

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of Mayor Adan Encinias, city of Moriarty, P.O. Box 130, Moriarty, NM.

Issued in Fort Worth, Texas on December 11, 2008.

**Kelvin Solco,**

*Manager, Airports Division.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-25756]

#### Commercial Driver's License (CDL) Standards; Volvo Trucks North America, Inc.'s Exemption Application

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

**ACTION:** Notice of final disposition; granting of application for exemption.

**SUMMARY:** FMCSA announces its decision to grant Volvo Trucks North America, Inc.'s (Volvo) application for an exemption for one of its drivers to enable him to test-drive commercial motor vehicles (CMVs) in the United States without a commercial driver's license (CDL) issued by one of the States. Volvo stated the exemption is needed to support a field test to meet future air quality standards and to test-drive Volvo prototype vehicles to verify results in "real world" environments. Its driver holds a valid CDL issued in Sweden but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes the knowledge and skills testing and training program that drivers must undergo to obtain a Swedish CDL ensures that their drivers will achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

**DATES:** This exemption is effective January 5, 2009 and expires January 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MCP-PSD, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Telephone: 202-366-4325. E-mail: [MCPSPD@dot.gov](mailto:MCPSPD@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the CDL requirements in 49 CFR 383.23 for a 2-year period 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 such exemption \* \* \* " (49 CFR 381.305 (a)). FMCSA has evaluated Volvo's application on its merits and decided to grant the exemption for its field test engineer, Fredrik Eriksson, for a 2-year period.

##### *Volvo Application for an Exemption*

Volvo applied for an exemption from the 49 CFR 383.23 requirement that the operator of a CMV obtain a CDL issued by one of the States. This section of the Federal Motor Carrier Safety Regulations (FMCSRs) sets forth the standards that States must employ in issuing CDLs. An individual must be a resident of a State in order to qualify for a CDL. The Volvo driver-employee for whom this exemption is sought is a citizen and resident of Sweden; therefore, he cannot apply for a CDL in any State of the United States. A copy of the request for exemption from section 383.23 is in the docket identified at the beginning of this notice.

##### *Swedish Driver*

This exemption enables Fredrik Eriksson to test-drive in the U.S. Volvo CMVs that are assembled, sold or primarily used in the U.S. Volvo currently employs this driver in Sweden, and wants him to be able to test-drive Volvo prototype vehicles at its test site and in the vicinity of Phoenix, Arizona, to verify vehicle results in "real world" environments. He is a highly trained, experienced CMV operator with a valid Swedish-issued CDL. Because he was required to satisfy strict CDL testing standards in Sweden to obtain a CDL and has extensive training and experience operating CMVs, Volvo believes that the exemption will maintain a level of safety equivalent to the level of safety that would be obtained absent the exemption.

##### *Method To Ensure an Equivalent or Greater Level of Safety*

According to Volvo, drivers applying for a Swedish-issued CDL must undergo a training program and pass knowledge and skills tests. Volvo believes the knowledge and skills tests and training

program that these drivers undergo to obtain a Swedish CDL ensure the exemption would provide a level of safety that is equivalent to, or greater than, the level of safety obtained by complying with the U.S. requirement for a CDL. In addition, Volvo has submitted a copy of the violation-free Swedish driving record of this driver.

FMCSA had previously determined that the process for obtaining a Swedish-issued CDL adequately assesses the driver's ability to operate CMVs in the U.S. Therefore, the process for obtaining a Swedish-issued CDL is considered to be comparable to, or as effective as, the requirements of 49 CFR part 383.

#### Comments

The Agency received no response to its request for public comments published in the **Federal Register** on September 5, 2008 (73 FR 51879).

#### Terms and Conditions for the Exemption

Based upon evaluation of the application for an exemption, FMCSA grants Volvo an exemption from the CDL requirement in 49 CFR 383.23 for its driver, Fredrik Eriksson, to test-drive CMVs within the United States, subject to the following terms and conditions: (1) That this driver will be subject to drug and alcohol regulations, including testing, as provided in 49 CFR part 382, (2) that this driver is subject to the same driver disqualification rules under 49 CFR parts 383 and 391 that apply to other CMV drivers in the U.S., (3) that this driver keep a copy of the exemption on the vehicle at all times, (4) that Volvo notify FMCSA in writing of any accident, as defined in 49 CFR 390.5, involving this driver, and (5) that Volvo notify FMCSA in writing if this driver is convicted of a disqualifying offense described in section 383.51 or 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The driver for Volvo fails 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. 31315 and 31136.

Issued on: December 19, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-25290]

#### Commercial Driver's License Standards; Isuzu Motors America, Inc.'s Exemption Application

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

**ACTION:** Notice of final disposition; granting of application for exemption.

**SUMMARY:** The FMCSA announces its decision to approve Isuzu Motors America, Inc.'s (Isuzu), application for an exemption for a period of 2 years for 27 of its driver-employees who are citizens and residents of Japan and hold a Japanese CDL, to enable them to test-drive commercial motor vehicles (CMVs) in the United States without a commercial driver's license (CDL) issued by one of the States. Isuzu requested the exemption so that these driver-employees can operate as a team, evaluating and testing production and prototype CMVs in the United States in order to assist in the design of safe vehicles for sale in the United States. FMCSA believes the knowledge and skills testing and training program that Japanese drivers must undergo to obtain a Japanese CDL ensures a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

**DATES:** This exemption is effective on January 5, 2009 and expires on January 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert F. Schultz, Jr., FMCSA Office of Bus and Truck Standards and Operations, Driver and Carrier Operations Division, Telephone: 202-366-4325, or e-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a maximum of 2 years 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 such exemption \* \* \*”. The procedure for requesting an exemption is prescribed by 49 CFR part

381. FMCSA has evaluated Isuzu's application on its merits and decided to grant the exemption from 49 CFR 383.23 for the 27 Isuzu employees listed under “Japanese Drivers” below for a 2-year period.

#### Isuzu Application for an Exemption

Isuzu has applied for an exemption from the requirement of 49 CFR 383.23 that operators of CMVs must obtain a CDL from one of the States. Specifically, it asks that 27 of its employee-drivers who are citizens and residents of Japan and hold a Japanese CDL be permitted to operate a CMV in the United States for a period of 2 years. The exemption would allow these individuals to test-drive Isuzu CMVs without a CDL issued by one of the States. A copy of the request for exemption is in the docket identified at the beginning of this notice.

#### Comments

On August 25, 2008, FMCSA published a notice of Isuzu's application for exemption (73 FR 50065), and requested comments from the public. Only one brief comment was received; it urged FMCSA to deny the exemption because the author believed that the 27 Isuzu employees should be required to comply with the CDL law. The comment did not address the qualifications of these employees to operate CMVs, nor did it address the core issue as defined by 49 U.S.C. 31315 and 31136(e), *i.e.* whether granting these exemptions will lower the level of safety of CDL operations in the U.S. below the level of safety that would be experienced if this exemption were denied.

#### Japanese Drivers

This exemption enables the following 27 drivers to operate CMVs in the U.S. without a CDL for a period of 2 years: Yasushi Akazawa, Kenji Takashima, Kunihiisa Nagata, Hidenori Seki, Toshihiko Morikawa, Koichi Uneo, Atsushi Fujiwara, Katsushi Suzuki, Mitsugu Yamamoto, Takashi Nakaya, Takahisa Chiba, Shigeru Kitano, Daisuke Mori, Takahiro Kakizaki, Takamasa Ono, Koichi Sekine, Shinichi Takahashi, Shinya Ogawa, Masamitsu Oohata, Tamotsu Watanabe, Masahito Suzuki, Kazuya Suwa, Hiroshi Yokobori, Tatsuji Kitamura, Shinichi Ishiguro, Takashi Hiromatsu, and Jun Mizushima.

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

These Isuzu drivers are citizens and residents of Japan, have valid Japanese-issued CDLs, and are experienced CMV operators. Drivers applying to obtain a

Japanese-issued CDL must successfully pass a knowledge test and a skills test before a license to operate a CMV is issued. Prior to taking the tests, drivers are required to hold a conventional driver's license for at least 3 years. A driver granted a Japanese CDL may legally operate any CMV permitted on the roads of Japan. Thus, the requirements of a Japanese-issued CDL are considered comparable to, or as effective as, the requirements for a U.S. CDL (49 CFR part 383). Isuzu believes that these drivers will operate in such a manner that the level of safety with the exemptions in place will equal, or exceed, the level of safety that would be attained in the absence of the exemption.

#### FMCSA Decision

The FMCSA decision to grant these 27 drivers an exemption from Section 383.23 is based on the merits of the application for exemption, the rigorous knowledge and skills testing of Japanese drivers concerning the safe operation of CMVs, and consideration of the comment submitted in response to the public notice.

#### Terms and Conditions of the Exemption

Exemption from the requirements of Section 383.23 is granted to the 27 individuals identified under the “Japanese Drivers” heading above, subject to the following terms and conditions: (1) That these drivers are subject to the drug and alcohol regulations, including testing, as provided in 49 CFR part 382, (2) that these drivers are subject to the same driver disqualification rules under 49 CFR parts 383 and 391 that apply to other CMV drivers in the United States, (3) that these drivers keep a copy of the exemption in the CMV they are driving at all times, (4) that Isuzu notify FMCSA in writing of any accident, as defined in 49 CFR 390.5, involving one of the exempted drivers, and (5) that Isuzu notify FMCSA in writing if any driver is convicted of a disqualifying offense described in section 383.51 or 391.15 of the Federal Motor Carrier Safety Regulations.

The exemption will be revoked if: (1) The Isuzu drivers 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. 31315 and 31136.