

Motor Vehicle Safety Standard No. 104, “Windshield wiping and washing systems.”¹

Navistar installed prototype camera housings in several of its CMVs, and operated them in typical over-the-road conditions for a period of six months. Navistar states that all drivers and passengers agreed that there was no noticeable obstruction to the normal sight lines to the road ahead, highway signs, signals or any m

Without the proposed exemption, Navistar states that it will be unable to mount the ADAS on its CMVs due to concerns that (1) its “customers may be in violation of the current regulation,” and (2) “the camera will not perform adequately to provide the safety benefit intended by the systems.”

The exemption would apply to all CMV operators driving Navistar vehicles equipped with its ADAS mounted on the windshield. Navistar believes that mounting the system as described will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Comments

FMCSA published a notice of the application in the **Federal Register** on April 18, 2019, and asked for public comment (84 FR 16328). The Agency received no comments.

FMCSA Decision

FMCSA has evaluated the Navistar exemption application. The ADAS camera system housing is approximately 4.72 inches tall, and is mounted near the top of the center of the windshield with the bottom of the camera housing located approximately 8 inches below the top of the area swept by the windshield wipers. The camera needs to be mounted in this location for optimal functionality of the ADAS system. The size of the camera system precludes mounting it (1) higher in the windshield, and (2) within 4 inches from the top of the area swept by the windshield wipers to comply with § 393.60(e)(1)(ii)(A).

The Agency believes that granting the temporary exemption to allow the placement of the ADAS lower than currently permitted by the Agency’s regulations will provide 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 ADAS would obstruct drivers’ views of the roadway,

highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the mounting location 8 inches below the upper edge of the windshield and out of the driver’s normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of ADAS by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency action permitting the placement of similarly-sized devices on CMVs outside the driver’s sight lines to the road and highway signs and signals. FMCSA is not aware of any evidence showing that the installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 5-year period, beginning November 25, 2019 and ending November 25, 2024. During the temporary exemption period, motor carriers will be allowed to operate CMVs equipped with Navistar’s ADAS in the approximate center of the top of the windshield and such that the bottom edge of the camera housing is approximately 8 inches below the upper edge of the windshield, outside of the driver’s and passenger’s normal sight lines to the road ahead, highway signs and signals, and all mirrors. 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(b).

Interested parties possessing information that would demonstrate that motor carriers operating Navistar CMVs equipped with its ADAS are not achieving the requisite statutory level of safety should immediately notify FMCSA. 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.

Issued on: November 18, 2019.

Jim Mullen,

Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2019–0089]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on October 28, 2019, Norfolk Southern Corporation (NS), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 231, *Railroad Safety Appliance Standards*. Specifically, NS seeks relief from § 231.6(a)(3)(i) for a designated series of NS maintenance-of-way (MW) flat cars (NS 980011, NS 986906, CR 62753, CR 58574, CR 58568, CR 58535, CR 58515, CR 58563, and CR 58708). FRA assigned the petition Docket Number FRA–2019–0089.

In line with the requirements of § 231.6(a)(3)(i), on June 15, 1998, FRA issued Technical Bulletin MP&E 98–69, *Safety Appliance Arrangements on Flat Cars*, recommending an additional handhold for any flat car with a low-mounted side hand brake to allow for the safe operation of the hand brake while the car is in motion. NS seeks relief to permit these MW cars to remain in service with their current hand brake arrangement and without the additional handhold outlined in MP&E 98–69.

NS indicates it will not operate the hand brake on these MW cars while the cars are in motion. NS states that these cars have had a long-standing service life with no detriment to the hand brake operation. NS contends that the supplemental handholds, as outlined in MP&E 98–69, could obstruct the loading or unloading of track equipment. NS posits that this could result in damage

¹ FMVSS No. 104 does not specify minimum swept areas for truck and buses.

to the additional handholds any time the car is loaded or unloaded.

NS explains that the subject cars are currently stenciled "MW" as per 49 CFR 215.305, and they will remain in that dedicated service. NS states it will add additional stenciling with the words "DO NOT OPERATE HANDBRAKE WHILE CAR IS IN MOTION" in the area of the hand brake. NS states it will add a handling message on the NS Internal Alert System notifying persons that the hand brakes on these cars cannot be operated while the cars are in motion.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by January 9, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits

comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to 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>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2019-0090]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on November 12, 2019, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment*. FRA assigned the petition Docket Number FRA-2019-0090.

Specifically, NS seeks relief from § 232.305(b)(2), which requires a single car air brake test (SCABT) when a "car is on a shop or repair track . . . for any reason and has not received a [SCABT] within the previous 12-month period." NS requests to replace FRA-condemnable and other non-condemnable wheelsets on railcars as part of an in-train wheelset replacement program, without performing the required SCABT. NS explains that railcars due for 5- and 8-year SCABTs would still be addressed. The NS system alert notifications are viewable to NS repair personnel for railcars that are due SCABTs. NS asks that this relief apply to all NS unit trains receiving in-train wheel replacement as part of NS's in-train wheelset replacement program, on two designated tracks at the NS railyard in Bluefield, West Virginia.

NS desires to implement this program to proactively identify and replace wheelsets. In-train wheelset replacements can be done by NS mechanical forces in as little as 15

minutes with no need to remove the cars from trains. This reduces the number of switching events that would otherwise be required to repair cars, reducing the risk of injury and derailment. Additionally, in-train wheelset replacement will permit NS to replace a greater percentage of wheelsets than those currently replaced using traditional techniques.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
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Communications received by January 9, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

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