

Information Collection Clearance

The Supporting Statement

Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) submits to the Office of Management and Budget (OMB) its request to renew a currently approved information collection (IC) titled, "Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property," covered by OMB Control Number 2126-0008. This IC is due to expire on February 28, 2007.

Part A. Justification.

1. Circumstances that make collection of information necessary:

Sections 29 and 30 of the Motor Carrier Act of 1980 (codified at 49 U.S.C. § 31139, see Attachment A) require the Secretary of Transportation (Secretary) to promulgate regulations that establish minimum levels of financial responsibility for motor carriers of property to cover public liability, property damage, and environmental restoration. Section 18 of the Bus Regulatory Reform Act of 1982 (codified at 49 U.S.C. § 31138, see Attachment B) requires the Secretary to promulgate regulations that establish minimum levels of financial responsibility for for-hire motor carriers of passengers to cover public liability and property damage.

The Endorsement for Motor Carrier Policies of Insurance for Public Liability, Form MCS-90 (Attachment C) and Form MCS-90B (Attachment D); and the Motor Carrier Public Liability Surety Bond Form MCS-82 (Attachment E) and Form MCS-82B (Attachment F) contain the minimum amount of information necessary to document that a motor carrier has obtained, and has in effect, the minimum levels of financial responsibility as set forth in applicable regulations (motor carriers of property--49 CFR § 387.9; and motor carriers of passengers-- 49 CFR § 387.33, both at Attachment G).

The currently approved information collection supports the Department of Transportation (DOT) Strategic Goal related to "Safety" because the information concerns the safe operation of commercial motor vehicles (CMVs) by drivers who operate in interstate commerce on the nation's highways.

2. How, by whom, and for what purpose is the information used:

The FMCSA and the public use the information collected to verify that a motor carrier of property or passengers has obtained, and has in effect, the required minimum levels of financial responsibility. Motor carriers are required to maintain proof of the required financial responsibility at their principal place of businesses, available upon request of an FMCSA safety investigator during

compliance reviews. Insurance Endorsements and Surety Bonds are considered public information and must be produced by a motor carrier of passengers for review upon reasonable request by a member of the public.

Canadian and Mexican for-hire motor carriers with passenger transportation operations in the United States must obtain an Insurance Endorsement or Surety Bond. All vehicles operated in the United States by these motor carriers must have a legible copy of the Insurance Endorsement or Surety Bond in the vehicle, available to Federal or State enforcement officials during roadside inspections.

3. Extent of automated information collection:

The endorsements (Forms MCS90/90B) and surety bonds (Forms MCS82/82B) are not submitted to FMCSA. Insurance companies and agents provide these forms directly to motor carriers to document that required levels of insurance are in place. For this reason, FMCSA has little information on the extent to which insurers prepare and transmit these forms electronically or through other automated means. There are no FMCSA requirements that would prohibit or interfere with automation of this information collection between insurers and insured motor carriers.

4. Efforts to identify duplication:

Most for-hire motor carriers of passengers that are subject to the FMCSA's financial responsibility requirements were also subject to the more complex financial responsibility requirements of the former Interstate Commerce Commission (ICC). The ICC maintained an automated monitoring system of insurance compliance that was updated continuously. As a result of the ICC Termination Act of 1995 (ICCTA) (Public Law 104-88, 109 Stat. 803, December 29, 1995, see Attachment H), Congress transferred to the Federal Highway Administration (now the FMCSA) the functions concerning the ICC's financial responsibility requirements for motor carriers of passengers and property. The ICCTA preserves all effective ICC regulations, rules, and decisions until the Secretary determines whether modification of these documents is warranted, thereby preserving the status quo for the interim.

On August 10, 2005, the president signed the highway reauthorization bill into law: The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [Public Law 109-59, August 10, 2005, 119 Stat. 2955] (Section 4304 of SAFETEA-LU, see Attachment I). SAFETEA-LU requires the Secretary to initiate a rulemaking proceeding to replace the Department of Transportation identification number system, the single State registration system, the registration/licensing system, and the financial responsibility information system with a unified on-line Federal system. This process of system replacement has been initiated in the May 19, 2005 Notice of Proposed Rulemaking (NPRM) titled, "Unified Registration System," (70 FR 28990, see Attachment J). Through the process, information collection redundancies in these areas will be identified and eventually eliminated.

5. Efforts to minimize the burden on small businesses:

The requirement to obtain and have in effect a minimum level of financial responsibility applies to all for-hire motor carriers of non-hazardous **property** in interstate or foreign commerce and most for-hire and private motor carriers of hazardous waste, hazardous materials, and hazardous substances, regardless of size. However, private motor carriers that transport hazardous waste and certain hazardous materials not in bulk, in intrastate commerce, and private motor carriers that transport non-hazardous property in intrastate or interstate commerce, are not subject to any minimum level of financial responsibility. A significant portion of these motor carriers are small businesses. There is no way to further reduce the burden without neglecting statutory obligations. The requirement to obtain and have in effect a minimum level of financial responsibility applies to all for-hire motor carriers of **passengers** in interstate commerce, regardless of size. However, motor carriers of passengers that only operate vehicles with a seating capacity of 15 passengers or less have a lower required level of financial responsibility (\$1,500,000) than motor carriers of passengers that operate vehicles with a seating capacity of 16 passengers or more (\$5,000,000). There is no way to further reduce the burden without neglecting statutory obligations.

6. Impact of less frequent collection of information:

An Insurance Endorsement may be required to be completed upon one of the following events: (1) the establishment of a new motor carrier operation subject to the financial responsibility requirements, (2) an operational change to the type of carriage (property) or change in seating capacity of vehicles operated (passenger) which changes the required level of financial responsibility, (3) a change in the amount of public liability coverage, (4) a change in the amount of primary or excess insurance, (5) a change of the insurance policy number, (6) the issuance of a new insurance policy, or (7) the replacement of a surety bond with an insurance policy.

A Surety Bond may be required to be completed upon one of the following events: (1) the establishment of a new motor carrier operation subject to the financial responsibility requirements, (2) a change to the type of carriage (property) or change in seating capacity of vehicles operated (passenger) which changes the required level of financial responsibility, or (3) the replacement of an insurance policy with a surety bond.

The frequency of this information collection cannot be reduced. The elimination of this information collection would hinder the ability of the FMCSA to ensure that motor carriers of property and passengers have in effect an appropriate level of financial responsibility for the types of commodities transported (property) or seating capacity (passenger) of vehicles operated on the public highways.

7. Special circumstances:

There are no special circumstances with this information collection.

8. Compliance with 5 CFR 1320.8:

On August 22, 2006 (71 FR 48967, see Attachment K), FMCSA published a notice in the Federal Register requesting public comments on the proposed renewal of this information collection. No comments were received in response to this notice. In addition, FMCSA published a second notice on December 18, 2006 (71 FR 75804, see Attachment L) with a 30 day comment period that announced this information collection was being submitted to OMB for approval.

9. Payments or gifts to respondents:

Respondents are not provided with any payment or gift for this information collection.

10. Assurance of confidentiality:

Confidentiality is not an issue because the motor carrier of property or passengers retains possession of its own record. These records are not sent to the Federal government.

11. Justification for collection of sensitive information:

There are no questions of a sensitive nature.

12. Estimate of burden hours for information requested:

Assumptions:

Insurance Endorsement (Property) – Form MCS-90
Insurance Endorsement (Passenger) – Form MCS-90B
Surety Bond (Property) – Form MCS-82
Surety Bond (Passenger) – Form MCS-82B

It takes 2 minutes to complete an Insurance Endorsement or Surety Bond.

Only Surety Bonds need to be sent to (“filed” with) FMCSA.

Only foreign carriers need to have a copy of the Insurance Endorsement/Surety Bond in the vehicle (49 CFR 387.7 and 49 CFR 387.31, see both at Attachment G).

Estimate:

Motor carriers of property or passengers may obtain and maintain their required level of financial responsibility through a policy of insurance or a surety bond. The Insurance Endorsement (MCS-90 and MCS-90B) are completed by the motor carrier’s insurance company, but must be obtained by the motor carrier of property or passengers. The Surety Bond (Forms MCS-82 and MCS-82B) are completed by the motor carrier’s surety company, but must be obtained by the motor carrier. The

FMCSA estimates that the completion of either form takes approximately 2 minutes. The Insurance Endorsement or Surety Bond must be maintained at the motor carrier's principal place of business.

Individual motor carriers enter and exit the industry on a daily basis. For this reason, any estimate of the number of carriers subject to the financial responsibility requirements will necessarily be a rough one. The estimates below are based on an examination of FMCSA's Motor Carrier Management Information System (MCMIS), the Licensing and Insurance (L&I) data base inherited from the ICC, and other available sources of data.

PASSENGER CARRIERS

The FMCSA estimates that there are approximately 4,960 passenger carriers domiciled in the United States, Canada and Mexico that are subject to the financial responsibility requirements. The agency further estimates that approximately 67 percent of these carriers are required to obtain an Insurance Endorsement or Surety Bond in any given year for one of the reasons listed in Item 6. Finally, only approximately 0.5 percent of the 4,960 passenger carriers, or 25 carriers, meet the requirements with a Surety Bond rather than an Insurance Endorsement.

The estimated annual hour burden for preparing Insurance Endorsements and Surety Bonds for passenger carriers thus is **110.77 burden hours** [4,960 carriers x .67 (67 percent) of carriers required to obtain an Insurance Endorsement or Surety Bond each year (3,323 carriers) x 2 minutes / 60 minutes = 110.77].

There is no record keeping or collection burden for motor carrier of passengers that obtain an Insurance Endorsement as proof of financial responsibility because the document is an attachment to insurance policy documents. These motor carriers file the Insurance Endorsement with their insurance policy in their established insurance file. This activity is considered a customary procedure of business and, therefore, is excluded from the total hour burden of the information collection.

FMCSA estimates that the "filing" of a Surety Bond by a motor carrier takes approximately one minute. The total estimated burden for carriers to file these instruments at their offices thus is **.42 burden hours** [25 bonds x 1 minute / 60 minutes = .42].

Canadian and Mexican for-hire motor carriers with passenger transportation operations in the United States must obtain an Insurance Endorsement or Surety Bond. All vehicles operated in the United States by these motor carriers must have a legible copy of the Insurance Endorsement or Surety Bond in the vehicle. The FMCSA estimates that it takes approximately 1 minute to place or file either document in the vehicle. Upon the required creation of another or new Insurance Endorsement or Surety Bond for any of the reasons listed in Item 6, the new document must replace the antiquated document in the vehicle.

Based on the best available information, the FMCSA estimates there are approximately 3,604 motorcoaches and limousines subject to FMCSA jurisdiction operated by Canadian and Mexican

passenger carriers in the United States. Thus, the agency estimates that the burden for these carriers associated with retention of the Insurance Endorsement or Surety Bond in their vehicles is **40.25 burden hours** [3,604 vehicles x .67 (67 percent) of carriers require to obtain an Insurance Endorsement or Surety Bond each year (2,415) x 1 minute / 60 minutes = 40.25].

The total burden for compliance by passenger carriers with the financial responsibility requirements thus is estimated to be **151.44 burden hours** [110.77 hours for preparing Insurance Endorsements and Surety Bonds + .42 hours for filing a Surety Bond + 40.25 hours for Canadian and Mexican carriers = 151.44].

PROPERTY CARRIERS

FMCSA estimates there are approximately 138,768 property carriers domiciled in the United States, Canada, and Mexico that are subject to the financial responsibility requirements. The agency further estimate that approximately 67 percent of these carriers are required to obtain an Insurance Endorsement or Surety Bond in any given year for one of the reasons listed in Item 6. Finally, FMCSA estimates that only approximately 0.5 percent of the 138,768 carriers, or 694 carriers, meet the requirement with a Surety Bond rather than with an Insurance Endorsement.

The estimated annual burden for preparing Insurance Endorsements and Surety Bonds for motor property carriers thus is **3,099.16 burden hours** [138,768 carriers x .67 (67 percent) of carriers required to obtain an Insurance Endorsement or Surety Bond each year (92,975) x 2 minutes / 60 minutes = 3,099.16].

The estimated annual burden for motor property carriers to “file” Surety Bonds at their principal place of business is **11.57 burden hours** [694 carriers x 1 minute / 60 minutes = 11.57].

As noted above, certain types of Mexican and Canadian motor carriers operating in the United States must obtain an Insurance Endorsement or Surety Bond. All vehicles operated by these carriers in the United States must have a legible copy of the endorsement or bond in the cab. The FMCSA estimates there are approximately 76,000 vehicles operated by these Mexican and Canadian carriers in the United States and that it takes one minute to file or place either document in the vehicle. Thus, the agency estimates that the annual burden associated with retention of Insurance Endorsement and Surety Bonds in the vehicles of Mexican and Canadian carriers operating in the United States is **1,266.67 burden hours** [76,000 vehicles x 1 minute / 60 minutes = 1,266.67].

The total annual burden for compliance by motor property carriers with the financial responsibility requirements thus is estimated to be **4,377.40 burden hours** [3,099.16 hours for preparing Insurance Endorsements and Surety Bonds) + 11.57 hours for filing Surety Bonds + 1,266.67 hours for Mexican and Canadian carriers operating in the U.S. = 4,377.40].

TOTAL ESTIMATED BURDEN HOURS

The total estimated annual burden for compliance by motor carriers of property and of passengers with the financial responsibility requirements thus is **4,528.84 burden hours** [151.44 hours for

motor carriers of passengers + 4,377.40 hours for motor carriers of property = 4,528.84] rounded to 4,529 hours.

ESTIMATED SALARY COSTS

The estimated cost for salaries associated with these burden hours is **\$121,625** [\$112,347 for preparing Insurance Endorsement or Surety Bonds + \$129.90 for filing Surety Bonds + \$9,148.44 for recordkeeping activities = \$121,625], as broken out and described below.

Insurance Endorsements are completed by authorized representatives of insurance companies. Surety Bonds are completed by surety companies. The FMCSA estimates the average hourly rate of pay for the professional persons who completes the Insurance Endorsement or Surety Bond is approximately \$35.00. Therefore, the annual cost burden associated with preparing the Insurance Endorsements and Surety Bonds is approximately **\$112,348** [3,099.16 hours for motor carriers of property + 110.77 hours for motor carriers of passenger x \$35.00 per hour = \$112,348].

The FMCSA estimates the average hourly wage of persons who file Surety Bonds in the motor carriers' files, is approximately \$10.00. Therefore, the annual cost burden associated with filing Surety Bonds is approximately **\$119.90** [(11.57 hours for motor carriers of property + .42 hour for motor carriers of passengers) x \$10.00 per hour = \$119.90].

The FMCSA estimates the average hourly wage of Canadian and Mexican persons who place or file Insurance Endorsements or Surety Bonds in the cabs of vehicles that are operated in the United States, is approximately \$7.00. Therefore, the annual cost burden associated with the recordkeeping activity is approximately **\$9,148.44** [(1,266.67 hours for Canadian and Mexican property carriers + 40.25 hours for Canadian and Mexican passenger carriers) x \$7.00 per hour = \$9,148.44].

Estimated Annual Number of Respondents: 143,728 [138,768 property carriers + 4,960 passenger carriers = 143,728].

Estimated Total Annual Responses: 96,298 [143,728 annual respondents x .67 (67 percent) of carriers required to obtain an Insurance Endorsement or Surety Bond in any given year = 96,298].

13. Estimate of total annual cost to respondents:

Other than the costs for salaries described above in 12, there are no costs to respondents for this information collection.

14. Estimate of cost to the Federal government:

This information collection imposes no cost to the Federal government.

15. Explanation of program changes or adjustments:

This program adjustment in the number of annual respondents from 177,000 to 143,728 is due to a decrease in the number of motor carriers applying for property and passenger operating authority.

16. Publication of results of data collection:

N/A. This information will not be published.

17. Approval for not displaying the expiration date for OMB approval:

No approval is being requested.

18. Exception to certification statement:

None.

Part B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

Attachments

- A. 49 U.S.C. § 31139
- B. 49 U.S.C. § 31138
- C. Form MCS-90, Endorsement for Motor Carrier Policies of Insurance for Public Liability
- D. Form MCS-90B, Endorsement for Motor Carrier Policies of Insurance for Public Liability
- E. Form MCS-82, Motor Carrier Public Liability Surety Bond
- F. Form MCS-82B, Motor Carrier Public Liability Surety Bond
- G. 49 CFR § 387
- H. ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803, December 29, 1995).
- I. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Section 4304 of SAFETEA-LU) [Public Law 109-59, August 10, 2005, 119 Stat. 2955].
- J. Notice of Proposed Rulemaking (NPRM) titled, "Unified Registration System," (70 FR 28990, May 19, 2005).
- K. Federal Register notice requesting 60 day public comment period (71 FR 48967 dated August 22, 2006).
- L. Federal Register notice requesting 30 day public comment period (71 FR 75804 dated December 18, 2006).