

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

[Docket No. FMCSA-2008-0078]

**Commercial Driver's License (CDL) Standards; Rotel North American Tours, LLC; Application for Renewal of Exemption; Request for Comments****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of application for renewal; request for comments.

**SUMMARY:** FMCSA announces that Rotel North American Tours, LLC (Rotel), has applied for renewal of its current exemption permitting 22 named drivers, employed by Rotel and possessing German CDLs, to operate commercial motor vehicles (CMVs) in the United States without a CDL issued by one of the States. Rotel asks that the current exemption, due to expire on July 30, 2010, be renewed subject to the terms and conditions of the current exemption for an additional period of 2 years.

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

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2008-0078 by any of the following methods:

*Web site:* 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, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

*Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 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 2008-0078. 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 the street address listed above, or go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of the 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 considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Robert Schultz, Jr., 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 application 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 application.

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 complying with 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)).

Rotel provides motorcoach tours in the U.S., Mexico and Canada for German and Austrian tourists. Rotel bus drivers operate the CMV during the day. They also prepare dinner and breakfast for the customers each day during the trip; Rotel CMVs incorporate cooking and sleeping facilities.

Rotel states that none of the States of the U.S. will issue CDLs to Rotel's drivers because they are not State residents; until recent years, most States would issue non-resident CDLs to Rotel's drivers. Rotel asserts that without the exemption from the requirement that its drivers have a CDL issued by a State, it would have to terminate these tour operations. Complete details of Rotel's operations, including its original application for exemption dated August 27, 2007, can be found in the docket of this notice.

On July 30, 2008, after notice and comment, FMCSA granted Rotel's request to allow 22 drivers, each holding a German CDL, to operate Rotel motor coaches in the U.S. without a CDL issued by one of the States as required by 49 CFR 383.23. FMCSA found that these drivers, operating specialty tour buses in the U.S., would "likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption," in accordance with 49 CFR 381.305. The two-year exemption expires on July 30, 2010.

**Rotel's Request for Renewal**

By letter dated December 21, 2009, Rotel applied for renewal of its current exemption from the requirement that operators of CMVs obtain a CDL from one of the States. The letter is available in the docket for this notice. Rotel asks that the 22 individuals who are currently exempt continue to be exempt from the CDL licensing requirement of 49 CFR 383.23 for an additional 2 years. Each of these individuals is a non-resident of the U.S., a holder of a valid German CDL, and an experienced CMV operator. The drivers are, as follows:

Josef Dangl	Rudolf Ramsl
Reinfried Dangi	Paul Schlögl
Herbert Erber	Walter Schreiner
Helmut Erbersdobler	Josef Stockinger
Wilhelm Fuchs	Josef Vogl

Peter Hess	Klaus Weber
Michael Huber	Markus Wöflf
Gerhard Kinateder	Norbert Zechmesiter
Hermann Lichtenauer	Klaus Endres
Franz Manzinger	Sebastian Nicki
Fabian Maurer	Karl-Heinz Schmitz

Rotel believes these drivers continue to possess sufficient knowledge, skills, and experience to ensure a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the requirement for a U.S. CDL. If the Agency determines that this application for renewal should be granted, the Rotel drivers would be subject to the terms and conditions of the current Rotel exemption.

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on Rotel's request for renewal of its exemption to allow the 22 Rotel CDL drivers named above to continue to be exempt from 49 CFR 383.23 from July 31, 2010, through July 31, 2012. FMCSA will consider all comments received by close of business on July 14, 2010. All comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: June 4, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-14223 Filed 6-11-10; 8:45 am]

**BILLING CODE 4910-EX-P**

## 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 two Volvo drivers to drive commercial motor vehicles (CMVs) in the United States without possessing the requisite CDL issued by one of the States. Magnus Ericsson and Conny Harlin are part of a team of Volvo engineers and technicians test-driving

Volvo prototype CMVs in U.S. environments. Each of these drivers holds a valid Swedish CDL but lacks the U.S. residency necessary to obtain a CDL issued by one of the States of the U.S. FMCSA believes the rigorous training and testing that drivers must undergo to obtain a Swedish CDL, and the excellent safety record of both of these drivers, ensure that these drivers 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.

**DATES:** This exemption is effective April 16, 2010 and expires on April 16, 2012.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Schultz, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC-PSD, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-4325. 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 from certain Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR part 350 *et seq.*) for up to 2 years. The Agency must find that the exemption will allow the applicant to implement more effective or efficient operations and "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)). Exemptions are renewable.

The FMCSA has granted comparable exemptions for Volvo drivers in the past. The most recent Agency notice of final disposition was published on May 5, 2009, granting exemption for the same purpose to seven Volvo drivers with Swedish CDLs (74 FR 20778).

##### Volvo Application for Exemption

Volvo applied for exemption for drivers Magnus Ericsson and Conny Harlin from 49 CFR 383.23 of the CDL rules, requiring drivers operating CMVs to have 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. This exemption is necessary for these drivers to be qualified to drive CMVs in the United States. The Volvo CMVs in question are assembled, sold or primarily used in the United States, and must be subjected to various field tests in this country before being placed on the U.S. market. The tests are conducted by Volvo engineers and technicians at Volvo's U.S. test site and on public

roads in the vicinity of Phoenix, Arizona. The vehicle safety and performance data drawn from the test-driving is a critical component of the overall evaluation of a prototype.

Section 383.21 requires drivers of CMVs in the United States to have a CDL issued by a State. Ericsson and Harlin are citizens and residents of Sweden. Only residents of a State can apply for a CDL,<sup>1</sup> so Ericsson and Harlin cannot apply for a CDL in this country. Without the exemption, Ericsson and Harlin would not be able to test-drive Volvo prototype CMVs on U.S. roads.

Ericsson and Harlin hold Swedish CDLs and are experienced operators of CMVs. In addition, Volvo submitted documentation showing that the Swedish driving records of both Ericsson and Harlin are free of violations.

##### 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 must pass knowledge and skills tests. Volvo believes that the rigor of this process ensures that this exemption will likely 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. FMCSA has previously determined that the process for obtaining a CDL in Sweden adequately assesses the driver's ability to operate CMVs in the U.S., and is comparable to, or as effective as, the process for obtaining a CDL issued by a State.

##### Comments

No comments were received in response to an FMCSA notice of this application and request for comments, published on January 19, 2010 (75 FR 2921).

##### FMCSA Decision

Based upon the merits of this application, including the extensive driving experience and unblemished safety records of Magnus Ericsson and Conny Harlin, and the rigorous training and testing each successfully completed to obtain a Swedish CDL, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, in accordance with 381.305(a). On April 16, 2010, FMCSA granted an exemption from 49 CFR

<sup>1</sup> Although 49 CFR 383.23 indicates that these drivers could obtain a Nonresident CDL, few States—if any—are currently issuing Nonresident CDLs.