

**FURTHER INFORMATION CONTACT** section in advance of the meeting.

Issued in Washington, DC, on February 27, 2013.

**George C. Nield,**

*Associate Administrator for Commercial Space Transportation.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA 2013-0058]

#### Agency Information Collection Activities; Extension of a Currently Approved Collection: Driver Qualification Files

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

**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 its review and approval, and invites public comment. The FMCSA provides an updated estimate of the number of CMV drivers who are required to provide information under the driver qualification (DQ) file regulations, and of the overall information collection burden imposed by those regulations.

**DATES:** We must receive your comments on or before May 6, 2013.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA 2013-0058 using one of the following methods:

- **Federal eRulemaking Portal:** <http://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, 20590-0001.

- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 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. 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), and follow the online instructions for accessing the dockets, or go to the street address listed above.

- **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 the Department of Transportation's (DOT) complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on December 29, 2010 (75 FR 82133).

- **Public Participation:** The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain 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. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Telephone: 202-366-4325. Email: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Motor Carrier Safety Act of 1984 [Pub. L. 98-554, Title II, 98 Stat. 2834 (October 30, 1984)] requires the Secretary of Transportation to issue regulations pertaining to commercial motor vehicle (CMV) safety. These regulations are also issued under the authority provided by 49 U.S.C. 504, 31133, 31136, 31502 and 49 CFR 1.87. Motor carriers must ensure that the drivers they place in interstate commerce are qualified to operate their assigned CMV. Motor carriers must obtain and maintain specified

information concerning the qualifications of the driver to operate a CMV. The information on each CMV driver is maintained in a driver qualification (DQ) file. In some instances, such as during the job application process, the motor carrier must obtain the required information from the CMV driver. Other sections of the DQ file regulations require the motor carrier to contact the driver's State of licensure for a copy of that driver's official driving record. In other cases, such as the background safety investigation of the driver, the motor carrier, with the driver's consent, must contact previous employers of the driver to obtain the required information. The information in a driver's DQ file is not forwarded to the FMCSA. However, the DQ file must be made available to State and Federal safety investigators on demand.

**Title:** Driver Qualification Files.

**OMB Control Number:** 2126-0004.

**Type of Request:** Extension of a currently approved ICR.

**Respondents:** Interstate motor carriers and drivers.

**Estimated Number of Respondents:** 42,567,200.

**Estimated Time per Response:** An average of 28 minutes.

**Expiration Date:** May 31, 2013.

**Frequency of Response:** Most of the responses occur on an infrequent basis, such as when a motor carrier hires a CMV driver, or when a motor carrier conducts the required annual review of the driver's DQ file.

**Estimated Total Annual Burden:** 5,236,866 hours [4,908,333 hours for driver hiring + 237,333 hours for annual review of driver qualifications + 91,200 hours for driver review and rebuttal of safety performance history = 5,236,866]. FMCSA arrives at this estimate by summing the estimated times required for each of 10 regulatory requirements related to the DQ file.

#### Definitions

(1) "Federal Motor Carrier Safety Regulations" (FMCSRs) are parts 350-399 of Title 49 of the Code of Federal Regulations. (2) "Commercial Motor Vehicle" (CMV) is "a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of at least 10,001 pounds, whichever is greater;

(B) Is designed or used to transport more than 8 passengers (including the driver) for compensation;

(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103." (49 CFR 390.5.)

#### Public Comments Invited

FMCSA requests that you comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for 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. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued on: February 26, 2013.

**G. Kelly Leone,**

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

[FR Doc. 2013-05092 Filed 3-4-13; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2011-0318]

#### Alabama Metal Coil Securement Act; Petition for Determination of Preemption

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

**ACTION:** Order; Grant of Petition for Determination of Preemption.

**SUMMARY:** FMCSA grants a petition submitted by the American Trucking Associations (ATA) requesting a determination that the State of Alabama's Metal Coil Securement Act (the Act) is preempted by Federal law. Federal law provides for preemption of State commercial motor vehicle (CMV) safety laws that are more stringent than Federal regulations and (1) Have no safety benefit; (2) are incompatible with Federal regulations; or (3) would cause an unreasonable burden on interstate commerce. FMCSA has determined that there is insufficient support for the claimed safety benefits and that the Act

places an unreasonable burden on interstate commerce.

**DATES:** This decision is effective April 4, 2013.

#### FOR FURTHER INFORMATION CONTACT:

Genevieve D. Sapir, Office of the Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366-7056; email [Genevieve.Sapir@dot.gov](mailto:Genevieve.Sapir@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at <http://www.regulations.gov>.

**Docket:** For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at time or 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., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year.

**Privacy Act:** Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on December 29, 2010 (75 FR 82132).

##### Background

###### *The Metal Coil Securement Act*

The Act, adopted in 2009, prohibits a motor carrier from transporting metal coils in a movement that originates or terminates in Alabama unless the driver is certified in load securement (Ala. Code § 32-9A-2(a)(4)a.). The law, as originally enacted, also required the driver to carry a copy of the certification in the vehicle and produce it upon demand (Ala. Code § 32-9A-2(a)(4)b.). Maximum penalties for violating these requirements include fines of between \$5,000 and \$10,000, jail time and/or a court order prohibiting the driver from operating a CMV in the State (Ala. Code § 32-9A-4(d)-(g)). Alabama Promulgated Rule No. 760-X-1-.16, adopted on April 5, 2011, offers CMV drivers three options to become certified in load securement: (1) Obtain a Metal Coil Certificate by taking and passing the "Securing Metal Coils Course" available for \$25.00 on the web site, [www.metalcoiltraining.com](http://www.metalcoiltraining.com); (2) obtain a

commercial driver's license (CDL) endorsement that allows the driver to haul metal coils in the issuing State; or (3) obtain a Metal Coil Certificate from a motor carrier authorized by the Alabama Department of Public Safety (ADPS) to issue the Certificate, which would require the carrier's safety compliance officer to submit a notarized affidavit that he/she has personal knowledge that the carrier requires every driver to be trained in the requirements of 49 CFR 393.120 before hauling metal coils. Federal regulations for securing metal coil loads, codified in 49 CFR 393.120, do not require any such driver certification.

In June 2011, Alabama amended the Act, rescinding the requirement that drivers carry copies of their metal coil load securement certification in their vehicles. Currently, the Act continues to require drivers to obtain certification, as specified in Alabama Promulgated Rule No. 760-X-1-.16, but drivers are no longer required to produce the certification upon demand.

##### *FMCSA and ATA Responses*

On June 26, 2009, FMCSA sent a letter to then-Governor Bob Riley of Alabama stating that the Act appeared to be incompatible with the requirements of FMCSA's Motor Carrier Safety Assistance Program. FMCSA also drew attention to two Federal laws authorizing preemption of State legislation (49 U.S.C. 14506 and 31141) and indicated that they might be applicable. The Agency urged State officials to work together with FMCSA officials to resolve any conflict between State and Federal law. Governor Riley responded on August 26, 2009, explaining that the Act was adopted in response to a number of accidents in Alabama involving the transport of metal coils. Governor Riley took the position that Alabama's metal coil load securement certification requirements were not preempted by Federal law.

On December 22, 2010, ATA petitioned FMCSA for a determination that Alabama's metal coil load securement certification requirements and penalties create an unreasonable burden on interstate commerce and are preempted under 49 U.S.C. 31141. ATA contended that Alabama's requirement that drivers obtain certification in metal coil load securement is more stringent than and incompatible with Federal metal coil safety regulations.

In its December 22, 2010 letter, ATA also requested a determination that the requirement that the driver carry the certification and display it upon demand is preempted by 49 U.S.C. 14506. The recent amendment to the