

**Department of Transportation
Federal Motor Carrier Safety Administration**

SUPPORTING STATEMENT
Hazardous Materials Safety Permits

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) approval for the renewal of an information collection request (ICR) titled, "Hazardous Materials Safety Permits," (OMB Control No. 2126-0030), which is currently due to expire on 08/31/2020.

Part A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The Federal laws (Attachment A), relating to the transportation of hazardous materials (HM) (49 U.S.C. § 5101 et seq.) were enacted to provide adequate protection against the risks to life and property inherent in the transportation of HM in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation (Secretary). Certain provisions of chapter 51 of title 49, U.S.C., including §§ 5105(e), 5109 and 5119, apply only to the transportation of HM by motor vehicle. The authority for implementing these provisions (except § 5109(f)) has been delegated to FMCSA under 49 CFR § 1.87(d) (2) (Attachment B).

Section 5109 requires the Department of Transportation (DOT) to prescribe regulations necessary for the Secretary to issue motor carrier safety permits for transporting certain HM. A motor carrier must hold a safety permit issued by DOT and keep a copy of the permit or other proof of its existence in the vehicle, in order to be in compliance while transporting certain HM in commerce. Under § 5109(b), a safety permit is required to transport any of the following four HM, in quantities above the threshold amounts established by DOT.

- A Class A or B explosive (now Division 1.1, 1.2, or 1.3 explosive);
- Liquefied natural gas;
- Hazardous material designated as extremely toxic by inhalation (TIH); or
- A highway-route-controlled quantity of radioactive material.

DOT may also prescribe additional HM, and the amount of each, to be subject to the safety permit requirement.

Other provisions in section 5109 require DOT to issue regulations for issuing safety permits, including application procedures; the duration, term and limitations of a safety permit; other conditions needed to protect public safety; and procedures to amend, suspend or revoke a safety permit. In order to issue a safety permit, DOT must find that the motor carrier is fit, willing and able to:

- (1) Provide the transportation to be authorized by the safety permit;

- (2) Comply with Federal hazardous materials transportation law and DOT's regulations under that law; and
- (3) Comply with applicable Federal motor carrier safety laws and applicable minimum financial responsibility laws and regulations.

A final rule (Attachment C) titled, "Federal Motor Carrier Safety Regulations: Hazardous Materials Safety Permits (69 FR 39350 June 30, 2004)," adopted a revised list (referred to as the "Modified Statutory Option" or "expanded list") and additional explosive and toxic by inhalation materials in certain quantities as appropriate. This list is now codified in 49 CFR § 385.403. Specifically, a permit will also be required for:

- Radioactive Materials – A highway route-controlled quantity of Class 7 materials.
- Explosives – More than 25 kilograms (kg) (55 pounds) of a Division 1.1, 1.2 or 1.3 material, or an amount of a Division 1.5 material requiring a placard under part 172, subpart F, of this subchapter.
- Toxic by Inhalation (Division 2.3 and 6.1) Materials – Hazard Zone A materials in a packaging with a capacity greater than 1 liter (L) (0.26 gallons); a shipment of Hazard Zone B materials in a bulk packaging (capacity greater than 450 L [119 gallons]); or a shipment of Hazard Zone C or D materials in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons).
- A shipment of methane (compressed or refrigerated liquid), natural gas (compressed or refrigerated liquid), or any other compressed or refrigerated liquefied gas with a methane content of at least 85 percent, in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons).

This information collection supports the DOT strategic goal of safety by promoting the safe and secure transportation of the designated HM and enhances motor carrier safety on our nation's highways.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE IS THE INFORMATION USED

The HM safety permit regulations require companies holding permits to develop a communications plan that allows for the periodic tracking of the shipment.¹ This may be accomplished either through phone calls or radio calls placed by the driver or through an electronic monitoring or tracking system. A record of the communications may be kept by either the driver (e.g., recorded in the log book) or the company that contains the time of the call and location of the shipment. These records must be kept, either physically or electronically, for at least six months at the company's principal place of business or readily available to employees at

¹ Currently, the HM safety permit regulations also require companies applying for a HM Safety Permit that do not have a USDOT number to file online at the FMCSA website via the Unified Registration System (URS) before conducting operations in commerce that require a safety permit. Safety permit applications for companies that have a USDOT number and applications to update or renew a safety permit must be filed with FMCSA using the form MCS-150B (Combined Motor Carrier Identification Report and HMSP Application) which is also available on the FMCSA website. The URS and MCS-150B are covered under the FMCSA's OMB Control Number 2126-0013, "Motor Carrier Identification Report," information collection request.

the company's principal place of business.

3. EXTENT OF AUTOMATED INFORMATION COLLECTION

In accordance with the Government Paperwork Elimination Act (GPEA) (44 U.S.C. § 3504 (October 23, 1998)) (Attachment D), FMCSA allows motor carriers to complete and prepare the required communications documentation electronically. While 100% of the motor carriers are allowed to use electronic methods to meet this requirement, it is estimated that at least 85% maintain the communications records electronically. If the motor carrier has near constant tracking of their HM driver through electronic monitoring, there is no additional requirement as the regulation allows the use of an electronic tracking or monitoring system.

4. EFFORTS TO IDENTIFY DUPLICATION

There are no existing reporting requirements or available data that duplicate the information which is collected.

5. EFFORTS TO MINIMIZE THE BURDEN ON SMALL BUSINESSES

The regulations do not set forth any prescribed method of communication between the driver and the carrier or the method by which the record of the communication is maintained. Carriers are permitted to use any system to communicate with a driver and maintain the record that meets the criteria specified in 49 CFR 385.415. The FMCSA developed the regulations under the assumption that small businesses make up the majority of entities that are subject to these provisions.

6. IMPACT OF LESS FREQUENT COLLECTION OF INFORMATION

Implementation of the HM Safety Permit rule required that communications be established between motor carriers and their drivers. Companies holding permits are required to develop a communications plan that allows for the tracking of the HM shipment. At a minimum, the communication plan must require contact from the driver or electronic tracking equipment at the beginning and end of transportation, during loading or unloading of a permitted material or at least twice per day. FMCSA determined that requiring any of this communication information to be collected less frequently would tremendously reduce the benefits of the rule and jeopardize safety.

7. SPECIAL CIRCUMSTANCES

There are no special circumstances related to this ICR.

8. COMPLIANCE WITH 5 CFR 1320.8:

The FMCSA published a notice in the Federal Register (84 FR 60142) with a 60-day public comment period to announce this proposed information collection on November 7, 2019. One anonymous comment was received that doesn't relate to this ICR.

The FMCSA published a notice in the Federal Register (85 FR 19570) with a 30-day public

comment period that announced this information would be sent to OMB for approval on April 7, 2020.

9. PAYMENTS OR GIFTS TO RESPONDENTS

Respondents are not provided with any payments or gifts for this information collection.

10. ASSURANCE OF CONFIDENTIALITY

FMCSA does not collect the communications plans or records, therefore this is not applicable.

11. JUSTIFICATION FOR COLLECTION OF SENSITIVE INFORMATION

There are no questions of a sensitive nature.

12. ESTIMATE OF BURDEN HOURS FOR INFORMATION REQUESTED

FMCSA estimates that 155 intrastate carriers and 832 interstate carriers, of which 16 of them are in the new entrant program, hold HM safety permits. In total, these 987 carriers operate more than 117,000 trucks; however, not all of those trucks typically transport HM, requiring a safety permit. The Agency estimates that each of the estimated carriers operates an average of 30 trucks requiring HM safety permits. With a total of 987 motor carriers, this results in approximately 29,600 trucks in permitted HM transport (987 carriers × 30 trucks, rounded to nearest hundred). The Agency estimates that a fully utilized truck is used for 280 trips per year and that carriers make approximately 8.3 million annual trips transporting permitted HM (29,600 trucks × 280 trips).²

The HM safety permitting program requires all motor carriers to communicate with their drivers at least twice per day and to maintain written records of these communications. These records must include the name of the driver, identification of the vehicle, permitted material(s) being transported, the date, location and time of each contact. FMCSA estimates that it takes 5 minutes to maintain a daily record for each driver's daily communication. The total annual information collection burden for maintaining daily communication records is approximately 692,000 hours [8.3 million trips × 5 minutes per record ÷ 60 minutes per hour].

Estimated Annual Burden Hours: 692,000 hours [8.3 million trips × 5 minutes per record ÷ 60 minutes per hour = 691,667, rounded to the nearest thousand].

Estimated Number of Annual Respondents: 987 motor carriers transporting permitted HM [155 intrastate carriers + 832 interstate carriers = 987].

Estimated Number of Responses: 29,600 trucks with communication records for transporting permitted HM [987 carriers × 30 trucks = 29,610, rounded to nearest hundred].

13. ESTIMATE OF TOTAL ANNUAL COSTS TO RESPONDENTS

There are no costs to respondents beyond those associated with the annual hourly burden.

² Data source: Motor Carrier Management Information System (MCMIS) as of August 31, 2019.

14. ESTIMATE OF COST TO THE FEDERAL GOVERNMENT

This information collection imposes no cost to the Federal government, because the Federal Government does not routinely collect information for this burden. Motor carriers holding HM safety permits are required to maintain a record of communications and have it readily available to an authorized FMCSA representative or special agent upon request.

15. EXPLANATION OF PROGRAM CHANGES OR ADJUSTMENTS

This ICR is currently approved at 908,333 estimated annual burden hours. FMCSA estimates that it takes 5 minutes to maintain a daily record for each driver's daily communications. The total annual ICR burden for maintaining a daily communication record in this request is 691,677 hours [8.3 million trips × 5 minutes per record ÷ 60 minutes per hour]. The program adjustment decrease of 216,656 annual burden hours [691,677 proposed annual burden hours – 908,333 currently approved annual burden hours] is due to a decrease in the number motor carriers (the number of respondents decreased by 9,510) with active HM safety permits.

16. PUBLICATION OF RESULTS OF DATA COLLECTION

The results of this ICR will not be published.

17. APPROVAL FOR NOT DISPLAYING THE EXPIRATION DATE OF OMB APPROVAL

FMCSA is not seeking this approval.

18. EXCEPTIONS TO CERTIFICATION STATEMENT

FMCSA is not seeking any exception to the certification statement.

ATTACHMENTS

Attachment A: 49 U.S.C. § 5101 et seq., July 5, 1994.

Attachment B: 49 CFR § 1.87(d) (2), October 1, 2013.

Attachment C: "Federal Motor Carrier Safety Regulations: Hazardous Materials Safety Permits, 69 FR 39350 June 30, 2004.

Attachment D: 44 U.S.C. § 3504, GPEA, October 23, 1998.

Attachment E: 60-day Federal Register, 84 FR 60142, November 7, 2019.

Attachment F: 30-day Federal Register, 85 FR 19570, April 7, 2020.