

its own operating authority: (1) The lessor and lessee enter into a formal agreement that includes certain provisions (49 CFR 376.12); and (2) the lessee provides the lessor receipts specifying the equipment being leased at the beginning and end of the lease. These two provisions account for the burden in this information collection.

Comments From the Public

General Summary

FMCSA received three comments to the 60-day **Federal Register** notice published on March 27, 2013 (78 FR 18666), regarding the Agency's Information Collection Activities; New Information Collection: Lease and Interchange of Vehicles. Comments were received from the Owner Operator Independent Drivers Association, Inc. (OOIDA), Transportation Intermediaries Association (TIA), and Sharp Auto Transport. Comments and responsive considerations are as follows:

OOIDA provided detailed comments, though they concluded that the burden estimates are justified and the burden of compliance with truck rules are "minimal." OOIDA asked several questions. First, OOIDA asked why FMCSA initiated a request for comments on this ICR, as well as who, or what prompted the ICR, and what is the ICR's purpose.

FMCSA Response

In 2009, the National Transportation Safety Board (NTSB) recommended to FMCSA that the Agency require passenger motor carriers be subject to the same limitations on the leasing of equipment as interstate for-hire motor carriers of cargo (*NTSB Recommendation H-09-33*).¹ Since 2012, the OMB has published an FMCSA Unified Agenda entry entitled "Lease and Interchange of Vehicles; Motor Carriers of Passengers," RIN 2126-AB44, addressing regulations governing the lease and interchange of passenger-carrying commercial motor vehicles similar to the leasing of equipment by interstate for-hire motor carriers of cargo.² FMCSA published a notice of public rulemaking (NPRM) entitled, "Lease and Interchange of Vehicles: Motor Carriers of Passengers," (bus carrier NPRM) under RIN 2126-AB44 on September 20, 2013 (78 FR 57822). The proposal for bus carriers to address the NTSB recommendation has

similar information collection requirements as the truck leasing rules. Therefore, FMCSA will coordinate the bus and truck ICRs accordingly.

In addition, the bus carrier NPRM is necessary to ensure that unsafe passenger carriers cannot evade FMCSA oversight and enforcement by operating under the authority of another carrier that exercises no actual control over those operations. This action will enable the FMCSA, the NTSB and our Federal and State partners to identify motor carriers transporting passengers in interstate commerce and correctly assign responsibility to these entities for regulatory violations during inspections, compliance investigations, and crash studies. It also provides the general public with the means to identify the responsible motor carrier at the time of motorcoach transportation. "Why is FMCSA attempting to study an area of regulation that Congress largely left in the hands of private parties and that FMCSA has steadfastly refused to become involved in despite several entreaties by OOIDA in the past?"

FMCSA Response

The detailed lease and interchange regulations for cargo-carrying vehicles have been in effect since 1950 and are not within the scope of the bus carrier NPRM. The ICR in this *truck leasing* ICR action will be coordinated with that of the bus leasing NPRM to eventually calculate a total burden for all regulations covering *all leases and interchanges of CMVs* regulated by FMCSA.

OOIDA correctly pointed out a mistake in the 60-day notice. "This ICR will enable FMCSA to document the burden associated with the *marking regulations* codified in 49 CFR part 376. FMCSA incorrectly identified a CMV marking notice instead of the lease and interchange regulations that are codified in 49 CFR part 376. This error has been corrected in this notice and the associated Supporting Statement for this ICR.

Sharp Transport and TIA both believe the elimination of written lease and interchange requirements would be a mistake. TIA believes that leasing requirements alleviate concerns within the transportation industry of fraudulent entities in the supply chain, by placing safeguards in the industry. TIA believes if this requirement is eliminated it will make it easier for carriers who are illegally brokering to continue the detrimental practice. Sharp Transport believes removal of the provisions will make enforcement impossible.

FMCSA Response

FMCSA has not proposed elimination of written leasing agreements. FMCSA is merely attempting to comply with the Paperwork Reduction Act of 1995 requirements and Office of Management and Budget (OMB) regulations at 5 CFR 1320 to calculate an accurate estimate of the time and cost burdens to for-hire freight motor carriers to collect information during lease negotiations and document the lease, receipts, and other paperwork required by 49 CFR part 376. The 60-day notice published on March 27, 2013 was FMCSA's first required step in getting OMB to approve the part 376 estimates of time and cost burdens. This 30-day notice is the second required step in the OMB approval process for the part 376 estimates.

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 performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for 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 of 49 CFR 1.87 on: March 12, 2014.

G. Kelly Leone,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

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

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

SUMMARY: FMCSA announces that Daimler Trucks North America (Daimler) has requested an exemption for one commercial motor vehicle (CMV) driver from the Federal requirement to hold a commercial driver's license (CDL) issued by one of the States. Daimler requests that the

¹ National Transportation Safety Board. 2009. Motorcoach Rollover on U.S. Highway 59 near Victoria, Texas, January 2, 2008. Highway Accident Summary Report. NTSB/HAR-09/03/SUM. Washington, DC.

² <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201210&RIN=2126-AB44>.

exemption cover a project engineer who will test drive CMVs for Daimler within the United States. This driver holds a valid German CDL and wants to test-drive Daimler vehicles on U.S. roads to better understand product requirements for these systems in “real world” environments, and verify results.

Daimler believes the requirements for a German CDL ensure that the same level of safety is met or exceeded as if this driver had a U.S. State-issued CDL.

DATES: Comments must be received on or before April 28, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2012–0032 by any of the following methods:

- *Federal eRulemaking Portal:* www.regulations.gov. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *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.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., 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. 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, 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 at any time and in the box labeled “SEARCH for” enter FMCSA–2012–0032 and click on the tab labeled “SEARCH.”

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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Participation: The Federal eRulemaking Portal is 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 Federal

eRulemaking Portal 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 Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from 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 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

In the May 12, 2012, **Federal Register** (77 FR 31422) FMCSA granted Daimler a similar exemption for two of its test drivers. Each held a valid German CDL but lacked the U.S. residency necessary to obtain a CDL. FMCSA concluded that the process for obtaining a German CDL is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

Request for Exemption

Daimler has applied for an exemption for one of its engineers from 49 CFR 383.23, which prescribes licensing requirements for drivers operating

CMVs in interstate or intrastate commerce. This driver, Sven Ennerst, is unable to obtain a CDL in any of the U.S. States. A copy of the application is in Docket No. FMCSA–2012–0032.

The exemption would allow Mr. Ennerst to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental regulatory requirements and to promote the development of technology advancements in vehicle safety systems and emissions reductions. According to Daimler, Mr. Ennerst will typically drive for no more than 6 hours per day for 2 consecutive days, and that 10 percent of the test driving will be on two-lane state highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Daimler requests that the exemption cover a two-year period. Mr. Ennerst holds a valid German CDL, and as explained by Daimler in its exemption request, the requirements for that license ensure that the same level of safety is met or exceeded as if this driver had a U.S. CDL.

FMCSA has determined that the process for obtaining a German-issued CDL is comparable to, or as effective as the Federal requirements of 49 CFR Part 383, and adequately assesses a driver's ability to operate CMVs in the United States.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Daimler'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 28, 2014. 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 14, 2014.

Larry W. Minor,

Associate Administrator for Policy.

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