

three of these safety systems—forward collision warning systems, roll stability control systems, and lane departure warning systems, on its newly purchased power units. From a supplier perspective, both Takata and Iteris would like to ensure that motor carriers are able to utilize the safety systems that they manufacture, to enhance highway safety, while maintaining compliance with the applicable FMCSRs.

The applicants note that the lane departure warning system requires, as a necessary element, a lane departure warning sensor to be installed to the inside of the tractor windshield. For the warning sensor to be effective, it must be mounted inside the area swept by the windshield to insure maximum visibility.

The applicants state that over the last several years, truck manufacturers have increased the windshield area to maximize driver visibility. As a result, manufacturers have voluntarily installed larger windshield wipers on these windshields that increase the swept area beyond that which is minimally 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.

In the exemption applications, the applicants provided diagrams and photos showing the sensor dimensions and mounting location on the windshield. Specifically, the sensor device itself measures 2 inches by 3.5 inches, and it is mounted approximately 2 inches below the top of the windshield—within the 6-inch limit specified in 49 CFR 393.60(e)(1). The applicants state that this mounting position does not adversely impact the driver's visibility.

In support of the exemption applications, each applicant cited the findings of a report published by FMCSA's Office of Analysis, Research and Technology titled "Benefit-Cost Analyses of Onboard Safety Systems," that summarizes the projected safety benefits for various CMV onboard safety systems, including lane departure warning systems. Using low and high estimates of efficacy rates ranging from 23 percent to 53 percent, the report estimated that, based on industry-wide use of lane departure warning systems, these systems have the potential to reduce approximately 1,609–2,463 single-vehicle roadway departure collisions, 627–1,307 single-vehicle roadway departure rollovers, 1,111–

2,223 same-direction lane departure sideswipes, 997–1,992 opposite-direction lane departure sideswipes, and 59–118 opposite-direction lane departure head-on collisions. The applicants state that without the exemption, motor carriers will be unable to (1) implement the lane departure warning system, and (2) realize the potential safety benefits that can be expected with the utilization of this technology as estimated in the report described above.

#### Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the applications for an exemption from 49 CFR 393.116(a)(3) submitted by Conway, Takata, and Iteris. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: June 4, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0177]

#### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From the Flatbed Carrier Safety Group

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

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

**SUMMARY:** FMCSA requests public comment on an application for exemption from the Flatbed Carrier Safety Group (FCSG) regarding the securement of metal coils on a flatbed vehicle, in a sided vehicle, or in an intermodal container loaded with eyes

crosswise, grouped in rows, in which the coils are loaded to contact each other in the longitudinal direction. FCSG wants to use the pre-January 1, 2004 cargo securement regulations for the transportation of groups of metal coils with eyes crosswise.

**DATES:** Comments must be received on or before July 14, 2010.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-2008-0224 by any of the following methods:

- **Web site:** <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 through 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, New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of 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 19476) or you may visit <http://www.regulations.gov>.

**Public participation:** The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web

site and also at the DOT's <http://docketsinfo.dot.gov> Web site. If you want us to notify you that we received your comments, please include a self addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

**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**

Section 4007 of the Transportation Equity Act for the 21st Century (TEA-21) [Pub. L. 105-178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. 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). 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 also specify the effective period of the exemption (up to 2 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)).

##### **FCSG's Application for Exemption**

On March 30, 2010, FCSG applied for an exemption from 49 CFR 393.120 to allow motor carriers to comply with the pre-January 1, 2004 cargo securement regulations (then at 49 CFR 393.100(c))

for the transportation of groups of metal coils with eyes crosswise. A copy of the application is included in the docket referenced at the beginning of this notice.

On September 27, 2002, FMCSA published a final rule revising the regulations concerning protection against shifting and falling cargo for commercial motor vehicles engaged in interstate commerce (reference 67 FR 61212). The new rules were based on the North American Cargo Securement Standard Model Regulations, the motor carrier industry's best practices, and recommendations presented during a series of public meetings involving U.S. and Canadian industry experts, Federal, State, and Provincial enforcement officials, and other interested parties. Motor carriers were required to ensure compliance with the rule by January 1, 2004.

The September 2002 final rule established detailed requirements for a number of specific commodities (logs; dressed lumber; metal coils; paper rolls; concrete pipe; intermodal containers; automobiles, light trucks and vans; heavy vehicles, equipment and machinery; flattened and crushed vehicles; roll-on/roll-off containers; and large boulders) that, during the public meetings concerning the development of the model regulations, were identified to cause the most disagreement between industry and enforcement agencies as to what is required for proper securement. The commodity-specific requirements for these items take precedence over the general rules when additional requirements are given for a commodity listed in those sections. This means all cargo securement systems must meet the general requirements, except to the extent a commodity-specific rule imposes additional requirements that prescribe in more detail the securement method to be used.

Currently, section 393.120 of the FMCSRs specifies requirements for the securement of one or more metal coils which, individually or grouped together, weigh 5,000 pounds or more. Metal coils can be transported with eyes vertical, eyes lengthwise, or eyes crosswise.

(1) Section 393.120(b) specifies requirements for the securement of coils transported with eyes vertical. Specific requirements are provided for the securement of individual coils, and coils grouped in rows.

(2) Section 393.120(d) specifies requirements for the securement of coils transported with eyes lengthwise. Specific requirements are provided for the securement of individual coils, and rows of coils.

(3) Section 393.120(c) specifies requirements for the securement of coils transported with eyes crosswise as follows:

393.120(c) Securement of coils transported with eyes crosswise on a flatbed vehicle, in a sided vehicle or intermodal container with anchor points—(1) An individual coil. Each coil must be secured by the following:

(c)(1)(i) A means (e.g., timbers, chocks or wedges, a cradle, etc.) to prevent the coil from rolling. The means of preventing rolling must support the coil off the deck, and must not be capable of becoming unintentionally unfastened or loose while the vehicle is in transit. If timbers, chocks or wedges are used, they must be held in place by coil bunks or similar devices to prevent them from coming loose. The use of nailed blocking or cleats as the sole means to secure timbers, chocks or wedges, or a nailed wood cradle, is prohibited;

(c)(1)(ii) At least one tiedown through its eye, restricting against forward motion, and whenever practicable, making an angle no more than 45 degrees with the floor of the vehicle or intermodal container when viewed from the side of the vehicle or container; and

(c)(1)(iii) At least one tiedown through its eye, restricting against rearward motion, and whenever practicable, making an angle no more than 45 degrees with the floor of the vehicle or intermodal container when viewed from the side of the vehicle or container.

(c)(2) Prohibition on crossing of tiedowns when coils are transported with eyes crosswise. Attaching tiedowns diagonally through the eye of a coil to form an X-pattern when viewed from above the vehicle is prohibited.

Unlike the requirements for securing coils with eyes vertical (section 393.120(b)) and eyes lengthwise (section 393.120(d)), section 393.120(c) only specifies requirements for the securement of *individual* coils; there are no specific requirements for securing *rows of coils*. As such, a motor carrier transporting a row of coils with eyes crosswise must treat each coil as an individual coil, and secure each in accordance with the requirements outlined in section 393.120(c) as above.

Whereas the current commodity-specific regulations at section 393.120 for securing metal coils do not address the securement of groups of coils loaded with eyes crosswise, FCSG notes that the cargo securement regulations that were in place prior to January 1, 2004 directly addressed this specific loading configuration. Section 393.100(c) of the pre-January 2004 cargo securement rules reads as follows:

393.100(c)(ii) *Coils with eyes crosswise:* Each coil or transverse row of coils loaded side by side and having approximately the same outside diameters must be secured by—

(A) A tiedown assembly through the eye of each coil, restricting against forward motion and making an angle of less than 45° with the

horizontal when viewed from the side of the vehicle;

(b) A tiedown assembly through the eye of each coil, restricting against rearward motion and making an angle of less than 45° with the horizontal when viewed from the side of the vehicle; and

(c) Timbers, having a nominal cross section of 4 x 4 inches or more and a length which is at least 75 percent of the width of the coil or row of coils, tightly placed against both the front and rear sides of the coil or row of coils and restrained to prevent movement of the coil or coils in the forward and rearward directions.

(d) *If coils are loaded to contact each other in the longitudinal direction and relative motion between coils, and between coils and the vehicle, is prevented by tiedown assemblies and timbers—*

(1) *Only the foremost and rearmost coils must be secured with timbers; and*

(2) *A single tiedown assembly, restricting against forward motion, may be used to secure any coil except the rearmost one, which must be restrained against rearward motion. [Emphasis added]*

FCSG states without the temporary exemption, adherence to the existing regulations at 393.120(c) for the securement of rows of coils loaded with eyes crosswise—i.e., treating each coil as an individual coil—places a burden on the motor carrier to carry significantly more coil bunks and timbers to secure each coil in a raised bunk off the deck. If permitted to secure loads of coils with eyes crosswise in rows in which the coils are loaded to contact each other in the longitudinal direction, FCSG states that because the coils are grouped and secured together, i.e., “unitized,” there is no additional safety benefit to justify the additional coil bunks and timbers. FCSG states that securing groups of coils in this manner allows the load to be unitized in a secure manner while still meeting all of the aggregate working load limit requirements of 49 CFR 393.106(d).

FCSG notes that it intends to work cooperatively with the North American Cargo Securement Harmonization Forum to effect these changes in the North American Cargo Securement Model Regulation, which is the document that both the U.S. and Canada have committed to use to update the cargo securement requirements in both the FMCSRs and the Canadian National Safety Code. FCSG states that this will enable CMV operators to continue to secure groups of coils with eyes crosswise in a manner that unitizes adjacent coils and was previously deemed adequate and secure prior to the January 2004 revisions to the cargo securement regulations.

For the reasons stated above, FCSG requests that motor carriers be permitted to secure metal coils loaded with eyes

crosswise, in rows in which the coils are loaded to contact each other in the longitudinal direction, in accordance with the pre-January 2004 cargo securement requirements (then 393.100(c)) instead of using the current requirements of 393.120(c) which effectively require each coil in a row of coils to be treated as an individual coil for the purposes of securement. While the current commodity-specific regulations for the securement of metal coils at 49 CFR 393.120 specify the securement requirements for *individual* coils loaded with eyes crosswise, these regulations do not provide guidance regarding the securement of coils with eyes crosswise, *grouped in rows*, in which the coils are loaded to contact each other in the longitudinal direction. FCSG is making this request because it believes that utilization of the pre-January 2004 regulations—which specifically addressed coils transported with eyes crosswise, grouped in rows, in which the coils are loaded to contact each other in the longitudinal direction—will maintain a level of safety that is equivalent to the level of safety achieved without the exemption.

#### Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on FCSG's application for an exemption from 49 CFR 393.120. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: June 4, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

June 7, 2010.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13 on or after the date of publication of this notice. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

**DATES:** Written comments should be received on or before July 14, 2010 to be assured of consideration.

#### Internal Revenue Service (IRS)

**OMB Number: 1545-2036**

*Type of Review:* Extension without change of a currently approved collection.

*Title:* Taxation and Reporting of REIT Excess Inclusion Income (Notice 2006-97).

*Abstract:* The notice requires certain REITs, RICs, partnerships and other Pass-Through Entities that have excess inclusion income to disclose the amount and character of such income allocable to their record interest owners. The record interest owners need the information to properly report and pay taxes on such income.

*Respondents:* Private Sector: Businesses or other for-profits.

*Estimated Total Burden Hours:* 100 hours.

**OMB Number: 1545-0735**

*Type of Review:* Extension without change of a currently approved collection.

*Title:* LR-189-80 (T.D. 7927) Final Amortization of Reforestation Expenditures

*Abstract:* 26 U.S.C. 194(a) allows taxpayers to elect to amortize certain reforestation expenditures over a 7-year period if the expenditures meet certain requirements. The regulations implement this election provision and allow the Service to determine if the election is proper and allowable.

*Respondents:* Individuals or Households.

*Estimated Total Burden Hours:* 6,001 hours.