

**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