potential to be snagged or pulled from the tow light receptacle due to improper running of wires, and road hazards, along with the safety hazard of increasing the amount of time spent on the roadside or the scene of an accident by stringing wired lighting systems between vehicles and securing the wires. With the advent of LED technology coupled with advancements in battery technologies, wireless tow lights are more reliable and better equipped for the rigors of daily temporary use.

Temporary wireless stop, turn, tail lighting systems can operate for 10+ hours of

continuous use on a full charge, and in-cab wire-less monitoring systems give the driver constant information on the functioning of the system, displaying state of charge of the battery inside the unit, displaying the functioning of the system during operation, and warning the driver if the unit is no longer functioning. In this sense, wireless tow lights provide a level of safety and redundancy that is not currently required on wired temporary lighting systems. In an emergency situation with a drained battery, power can be directly connected to the temporary wireless stop, turn, and tail lighting system from a standard 4 pin or 7 pin electrical connection.

Without the proposed temporary exemption, tow and haul away operators will be forced to continue to use cumbersome wired temporary towing light systems, placing an unnecessary burden on their daily operations. The current temporary lighting requirements for stop, tail, and turn lamps require that the lamps receive their power from a direct wired connection to the towing vehicle with no ascertainable benefit from doing such. Wireless tow lights afford benefits that wired systems are unable to, such as redundancies like monitoring the status of the unit in real time, thus assuring their proper operation at all times.

On August 6, 2015, FMCSA published notice of the TowMate application and requested public comment (80 FR 47031). The Agency received twenty comments, all in support of TowMate's application. FMCSA granted the exemption on February 9, 2016 (81 FR 6927). The Agency concluded that permitting the use of rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations will reduce the time tow operators spend at the side of the road connecting wired lighting systems between vehicles, thereby reducing their risk of injury and increasing safety. The Agency determined that use of the rechargeable wireless lighting systems will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. In towing operations during the exemption period, motor carriers are allowed to use rechargeable wireless temporary stop, turn, and tail lighting systems that do not meet the lighting power supply requirements of 49 CFR 393.23, provided the requirements of 49 CFR 393.17(b)(2) are met. The decision to grant the temporary exemption was also consistent with an amendment made in an August 15, 2005 final rule allowing battery powered lamps on the rear of projecting loads.

#### **TowMate's Request To Renew the Exemption**

At the time the exemption was granted, the term of temporary exemptions was limited by statute to a

maximum of 2 years. However, the Fixing America's Surface Transportation (FAST) Act, signed on December 4, 2015, now allows an exemption to be granted for a period of up to 5 years (49 U.S.C. 31315(b)(2)) if FMCSA finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption" (§ 31315(b)(1)). TowMate has requested a 5-year extension of the current exemption.

#### **Basis for Renewing Exemption**

FMCSA is not aware of any evidence showing that the operation of rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations during the current exemption has resulted in any degradation of safety. The Agency believes that extending the exemption for a period of 5 years will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

The renewal outlined in this notice extends the exemption from February 9, 2018, through February 9, 2023, and requests public comment. During that period, motor carriers will be allowed to use rechargeable wireless temporary stop, turn, and tail lighting systems that do not meet the lighting power supply requirements of 49 CFR 393.23 during temporary towing operations, provided the requirements of 49 CFR 393.17(b)(2) are met. 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.

#### **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.

#### **Request for Comments**

FMCSA requests comments from parties with data concerning the safety record of motor carriers using rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations in accordance with the conditions of the exemption. The Agency will evaluate adverse evidence submitted during the comment period and at any time during the 5-year period of the exemption. 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)(1), FMCSA will take immediate steps to revoke the exemption.

Issued on: February 6, 2018.

**Cathy F. Gautreaux,**  
*Deputy Administrator.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

[Docket Number FRA-2017-0118]

#### **Petition for Waiver of Compliance**

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that on November 7, 2017, Denver's Regional Transportation District (RTDC) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 236. FRA assigned the petition Docket Number FRA-2017-0118.

In accordance with 49 CFR 236.588, RTDC is requesting approval to perform periodic testing of the Automatic Train Control system (ATC) at an interval of 92 days for the RTDC fleet of electric multiple unit equipment (EMUs), numbered RTDC 4001 through RTDC 4066. Currently RTDC is performing ATC periodic testing at an interval of 60 days as required by 49 CFR 236.588. In support of this request, RTDC states that the original equipment manufacturer (OEM) Siemens Rail Automation (formerly PHW, Inc.) has developed the maintenance and testing program for these vehicles based on a 92-day interval. RTDC has included relevant portions of this program with its petition. RTDC further states that to date, there have been no issues with the ATC system found during periodic testing that would be impacted by increasing the testing interval to 92 days. RTDC adds that granting the