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**Authority:** Pub. L. 91-646 as amended, 23 U.S.C. 315, 49 CFR 1.48.

**Susan B. Lauffer,**

*Director, Office of Real Estate Services.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2002-12162]

#### Commercial Driver's License Standards; Exemption Application From Joest Racing USA, Inc.

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

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

**SUMMARY:** The FMCSA has received an application from Joest Racing USA, Inc. (petitioner), a private carrier based in Tucker, GA, for an exemption from the commercial driver's licensing (CDL) requirements. Petitioner states an exemption is necessary to enable four drivers it employs to engage in interstate commerce transporting private property, comprised of race cars and related parts. Petitioner points out that its drivers are citizens and residents of Germany who would only enter the United States on average three times a year, for up to three months per trip. In support of its application, petitioner asserts that granting the exemption would have no impact on public safety because the drivers involved presently hold valid Germany-issued CDLs. In addition, petitioner states the comprehensive training and testing, that drivers holding German CDLs must undergo, ensures a greater level of safety. FMCSA invites interested parties to submit comments on the merits of the application, including whether FMCSA should grant or deny it.

**DATES:** Comments must be submitted by June 13, 2002.

**ADDRESSES:** You may submit your comments to the Docket Clerk, Docket No. FMCSA-2002-12162, U.S. Department of Transportation, Dockets Management System (DMS), Room PL-401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590. Please note that due to delays in the delivery of U.S. mail, we recommend sending your comments by fax at (202) 493-2251, via the Internet using the DMS Web site at <http://dmses.dot.gov/submit>, or by professional delivery service. If you

would like the DMS to acknowledge receipt of your comments, you must include a self-addressed, stamped postcard, or you may print the acknowledgment page that appears after you submit comments electronically. The DMS is open for examination and copying, at the above address, from 9 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Teresa Doggett, (202) 366-2990, Office of Bus and Truck Standards and Operations (MC-PSD); or Mr. Charles Medalen, (202) 366-0834, Office of the Chief Counsel (MC-CC), 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:

##### Electronic Access and Filing

All comments and related documents in the docket are also available for inspection and copying through the DMS Web site at <http://dms.dot.gov>.

##### Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA-21) (Public Law 105-178, 112 Stat. 107, now codified at 49 U.S.C. 31315 and 31316), requires FMCSA to publish a notice in the **Federal Register** for each exemption requested explaining that the request has been filed, provide the public with an opportunity to inspect the safety analysis and any other relevant information known to the agency, and provide an opportunity to comment on the request. Prior to granting a request for an exemption, the agency must publish a notice in the **Federal Register** identifying the person or class of persons who will receive the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption. The terms and conditions established by FMCSA must ensure that the exemption will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with the regulation.

On December 8, 1998, FMCSA published an interim final rule implementing section 4007 of TEA-21 (63 FR 67600). The regulations at 49 CFR part 381 establish the procedures to be followed to request waivers and to apply for exemptions from the FMCSRs, and the provisions used to process them.

#### 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 also 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.

Issued on: May 3, 2002.

**Julie Anna Cirillo,**

*Assistant Administrator and Chief Safety Officer.*

[FR Doc. 02-12036 Filed 5-13-02; 8:45 am]

**BILLING CODE 4910-EX-P**

## 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>.

#### FOR FURTHER INFORMATION CONTACT:

Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR-832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-2307.

**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 shore."*

(4) Date and Place of construction and (if applicable) rebuilding. *Date of construction: 1993. Place of construction: Queenlands, 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.