

• *Mail:* Docket Management Facility; U.S. Department of Transportation, Room W-12-140, 1200 New Jersey Avenue, SE., 20590-0001.

• *Hand Delivery:* Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

*Instructions:* All submissions must include the Agency name and docket number. 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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) at any time or to the ground floor, room W12-140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our 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 19477-78) or you may visit [www.regulations.gov](http://www.regulations.gov).

*Public Participation:* The [www.regulations.gov](http://www.regulations.gov) Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the "help" section of the [www.regulations.gov](http://www.regulations.gov) Web site and also at the DOT's <http://docketsinfo.dot.gov> 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.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, 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 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 the conducting of any safety analyses. 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 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 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)).

#### **Request for Exemption**

Volvo has applied for an exemption from the commercial driver's license (CDL) rules, specifically 49 CFR 383.23 that prescribes licensing requirements for drivers operating commercial motor vehicles (CMVs) in interstate or intrastate commerce. Volvo requests the exemption because its driver-employees are citizens and residents of Sweden, and because they cannot apply for a CDL in any of the United States. A copy of the application is in Docket No. FMCSA-2006-25756.

The exemption would allow three drivers to operate CMVs in interstate commerce as part of a team of drivers who will support a Volvo field test to meet future air quality standards, to test-drive Volvo prototype vehicles at its test site and in the vicinity around Phoenix, Arizona, to verify results in "real world" environments, and to deliver the vehicles if necessary in the U.S. The drivers are: Andreas Hamsten, Carl-Gustaf Theen, and Therese Johansson.

Each driver holds a valid Swedish CDL, and as explained by Volvo in previous exemption requests, drivers applying for a Swedish-issued CDL must undergo a training program and pass a knowledge and skills tests. Volvo also stated in prior exemption requests that the knowledge and skills tests and

training program that Swedish drivers undergo to obtain a Swedish CDL ensure the exemption provides 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 the process for obtaining a Swedish-issued CDL is comparable to, or as effective as the Federal requirements of Part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. On prior occasions FMCSA has published notices concerning similar Volvo requests. The first notice was the granting of an exemption to Volvo for 11 Swedish CDL drivers permitting them to operate CMVs in the U.S. (71 FR 27780, May 12, 2006). Of these 11 drivers, Volvo requested and received renewal of the exemption for an additional 2 years (73 FR 6552, February 4, 2008). Notices granting an exemption to Volvo for ten Swedish CDL drivers permitting them to operate CMVs in the U.S. were published on April 23, 2007 (72 FR 20166, 20167).

#### **Request for Comments**

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Volvo's application for an exemption from the CDL requirements of 49 CFR 383.23. The Agency will consider all comments received by close of business on April 14, 2008. 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: March 10, 2008.

**Charles A. Horan III,**

*Acting Associate Administrator for Policy and Program Development.*

[FR Doc. E8-5177 Filed 3-13-08; 8:45 am]

**BILLING CODE 4910-EX-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2008-0073]

### **Hours of Service of Drivers: Cummins, Inc. (Cummins) Application for Exemption**

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

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

**SUMMARY:** FMCSA has received from Cummins, Inc. ("Cummins") an application for an exemption from the Federal Motor Carrier Safety Regulations regarding maximum driving time for drivers of passenger-carrying vehicles. The exemption would allow Cummins' drivers delivering new buses without any passengers in a driveaway operation to be governed by the hours-of-service (HOS) requirements for drivers of property-carrying vehicles. Cummins' drivers are operating these motor vehicles as test vehicles to determine the performance of various types of engines as well as components that are closely related to the design and manufacture of the described engines. Cummins states that the level of safety will be equivalent or greater than the level of safety that would be obtained by complying with the HOS regulations for drivers of passenger-carrying vehicles. FMCSA requests public comment on Cummins' application for exemption.

**DATES:** Comments must be received on or before April 14, 2008.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2008-0073 by any of the following methods:

- *Web site:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments on the Federal electronic docket site.
- *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:* Ground Floor, Room W12-140, DOT Building, 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 or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading below. Note that all comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided. Please see the Privacy Act heading below.

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**FOR FURTHER INFORMATION CONTACT:** Mr. Richard Clemente, Transportation Specialist, 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 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 the conducting of any safety analyses. 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 denying or, in the alternative, 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 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

##### Request for Exemption

Cummins, Inc. (Cummins) is a registered private motor carrier whose principal place of business is located in Columbus, Indiana. Cummins employs 118 drivers who are utilized to operate passenger- and property-carrying commercial motor vehicles (CMVs) in a driveaway operation from, to and between points in the U.S. All of Cummins' CMVs—either passenger-or property-carrying—are driven on their own wheels in a driveaway operation. A "driveaway-towaway operation" is defined in 49 CFR 390.5 of the Federal Motor Carrier Safety Regulations as "an operation in which an empty or unladen motor vehicle with one or more sets of wheels on the surface of the roadway is being transported:

- (1) Between vehicle manufacturer's facilities;
- (2) Between a vehicle manufacturer and a dealership or purchaser;
- (3) Between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee;
- (4) To a motor carrier's terminal or repair facility for the repair of disabling damage (as defined in § 390.5) following a crash; or
- (5) To a motor carrier's terminal or repair facility for repairs associated with the failure of a vehicle component or system; or
- (6) By means of a saddle-mount or tow-bar."

The group of Cummins' drivers to be covered by this exemption is extensively engaged in the driving of the various types of passenger- and property-carrying CMVs in a driveaway operation for the purpose of testing diesel and natural gas engines and various related components. Cummins designs, manufactures, distributes and services diesel and natural gas engines, electric power generation systems and engine-related component products, and sells these products to original equipment manufacturers including Daimler Chrysler, PACCAR, Inc., Navistar, Volvo, Ford, Volkswagen and other customers. Cummins is continually testing its products including the diesel and natural gas engines that are installed in the passenger and property-carrying CMVs. According to Cummins, other than the utilization of the vehicles for testing, the property-carrying CMVs do not transport cargo and the passenger-carrying CMVs do not transport

passengers. Their passenger-carrying CMVs include school buses, transit buses, and shuttle buses which are all driven without any passengers.

The Federal hours-of-service (HOS) regulations for CMV drivers in 49 CFR 395.5 apply to motor carriers and drivers operating passenger-carrying vehicles. According to FMCSA's regulatory guidance, a driver of a CMV "designed or used to transport \* \* \* passengers \* \* \*" (49 CFR 390.5 definition of CMV) would be considered to be passenger-carrying regardless of whether there were actually any passengers in the vehicle. This prevents a requirement for drivers to switch to the HOS rules for property-carrying vehicles each time the bus becomes empty. However, this also means that drivers of the empty buses Cummins test drives are always subject to the HOS rules for passenger vehicles.

Cummins' request for an exemption from the HOS provisions of 49 CFR 395.5 is to allow its drivers operating the various types of buses, without any passengers in a driveaway operation, to be governed by the HOS rules in 49 CFR 395.3, Maximum Driving Time for Property-Carrying Vehicles. When operating tractors, trucks, pick-up trucks, motor homes and other motor vehicles except passenger-carrying vehicles, in a driveaway operation, Cummins' drivers are adhering to the HOS regulations applicable to property-carrying CMVs. A Cummins driver who is operating a property-carrying CMV for the purpose of testing could also be assigned to operate a passenger-carrying CMV the same or next day for testing purposes.

Cummins submits that depending upon the type of CMV being operated, its drivers are required to be familiar with and comply with both sets of HOS regulations applicable to property-as well as passenger-carrying CMVs. Not only is compliance with these two sets of regulations difficult for their drivers, it is also extremely complex for Cummins to audit the drivers' records of duty status to ensure compliance with the HOS regulations depending upon the type of CMV being operated by the driver on a day-to-day basis.

Cummins submits that it does not make any "regulatory common sense" to require a driver to be considered "passenger-carrying" regardless of whether there are actually any passengers in the vehicle when the various types of buses are being utilized for testing. Furthermore, unless their request for an exemption is granted, Cummins will continue to be confronted with having to administer two different sets of HOS regulations for a significant

class of its drivers who are moving CMVs in a driveaway operation.

Cummins therefore requests that the "described class" of drivers be granted an exemption from 49 CFR 395.5 governing the maximum driving time for passenger-carrying vehicles when these drivers are operating various types of buses, without passengers, in a driveaway operation primarily for the purpose of testing engines and related components. Cummins states that it would ensure that the level of safety will be equivalent or greater than the level of safety that would be obtained by complying with the regulations in Part 395.5. Specifically, Cummins has safety systems in place to monitor compliance with the HOS rules applicable to property-carrying CMVs, which is a substantial portion of its operations. A copy of Cummins' exemption application is in the docket identified at the beginning of this notice.

#### Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Cummins' application for an exemption from 49 CFR 395.5. The Agency will consider all comments received by close of business on April 14, 2008. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. 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 monitor the public docket for new material.

Issued on: March 10, 2008.

**Charles A. Horan III,**

*Acting Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2008-0037]

#### Medical Review Board Public Meeting

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

**ACTION:** Notice of Medical Review Board (MRB) Public Meeting.

**SUMMARY:** FMCSA announces a public meeting of the Agency's MRB. The MRB

public meeting will provide the public an opportunity to observe and participate in MRB deliberations about the revision and development of Federal Motor Carrier Safety Regulation (FMCSR) medical standards, in accordance with the Federal Advisory Committee Act (FACA).

**DATES:** The MRB meeting will be held from 8 a.m.-3:45 p.m. on April 7, 2008. Please note the preliminary agenda for this meeting in the **SUPPLEMENTARY INFORMATION** section of this notice for specific information.

**ADDRESSES:** The meeting will take place at the Westin Gateway, 801 N. Glebe Road, Arlington, VA 22203. You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2008-0037 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
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