

as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

## II. Background

On November 27, 2017, FMCSA published a notice announcing receipt of applications from two individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public 82 FR 56108. The public comment period ended on December 27, 2017, and zero comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria<sup>1</sup> to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy*: § 391.41(b)(8), paragraphs 3, 4, and 5.]

## III. Discussion of Comments

FMCSA received zero comments in this proceeding.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

In reaching the decision to grant these exemption requests, FMCSA considered the 2007 recommendations of the

Agency's Medical Expert Panel (MEP). The January 15, 2013, **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to grant seizure exemptions.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA). A summary of each applicant's seizure history was discussed in the November 27, 2017 **Federal Register** notice 82 FR 56108 and will not be repeated in this notice.

These two applicants have been seizure-free over a range of 11 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the

two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

## VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

## VII. Conclusion

Based upon its evaluation of the two exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, 49 CFR 391.41(b)(8), subject to the requirements cited above: David W. Pamperin (WI); Sury L. Seijas (CT).

In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: January 19, 2018.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2018-01933 Filed 1-30-18; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2016-0407]

### Agency Information Collection Activities; Approval of a New Information Collection Request: National Consumer Complaint Database

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

<sup>1</sup> See [http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391\\_171.a](http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a) and <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval and invites public comment. This new collection of information is for the National Consumer Complaint Database (NCCDB), which is an online interface allowing consumers, drivers and others to file complaints against unsafe and unscrupulous motor carriers and/or their employees. The NCCDB also allows complaints to be filed about shippers, receivers and transportation intermediaries. Complaints cover a wide range of issues, including but not limited to safety, driver harassment, coercion, movement of household goods (HHG), financial responsibility instruments for brokers and freight forwarders, and Americans with Disabilities Act (ADA) complaints.

**DATES:** Please send your comments by March 2, 2018. OMB must receive your comments by this date in order to act quickly on the ICR.

**ADDRESSES:** All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2016–0407. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov), or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** James Dubose, Department of Transportation, Federal Motor Carrier Safety Administration, 6th Floor, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Telephone: (215) 656–7259; Email: [james.dubose@dot.gov](mailto:james.dubose@dot.gov). Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

**SUPPLEMENTARY INFORMATION:**

**Federal Register Notice and Summary of Public Comment Received**

On November 29, 2016, FMCSA published a notice in the **Federal**

**Register** announcing a new Information Collection Request (ICR) pertaining to the National Consumer Complaint Database (NCCDB). 81 FR 86068 (November 29 Notice). FMCSA sought public comment on the ICR, including (1) input on whether the proposed collection is necessary to support the agency's mission, (2) comments on the accuracy of the agency's burden estimates, (3) suggestions for improving the quality, utility and clarity of the collected information and (4) ideas on how the agency can minimize the collection burden without sacrificing the usefulness of the collected information.

On January 30, 2017, the Owner Operator Independent Drivers Association, Inc. filed a comment (OOIDA Comments) in response to the November 29 Notice.<sup>1</sup> In its comments, OOIDA acknowledged that “the ICR is necessary for the Agency to perform its mission. . . .” OOIDA Comments, at 1. However, OOIDA indicated that FMCSA “must enhance the quality of the collected information, and thereby improve the effectiveness of the NCCDB, by addressing (1) the overall administration of the program, (2) the name of the program, and (3) the inefficiencies of the online portal.” *Id.* Moreover, OOIDA raised concerns about the agency's response to complaints, follow-up with drivers after the filing of complaints and consistency and efficiency in complaint handling. *Id.* at 1–2. Finally, while OOIDA understood that estimates associated with coercion complaints could not be included in this ICR, it indicated that it “is aware of coercion complaints submitted to the NCCDB and recommends the Agency work quickly to include such data in future renewals for the NCCDB.” *Id.* at 9.

More specifically, OOIDA's comment consists of the following sections: (A) Coercion complaint example, (B) Confirmation and tracking must be provided, (C) NCCDB Name, (D) The inefficiencies of the online portal and (E) Other Concerns. *Id.* at 2–9. FMCSA will address each section of OOIDA's comments and provide its response.

**A. Coercion Complaint Example**

OOIDA provided an example of a coercion<sup>2</sup> complaint which was entered

<sup>1</sup> Comments of the Owner Operator Independent Drivers Association, Inc.; In Response to an Agency Information Collection Request; National Consumer Complaint Database. No other comments have been filed in the docket.

<sup>2</sup> The Coercion rule prohibits motor carriers, shippers, receivers, or transportation intermediaries or their respective agents, officers or representatives from threatening drivers with loss of work or other

into the NCCDB by a member of their association. *Id.* at 2–3. In its comments, OOIDA raised concerns with FMCSA's processing of the complaint. It indicated that “the Agency lacks the proper mechanisms to accurately track the status of a complaint, and second, that the Agency lacks appropriate measures to ensure that a vacant position does not lead to the improper management of a filed complaint.” *Id.* at 3. FMCSA agrees with OOIDA that complaints need to be tracked and that complaints must be properly handled despite any staffing issues. In this particular situation, FMCSA determined that the tracking issues resulted from the complainant's initial filing of the complaint. To address the initial concern from OOIDA, FMCSA manually updated the NCCDB to include the coercion complaint. Ultimately, an FMCSA field office addressed the complaint.

**B. Confirmation and Tracking Must Be Provided**

In its comments, OOIDA indicates that “[o]ften times, driver do not receive a tracking number and are unaware of the status of their grievances.” *Id.* at 3. OOIDA argues that “[t]he Agency should provide a confirmation that the complaint has been accepted as well as a specific tracking number or other case identifier to assist with follow-up.” *Id.* at 4.

FMCSA has resolved OOIDA's concerns. Once a complaint is submitted, the system will assign and display the Complaint Identification Number and provide an option to print the complaint.

**C. NCCDB Name**

OOIDA indicates that the term “National Consumer Complaint Database” is causing confusion about the types of complaints that can be filed. OOIDA argues that the title does not support the Agency's safety mandate. *Id.* at 4–5. OOIDA submits that FMCSA can improve its outreach to drivers about the NCCDB to make “sure they are aware that the NCCDB is a beneficial tool that can promote safety and eliminate bad actors from the industry. OOIDA would look forward to working with and helping the Agency achieve this objective.” *Id.* at 5.

FMCSA is open to considering a name change for the complaint database. Given that many stakeholders file

adverse employment actions or taking action to punish drivers for refusing to operate a commercial motor vehicle in violation of certain provisions of the Federal Motor Carrier Safety Regulations, Hazardous Materials Regulations, and Federal Motor Carrier Commercial Regulations. 80 FR 74695 (Nov. 30, 2015).

complaints, such a name would need to cover complaints from all stakeholders. FMCSA looks forward to working with OOIDA on outreach to drivers about the NCCDB.

#### *D. The Inefficiencies of the Online Portal*

OOIDA provides recommendations for modifications to the NCCDB online portal. According to OOIDA, “[t]hese changes would improve the portal’s efficiency and the overall experience for the user.” *Id.* at 5.

#### **Sequence of Information**

OOIDA states a typical OOIDA member would select the category of “Driver” to file a complaint on the NCCDB home page. OOIDA also states the home page does not clarify the heading of “Truck Complaint” or its category for “Truck Safety.” OOIDA states a driver could follow the prompts and spend considerable time typing an incident description to discover they did not select the correct category. This could result in a driver giving up on the complaint filing process. *Id.* at 5–6.

FMCSA acknowledges OOIDA’s concern and will work to improve future releases of the NCCDB system to address the issue.

#### **Knowledge of DOT Number**

OOIDA states that it is problematic for a driver to know the USDOT number of a motor carrier when attempting to file a complaint. It states that if the individual does not know the USDOT number of the entity he/she is filing against, the next step may be to enter the Company Information. OOIDA explains that upon completing the relevant information, the logical step would be to click the “NEXT” button. However, it states the required action is to click “Add Company” and suggests this sequence implies that a driver enter another company. OOIDA recommends changing this language to “Select this Company” or “Use This Company Information” as the next logical step. OOIDA further suggests that the heading “Complaint on Carrier(s)” be changed to “Company You Have Entered” or some similar language. *Id.* at 6.

FMCSA acknowledges the proposed amendments to the language and agrees with the recommendations. FMCSA will work with OOIDA on its suggestions and make the changes referenced above in a future release of the NCCDB.

#### **Lack of Consistent Language**

OOIDA states the language in the NCCDB is inconsistent in the complaint filing process. At one step, the term “Company Information” is used;

however, in the next step, the term “Complaint on Carrier(s)” is used. *Id.* at 6. According to OOIDA, since complaints could also involve brokers, the term “Company Information” is the most appropriate choice. *Id.* at 6–7.

FMCSA looks forward to working with OOIDA on its suggestions and will incorporate this recommendation in a future release of the website.

#### **Selecting the Company**

OOIDA points out a number of issues associated with a complainant searching the NCCDB by USDOT number. In particular, OOIDA points out that redundant information appears after a complainant clicks on the “Select” option after the search result appears. OOIDA recommends that the heading “You Have Selected” followed by the company name and associated information be substituted for the redundant information. *Id.* At 7.

FMCSA accepts this recommendation and will incorporate in a future release of the NCCDB. The Agency is also committed to working with OOIDA on other concerns it raises in this portion of its comments.

#### **Acceptable Media Files**

While OOIDA notes that the NCCDB permits “a variety of file types to be uploaded, it is missing critical file types such as MP4 video.” *Id.* at 7. Moreover, OOIDA raises a concern that FMCSA’s 10-megabyte file size limit is too low. According to OOIDA, “[u]sing common smart phones, OOIDA staff found that a video would exceed 10 megabytes after only 6 seconds of footage.” *Id.* at 8.

FMCSA has updated its capabilities to accommodate up to 20-megabyte file sizes and video formats that are compatible with NCCDB software.

#### **Back Button Warning**

OOIDA notes that a “Back Button Warning” should be displayed when individuals file complaints in the NCCDB. Presently, when the back button is used, it returns the filer to the home page and the individual must reenter their complaint. *Id.*

FMCSA accepts OOIDA’s suggestion to include a “Back Button Warning” and will include this change in a future release of the NCCDB.

#### **Conditional Logic is Needed**

OOIDA indicates that when a complaint is being entered, the NCCDB should not allow the complainant to continue in the online process if any fields remain blank. A process such as this would have notified their member to complete the online process for a successful submission of the complaint.

*Id.* FMCSA acknowledges OOIDA’s comments and implemented updates to the NCCDB that corrects this issue.

#### **Ample Time**

OOIDA states that one of the NCCDB’s stronger points is the ample time allowed before a user is automatically logged out of a session when there is a pause in data input. *Id.* at 8.

FMCSA will continue to maintain the current login time for entering complaints.

#### *E. Other Concerns*

OOIDA expresses concern that the ICR states, “[t]here is no complaint history for the recently added coercion and harassment complaint categories, or for complaints regarding financial responsibility instruments for brokers and/or freight forwarders.” *Id.* at 9. In response to the Agency’s statement in the November 29 Notice that “[t]his data will be collected and included in future renewals for the NCCDB,” 81 FR at 86069, OOIDA indicates that it “recommends the Agency work quickly to include such data in future renewals for the NCCDB.”

FMCSA did not have data to provide in the November 29 Notice. The coercion, harassment, and the financial responsibility categories were, at that time, only recently added. However, in Fiscal Year 2016, complainants filed complaints in the NCCDB as follows: 362 financial responsibility; 96 harassment; and 224 coercion. This 2016 data is included in the cost calculation.

#### **Background**

The FMCSA maintains online information and resources to assist drivers, others in the motor carrier industry and members of the public in filing safety complaints regarding HHG carriers, hazardous materials (HM) carriers, property carriers, cargo tank facilities, and passenger carriers. There is also information pertaining to the filing of complaints regarding brokers, freight forwarders, and financial responsibility. Finally, there is information regarding consumer complaints, particularly regarding HHG transportation and ADA compliance. This online interface is known as the NCCDB. When effectively applied, the NCCDB can contribute to safer motor carrier operations on our nation’s highways and improved consumer protection.

The NCCDB grew out of a telephone hotline known as the Safety Violation Hotline Service. Congress mandated this hotline in Section 4017 of the “Transportation Equity Act of the 21st

Century,” Public Law 105–178, 112 Stat. 107, June 9, 1998. The Motor Carrier Safety Improvement Act of 1999, Public Law 106–159, 113 Stat. 1748, December 9, 1999, created the FMCSA and section 213 of the Act expanded the Safety Violation Hotline Service to include a 24-hour operation. On August 10, 2005, Congress enacted the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA–LU), Public Law 109–59, 119 Stat. 1144. Section 4214 of SAFETEA–LU requires DOT to create a system to record and log aggregate complaint information regarding violations of the Federal Motor Carrier Safety Regulations.

The NCCDB fulfills the requirements of these mandates. Complaints will be accepted through the NCCDB in connection with other statutory mandates, including, but not limited to, protection of drivers against harassment and coercion under sections 32301(b) and 32911, respectively, of the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141, 126 Stat. 405. The NCCDB will also accept complaints from interested parties regarding third party intermediaries (brokers and freight forwarders) and their associated financial responsibility instruments.

*Title:* National Consumer Complaint Database OMB Control Number: 2126–NEW.

*Type of Request:* New information collection.

*Respondents:* Consumers, Drivers, and Others, Participants in the Motor Carrier Industry.

*Estimated Number of Respondents:* 12,165 respondents [8,030 Moving Complaint respondents + 3,449 Truck Complaint respondents + 685 Bus Complaint respondents].

*Estimated Time per Response:* 15 Minutes.

*Expiration Date:* N/A. This is a new information collection.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 3,041 hours [8,030 Moving Complaint respondents × 15 minutes = 2,008 hours; 3,449 Truck Complaint respondents × 15 minutes = 863 hours; 685 Bus Complaint respondents × 15 minutes = 171 hours].

#### Public Comments Invited

You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the

burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87 on: January 23, 2018.

**G. Kelly Regal,**

*Associate Administrator for Office of Research and Information Technology.*

[FR Doc. 2018–01941 Filed 1–30–18; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0176]

#### Parts and Accessories Necessary for Safe Operation; Daimler Trucks North America LLC Application for Exemption

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

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

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Daimler Trucks North America LLC’s (DTNA) application for a limited 5-year exemption allowing motor carriers operating commercial motor vehicles (CMVs) manufactured by the company to use an Attention Assist and Lane Departure Warning system camera mounted lower in the windshield than is currently permitted. The Agency has determined that lower placement of the Attention Assist and Lane Departure Warning system camera would not have an adverse impact on safety and that adherence to the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

**DATES:** This exemption is effective February 1, 2018 and ending January 31, 2023.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jose R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

*Docket:* For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to [www.regulations.gov](http://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 online Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with 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)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must 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 381.315(c) and 49 CFR 381.300(b)).

##### DTNA’s Application for Exemption

DTNA applied for an exemption from 49 CFR 393.60(e)(1) to allow an Attention Assist and Lane Departure Warning system camera to be mounted lower in the windshield than is currently permitted by the Agency’s regulations in order to utilize a mounting location that allows optimal functionality of the system camera. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1)(i) of the FMCSRs prohibits the obstruction of the driver’s field of view by devices mounted on the