

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

[FMCSA Docket No. FMCSA-2003-14652]

Commercial Driver's License Standards; Isuzu Motors America, Inc. Exemption Application**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Notice of final disposition; granting of application for exemption.

SUMMARY: The FMCSA announces its decision to grant the Isuzu Motors America, Inc. request for an exemption from the Federal commercial driver's license (CDL) requirement in 49 CFR 383.23. The exemption is for 31 Japanese engineers and technicians who will be test-driving commercial motor vehicles (CMVs) for Isuzu. All of the individuals hold a valid Japanese commercial driver's license and are specially trained in driving CMVs in Japan. They normally work at Isuzu Motors Limited in Japan where their duties involve developing, designing, and/or testing engines for CMVs that will be manufactured, assembled, sold or primarily used in the United States. The FMCSA believes that enforcement of the terms and conditions of the exemption would 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 would preempt inconsistent State requirements applicable to interstate commerce.

DATES: The exemption is effective November 17, 2003. The exemption expires October 17, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Doggett, Office of Bus and Truck Standards and Operations, (202) 366-2990, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**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 31136), requires the 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 for public 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 would receive the exemption, the provisions from which the person would be exempt, the effective period, and all terms and conditions of the exemption. The terms and conditions established by the 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, the 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

Isuzu Motors America, Inc. (Isuzu), a private motor carrier of property as defined by 49 CFR 390, filed an application for an exemption from the commercial driver's licensing rules in 49 CFR part 383, that would allow drivers Shintaro Moroi, Shigeru Takamatsu, Norio Takeda, Takeshi Yamagishi, Satoru Amemiya, Toshiya Asari, Yasunori Fujita, Shiro Fukuda, Tetsuya Hiromatsu, Kazunori Ligo, Masao Inoue, Akihuro Kashiwakura, Kinya Kitamura, Tsuyoshi Koyama, Takao Kudo, Wataru Kumakura, Yoshihiko Matsubara, Nobuyuki Miyazaki, Ryo Natsume, Motoki Nishi, Takuo Nishi, Fumio Oota, Masuru Otsu, Toshimitsu Sato, Kazuyoshi Shimamura, Masahito Suzuki, Yasuhito Tahara, Hiroyoshi Takahashi, Takashi Tanabe, Takehito Yaguchi, and Tsutomu Yamazaki—to test-drive CMVs within the United States. According to its application, the drivers working for Isuzu hold current commercial driver's licenses issued by the Japanese authorities. The drivers also meet testing and driver qualification standards, including medical examinations, which are comparable to State-issued CDLs. The Japanese-issued license indicates that the drivers have the knowledge and skills necessary to comply with the Federal Motor Carrier Safety Regulations (FMCSRs). A copy of the application for exemption is in the docket.

Isuzu seeks this exemption because the drivers it employs are citizens and residents of Japan and the company needs their specialized services before

they could qualify for a CDL in the United States. It does not anticipate any adverse safety impacts from this exemption due to the fact that the Japanese authorities adhere to very strict commercial driver testing and licensing procedures.

There will always be two qualified drivers in each motor vehicle. The drivers employed by Isuzu are fully qualified CMV operators with valid Japanese CDLs. The company ensures that the qualifications are maintained and all current laws in Japan are followed. Due to strict regulations in Japan for drivers holding Japanese CDLs, Isuzu believes that it will achieve a greater level of safety than would be achieved if it used United States drivers unfamiliar with its process for testing, designing, and producing safe commercial vehicles.

Drivers applying to obtain a Japanese CDL must take both a knowledge test and skills test before a license to operate CMVs is issued. Prior to taking the tests, drivers are required to hold a conventional driver's license for at least three years. The process for obtaining a Japanese-issued commercial driver's license is very rigorous and comprehensive, and Isuzu considers it to be comparable to, or as effective as, the requirements in part 383 of the FMCSRs. Isuzu believes it adequately assesses the driver's ability to operate CMVs in the United States.

Once a Japanese driver is granted a commercial driver's license, he/she is allowed to drive any CMV currently allowed on roads in Japan. There are no limits to the types or weights of vehicles that may be operated by the drivers. The drivers affected by the exemption will be operating tractor-trailer units. These vehicles will be used for transporting merchandise as a commercial activity. It is estimated that each driver will drive approximately 5,000 miles on U.S. roads. The drivers expect to operate CMVs through the states of Arizona, California, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Nebraska, Nevada, Ohio, Utah, and Wyoming.

Discussion of Comments

On April 30, 2003, the FMCSA published notice of its receipt of an application from Isuzu on behalf of the above-referenced 31 drivers, and requested comments from the public (67 FR 34515). The comment period closed on May 30, 2003. The FMCSA received one comment, which is from Michael D. Millard. Mr. Millard opposes granting Isuzu an exemption from the CDL requirements regardless of the individuals' engineering and mechanical abilities. Mr. Millard

believes that an important safety factor is that these drivers be capable of operating commercial vehicles that have the steering wheel on the left side of the vehicle. Commercial vehicles manufactured in Japan are equipped with steering wheels that are operated from the right side of the vehicle. Mr. Millard stated that the need to train and qualify these drivers in left-side steering maneuvers should be emphasized, since the vehicles being driven could cause a great deal of damage to the public and to private property if involved in an accident. Mr. Millard further stated that Isuzu could hire experienced U.S. drivers to operate its test vehicles, or take the necessary measures to train the Japanese drivers to obtain a CDL issued in the U.S.

FMCSA Response to Comments

Although the commenter opposed granting the exemption, the FMCSA believes that granting the exemption to Isuzu would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved by complying with the FMCSRs.

The FMCSA believes the drivers for Isuzu have the knowledge and skills necessary to safely operate CMVs in the U.S. The FMCSA determined that the Japanese CDLs are comparable to the CDLs that are issued from the various State licensing agencies in the U.S. CMV drivers in both Japan and the U.S. are given extensive and comprehensive knowledge and skills tests and must be medically qualified before a commercial license is issued. There is no data to suggest that a driver's ability to control and maneuver a vehicle in traffic would be contingent upon the placement of the steering wheel in the vehicle. These drivers have demonstrated that they can safely operate a CMV with the steering wheel on the right-side of the vehicle and there is no data to indicate they would be less safe operating CMVs with the steering wheel on the left-side of the vehicle. Alternatively, drivers of certain types of refuse trucks operated in residential neighborhoods in the U.S. drive vehicles with dual steering wheels to enable them to steer from either the left- or the right-side to expedite the collection of garbage. There has been no indication that U.S. drivers are less safe when they operate refuse trucks from the right-side driving position versus the left-side.

Basis for FMCSA's Determination

The agency has determined that it is in the public's interest to grant these exemptions because the drivers are over the age of 21 years, hold currently valid Japanese CDLs that allow them to drive

such vehicles in their home country, and have passed medical examinations that are compatible with the agency's medical standards. The exemptions are likely to 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 exemptions because the drivers will meet all applicable FMCSRs, except for having a State-issued CDL. Drivers, who meet license testing and driver qualification standards, including medical examinations that are compatible with U.S. standards and have behind-the-wheel experience operating these vehicles, will operate the vehicles.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the FMCSA has evaluated the exemption request on its merit, and made a determination to grant the exemption to all of the drivers.

Terms and Conditions for the Exemption

After considering the comments to the docket and based upon its evaluation of the application for an exemption, the FMCSA grants Isuzu an exemption from the Federal commercial driver's license requirement in 49 CFR 383.23 for 31 drivers—Shintaro Moroi, Shigeru Takamatsu, Norio Takeda, Takeshi Yamagishi, Satoru Amemiya, Toshiya Asari, Yasunori Fujita, Shiro Fukuda, Tetsuya Hiromatsu, Kazunori Ligo, Masao Inoue, Akihuro Kashiwakura, Kinya Kitamura, Tsuyoshi Koyama, Takao Kudo, Wataru Kumakura, Yoshihiko Matsubara, Nobuyuki Miyazaki, Ryo Natsume, Motoki Nishi, Takuo Nishi, Fumio Oota, Masuru Otsu, Toshimitsu Sato, Kazuyoshi Shimamura, Masahito Suzuki, Yasuhito Tahara, Hiroyoshi Takahashi, Takashi Tanabe, Takehito Yaguchi, and Tsutomu Yamazaki—to test-drive CMVs within the United States, subject to the following terms and conditions: (1) That these drivers will be subject to drug and alcohol testing, (2) that these drivers are subject to the same driver 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 Isuzu notify FMCSA in writing of any accident involvement by a driver as defined in 49 CFR 390.5 and, (5) that Isuzu notify FMCSA in writing if any driver is convicted of

disqualification offenses in §§ 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 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) the drivers for Isuzu 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. 31315 and 31136.

Issued on: October 10, 2003.

Pamela M. Pelcovits,

Office Director, Policy, Plans, and Regulation.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2003-16162]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes an existing collection of information for Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child restraint systems," for which NHTSA intends to seek OMB approval.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than December 15, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number NHTSA-2003-16162] by any of the following methods:

- Web site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.