

FirstGroup argued that the exemption is also needed because the delays and administrative costs related to conducting a full query during its driver hiring process results in substantial increased costs to the company. FirstGroup further explained that obtaining consent from its newly hired drivers, as required by the Clearinghouse regulations, is challenging because the drivers are not familiar with the technology needed to navigate through the Clearinghouse to give electronic consent to FirstGroup.

#### IV. Method To Ensure an Equivalent or Greater Level of Safety

To ensure an equivalent level of safety, FirstGroup would conduct a limited query, in lieu of a full query, before one of the employers in its corporate family hires a driver. If the limited pre-employment query shows that information exists in the Clearinghouse about the driver, FirstGroup will then conduct a full query on the driver, with the driver-applicant providing consent in the Clearinghouse as required.

FirstGroup would conduct a second limited query within 30 to 35 days after the date the original limited pre-employment query was submitted. FirstGroup explained that this would allow the company to obtain and act on any new information added to the Clearinghouse since the first limited pre-employment query was made. FirstGroup would also conduct quarterly limited queries on all its CDL drivers for the first year of the exemption, and for years 2 through 5 it would conduct semi-annual limited queries on all its drivers.

FirstGroup indicated they would also look for opportunities to conduct additional reasonable suspicion training for supervisors throughout its network of 700 locations to further strengthen its drug and alcohol testing program and improve safety. A copy of FirstGroup's application for exemption is available for review in the docket for this notice.

#### V. Public Comments

On March 16, 2021, FMCSA published notice of this application and requested public comments (86 FR 14516). The Agency received five comments. Advocates for Highway and Auto Safety, Citizens for Reliable and Safe Highways, Parents Against Tired Truckers, The Trucking Alliance, and The Truck Safety Coalition (Advocates, *et al.*) submitted one joint comment opposing the exemption. Advocates, *et al.*, commented that "The current application would result in a needless threat to public safety by increasing the

likelihood that a driver with violations related to alcohol or drug use would be erroneously hired to transport school children. Further, the applicant has failed to provide FMCSA with the required analysis and supporting information necessitated by statute and thus, should be denied."

Advocates, *et al.*, added: "If the exemption was granted, FirstGroup would no longer receive an affirmative notice if the record of any of its candidates had changed within 30 days of the pre-employment inquiry. Instead, FirstGroup would rely on its three employees tasked with complying with the Clearinghouse requirements to conduct these subsequent inquiries of all 6,500 applicants each year in addition to the annual inquiries required of its approximately 35,000 Commercial Driver's License (CDL) operators. This would seem to place a far greater burden on its employees than simply complying with the current regulations and could very well result in a failure to identify candidates prohibited from operating a school bus due to prior violations."

Four individual commenters also opposed the FirstGroup request. One commenter Mr. Kennon Nilsen, stated, "School bus drivers should be held to the absolute highest standard when it comes to transporting children. This exemption should not be allowed under any circumstance. Speed of hiring and financial burden on a company should not be a consideration. As a 30 plus year CDL holder I fully understand the implications of a driver being hired who could have a history of drug and alcohol violations behind the wheel."

#### VI. FMCSA Safety Analysis and Decision

Employers who conduct a full query receive a notification from FMCSA, in real time, if another employer, or prospective employer, adds information to the Clearinghouse about that driver during the 30-day period immediately following the full query. (Limited queries do not trigger employer notifications.) FirstGroup, in order to compensate for not conducting a full query, would instead conduct periodic limited queries during a newly hired driver's first year of employment. However, the first periodic limited query would not occur until 30–35 days following the initial pre-employment limited query. Consequently, for the first 30–35 days of employment, FirstGroup would be unaware of any newly added information in the driver's Clearinghouse record. This knowledge gap poses an unacceptable safety risk, which does not exist when an employer

conducts a full query in accordance with 49 CFR 382.701(a). The Agency therefore finds that, under the conditions proposed by FirstGroup, limited pre-employment queries would not likely provide the same, or higher, level of safety as the current requirement that a full query be conducted prior to allowing a driver to perform safety sensitive functions. The application is therefore denied.

**Meera Joshi,**

*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0099]

#### Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Forward Thinking Systems LLC

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

**ACTION:** Notice of final disposition; grant of exemption.

**SUMMARY:** The FMCSA announces its decision to grant the application of Forward Thinking Systems LLC (FTS) for a limited five-year exemption to allow its FleetCam system, which is equipped with cameras, to be mounted lower in the windshield on commercial motor vehicles than is currently permitted. The Agency has determined that lower placement of the FleetCam 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 applicable October 18, 2021 and ending October 13, 2026.

**FOR FURTHER INFORMATION CONTACT:** Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

**Docket:** For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12–140 on the ground level of

the West Building, 1200 New Jersey Avenue SE, Washington, DC, 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 Docket Operations. The online Federal document management system is available 24 hours a day, 365 days a year. The docket number is listed at the beginning of this notice.

#### SUPPLEMENTARY INFORMATION:

##### Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). 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 decision of the Agency 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)).

##### FTS's Application for Exemption

FTS applied for an exemption from 49 CFR 393.60(e)(1) to allow its FleetCam device to be mounted lower in the windshield than is currently permitted by the Agency's regulations to optimize the functionality of the technology system. A copy of the application is included in the docket referenced at the beginning of this notice.

In its application, FTS states that the functionality of the FleetCam device includes the ability to provide lane departure warning, forward collision warning, following distance warning, and video camera-based behavior management systems which can be streamed live to fleet managers. FTS notes that it piloted the devices'

functionality and found that there was no obstruction to the driver's normal sightlines to the road ahead, highway signs and signals, or any mirrors.

The technology housing is approximately 34 mm (1.33 inches) tall by 108 mm (4.25 inches) wide, and will be mounted in the approximate center of the windshield with the bottom edge of the technology housing approximately 204 mm (approximately 8 inches) below the upper edge of the area swept by the windshield wipers. The technology will be mounted outside the driver's normal sight lines to the road ahead, signs, signals and mirrors. This location will allow for optimal functionality of the safety features supported by the FleetCam device.

Without the proposed exemption, FTS states that its clients (1) will not be able to install these devices in an optimal location on the windshield to maximize the effectiveness of the FleetCam safety features, and (2) could be fined for violating current regulations. The exemption would apply to all CMVs equipped with FTS's FleetCam system mounted on the windshield. FTS believes that mounting the FTS's FleetCam system as described will likely 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 July 14, 2021 and asked for public comment (86 FR 37205). The Agency received no comments on the exemption application.

##### FMCSA Decision

FMCSA has evaluated the FTS exemption application. The FleetCam device housing is approximately 1.33 inches tall and is mounted near the top of the center of the windshield, with the bottom of the housing located approximately 8 inches below the top of the area swept by the windshield wipers. The housing needs to be mounted in this location for optimal functionality of the FleetCam device. The desired functionality and the size of the 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 placement of the FleetCam device lower than 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 because (1) based on the information available, there is no indication that the FleetCam device would obstruct drivers' views of the roadway, highway signs and signals, 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 where the bottom of the FleetCam device housing will not exceed 8 inches below the upper edge of the area swept by the windshield wipers outside the driver's and passenger's normal sight lines to the road ahead, highway signs and signals, and all mirrors, will be reasonable and enforceable at roadside. In addition, the Agency believes the use of the FleetCam device by fleets is likely to improve the overall level of safety for the motoring public.

This action is consistent with the following previously issued Agency actions permitting the placement of similarly-sized devices on CMVs outside the driver's sight lines to the road, and highway signs and signals: Bendix Commercial Vehicle Systems, LLC 86 FR 17877 (April 6, 2021), Netradyme, 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). FMCSA is unaware of any evidence showing that 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 October 18, 2021 and ending October 13, 2026. During the temporary exemption period, motor carriers will be allowed to operate CMVs equipped with FTS's FleetCam device in the approximate center of the top of the windshield and such that the bottom edge of the technology housing is approximately 8 inches below the upper edge of the area swept by the windshield wipers, 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 CMVs equipped with FTS's FleetCam device system 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 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.

**Meera Joshi,**  
Deputy Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

[Docket Number DOT-OST-2017-0043]

#### Agency Information Collection Activity: Notice of Request for Approval To Continue To Collect Information: Barrier Failure Reporting in Oil and Gas Operations on the Outer Continental Shelf

**AGENCY:** Bureau of Transportation Statistics (BTS), Office of the Assistant Secretary for Research and Technology (OST-R), U.S. Department of Transportation.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice announces the intention of BTS to request the Office of Management and Budget (OMB) to approve continuation of the following information collection:

Barrier Failure Reporting in Oil and Gas Operations on the Outer Continental Shelf (OCS). BTS has entered into a memorandum of understanding (MOU) with BSEE to expand the scope of SafeOCS to include an industry-wide repository of equipment failure data, analyze and aggregate information provided under this program, and publish reports that will provide BSEE, the industry, and all OCS stakeholders with essential information about failure types and modes of critical safety barriers for offshore operations related to well control and safety and pollution prevention.

**DATES:** Written comments should be submitted by December 17, 2021.

**ADDRESSES:** To ensure that your comments are not entered more than once into the docket, submit comments by only one of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically. Docket Number: DOT-OST-2017-0043.
- **Mail:** Docket Services, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery:** Deliver to mail address above between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

Identify all transmission with "Docket Number DOT-OST-2017-0043" at the beginning of each page of the document.

**Instructions:** All comments must include the agency name and docket number for this notice. Paper comments should be submitted in duplicate. The Docket Management Facility is open for examination and copying, at the above address from 9 a.m. to 5 p.m. EST, Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: "Comments on Docket Number DOT-OST-2017-0043." The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that all comments received, including any personal information, will be posted and will be publicly viewable, without change, at [www.regulations.gov](http://www.regulations.gov). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; pages 19477-78) or you may review the Privacy Act Statement at [www.regulations.gov](http://www.regulations.gov).

### FOR FURTHER INFORMATION CONTACT:

Demetra V. Collia, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation, Office of Statistical and Economic Analysis, RTS-31, E36-302, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; Phone No. (202) 366-1610; Fax No. (202) 366-3383; email: [demetra.collia@dot.gov](mailto:demetra.collia@dot.gov). Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

**Data Confidentiality Provisions:** The confidentiality of barrier failure information submitted to BTS is protected under the BTS confidentiality statute (49 U.S.C. 6307) and the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), Public Law 115-435, Title III, Foundations for Evidence-Based Policymaking Act of 2018.

In accordance with these confidentiality statutes, only statistical (aggregated) and non-identifying data will be made publicly available by BTS through its reports. BTS will not release to BSEE or any other public or private entity any information that might reveal the identity of individuals or organizations mentioned in failure notices or reports without explicit consent of the respondent and any other affected entities.

**SUPPLEMENTARY INFORMATION:** The data collection effort that is the subject of this notice addresses the collection of failure data as referenced in BSEE regulations at 30 CFR 250.730 (81 FR 25887, April 29, 2016) and 30 CFR 250.803 (81 FR 61834, September 7, 2016). BTS received permission to start the data collection under an emergency OMB control number on September 29, 2016. Subsequently, BTS received an OMB control number that expires November 30, 2021. Through this notice, BTS is requesting permission to continue this previously approved data collection. This information collection is necessary to aid BSEE, the oil and gas industry, and other stakeholders in identifying barrier failure trends and causes of critical safety barrier failure events.

### I. The Data Collection

The Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain OMB approval to initiate an information collection activity. BTS is seeking OMB approval to continue the following BTS information collection activity: