

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[FMCSA Docket No. FMCSA-2005-22938]

**Commercial Driver's License 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 from the Agency's requirement for drivers of commercial motor vehicles (CMVs) to hold a commercial driver's license (CDL). Volvo requested an exemption for 11 Swedish engineers and technicians who will test drive CMVs in the United States (U.S.) for Volvo. All of the individuals hold a valid Swedish CDL and have been trained to drive CMVs in Sweden. The individuals normally work at Volvo in Sweden where their duties involve developing, designing, and testing engines for CMVs that will be manufactured, assembled, sold, or primarily used in the U.S. FMCSA believes the terms and conditions of the exemption will ensure that the level of safety for the drivers is equivalent to or greater than the level of safety that would be achieved by complying with the Federal regulations. The exemption will preempt inconsistent State requirements applicable to interstate commerce.

**DATES:** The exemption is effective May 12, 2006. The exemption expires May 12, 2008.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffrey J. Van Ness, (202) 366-8802, Office of Bus and Truck Standards and Operations (MC-PSV), Federal Motor Carrier Safety Administration, DOT, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Background**

Sections 31136 and 31315 of Title 49, United States Code (U.S.C.) authorize FMCSA to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). An exemption provides relief from one or more FMCSRs to a person or class of persons subject to the regulations. An exemption lasts for up to 2 years, and may be renewed. When evaluating applications,

these sections also require the Agency to consider whether the terms and conditions for the exemptions would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulations.

The Agency must publish a notice in the **Federal Register** for each exemption requested, explaining that the request has been filed, providing the public with an opportunity to inspect the safety analysis and any other relevant information known to the agency; and provide an opportunity for public comment on the exemption. (See 49 U.S.C. 31315(b)(4) and 49 CFR part 381.315). The notice must state: (1) Who will receive the exemption, (2) what regulation is covered by the exemption, (3) how long the exemption is in effect, and (4) all terms and conditions of the exemption, complying with the regulation.

**Volvo Application for an Exemption**

Volvo applied for an exemption from the commercial driver's licensing rules, specifically 49 CFR 383.23, which provides licensing requirements for drivers operating CMVs in interstate and intrastate commerce. Volvo requested the exemption because the drivers they employ are citizens and residents of Sweden and may not apply for a CDL from a State in the United States. A copy of the application is in the docket identified at the beginning of this notice.

The exemption would allow the following drivers to operate tractor trailer combination vehicles in interstate and intrastate commerce as part of a team of drivers to develop, design and/or test engines for CMVs that will be manufactured, assembled, sold or primarily used in the United States: Christer Milding, Jonas Gustafsson, Sten-Ake Sandberg, Daniel Kanebratt, Urban Walter, Dennis Mattsson, Fredrik Wattwill, Jonas Nilsson, Bjorn Nyman, Lars Johansson and David Aas.

These drivers are a team of designers, currently employed by Volvo in Sweden, who want to drive CMVs in the U.S. to test and evaluate prototype and production CMVs in order to design safe and well-tested vehicles for use on U.S. highways. They are fully qualified CMV operators with valid Swedish CDLs. The company ensures that driver qualifications are maintained and all current Swedish laws are followed. Due to strict licensing and testing regulations in Sweden for drivers who seek CDLs, and the extensive CMV training and experience of these II drivers, Volvo believes that the exemption is likely to achieve 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**

Drivers applying to obtain a Swedish CDL must take both a knowledge test and skills test before a license to operate CMVs is issued. This process is considered comparable to, or as effective as, the requirements of Part 383 and adequately assesses the driver's ability to operate CMVs in the U.S.

Once a driver is granted a Swedish CDL, he/she is allowed to drive any CMV currently allowed on Swedish roads. There are no limits to types or weights of vehicles that may be operated by the drivers.

**Discussion of Comments**

On February 9, 2006, FMCSA published a notice that Volvo had applied for an exemption on behalf of the above-referenced 11 drivers, and requested comments from the public (71 FR 6822). The comment period closed on March 13, 2006. FMCSA received five comments, two opposing and three supporting the exemption. Barb Sachau opposed granting the exemption, stating that she believes there are U.S. drivers that can be employed by Volvo to test the vehicles under extreme conditions. She believes U.S. drivers are more familiar with local weather conditions, and that this familiarity would be an advantage for the testing. She also noted that U.S. drivers need the work.

Eddie Roman opposed the exemption, arguing that allowing it would set precedents for other organizations to request similar exemptions, and that it would be impossible to cite the Swedish drivers for any violations while they are operating on U.S. highways.

Jeremiah Keller supported granting the exemption as long as the Swedish CDL requirements are equivalent to or stricter than U.S. requirements. Bryan Montgomery also supported granting the exemption because it would allow these engineers and technicians to create the safest commercial vehicles. He stated that the requirements to obtain a Swedish CDL are equivalent to or greater than the requirements to obtain a U.S. CDL, and added that innovation in commercial vehicle safety may be shared globally.

Stephen Hadley favored the exemption, since the expertise and experience of these individuals would benefit commercial vehicle safety. He added that the exemptions are for short-term test driving positions, and thus would not adversely affect the employment of U.S. commercial drivers.

### FMCSA Response to the Comments

Although two commenters opposed granting the exemptions, FMCSA believes that granting them would achieve a level of safety equivalent to, or greater than, the level of safety that would be achieved by complying with the FMCSRs.

FMCSA has concluded that the drivers for Volvo have the knowledge and skills necessary to safely operate CMVs in the U.S. FMCSA determined that the Swedish CDLs are comparable to the CDLs issued by the various State licensing agencies, CMV drivers in both Sweden and the U.S. are given knowledge and skills tests before a CDL is issued. There is no data to suggest that familiarity with weather conditions within the U.S. provides a driver with an improved degree of safety of operation of a CMV. Swedish winter weather is at least as bad as anything in this country. These drivers have demonstrated that they can safely operate a CMV under a variety of weather conditions. There is no readily apparent reason to believe they would be less safe operating a CMV under weather conditions found in the U.S.

FMCSA does not believe granting the exemption will reduce the available employment for U.S. drivers. Volvo is requesting this exemption for engineers and technicians who are involved in developing, designing, and testing engines for CMVs that will be manufactured, assembled, sold, or primarily used in the U.S. Consequently, these individuals possess a knowledge of the vehicles that is not available to U.S. drivers. They are also able to communicate that knowledge among themselves, and with other Swedish officials of Volvo in a language not familiar to American drivers. These drivers would not transport passengers or freight, nor are they paid on a per-mile basis. Both their incentives and their opportunities to violate the Federal Motor Carrier Safety Regulations are minimal.

Drivers covered by this exemption continue to be subject to U.S. safety regulations and penalties for violating such regulations. As part of the terms and conditions of this exemption, the drivers must: (1) Comply with controlled substances and alcohol testing regulations under 49 CFR 382, (2) meet the same driver qualification and disqualification rules under 49 CFR 383 and 391 that apply to other CMV drivers in the U.S., and (3) maintain a copy of the exemption on the vehicle at all times. Volvo must notify FMCSA in writing (4) of any accident, as defined in 49 CFR 390.5, involving a driver

covered by this exemption, and (5) if any driver is convicted of disqualification offenses in 49 CFR 383.51 or 391.15. Violations observed by State or local officials may be reported directly to FMCSA. If the violations suggest that the terms and conditions of the exemption have not been satisfied FMCSA will immediately revoke the exemption as required by 49 U.S.C. 31315(b)(2). Additionally, FMCSA may revoke the exemption if the Volvo's drivers fail to comply with the terms and conditions of the exemption, or if the exemptions have resulted in a lower level of safety than was maintained by Volvo's test operations before it was granted.

### Basis for FMCSAs Determination

FMCSA believes granting the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption because the drivers hold valid Swedish CDLs issued after passing knowledge and skills tests comparable to those required of U.S. CDL holders. Volvo's drivers are required to meet all applicable FMCSRs, except for having a State-issued CDL. Drivers who meet the above license testing and driver qualification standards have the experience necessary to operate these vehicles.

### Terms and Conditions for the Exemption

After considering the comments to the docket, and based upon its evaluation of the application for an exemption, FMCSA grants 11 drivers for Volvo an exemption from the Federal commercial driver's license requirement in 49 CFR 383.23: Christer Milding, Jonas Gustafsson, Sten-Ake Sandberg, Daniel Kanebratt, Urban Walter, Dennis Mattsson, Fredrik Wattwill, Jonas Nilsson, Bjorn Nyman, Lars Johansson and David Aas. They may test drive CMVs within the U.S., subject to the following terms and conditions: (1) That these drivers comply with the controlled substances and alcohol testing regulations under 49 CFR 382, (2) that these drivers meet the same driver qualification and disqualification rules under 49 CFR 383 and 391 that apply to other CMV drivers in the U.S., (3) that these drivers 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 a driver covered by this exemption and, (5) that Volvo notify FMCSA in writing if any driver is convicted of any disqualification offenses in 49 CFR 383.51 or 391.15.

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

Issued on May 8, 2006.

**Warren E. Hoemann,**

*Acting Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-2000-7257]

### [Notice No. 36]; Railroad Safety Advisory Committee (RSAC); Working Group Activity Update

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

**ACTION:** Announcement of Railroad Safety Advisory Committee (RSAC) Working Group Activities.

**SUMMARY:** The FRA is updating its announcement of RSAC's Working Group activities to reflect its current status.

**FOR FURTHER INFORMATION CONTACT:** Patricia Butera or Lydia Leeds, RSAC Coordinator, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493-6212/6213 or Grady Cothen, Deputy Associate Administrator for Safety, FRA, 1120 Vermont Avenue, NW., Mailstop 25, Washington, DC 20590, (202) 493-6302.

**SUPPLEMENTARY INFORMATION:** This notice serves to update FRA's last announcement of working group activities and status reports of December 6, 2005, (70 FR 73513). The 28th full Committee meeting was held February 22, 2006.

Since its first meeting in April of 1996, the RSAC has accepted twenty-two tasks. Status for each of the tasks is provided below:

### Open Tasks

*Task 96-4*—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on