



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0347]

Commercial Driver's License Standards: Application for Exemption; Navistar, Inc.

(Navistar)

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

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to Navistar, Inc. (Navistar) and five engineers/drivers from the commercial driver's license (CDL) regulations for Jonas Hellström, Sofie Svanström, Erik Holma, Jonas Udd, and Mikael Öun. These Swedish project engineers who will test drive commercial motor vehicles (CMVs) for Navistar within the United States. All five engineers work for Scania AB in Sweden (part of the Volkswagen Group), which is partnering with Navistar to develop improved fuel economy and emissions reductions. The Scania drivers all hold valid Swedish commercial licenses and need to test drive Navistar vehicles on U.S. roads to better understand product requirements in "real world" environments and to verify results. FMCSA believes the requirements for a Swedish commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: This exemption is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and expires December 27, 2024.

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2018-0347” in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT

West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety 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 the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Navistar has applied for an exemption for five drivers from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Navistar requests the exemption because these drivers are all citizens of Sweden and therefore cannot apply for a CDL in any of the U.S. States due to their lack of residency in this country. A copy of the individual applications is in Docket No. FMCSA-2018-0347.

The exemption allows these five drivers to operate CMVs in interstate or intrastate commerce as part of Navistar field tests designed to meet future vehicle safety and environmental requirements and to promote the development of new and advanced emissions reduction systems and fuel efficiency improvements. According to Navistar, the drivers will typically drive for no more than 8 hours per day for 2 consecutive days, and that 50 percent of the test driving will be on two-lane State highways, while 50 percent will be on interstate highways. Each engineer will drive no more than 300 miles per day, and in all cases the drivers will be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

The drivers are Jonas Hellström, Sofie Svanström, Erik Holma, Jonas Udd, and Mikael Öun. The drivers hold valid Swedish commercial licenses and, as explained by Navistar in its exemption request, the requirements for that license ensure that, operating under the exemption, the drivers would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. Navistar requests that the exemptions cover a five-year period for each driver.

IV. Method to Ensure an Equivalent or Greater Level of Safety

As for an equivalent level of safety, Navistar states that the process and requirements for obtaining a Swedish commercial license is 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. The Agency recently granted one of Navistar's drivers a similar exemption [April 15, 2019 (84 FR 15283)]. Furthermore, the Agency has granted German drivers working for Daimler similar exemptions on

December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)]; July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151); and September 10, 2018 (83 FR 45742). The Agency has not received any information or reports indicating there have been safety performance problems with individuals holding Swedish or German commercial licenses who operate CMVs on public roads in the United States.

V. Public Comments

On September 19, 2019, FMCSA published notice of this application and requested public comments (84 FR 49376). One comment was submitted. Mr. Zach Robinson wrote, “I am a general member of the public with no known direct personal stake in this issue: The exemption request should definitely be approved. These drivers hold commercial licenses in their own country and will be accompanied by a U.S. CDL holder. This addresses both safety concerns and American worker-employment concerns. Plus, they are only driving for 2 days. I have no doubt they will be safer than most of the drivers on the road.”

VI. FMCSA Decision

Based upon the merits of this application, including the five Navistar drivers’ extensive driving experience and safety records, FMCSA has concluded that the exemption will 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).

VII. Terms and Conditions for the Exemption

FMCSA grants Navistar and its five drivers, Jonas Hellström, Sofie Svanström, Erik Holma, Jonas Udd, and Mikael Öun, an exemption from the CDL requirement in 49 CFR 383.23 to allow these individuals to drive CMVs in this country without a State-issued CDL, subject to the following terms and conditions:

(1) The drivers and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350-399);

(2) the drivers must be in possession of the exemption document and a valid Swedish commercial license;

(3) the drivers must be employed by and operate the CMV within the scope of their duties for Navistar;

(4) at all times while operating a CMV under this exemption, the drivers must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled;

(5) Navistar must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving any of these drivers; and

(6) Navistar must notify FMCSA in writing if any of these drivers are convicted of a disqualifying offense under § 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 5 years unless revoked earlier by the FMCSA. The exemption will be revoked if:

(1) these five drivers fail to comply with the terms and conditions of the exemption;

(2) the exemption results in a lower level of safety than was maintained before it was granted; or

(3) continuation of the exemption would be inconsistent with the goals and objectives of 49

U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: December 19, 2019.

Jim Mullen,

Acting Administrator.

[FR Doc. 2019-27901 Filed: 12/26/2019 8:45 am; Publication Date: 12/27/2019]