ADDRESSES: You may submit comments identified by DOT Docket ID Number 0038 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Foundoukis, (785) 273–2655, Department of Transportation, Federal Highway Administration, Highway Systems Performance (HPPI–20), Office of Highway Policy Information, Office of Policy & Governmental Affairs, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Highway Performance Monitoring System (HPMS).

OMB Control: 2125–0028.

Background: The HPMS data that is collected is used for management decisions that affect transportation, including estimates of the Nation's future highway needs and assessments of highway system performance. The information is used by the FHWA to develop and implement legislation and by State and Federal transportation officials to adequately plan, design, and administer effective, safe, and efficient transportation systems. This data is essential to the FHWA and Congress in evaluating the effectiveness of the Federal-aid highway program. The HPMS also provides mile and lane-mile components of the Federal-Aid Highway Fund apportionment formulae. The data that is required by the HPMS is continually reassessed and streamlined by the FHWA. The process has recently been updated to enable the transactional submission of many data items, thereby reducing the need to submit redundant data each year.

Respondents: State governments of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Frequency: Annually.

Estimated Average Burden per Response: The estimated average burden per response for the annual collection and processing of the HPMS data is 2,000 hours for each State, the District of Columbia, and the Commonwealth of Puerto Rico.

Estimated Total Annual Burden Hours: The estimated total annual burden for all respondents is 104,000 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: May 7, 2024.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2024–10227 Filed 5–9–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0243]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Gemini Motor Transport LP, USDOT# 913300

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; grant of exemption.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Gemini Motor Transport LP's, USDOT No. 913300, (Gemini) application for an exemption to allow it to operate commercial motor vehicles (CMVs) equipped with a module manufactured by Intellistop, Inc. (Intellistop). The Intellistop module is designed to pulse the required rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds when the brakes are applied and then return the lights to a steady-burning state while the brakes remain engaged. The Agency has determined that granting the exemption to Gemini, an individual, easily identifiable motor carrier operating a finite number of CMVs, would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved by the regulation.

DATES: This exemption is effective May 10, 2024 and ending May 12, 2029.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–9209, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; *MCPSV@dot.gov.*

I. Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0243'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.''

To view documents mentioned in this notice as being available in the docket, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0243'' in the keyword box, click ''Search,'' and choose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, 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 Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain parts of the FMCSRs if it ''finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption.'' FMCSA must publish a notice of each exemption request in the **Federal Register** and provide the public an opportunity to inspect the information relevant to the application, including the applicant's safety analysis, and an opportunity for public comment on the request (49 U.S.C. 31315(b)(6)(A); 49 CFR 381.315(a).

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 and explain the terms and conditions of the exemption. Granted exemptions may be renewed (49 CFR 381.300(b)).

III. Background

A. Current Regulatory Requirements

Section 393.25(e) of the Federal Motor Carrier Safety Regulations (FMCSRs) requires all exterior lamps (both required lamps and any additional lamps) to be steady-burning, with certain exceptions not relevant here. Two other provisions of the FMCSRs—section 393.11(a) and section 393.25(c)—mandate that required lamps on CMVs meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108 in effect at the time of manufacture. FMVSS No. 108, issued by the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA), includes a requirement that installed brake lamps, whether original or replacement equipment, be steady burning.

B. Applicant's Request

Gemini applied for an exemption from 49 CFR 393.25(e) to allow it to operate CMVs, equipped with Intellistop's module. When the brakes are applied, the Intellistop module is designed to pulse the rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds and then maintain the original equipment manufacturer's (OEM) level of illumination for those lamps until the brakes are released and reapplied. Intellistop asserts that its module is designed to ensure that if the module ever fails, the clearance, identification, and brake lamps will default to normal OEM function and illumination.

Gemini's application followed the Agency's October 7, 2022 (87 FR 61133), denial of Intellistop's application for an industry-wide exemption to allow all interstate motor carriers to operate CMVs equipped with the Intellistop module. While the Agency determined that the scope of the exemption Intellistop sought was too broad to ensure that an equivalent level of safety would be achieved, the Agency explained that individual motor carrier applications for exemption may be more closely aligned with FMCSA authorities. Exemptions more limited in scope would allow the Agency to ensure compliance with all relevant FMCSA regulations because the individual exemptee would be easily identifiable and its compliance with applicable regulations could be monitored, thus providing a level of safety equivalent to compliance with 49 CFR 393.25(e).

Gemini stated that previous research demonstrated that the use of pulsating brake-activated lamps increases the visibility of vehicles and should lead to a significant decrease in rear-end crashes. In support of its application, Gemini submitted several reports of research conducted by the National Highway Traffic Safety Administration (NHTSA), another agency in the U.S. Department of Transportation, on the issues of rear-end crashes, distracted driving, and braking signals.[1] [2] [3] This same body of research was also referenced in Intellistop's industry-wide exemption application. Relying on these studies, Gemini stated that the addition of brake-activated pulsating lamp(s) will not have an adverse impact on safety and would likely maintain a level of safety equivalent to or greater than the level of safety achieved without the exemption.

A copy of the application is included in the docket referenced at the beginning of this notice.

IV. Comments

FMCSA published a notice of the application in the **Federal Register** on February 1, 2023, and asked for public comment (88 FR 6805). The Agency received 26 comments from the American Trucking Associations (ATA); Intellistop, Inc.; the National Truck Equipment Association (NTEA); the Transportation Safety Equipment Institute (TSEI); and 22 other commenters. Twenty-five of the commenters favored the exemption application, while TSEI expressed concerns.

TSEI reiterated comments it had previously made in support of the safety benefits of brake-activated warning lamps when used in conjunction with steady burning red brake lamps as well as its prior support of the exemption requests from Groendyke, NTTC, and Grote. Despite these previous expressions of support for the potential benefits of some brake warning lamp configurations, TSEI stated that it is concerned about any exemption permitting the pulsing of lamps that are currently required to be steady burning without a thorough consideration of safety data and research. TSEI stated that the aim of future rulemaking should be to ensure consistent application across all vehicles equipped with such pulsating lamps and recommended that the Agency engage in a formal rulemaking to amend Part 393 to allow for pulsating brake lamps.

ATA supported Gemini's request and stated that enhanced rear signaling (ERS) can provide functionality beyond what traditional CMV lighting and reflective devices offer, including drawing attention to CMVs stopped ahead; increasing awareness of roadside breakdowns; notification of emergency braking; and improving driver confidence from both vehicles. ATA also stated that, in addition to these safety benefits, ERS performance is superior to that of steady-burning brake lamps in conditions of severe weather, taillight glare, and around infrastructure obstacles. Specifically, ATA noted that this ''request by Gemini presents another opportunity for the DOT to learn about the performance of ERS in real world applications.'' Further, ATA stated that ''[it] believes the exemption process is well-suited for these kinds of situations, where the DOT can monitor small, controlled deployments to learn about benefits and costs and gather important data to make sound judgments on a broader industry exemption or change in regulations.''

ATA recommended the Agency provide clear guidance in the terms and conditions of the exemption grant to aid the Agency in monitoring the exemption for unintended consequences and aid the Applicant in understanding expectations for potential renewal of the exemption application. ATA further commented that FMCSA should work with industry to develop research efforts that examine the performance of ERS to supplement future DOT decisions on ERS technologies. and aid the Applicant

[1] See NHTSA Study—Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811127.pdf*; As part of the General Findings the NHTSA study report concluded that ''rear lighting continues to look promising as a means of reducing the number and severity of rear-end crashes.''

[2] See also NHTSA Study—Enhanced Rear Lighting and Signaling Systems *https://tinyurl.com/y2romx76* or *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/task_3_results_0.pdf*; As part of the conclusions NHTSA found that enhanced, flashing brake lighting ''demonstrated improvements in brake response times and other related performance measures.''

[3] See also NHTSA—Traffic Safety Facts *https://tinyurl.com/yxglsdax* or *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/tsf811128.pdf*; which concluded that flashing brake lights were a promising signal for improving attention-getting during brake applications.

in understanding expectations for potential renewal of the exemption application. ATA further commented that FMCSA should work with industry to develop research efforts that examine the performance of ERS to supplement future DOT decisions on ERS technologies.

The NTEA supported the Agency's authority to grant a temporary exemption. The NTEA, however, expressed concern that some of its members who are manufacturers and alterers of motor vehicles may receive requests from fleet operators to install brake-activated pulsating warning lamps on certain new vehicles they construct or modify. As manufacturers of new motor vehicles, NTEA members are required to certify these vehicles to applicable NHTSA Federal Motor Vehicle Safety Standards (FMVSS). NTEA noted that FMCSA does not have the authority to exempt CMV manufacturers from their obligation to certify FMVSS compliance. It recommended the Agency clarify in the terms and conditions of the exemption the responsibilities of carriers, manufacturers, and repair facilities, and the limitations and the conditions under which modifications may be made. NTEA specifically requested that FMCSA ''make clear that [this] exemption does not currently change any NHTSA regulations applying to the certification of federal motor vehicle safety standards,'' if it grants the exemption.

Intellistop supported the Applicant's request for exemption. It commented that for over 20 years, multiple States have allowed pulsing or flashing of brake lamps. Intellistop also asserted many State driver training schools recommend tapping brakes to warn other drivers when a CMV is slowing or stopping. Intellistop stated that it is unlikely that other motorists would confuse the use of their module with the recommendation to tap brakes when a CMV is slowing or stopping, as ''[s]eeing brake lights flash is a commonly communicated method to alert other drivers that a vehicle is slowing down or stopping.''

Twenty-one additional comments were submitted in support of granting the exemption. These commenters believe that any technology that has been shown to reduce rear-end crashes should be allowed and cited various benefits of brake activated pulsating lamps, including (1) enhanced awareness that the vehicle is making a stop, especially at railroad crossings, and (2) increased visibility in severe weather conditions. Several commenters noted that 37 States currently allow brake lamps to flash. In addition, three commenters noted that the guidelines developed by the American Driver and Traffic Safety Education Association advise driving instructors to teach new drivers to pulse brake lamps when stopping to improve visibility.

V. FMCSA Equivalent Level of Safety Analysis

Gemini petitions FMCSA to grant an exemption from 49 CFR 393.25(e)—requiring certain exterior lamps to be steady burning—to allow it to operate CMVs equipped with Intellistop's module. FMCSA has determined that in order for Gemini to operate vehicles in compliance with the FMCSRs, an exemption from 49 CFR 393.25(e) must be accompanied by limited exemptions from 49 CFR 393.11(a) and 393.25(c), both of which mandate that required lamps on CMVs operated in interstate commerce must, ''at a minimum, meet the applicable requirements of 49 CFR 571.108 (FMVSS No. 108) in effect at the time of manufacture of the vehicle.'' FMCSA grants exemptions only when it determines ''such exemption[s] would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption[s].''

Rear-end crashes generally account for approximately 30 percent of all crashes. They often result from a failure to respond (or delays in responding) to a stopped or decelerating lead vehicle. Data on crashes that occurred between 2010 and 2016 show that large trucks are consistently three times more likely than other vehicles to be struck in the rear in two-vehicle fatal crashes.[4] [5] FMCSA is deeply interested in the development and deployment of technologies that can reduce the frequency, severity, and risk of rear-end crashes.

Both FMCSA and NHTSA have examined alternative rear-signaling systems to reduce the incidence of rear-end crashes. While research efforts concluded that improvements in the incidence of rear-end crashes could be realized through certain rear-lighting systems that flash,[6] the FMCSRs do not currently permit the use of pulsating, brake-activated lamps on the rear of CMVs. FMCSA believes that the two agencies' previous research programs demonstrate that rear-signaling systems may be able to ''improve attention getting'' to reduce the frequency and severity of rear-end crashes. Any possible benefit must be balanced against a possible risk of increased driver distraction and confusion. In balancing these interests, the Agency was compelled to deny the Intellistop application for exemption because the industry-wide scope of the request was too broad for the Agency to effectively monitor for the potential risk of driver distraction or confusion.

The Agency acknowledges the limitations of the research studies completed to date and the overall data deficiencies in this area. Nonetheless, as noted in its Intellistop decision, the Agency recognizes that existing data do suggest a potential safety value in the use of alternative rear-signaling systems, generally. Specifically, FMCSA considered NHTSA's research concerning the development and evaluation of rear-signaling applications designed to reduce the frequency and severity of rear-end crashes via enhancements to rear-brake lighting. The study examined enhancements for (1) redirecting drivers' visual attention to the forward roadway (for cases involving a distracted driver) and (2) increasing the saliency or meaningfulness of the brake signal (for inattentive drivers).[7] The research considered the attention-getting capability and discomfort glare of a set of candidate rear brake lighting configurations using driver judgments and eye-drawing metrics. The results of this research served to narrow the set of candidate lighting configurations to those that would most likely be carried forward for additional on-road study. Based on subjective participant responses, this research indicates some form of flashing or variation in brake light brightness may be more than two times more attention-getting than the baseline, steady-burning brake lights for distracted drivers.[8]

[4] U.S. Department of Transportation, National Highway Traffic Safety Administration (2012), Traffic Safety Facts—2010 Data; Large Trucks, Report No. DOT HS 811 628, Washington, DC (June 2012), *available at: https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811628.*

[5] U.S. Department of Transportation, National Highway Traffic Safety Administration (2018), Traffic Safety Facts—2016 Data; Large Trucks, Report No. DOT HS 812 497, Washington, DC (May 2018), *available at: https://crashstats.nhtsa.dot.gov/Api/Public/Publication/812497.*

[6] Expanded Research and Development of an Enhanced Rear Signaling System for Commercial Motor Vehicles: Final Report, William A. Schaudt *et al.* (Apr. 2014) (Report No. FMCSA–RRT–13–009).

[7] See NHTSA Study—Evaluation of Enhanced Brake Lights Using Surrogate Safety Metrics *https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811127.pdf.*

[8] Ibid. While data demonstrated that brighter flashing lights were the most attention-getting combination for distracted drivers in this study, flashing lights with no increase in brightness were still more effective at capturing a distracted driver's attention than the baseline steady-burning brake

Continued

While some of the data collected in the study may not be statistically significant, the study results nonetheless indicate that additional efforts to get drivers' attention when they are approaching the rear of a CMV that is stopping may be helpful to reduce driver distraction and, ultimately, rear-end crashes. This was among several reasons why researchers concluded that the promising nature of enhanced brake lighting systems warranted additional work and research. FMCSA believes the acquisition of relevant data through real-world monitoring is of critical importance as the Agency continues to seek new and innovative options for reducing crashes. This is particularly true given the data limitations noted in previous studies.

Despite finding a potential safety value in the use of alternative rear-signaling technology, in the Intellistop decision the Agency determined that the data presently available did not justify an exemption to allow all interstate motor carriers to alter the performance of an FMVSS-required lighting device (*i.e.,* stop lamps) on any CMV. In contrast, however, Gemini's application requests an exemption from the steady-burning brake lamp requirement for CMV operations by only one interstate motor carrier. As FMCSA noted in its denial of Intellistop's industry-wide exemption application, individual motor carrier exemption requests more closely align with FMCSA and NHTSA authorities to ensure compliance with all other applicable regulations and with the safety performance of the smaller population of affected motor carriers. With an individual motor carrier exemption, the Agency can also more easily monitor compliance with terms and conditions intended to ensure operations conducted under the exemption do in fact provide an equivalent level of safety. Gemini's application demonstrates why this is particularly true, since the vehicles operated by Gemini under the exemption would be easily identifiable, and compliance with NHTSA's ''make inoperative'' prohibition and other related regulations could be readily checked.

The Agency's decision to grant this exemption is based on the data suggesting enhanced rear signal systems, such as pulsing brake lights, may help reduce the frequency and severity of rear-end crashes, as well as on the limited number of vehicles operating under the exemption. Gemini currently operates a nationwide fleet of approximately 1,200 vehicles, primarily fuel haulers. The installation of the module on a finite number of CMVs operated by a single motor carrier provides the opportunity for the Agency to collect data on the effects of pulsing brake lights in real-world conditions. The terms and conditions FMCSA imposes through this exemption will ensure appropriate Federal oversight in the use of these devices on a finite number of CMVs utilizing a phased in approach.

Initially restricting the application of this exemption to a limited portion of Gemini's fleet will allow for a comparison between the crash involvement of Gemini CMVs equipped with the Intellistop device, those without the device, and the overall crash involvement of CMVs operated by similarly sized motor carriers with similar operations and overall safety performance. Data collected through this exemption and any other similar exemptions the Agency may grant in the future will allow for an evaluation of how the Intellistop module may improve following vehicle driver responses to CMV braking. Consideration of the scope of any particular carrier's operation and the number and types of vehicles the carrier operates are critical to ensuring FMCSA gathers the most relevant data as the Agency considers safety benefits gained by the deployment of these rear brake lamp systems in CMV operations. The Agency's incremental approach in granting this limited exemption will also allow FMCSA to investigate and respond as appropriate to any incidents of alleged driver confusion attributable to use of the brake lamp systems in CMV operations, which some commenters have raised as a potential concern.

FMCSA acknowledges that all other pulsating rear lamp exemptions the Agency previously granted involved the addition of non-mandatory auxiliary lights while the Intellistop module that Gemini seeks to install alters the functionality of original equipment manufacturers' lamps. Nonetheless, those previous exemptions are instructive, most notably Groendyke.

The Groendyke exemption involved auxiliary lamps rather than required lighting, but, like the Intellistop module, the modulation of the auxiliary lamps in the Groendyke exemption occurs during braking. More importantly, Groendyke also involved a technology with limited supporting data being installed on a finite number of CMVs of a single motor carrier, which allowed the Agency more realistically to monitor the exemptee's compliance with other applicable regulations. When granting the exemption, FMCSA found Groendyke's experience with brake-activated pulsating warning lamps, which resulted in a 33.7 percent reduction in rear-end crashes, to be compelling. Through the granting of the Groendyke exemption, the Agency was able to collect additional valuable real-world data about the operation of the module at issue. Similarly, limited exemptions with narrowly tailored terms and conditions permitting the use of the Intellistop module will allow the Agency to collect data about the reliability and safety benefits of an integrated alternative rear-signaling system.

FMCSA notes that Gemini failed to provide any evidence beyond what is publicly available about the integration of the Intellistop module with its CMVs' existing systems or to support the claim that a malfunction of the device would result in the brake lights returning to OEM functionality. Nonetheless, based on the Agency's understanding of the device's design and assertions made in publicly available materials, FMCSA believes concerns about both the reliability and integration of the device are sufficiently alleviated in this instance because of the narrow scope of the exemption and the stringent requirements imposed by the Agency in the terms and conditions. Any evidence that module failure results in anything less than a return to brake light OEM functionality will result in revocation of the exemption.

Likewise, granting this exemption to an easily identifiable carrier alleviates concerns the Agency previously articulated about its inability to monitor compliance with NHTSA's ''make inoperative'' prohibition. FMCSA can monitor compliance with this exemption and ensure that only Gemini installs the module on its own CMVs.

Notwithstanding the promise the Agency sees in this technology, exemptions are warranted only if the applicant can demonstrate that an equivalent level of safety likely will be maintained. For this reason, the Agency believes it is important to consider the safety record of the applicant motor carrier. Gemini's existing on-road safety performance record warrants granting this exemption, to collect safety performance data in a limited set of operations. Gemini's out-of-service rate is well below the national average, with a vehicle out-of-service rate of only 3.0 percent (national average—21.4

lamps. Both look-up (eye drawing) data and interview data supported the hypothesis that simultaneous flashing of all rear lighting combined with increased brightness would be effective in redirecting the driver's eyes to the lead vehicle when the driver is looking away with tasks that involve visual load.

percent), a driver out-of-service rate of only 0.4 percent (national average—6 percent), and hazardous material out-of-service rate of 0.2 percent (national average—4.5 percent). Gemini maintains a Satisfactory safety rating.

FMCSA has authority to grant temporary exemptions to the FMCSRs only to motor carriers and not to CMV manufacturers or vehicle alterers. FMCSA acknowledges that the research described above did not fully address all of the implications of allowing pulsating stop lamps, especially by automobiles where stop lamp design is stylized and often brand-specific, and that it remains unclear whether deviation from the uniform brake-light patterns of CMVs may cause confusion among highway users when the lamps are pulsated during braking. When Intellistop sought an industry-wide exemption, FMCSA concluded that the potential risks of widespread adoption outweighed the potential benefits. But FMCSA reaches a different conclusion here, where any risks will be more limited and easier to monitor. FMCSA notes, moreover, that the research suggests that the use of rear-signaling systems may be a means to reduce the frequency and severity of rear-end crashes involving CMVs, as do the reductions in rear-end crashes reported by Groendyke (84 FR 17910, April 26, 2019) utilizing an auxiliary flashing rear-signaling system. These facts and the specific safety record of the applicant motor carrier support the conclusion that permitting the use of Intellistop's pulsating-lamp module among a finite number of vehicles of a single motor carrier, subject to terms and conditions for monitoring, is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

VII. Exemption Decision

a. Grant of Exemption

FMCSA has evaluated Gemini's exemption application and the comments received. The Agency believes that granting a temporary exemption to 393.25(e), and temporary limited exemptions to the requirements of 49 CFR 393.11(a) and 393.25(c) to allow Gemini to operate a defined and limited number of CMVs equipped with Intellistop's pulsating-brake module will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

This exemption is restricted to a finite number of vehicles in Gemini's fleet and provides relief from the steady burning requirement for rear clearance, identification, and brake lamp activation for 2 seconds following brake activation. All other FMVSS No. 108 requirements cross-referenced or incorporated within the FMCSRs remain in effect, with a limited exception to the requirement exempted here in 393.11(a) and 393.25(c) for only the first two seconds of brake engagement. In addition, through the terms and conditions, FMCSA will be able to monitor to performance of these CMVs to determine whether they were involved in a crash and whether they appear to be overrepresented in crashes compared to a control group (Gemini vehicles that are not equipped with the Intellistop unit but are operating on similar routes with similar schedules, etc.).

The Agency has evaluated the application and hereby grants the exemption for a 5-year period, beginning May 10, 2024 and ending May 12, 2029. During the temporary exemption period, Gemini (Applicant) may operate CMVs, equipped with Intellistop's module that pulses the rear brake, clearance, and identification lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds. This grant applies only to the ''steady-burning'' requirement as specified in FMVSS 108 S7.3, and Tables I–a, I–b, and I–c. All other photometric and requirements for stop lamps specified in FMVSS 108 must still be met.

b. Terms and Conditions of the Exemption

(i) Installation of the Intellistop Module

The Applicant is responsible for installing the Intellistop module and assumes any liability for installation of the module. This exemption applies only to CMVs owned and operated by the Applicant. THE PRODUCT MUST BE INSTALLED BY THE OWNER OF THE VEHICLE ONLY. IN ACCORDANCE WITH FEDERAL LAW (49 U.S.C. 30112(a)(1) AND 49 U.S.C. 30122), THE PRODUCT MAY NOT BE INSTALLED BY ANY MANUFACTURER, DISTRIBUTOR, DEALER, RENTAL COMPANY, OR MOTOR VEHICLE REPAIR BUSINESS.

The Applicant may not install the Intellistop module on more than 25% of its power units, and 25% of its trailers during the first year of operation under the exemption, or on more than 50% of its power units, and 50% of its trailers during the second year. The Applicant shall provide the vehicle identification numbers for the power units and trailers that will be operating under the exemption.

The Applicant must maintain a control group of equal size to portion of its power units and trailers equipped with the Intellistop unit during the first 2 years of the exemption. And the CMVs in the control group would operate on routes with schedules that are similar to those of the Intellistop vehicles.

Installed modules may only be used to modulate rear clearance, identification, and stop lamps.

Within 30 business days of its first installation of the Intellistop module, the Applicant must notify the FMCSA via email at *MCPSV@dot.gov* of the number and type of CMVs it is operating, or intends to operate, with the Intellistop module installed; the module type and/or sub-type; and any trouble-shooting, repair, or other use of an Intellistop module covered by this exemption. Amended installation information, including CMVs on which the device is installed or uninstalled, may then be submitted via the quarterly submission specified in sub-paragraph (iv) *Recurring Reporting Requirements* below.

If the Applicant sells or transfers ownership of any CMV equipped with an Intellistop module under this exemption, or if the exemption is terminated for any reason, the Applicant must remove the module and restore the CMV to full compliance with the FMCSRs and FMVSSs prior to the transfer of ownership, or upon termination of the exemption. The Applicant must also certify in writing to the purchaser/transferee and FMCSA that the CMV has been restored to compliance with the FMCSRs and FMVSSs.

(ii) Driver Pre-Trip Vehicle Inspections

The Applicant must ensure that each driver of an Intellistop-equipped CMV performs a pre-trip inspection to confirm that the Intellistop module operates only for 2 seconds and does not interfere with the normal operation of lamps after 2 seconds. If the lamps are not steady burning after 2 seconds, the CMV must not be dispatched until repairs are made. At the end of each workshift, drivers must note any problems observed by or reported to the driver concerning the Intellistop module on a driver vehicle inspection report (see 49 CFR 396.11), and the motor carrier must correct the problem before the vehicle is dispatched again.

(iii) Safety Notification to FMCSA

The Applicant will notify FMCSA within 5 business days after it becomes aware, or otherwise determines, that the continued use of a module or entire type or subtype of module covered by this

exemption is no longer likely to maintain a level of safety that is at least equivalent to the level that would be achieved absent this exemption. Notification will be made by sending an email to FMCSA at *MCPSD@dot.gov.*

(iv) Recurring Reporting Requirements

During the exemption period, the Applicant will provide quarterly submissions to FMCSA of the data described below. The Applicant's first quarterly submission is due on August 12, 2024, and thereafter will be due every 3 months, on the first business day of the month. The first quarterly submission will include the required data beginning 60 days prior to the date of module installation. All quarterly submissions will include data through at least the 14th day (inclusive) of the month immediately preceding the submission. Unless otherwise agreed to by FMCSA, quarterly submissions will be sent via email to FMCSA at *MCPSD@dot.gov.* If the Applicant does not have one or more categories of information described below, it will, within 20 days of the effective date of this exemption, discuss with FMCSA other available information. If the Agency accepts such alternative information, the Applicant will submit that data in lieu of the information specified below.

In the quarterly submission, the Applicant must provide FMCSA the following information known to the Applicant regarding all crashes and other incidents (''crash or incident'') involving a CMV equipped with an Intellistop module covered by this exemption where the Intellistop module is potentially implicated. Crashes involving a CMV equipped with an Intellistop module that are ''head-on'' or otherwise involve only the front of the Intellistop-equipped CMV impacting some other object (such that the Intellistop module, without question, could not be implicated) are not subject to this condition. For the first quarterly submission, data must include any crash or incident occurring in the 60 days prior to installation of the Intellistop module that would have been contained in this reporting category had the module been installed at the time of the crash or incident. The Applicant's knowledge includes, but is not limited to: (1) outreach from a consumer, lawyer, or any other person or organization (via letter, email, fax, telephone call, social media, or any other medium); (2) lawsuits to which the Applicant is a party, or otherwise knows exist where an Intellistop module covered by this exemption is an issue in the litigation; and (3) insurance claims against the Applicant related to use of the Intellistop module. When in the Applicant's possession, information provided to FMCSA shall include:

1. The date of first contact regarding, or the Applicant's first awareness of, the crash or incident;
2. The date of the most recent follow-up contact, if any, between the Applicant and the other party;
3. The date, time, and location of the crash or incident;
4. A brief description of the crash or incident; and
5. The Intellistop module type and/or subtype(s) involved in the crash or incident.
6. Information, if any, indicating that the Intellistop module is, or was, not working as intended, or caused confusion or a roadway hazard for either the consumer or other motorists.

Annual data. At the end of each 12-month period this exemption is in effect, the Applicant shall, within 60 days, submit a report detailing all information in its possession regarding crash rates and vehicle miles traveled by CMVs equipped with a module covered by this exemption. Additionally, the report will specify the number and type of CMVs the Applicant is operating under the exemption, the module type or sub-type installed on each CMV, the affected lamps (rear clearance, identification, and/or brake lamps), the number of covered vehicles sold or transferred in ownership during the 12-month reporting period, and a statement certifying that any sold/transferred vehicle(s) have been restored to compliance with applicable FMVSSs and FMCSRs.

Meetings. The Applicant shall, at FMCSA's request, meet with FMCSA to answer questions regarding data and information provided by the Applicant under this exemption.

(v) Early Termination

The exemption will be valid for 5 years from the date of issuance unless rescinded earlier by FMCSA. FMCSA will terminate the exemption if: (1) the Applicant fails to comply with its terms and conditions; (2) the exemption results 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).

(vi) Notification From the Public

Interested parties possessing information that would demonstrate that Gemini's CMVs equipped with Intellistop's pulsating rear-light module may not be 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.

(vii) Non-Endorsement

This limited and conditional exemption does not constitute an endorsement of the Intellistop product by FMCSA, NHTSA, the U.S. DOT, or any of their components, or by any of these agencies' employees or agents. As a condition of the continued effectiveness of this exemption, Intellistop is expressly prohibited from describing its product as approved by, endorsed by, or otherwise authorized by FMCSA, NHTSA, or U.S. DOT, or as compliant with Federal safety regulations.

VIII. Preemption

In accordance with 49 U.S.C. 31313(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. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Sue Lawless,

Acting Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2024–0008]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice announces that FRA is forwarding the Information Collection Request (ICR) summarized below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On February 21, 2024, FRA published a notice providing a 60-