Exemption Request

Joest Racing USA, Inc., a private motor carrier of property as defined by 49 CFR 390.5, filed an application for an exemption from the commercial driver’s licensing rules in 49 CFR part 383, that would allow drivers—Peter Ungar, Michael Schlemmer, Udo Wilhelm, and Hubert Neumann—to operate two commercial motor vehicles (CMVs) within the United States. According to its application, Joest has no employees in the United States; for economic reasons, its German CMV drivers double as race car mechanics; the value of its race cars is over $1 million each; it requires CMV drivers that are professionally trained in Germany in the loading and bracing of racing cars and parts; and to employ U.S. commercial drivers and train them would require considerable time and expense. A copy of the application for exemption is in the docket.

FMCSA is responsible for the administration and enforcement of the Federal Motor Carrier Safety Regulations (FMCSRs), including the commercial driver’s license requirements. Section 383.23(a)(2) states that no person shall operate a CMV unless such person possesses a CDL issued by his or her jurisdiction of domicile. There is an exception to this rule which states that CMV drivers domiciled in other jurisdictions that do not test drivers and issue licenses in accordance with Federal regulations must obtain a nonresident CDL from a State which does comply with the Federal testing and licensing standards.

Joest Racing USA, Inc. seeks an exemption because the drivers it employs are citizens and residents of Germany. These drivers are not able to obtain nonresidential CDLs in the United States because the States generally do not issue nonresidential CDLs to foreign drivers. The drivers hold valid CDLs issued by German authorities that meet license testing and driver qualification standards, including medical examinations, which are comparable with U.S. standards, and they have behind the wheel experience operating Joest’s special type of CMV. Joest has two CMVs which are used to transport its private property (i.e., race cars and related equipment) around the United States to participate in the “American Le Mans Series” racing circuit. The four drivers are only in the United States during certain periods.

Joest Racing USA, Inc. does not anticipate any adverse safety impacts from this exemption due to the fact that the German CDLs and German
authorities adhere to very strict testing procedures.

There will always be two qualified drivers in each motor vehicle. The drivers employed by Joest Racing USA, Inc. are fully qualified CMV operators with valid German CDLs. The company ensures that the qualifications are maintained and all current German laws are followed. Due to strict regulations in Germany for drivers holding German CDLs, Joest Racing USA, Inc. believes there will be a greater level of safety than by using United States drivers unfamiliar with its special type of truck/trailer.

Drivers applying to obtain a German CDL must take both a knowledge test and skills test before a license to operate CMVs is issued. Prior to taking the tests, drivers must complete approximately 40 hours of driving lessons. The required driving lessons are generally considered by licensing experts to be among the most difficult in the world. Therefore, the process for obtaining a CDL in Germany is considered to be comparable to, or as effective as the requirements of Part 383 of the Federal requirements and adequately assess the driver’s ability to operate CMVs in the United States.

Once a driver is granted a German CDL he is allowed to drive any CMV currently allowed on German roads. There are no limits to types or weights of vehicles that may be operated by the drivers. The drivers affected by the exemption will be operating tractor-trailer units. The drivers expect to operate CMVs through the States of Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Mississippi, Nebraska, New Mexico, Nevada, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, and Wyoming.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA is requesting public comment from all interested persons on this exemption application. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the address 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, but FMCSA may make its decision at any time after the close of the comment period. In addition to late comments, FMCSA will 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.

Authority: 49 U.S.C. 31136 and 31315; and 49 CFR 1.73.


Julie Anna Cirillo,
Assistant Administrator and Chief Safety Officer.

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2002–12264]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel Freedom.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD’s regulations at 46 CFR part 388 (65 FR 6905, February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before June 13, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–12264. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.


SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD’S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement

(1) Name of vessel and owner for which waiver is requested. Name of vessel: Freedom. Owner: Roderick Nassif.

(2) Size, capacity and tonnage of vessel. According to the applicant: “Size: 52.5; Gross: 28 Tons; Capacity: 12 guests”.

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: “Pleasure charters on the Great Lakes, Intra-Coastal waterway, Florida Keys, and near shores.”

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1993. Place of construction: Queenslands, Australia.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: “The impact will be minimal. The charter business will be operated out of Detroit, MI. This will be a specialty charter business. There are no other boats like this operating out of downtown Detroit. There are a few larger boats, but none this size.”

(6) A statement on the impact this waiver will have on U.S. shipyards.