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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0271]

#### Identification of Interstate Motor Vehicles: New York City, Cook County and New Jersey Tax Identification Requirements; Petition for Determination

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

**ACTION:** Notice of Petition for Determination; request for comments.

**SUMMARY:** FMCSA is inviting all interested persons to comment on three petitions submitted by the American Trucking Associations (ATA) requesting determinations that the Commercial Motor Vehicle (CMV) identification requirements imposed by the State of New Jersey, New York City, and Cook County, Illinois are preempted by Federal law. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) prohibits States and their political subdivisions from requiring motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary of Transportation, with certain exceptions. FMCSA seeks comment on whether the credential display requirements described below are preempted or whether they qualify for the relevant exception codified at 49 U.S.C. 14506(b)(3).

**DATES:** Comments are due on or before November 18, 2009.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System Number in the heading of this document by any of the following methods. Do not submit the same comments by more than one method. However, to allow effective public participation before the comment period deadline, the Agency encourages use of the Web site that is listed first. It will provide the most efficient and timely method of receiving and processing your comments.

- *Federal eRulemaking Portal:* Go to <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,

Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

- *Hand Delivery:* 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 this action. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Refer to the Privacy Act heading on <http://www.regulations.gov> for further information.

*Public Participation:* The regulations.gov system is generally available 24 hours each day, 365 days each year. You can find electronic submission and retrieval help and guidelines under the "Help" section of the Web site. For notification that FMCSA received the comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments on line. Copies or abstracts of all documents referenced in this notice are in the docket: FMCSA-2009-0271. For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 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. All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the closing date will be considered to the extent practicable. FMCSA may, however, issue a final determination at any time after the close of the comment period. 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.

**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; e-mail [Genevieve.Sapir@dot.gov](mailto:Genevieve.Sapir@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

New Jersey's Tax Code requires all motor carriers hauling, transporting, or

delivering fuel to display a Motor Fuel Transport License Plate and annual Transport License Certificate. This requirement applies to all motor carriers hauling, transporting, or delivering fuel in New Jersey regardless of their State of domicile or registration. New Jersey Statutes Annotated § 54:39-41 and § 54:39-53.

New York City's Administrative Code requires CMVs used principally in the city or used principally in connection with a business carried on within the city to pay a tax and display a stamp. The requirement appears to apply whether or not the CMV is registered to an address in New York City.<sup>1</sup>

Cook County's Code of Ordinances requires motor vehicle owners residing within the unincorporated area of Cook County to: (a) Display a window sticker showing payment of fees; and (b) paint business vehicle identification information on their vehicles. Article XIV of chapter 74 of the Cook County Code of Ordinances is referred to as the "Cook County Wheel Tax on Motor Vehicles Ordinance," and was amended most recently on March 4, 2009.

Section 4306 of SAFETEA-LU, codified at 49 U.S.C. 14506(a), prohibits States from requiring motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary of Transportation. However, § 14506(b)(3) provides, in part, that "a State may continue to require display of credentials that are required \* \* \* under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate." This authority has been delegated to FMCSA by 49 CFR 1.73 (a)(7). FMCSA believes that Congress intended to limit the exception at § 14506(b)(3) to two categories of requirements. The first includes identification requirements related to motor vehicle license plates. The second includes any other identification displays that the Secretary of Transportation approves.

FMCSA seeks comment on whether the referenced identification display requirements are preempted by Federal law. Specifically, the Agency seeks comment on: (1) Whether New Jersey's, New York City's, and/or Cook County's credential display requirements qualify as identification requirements related to motor vehicle license plates; and/or (2) whether there is any other reason FMCSA should consider approving these requirements under 49 U.S.C.

<sup>1</sup> Chapter 8 of Title 11 of the New York City Administrative Code Tax on Commercial Motor Vehicles and Motor Vehicles for Transportation of Passengers.

14506(b)(3). ATA's petitions seeking determinations, along with the applicable statutes, regulations and ordinances, are available in the docket established for this Notice for inspection.

#### Request for Comments

FMCSA invites the three affected jurisdictions, as well as any other interested party, to comment on the limited issue of whether New Jersey's, New York City's, and/or Cook County's credential display requirements are preempted in accordance with 49 U.S.C. 14506. Interested parties are requested to limit their comments to this issue. FMCSA has no authority to review the imposition, amounts, or collection of any taxes for which the credentials are issued. FMCSA encourages commenters to submit data or legal authorities supporting their position.

Issued on: September 25, 2009.

**Rose A. McMurray,**

*Acting Deputy Administrator.*

[FR Doc. E9-25093 Filed 10-16-09; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### International Standards on the Transport of Dangerous Goods; Public Meeting

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice is to advise interested persons that PHMSA will conduct a public meeting in preparation for the 36th session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG) to be held November 30–December 9, 2009 in Geneva, Switzerland. During this meeting, PHMSA is also soliciting comments relative to potential new work items which may be considered for inclusion in its international agenda.

#### Information Regarding The UNSCOE TDG Meeting

**DATES:** Tuesday, November 10, 2009; 9:30 a.m.–12:30 p.m.

**ADDRESSES:** The meeting will be held at the DOT Headquarters, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.

*Conference Call Capability/Live Meeting Information:* Conference call-in

and “live meeting” capability will be provided for this meeting. Specific information on call-in and live meeting access will be posted when available at <http://www.phmsa.dot.gov/regs/international>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Duane Pfund, Director, Office of International Standards or Mr. Shane Kelley, International Transportation Specialist, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

**SUPPLEMENTARY INFORMATION:** The primary purpose of this meeting will be to prepare for the 36th session of the UNSCOE TDG, which is the second meeting of the current 2009–2010 biennium. The UNSCOE will consider proposals for the 17th Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations which will come into force in the international regulations beginning January 1, 2013. Topics on the agenda for the UNSCOE TDG meeting include:

- Explosives and related matters.
- Listing, classification and packing.
- Electric storage systems.
- Miscellaneous proposals of amendments to the Model Regulations on the Transport of Dangerous Goods.
  - Electronic data interchange (EDI) for documentation purposes.
  - Cooperation with the International Atomic Energy Agency (IAEA).
  - Global harmonization of transport of dangerous goods regulations with the Model Regulations.
  - Guiding principles for the Model Regulations.
  - Issues relating to the Globally Harmonized System of Classification and Labelling of Chemicals (GHS).

In addition, PHMSA is soliciting comments on how to further enhance harmonization for international transport of hazardous materials. PHMSA has finalized a broad international strategic plan and welcomes input on items which stakeholders believe should be included as specific initiatives within this plan. PHMSA's Office of International Standards Strategic Plan can be accessed at: <http://www.phmsa.dot.gov/hazmat/regs/international>.

The public is invited to attend without prior notification. Due to the heightened security measures participants are encouraged to arrive early to allow time for security checks necessary to obtain access to the building. Following the 36th session of the UNSCOE TDG, PHMSA will place a copy of the Sub-Committee's report and

a summary of the results on PHMSA's Hazardous Materials Safety Homepage at <http://www.phmsa.dot.gov/hazmat/regs/international>.

#### Documents

Copies of documents for the UNSCOE TDG meeting and the meeting agenda may be obtained by downloading them from the United Nations Transport Division's Web site at: <http://www.unece.org/trans/main/dgdb/dgsubc/c32009.html>. PHMSA's site at <http://www.phmsa.dot.gov/hazmat/regs/international> also provides additional information regarding the UNSCOE TDG and related matters such as summaries of decisions taken at previous sessions of the UNSCOE TDG.

**Dr. Magdy El-Sibaie,**

*Acting Deputy Associate Administrator for Hazardous Materials Safety.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Aviation Rulemaking Advisory Committee—New Task

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC)—Aviation Rulemaking Advisory Committee Process Improvement.

**SUMMARY:** The FAA assigned the Aviation Rulemaking Advisory Committee (ARAC) a new task to provide advice and recommendations to the FAA about the current ARAC process. This notice informs the public of the new ARAC activity.

**FOR FURTHER INFORMATION CONTACT:** Pamela Hamilton, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202–267–8742, facsimile: 202–267–5075; e-mail [pam.hamilton@faa.gov](mailto:pam.hamilton@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

The Secretary of Transportation determined the formation and use of an advisory committee to serve as a forum for the FAA to get input from outside the Federal Government on major regulatory issues facing the agency. As a result, the FAA established ARAC.

ARAC is a formal standing advisory committee made up of representatives from aviation associations, aviation industry, public interest groups,