

Information Collection Clearance

The Supporting Statement

Designation of Agents, Motor Carriers, Brokers and Freight Forwarders

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) is submitting to the Office of Management and Budget (OMB) a revised information collection (IC) titled “Designation of Agents, Motor Carriers, Brokers and Freight Forwarders,” covered by OMB Control Number 2126-0015, and is currently due to expire on April 30, 2008. The Agency revised this IC due to its development of a notice of proposed rulemaking (NPRM) titled, “New Entrant Safety Assurance Process” (see Attachment A) that adds the requirement for non-North America-domiciled motor carriers to use the Form BOC-3 to notify the agency regarding their designation of process agents.

1. Circumstances that make collection of information necessary:

The Federal Motor Carrier Safety Administration (FMCSA) is authorized to register for-hire motor carriers of regulated commodities under the provisions of 49 U.S.C. § 13902 (Attachment B); surface freight forwarders under the provisions of 49 U.S.C. § 13903 (Attachment C); and property brokers under the provisions of 49 U.S.C. § 13904 (Attachment D). These persons may conduct transportation services only if they are registered pursuant to 49 U.S.C. § 13901 (Attachment E). Registered motor carriers, brokers and freight forwarders must designate: (1) An agent upon whom service of notices in proceedings before the Secretary of Transportation (Secretary) may be made (49 U.S.C. § 13303, Attachment F); and (2) for every State in which they operate, agents upon whom process issued by a court may be served in actions brought against the registered transportation entity (49 U.S.C. § 13304, Attachment G). Regulations governing the designation of process agents are found at 49 CFR part 366 (Attachment H). The designation of the agents is filed with the FMCSA on Form BOC-3 (Attachment I).

The NPRM would add a requirement for non-North America-domiciled motor carriers to notify the agency regarding designation of process agents by either: (1) the submission of a completed Form BOC-3, “Designation of Agents, Motor Carriers, Brokers and Freight Forwarders,” in the application package, or (2) a letter stating that the applicant will use a process agent that will submit the Form BOC-3 electronically to FMCSA.

This information collection supports the DOT’s Strategic Goal of Safety by providing motor carriers a means to register and comply with the statutory registration requirements pertaining to for-hire motor carriers, freight forwarders and brokers and by facilitating recovery, in their own jurisdictions, of damages suffered by third parties resulting from the operations of these transportation entities.

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

Information contained on the completed form BOC-3 identifies a process agent for each State in which the motor carrier, freight forwarder or broker will operate. These process agents are

authorized by the transportation entity to accept, on its behalf, legal process or notice in agency and court proceedings. Persons considering bringing legal actions against a carrier or broker may obtain the name of its process agent in a particular State by contacting the FMCSA.

3. Extent of automated information collection:

The Government Paperwork Elimination Act (GPEA) requires that agencies provide for the option of electronic submission of information and the use of electronic signatures, when practicable. Approximately **90 percent** of the Form BOC-3's filed with FMCSA are submitted electronically by "blanket" agents who are associations or corporations that have provided FMCSA with a list of process agents for each State. They have 100 percent capability to file their information electronically with the FMCSA. These companies provide process agents nationally to motor carriers for a fee. FMCSA is continuing to encourage motor carriers to use "blanket" agents.

4. Efforts to identify duplication:

There is no similar filing made with any other Federal agency which would result in duplication of this information.

5. Efforts to minimize the burden on small businesses:

The FMCSA registration application package includes an explanation of the process agent requirement and a list of blanket filing companies. Any small business applicants who designate their own individual process agents on Form BOC-3 are only required to submit a limited amount of information. This information includes the docket number, date, name and address of the carrier, title and signature of the authorized filer, and identification of its process agents. This is the minimum information necessary to meet the statutory requirements relating to the designation of process agents.

6. Impact of less frequent collection of information:

Form BOC-3 is submitted to meet a statutory requirement for registration applicants. It is filed on an "as-needed" basis and cannot be done less frequently.

7. Special circumstances:

There are no special circumstances related to this information collection.

8. Compliance with 5 CFR 1320.8:

On December 21, 2006, FMCSA issued a notice of proposed rulemaking (NPRM) entitled, "New Entrant Safety Assurance Process (see Attachment A). The agency received no comments regarding this IC in response to the NPRM.

9. Payments or gifts to respondents:

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

10. Assurance of confidentiality:

There is no assurance of confidentiality. The form calls for information identifying process agents in all States in which a motor carrier operates.

11. Justification for collection of sensitive information:

The information requested and collected is not of a sensitive nature.

12. Estimate of burden hours for information requested:

The estimated annual burden hours for this information collection are 5,002 hours.

FMCSA estimates that approximately 30,000 registrants will take 10 minutes to file Form BOC-3 annually. This estimate also includes a small number of anticipated additional Mexican motor carriers who would be filing updated information on Form BOC-3 when final regulations are implemented for FMCSA registration of these carriers. The form is filed on an “as needed” basis, and there is no continuing information collection function associated with the form. The form requires very limited information that is readily available to the filer. It is estimated that the annual burden hour for executing the form and mailing it to the FMCSA is **5,000** hours (10 minutes per filing x 30,000 filers/60 = 5,000).

The NPRM will require an estimated 12 non-North America-domiciled motor carriers to complete the Form BOC-3 each year. The estimated annual paperwork burden for including this additional information collection requirement is 5002 hours [5,000 currently approved annual burden hours + 2 hours (12 new entrant non-North America-domiciled motor carriers x 10 minutes/60 minutes to complete Form BOC-3) = 5002].

The FMCSA estimates that the average hourly rate of pay for persons completing Form BOC-3 is \$30.00. The total annual salary cost burden associated with the filings is **\$150,060** (\$30 x 5,002 hours = \$150,060).

Estimate of Annual Respondents: 30,012 respondents [30,000 existing registrants + 12 non-North America-domiciled motor carriers = 30,012].

Estimate of Annual Burden Hours: 5002 hours [5,000 hours for existing registrants + 2 hours for non-North America-domiciled motor carriers = 5,002].

13. Estimate of total annual costs to respondents:

Approximately 10 percent of the 30,012 annual filings are mailed to the FMCSA. The cost of postage for motor carriers who opt to mail the Form BOC-3 to the FMCSA is calculated as follows:

$$3,001 \text{ annual filings} \times \$.39 \text{ postage for each filing} = \$1,170.$$

14. Estimate of cost to the Federal government:

Form BOC-3 is processed by Transportation Assistants. The average hourly rate of pay for these employees is \$15, and FMCSA estimates that processing each Form BOC-3 takes approximately 5 minutes. The estimated annual cost to the Federal government for processing 30,012 of these forms is \$37,515 (30,012 forms x 5 minutes/60 hour x \$15 = \$37,515).

15. Explanation of program changes or adjustments:

Costs to respondents are accordingly adjusted for increases to postage and decreases in the numbers of annual filings that are mailed to the FMCSA.

16. Publication of results of data collection:

The information collected is not intended for publication for statistical purposes.

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

The FMCSA is seeking approval not to display the expiration date of OMB approval of the information collection. It would be inappropriate since the forms are expected to be in use for a numbers of years and, generally, large numbers of the forms are printed and widely distributed.

18. Exception to certification statement:

There are no exceptions to the certification statement.

Part B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

ATTACHMENTS:

- A. Attachment A: 2006 NPRM entitled, "New Entrant Safety Assurance Process.
- B. 49 U.S.C. 13902.
- C. 49 U.S.C. 13903.
- D. 49 U.S.C. 13904.
- E. 49 U.S.C. 13901.
- F. 49 U.S.C. § 13303, Service of notice in proceedings.

- G. 49 U.S.C. § 13304, Service of process in court proceedings.
- H. 49 CFR part 366, Designation of Process Agent.
- I. Form BOC-3, Designation of Agents - Motor Carriers, Brokers and Freight Forwarders.
- J. 60-day comments request Federal Register notice, dated September 14, 2004 (69 FR 55490).