

(53) Kendall S. George, July 13, 2007, U.S. District Court, Western District of Washington, Case # CR06-0205RSM.

As noted above, at the end of the three-year period following the date of conviction, the above named persons/entities remain debarred unless export privileges are reinstated.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (*see, e.g.*, sections 120.1(c) and (d), and 127.11(a)). Also, under Section 127.1(c) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any export in which such ineligible person may benefit therefrom or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

Dated: August 17, 2009.

Andrew J. Shapiro,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0183]

Agency Information Collection Activities; Extension of a Currently-Approved Information Collection Request: Training Certification for Entry-Level Commercial Motor Vehicle (CMV) Operators

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 to

the Office of Management and Budget (OMB) for approval its request to extend a currently-approved information collection request (ICR) entitled, "Training Certification for Entry-level CMV Operators," that relates to the training requirements for drivers applying for a commercial driver's license (CDL). There is no change from the burden estimate approved by OMB for this ICR on March 11, 2008. On May 28, 2009, FMCSA published a **Federal Register** notice (74 FR 25607) allowing for a 60-day comment period on the extension of this ICR. The Agency did not receive any comments in response to this notice.

DATES: Please send your comments by September 24, 2009. 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-2009-0183. 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/Office of the Secretary, and sent via electronic mail to *oira_submission@omb.eop.gov*, 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: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, FMCSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. *Telephone:* (202) 366-4325. *E-mail:* *MCPSPD@dot.gov*.

SUPPLEMENTARY INFORMATION:

Title: Training Certification for Entry-Level Commercial Motor Vehicle Operators.

OMB Control Number: 2126-0028.

Type of Request: Extension of a currently-approved information collection request.

Respondents: Entry-level CMV drivers.

Estimated Number of Respondents: 45,611.

Estimated Time per Response: 10 minutes.

Expiration Date: September 30, 2009.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 7,602 hours. FMCSA estimates that an entry-level driver requires approximately 10 minutes to complete the tasks necessary to comply with the regulation. Those tasks are:

photocopying the training certificate, giving the photocopy to the motor carrier employer, and placing the original of the certificate in a personal file. Therefore, the annual burden for all entry-level drivers of CMVs is 7,602 hours [45,611 respondents × 10 minutes/60 minutes to complete a response = 7,601.8 hours (rounded to 7,602 hours)].

Definitions: "Commercial Motor Vehicle (CMV)": A motor vehicle operated in commerce and having a gross vehicle weight rating of 26,001 pounds or more, regardless of actual weight, or designed to transport 16 or more passengers, or used to transport placardable and dangerous hazardous materials (49 CFR 383.5). The term "CMV" is limited to this definition in this document; the term "CDL driver" is used because the operators of these CMVs are required to have a valid commercial driver's license (CDL). This rule currently applies solely to "entry-level" CDL drivers, i.e. those who have less than 1 year of experience operating a CMV in interstate commerce (49 CFR 380.502(b)).

Background:

The Motor Carrier Act of 1935 provides that "The Secretary of Transportation may prescribe requirements for (1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualification and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation" [49 U.S.C. 3502(b)]. This Act is applicable to interstate commerce and not intrastate commerce. The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) created the CDL program and defined "commerce" in such a way as to include interstate and intrastate operations (49 U.S.C. 31302(2),(4)). Section 4007(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240, December 18, 1991) directed the FHWA to "commence a rulemaking proceeding on the need to require training of all entry-level drivers of CMVs." The Congress did not explicitly provide that ISTEA extended to operations in intrastate commerce. In view of the nature of the concurrent authority created by the CMVSA and the Motor Carrier Act of 1935, and the absence of direction from the Congress in ISTEA, FMCSA has decided that entry-level training requirements should be confined to those drivers applying for a CDL who intend to operate CMVs in interstate commerce.

The text of the 60-day notice of the proposed extension of this ICB, published on May 28, 2009 (74 FR 25607), failed to cite the Motor Carrier Act of 1935, upon which this ICR is primarily based. Today's authority for this driver training activity is cited correctly and as it should have been cited in that notice. There has been no change in the statutory authority for this training since publication of the 60-day notice. For a more details of the Agency's analysis, see the section titled, "Legal Basis for the Rulemaking," on the first page of the Notice of Proposed Rulemaking titled, "Minimum Training Requirements for Entry-Level CMV Operators" (72 FR 73226, December 26, 2007).

On May 21, 2004, by final rule, FMCSA mandated training for all interstate CDL operators in four subject areas, effective July 20, 2004 (69 FR 29384). In 2005, the final rule was challenged in the U.S. Court of Appeals for the D.C. Circuit. While the court ordered a remand so the Agency could review the matter, the court did not vacate the rule. Consequently, the 2004 final rule is currently in effect (*Advocates for Highway and Auto Safety v. Federal Motor Carrier Safety Administration*, 429 F. 3d 1136 (D.C.Cir. 2005)).

Public Comments Invited: You are asked to comment on any aspect of this

information collection request, including: (1) Whether the proposed collection is necessary for the FMCSA's performance of 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 on: August 18, 2009.

David Anewalt,

Acting Associate Administrator for Research and Information Technology.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2009-0253; Notice No. 09-4]

Notice of Approval: Lithium Battery Shipping Descriptions

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA).

ACTION: Notice of approval.

SUMMARY: PHMSA is authorizing persons who offer lithium metal and

lithium ion cells and batteries for transportation in commerce, and persons who transport lithium metal and lithium ion cells and batteries in commerce, to describe those articles in the same manner as recently adopted in international regulations. PHMSA will consider adopting these alternate shipping descriptions into the Hazardous Materials Regulations at a future date.

DATES: *Effective Date:* This notice of approval is effective August 25, 2009.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, telephone (202) 366-4535.

SUPPLEMENTARY INFORMATION:

I. Background

The § 172.101 Hazardous Materials Table (HMT) in the Hazardous Material Regulations (HMR; 49 CFR Parts 171-180) contains the following entries for lithium batteries, which apply to both lithium metal (primary; non-rechargeable) and lithium ion (secondary; rechargeable) batteries:

Lithium battery	9	UN3090	PG II
Lithium batteries contained in equipment	9	UN3091	PG II
Lithium batteries packed with equipment	9	UN3091	PG II

In 2006, the United Nations Committee of Experts on the Transport of Dangerous Goods adopted separate entries for lithium metal and lithium ion batteries (see chart below) into the dangerous goods list in the Fifteenth revised edition of the UN Recommendations on the Transport of Dangerous Goods, in order to distinguish lithium metal from lithium ion batteries. The International Civil Aviation Organization (ICAO) and the International Maritime Organization subsequently adopted these entries into their respective dangerous goods lists.

We did not adopt these new shipping descriptions for lithium batteries in a final rule published January 14, 2009 under Dockets HM-224D and HM-215J (74 FR 2200) harmonizing the HMR with recent changes to international regulations because we had not proposed these changes in the notice of proposed rulemaking (NPRM) (73 FR 44803; July 31, 2008). In response to comments to the NPRM that urged

PHMSA to adopt the separate entries for lithium metal and lithium ion batteries, we noted that the HMR permit compliance with the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air (Technical Instructions). Thus, the separate shipping descriptions for lithium metal and lithium ion batteries may be used for air transportation, both domestically and internationally, and for transportation by motor vehicle and rail immediately before or after being transported by aircraft. [74 FR 2207] We also stated we planned to complete an assessment of the costs and benefits of further restrictions and available alternatives before developing additional lithium battery rulemaking proposals and therefore, PHMSA did not adopt changes to the lithium battery requirements including the separate shipping descriptions. [74 FR 2207]

Since that time, we have concluded that assigning the same shipping descriptions to both lithium metal and

lithium ion batteries, which are regulated differently based on differences in chemistry, functionality, and behavior when exposed to a fire, causes significant problems in acceptance procedures for carriers and may unnecessarily hinder or delay the transportation of these products. While the HMR permit the use of the ICAO Technical Instructions as well as the International Maritime Dangerous Goods Code (IMDG Code) for domestic transportation when a portion of the transportation is by aircraft or vessel, subsequent domestic transportation of packages containing lithium batteries remains difficult.

PHMSA is currently working on a rulemaking intended to enhance the safe transportation of lithium batteries. As part of this rulemaking, we are considering adoption of the international shipping descriptions for lithium metal and lithium ion batteries. To facilitate commerce, however, PHMSA believes shippers should be