

engineers and technicians on May 12, 2006 (71 FR 27780). Detailed information about the qualifications and experience of each of the 11 drivers, including the 5 drivers who are the subject of this notice, was provided by Volvo in its original application, a copy of which is in the docket referenced above. On February 4, 2008, Volvo's request for renewal of the exemption for 8 of the original 11 exempt individuals was approved for an additional period of 2 years (73 FR 6552). FMCSA has evaluated Volvo's current application for renewal of 5 of the 8 individuals on its merits and decided to grant renewal of this Volvo exemption for an additional 2-year period, i.e. from February 4, 2010, through February 4, 2012.

Volvo is seeking a renewal of this exemption because the drivers it employs are citizens and residents of Sweden, and cannot easily obtain non-resident CDLs, given the small number of States willing to issue such license. Renewal of the exemption will enable the five drivers to operate CMVs in the U.S. and continue to support Volvo's field tests to meet future clean air standards, to test drive prototype vehicles at their test site, and to deliver the vehicles, if necessary. It is estimated that each driver will drive approximately 2,500 miles per year on U.S. roads. Each of the 5 drivers is an experienced CMV operator holding a valid Swedish-issued CDL. Each driver has received extensive CMV training, and has satisfied strict regulations in Sweden in order to obtain a CDL. Volvo explained in detail in earlier exemption requests in this docket the rigorous training program, and knowledge and skills tests, that applicants for a Swedish CDL must undergo. Volvo also stated in prior exemption requests that it believes that the knowledge and skills tests and training program ensure the exemption provides 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.

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

FMCSA has previously determined the process for obtaining a Swedish CDL is comparable to, or as effective as, the Federal requirements of Part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. In the past 2 years, FMCSA has published several notices of similar Volvo exemption requests; the most recent Agency notice of final disposition was published on May 5, 2009, granting an exemption to seven Volvo drivers for two years (74 FR 20778).

#### Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on the renewal of Volvo's exemption from the requirements of 49 CFR 383.23 for these five individuals. The Agency requests that interested parties with specific data concerning the safety records of the five drivers listed in this notice submit comments by July 14, 2010. FMCSA will review all comments received by this date and determine whether renewal of the exemption is consistent with the requirements of 49 U.S.C. 31315 and 31136(e).

FMCSA believes the requirements for renewal of an exemption under 49 U.S.C. 31315 and 31136(e) can be satisfied by initially granting the renewal and then requesting and subsequently evaluating comments submitted by interested parties. As indicated above, on two prior occasions, the Agency has determined that providing exemption for these five Volvo drivers from the CDL requirements of 49 CFR 383.23 does not compromise the level of safety that would exist if the exemption were not granted. Each of the prior FMCSA decisions was based on careful consideration of the comments received, and on the merits of each driver's demonstrated knowledge and skills about the safe operation of CMVs.

Interested parties or organizations possessing information that would show that any or all of these drivers are not currently achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse information submitted and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will take immediate steps to revoke the exemption of the driver(s) in question.

Issued on: June 4, 2010.

#### Larry W. Minor,

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-14264 Filed 6-11-10; 8:45 am]

**BILLING CODE 4910-EX-P**

#### DEPARTMENT OF TRANSPORTATION

#### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0027]

#### Hours of Service of Drivers: RockTenn, Application for Exemption

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

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

**SUMMARY:** FMCSA announces that it has received an application from RockTenn requesting an exemption from the driver hours-of-service (HOS) provisions in Part 395 of the Federal Motor Carrier Safety Regulations. The exemption request is for RockTenn's shipping department employees and occasional substitute commercial driver's license (CDL) holders who transport paper mill products between their shipping and receiving locations on a public road. RockTenn requests this exemption to allow these individuals to work up to 16 hours per day and be allowed to return to work with less than the mandatory 10 consecutive hours off-duty. FMCSA requests public comment on the RockTenn application for exemption.

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

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2010-0027 by any of the following methods:

- *Federal eRulemaking Portal:* <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, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., 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 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 below.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

[www.regulations.gov](http://www.regulations.gov), and follow the online instructions for accessing the dockets, or go to the street address listed above.

**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://DocketInfo.dot.gov>.

**Public participation:** The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal 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. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Telephone: 202-366-4325. E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. Under its regulations, 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 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)) with the reason for denying or, in the alternative, the

specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which the 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 381.300(b)).

##### **Request for Exemption**

Under 49 CFR 395.3(a)(2), a property-carrying commercial motor vehicle (CMV) driver is prohibited from operating a CMV on a public road after having been on duty for 14 consecutive hours following 10 or more consecutive hours off duty. Once an individual has reached the end of this 14 consecutive-hour period, he or she cannot drive a CMV again without taking a minimum of 10 consecutive hours off duty.

RockTenn operates a paper mill located in Chattanooga, Tennessee, their principal place of business. Their shipping and receiving departments are on opposite sides of the paper mill, requiring their employees/drivers to travel on a public road to shuttle trailers as needed. These individuals utilize this public road (Compress Street) an average of forty times per day to go from their shipping to receiving department and to load their trailers in the shipping department. RockTenn notes that its drivers do not transport any material farther than its paper mill lots and/or Compress Street. The distance traveled on Compress Street is approximately 275 feet in one direction, and one tractor is used to perform this work. Included in RockTenn's application are pictures and a line drawing that specifically illustrates this distance traveled by these drivers.

RockTenn currently requires all shipping department employees to have the required 10 hours off duty prior to returning to work and only allows them to work a maximum of 14 consecutive hours on any given day. They have three 8-hour shifts up to 7 days a week, and there are two shipping employees on each shift. One employee drives a fork-lift truck loading trailers with finished goods, and the other operates the tractor shuttling trailers. RockTenn states that these employees do not drive the CMV continuously during their shift(s).

According to RockTenn, the problem arises on a Monday, for example. If an individual worked the weekend, two of his or her shifts would normally have to "hurry back" within 8 hours. As a result of the mandatory 10 hours off-duty requirement, RockTenn schedules these drivers' shifts to start later than other employees. This creates at least 2 hours when the company cannot load or

transport trailers with finished goods due to the absence of the drivers. Furthermore, as a result of the maximum 14 consecutive-hour duty period rule (49 CFR 395.3(a)(2)), they may "work short," creating on-time delivery issues for other employees in the department, as they are not allowed to work an entire "double shift" (16 hours).

RockTenn requests an exemption from 49 CFR part 395 for their shipping department employees, as well as others with a valid CDL who on occasion must substitute, allowing all such drivers to work up to 16 hours in a day and return to work with a minimum of at least 8 hours of rest. By waiving the normal hours of service requirement, these employees can follow the same work schedule as other RockTenn employees on their shift, and will be able to take advantage of the full 16 hours of a "double shift." RockTenn can therefore minimize the chances of delayed shipments that can occur when their employees are allowed to work a normal schedule. In its application, RockTenn provided a list of around 11 "approved" CDL drivers working in the shipping department who would be covered by the exemption.

RockTenn acknowledges in its application that these drivers would still be subject to all of the other Federal rules and regulations, including possessing a CDL, random drug testing, medical certification, and other driver-qualification requirements. RockTenn, however, does not specifically advise how they would ensure that the exemption would provide a level of safety that is equivalent to, or greater than, the level of safety obtained by complying with the Federal hours-of-service regulations.

A copy of the RockTenn exemption application is available for review in the docket identified earlier in this notice.

##### **Request for Comments**

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on the RockTenn application for an exemption from the provisions of 49 CFR part 395. The Agency will consider all comments received in the public docket by close of business on July 14, 2010, and those after the closing date of the comment period to the extent practicable. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Issued on: June 4, 2010.

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-2010-0166]

#### Parts and Accessories Necessary for Safe Operation; Applications for an Exemption From Con-Way Freight, TK Holdings, Inc., and Iteris, Inc.

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

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

**SUMMARY:** FMCSA requests public comment on applications for exemption from Con-way Freight (Con-way), TK Holdings, Inc. (Takata), and Iteris, Inc. (Iteris) regarding the placement of lane departure warning system sensors at the top of the windshields of commercial motor vehicles (CMVs). Each applicant requests that FMCSA permit the mounting of the lane departure warning system sensors near the top of the windshield, and within the swept area of the windshield wipers, which is currently prohibited by the Agency's regulations. The lane departure warning system would be used to alert a driver when he or she unintentionally drifts out of their lane of travel, thus promoting improved safety performance of CMV drivers. Each applicant contends that this mounting position does not adversely impact driver visibility.

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

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-2010-0166 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)).

#### Applications for Exemption

On November 11, 2009, Con-way applied for an exemption from 49 CFR 393.60(e)(1) to allow it to install lane departure warning system sensors on 1,272 of its newly purchased power units. Takata and Iteris submitted nearly identical exemption applications on December 15, 2009 and on February 25, 2010, respectively. Copies of each of the applications are included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

Each of the applicants note that over the past several years, FMCSA has collaborated with the trucking industry to test, evaluate, and encourage the deployment of several promising onboard safety systems for CMVs in an effort to enhance the safety of all roadway users. From a motor carrier perspective, Con-way states that it would like to make an investment in