Federal Register

Tuesday,

March 19, 2002

Part III

Department of Transportation

Federal Motor Carrier Safety Administration

49 CFR Part 365

Application by Certain Mexico-Domiciled Motor Carriers To Operate Beyond United States Municipalities and Commercial Zones on the United States-Mexico Border; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 365

[Docket No. FMCSA–98–3298]

RIN 2126–AA34

Application by Certain Mexico-Domiciled Motor Carriers To Operate Beyond United States Municipalities and Commercial Zones on the United States-Mexico Border

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: The FMCSA revises its regulations and form, OP–1(MX), governing applications by Mexico-domiciled carriers who want to operate within the United States beyond the municipalities adjacent to Mexico in Texas, New Mexico, Arizona and California and beyond the commercial zones of such municipalities (''border zones''). This interim rule includes requirements that were not proposed in the NPRM, but which are necessary to comply with the Fiscal Year 2002 DOT Appropriations Act enacted into law in December 2001. This action is taken in anticipation of a presidential order lifting the current statutory moratorium on authorizing such operations. The form requires additional information about the applicant's business and operating practices to help the FMCSA to determine if the applicant will be able to meet the safety standards established for operating in interstate commerce in the United States. Carriers that previously submitted an application to operate beyond the border zones must submit the updated form. Any Mexico-domiciled motor carrier (of property) that wants to operate within the United States solely within the border zones must apply under separate FMCSA regulations that we are issuing elsewhere in today's **Federal Register**. The revisions in this action are part of FMCSA's efforts to ensure the safe operation of Mexico-domiciled motor carriers in the United States and implement the 2002 DOT Appropriations Act. This action will ensure that FMCSA receives adequate information to assess an applicant's ability to comply with U.S. safety standards. It requires that all Mexico-domiciled carriers subject to this rule undergo a safety audit before receiving provisional authority to operate in the United States. Therefore, the FMCSA is publishing this action as an interim final rule and is delaying the effective date in order to consider additional public comments regarding pre-authorization safety audits before grants of provisional authority. These changes will result in the FMCSA being able to better maintain an accurate census of Mexico-domiciled carriers operating beyond the border zones.

DATES: This interim final rule is effective May 3, 2002. We must receive comments by April 18, 2002.

ADDRESSES: You can mail, fax, hand deliver or electronically submit written comments to the Docket Management Facility, United States Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 FAX (202) 493–2251, on-line at *http://dmses.dot.gov/submit.* You must include the docket number that appears in the heading of this document in your comment. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. You can also view all comments or download an electronic copy of this document from the DOT Docket Management System (DMS) at *http://dms.dot.gov/search.htm* and typing the last four digits of the docket number appearing at the heading of this document. The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Comments received after the comment closing date will be included in the docket and we will consider late comments to the extent practicable. FMCSA may, however, issue a final rule at any time after the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Joanne Cisneros, (909) 653–2299, Transborder Office, FMCSA, P.O. Box 530870, San Diego, CA 92153–0870. Office hours are from 7:45 a.m. to 4:15 p.m., p.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Before 1982, Mexico-domiciled motor carriers could apply for authority to operate within the United States by filing an application for such authority with the former Interstate Commerce Commission (ICC). Under the Bus Regulatory Reform Act of 1982 (the Act), Congress imposed a 2-year moratorium on the issuance of new grants of U.S. operating authority to motor carriers domiciled in a contiguous foreign country, or owned or controlled by persons of a contiguous foreign country. The legislation authorized the President to remove or modify the moratorium upon a determination that such action was in the national interest. The Act was developed in response to complaints that neither Mexico nor Canada were permitting U.S. motor carriers the same access to their markets as Mexican and Canadian motor carriers had to U.S. markets. While the trade issues with Canada were resolved quickly, resulting in the moratorium being lifted for Canada-domiciled motor carriers, the trade issues with Mexico were not addressed until the North American Free Trade Agreement (NAFTA) was negotiated in the early 1990s. Legislative and executive extensions have maintained the moratorium for Mexico-domiciled motor carriers since 1982.

A number of Mexico-domiciled motor carriers have been permitted to operate in the United States because they are not covered by the moratorium. The moratorium only applies to new grants of operating authority. Thus, the operations of Mexico-domiciled motor carriers that had obtained unrestricted operating authority before the moratorium was enacted were unaffected by the moratorium. Additionally, access has been allowed for certain motor carriers whose operations fell outside the ICC's licensing jurisdiction. These carriers receive Certificates of Registration by filing Form OP–2 under the provisions of what is now 49 CFR part 368. These carriers include those that operate solely within the border zones. Also included among these are certain types of carriers whose operations are not restricted to the border zones: U.S.-owned, Mexico-domiciled private carriers; U.S.-owned, Mexico-domiciled carriers of exempt goods; and Mexico-domiciled carriers that only traverse the United States to deliver or pick up cargo or passengers in Canada.

The terms of NAFTA, Annex I, provide that the United States would incrementally lift the moratorium on licensing Mexico-domiciled motor carriers to operate beyond the border zones. Pursuant to the first phase of NAFTA, on January 1, 1994, the President modified the moratorium and the ICC began accepting applications from Mexico-domiciled passenger carriers to conduct international charter

and tour bus operations in the United States. In December 1995, ICC promulgated a rule and a revised application form for the processing of Mexico-domiciled property carrier applications. These rules anticipated the implementation of the second phase of NAFTA, providing Mexico-domiciled property carriers with access to the four U.S. States bordering Mexico, and the third phase, providing access throughout the United States. The ICC designated the revised application form OP–1(MX).

Through the ICC Termination Act of 1995 (ICCTA), Congress authorized the President to remove or modify the moratorium upon the President's determination that such action is consistent with United States obligations under a trade agreement or with United States transportation policy. The ICCTA also dissolved the ICC and transferred the authority to issue new grants of U.S. operating authority for motor carriers and some other of its regulatory functions to the Secretary of Transportation, who delegated this authority to the Office of Motor Carriers (OMC) of the Federal Highway Administration (FHWA).

On December 15, 1995, the International Brotherhood of Teamsters (Teamsters) sought an emergency stay of the ICC rule in the United States Court of Appeals for the District of Columbia. The Teamsters contended that the ICC rule was arbitrary and capricious because it failed to address concerns regarding the safe operation of Mexico-domiciled motor carriers. In their comments on the ICC rule, the Teamsters had requested the ICC to add additional safety questions to the applications filed by Mexico-domiciled carriers to ensure that the applicants were willing and able to comply with applicable safety regulations.

On December 18, 1995, the Secretary of Transportation announced an indefinite delay in implementing the NAFTA motor carrier access provisions. The Court of Appeals subsequently denied the Teamsters' request for an emergency stay of the ICC rule, which became an FHWA regulation upon the termination of the ICC, and set the case for briefing and argument. After the Teamsters' case was briefed and argued, the court ordered the case held in abeyance until the Department decided to commence processing applications of Mexico-domiciled motor carriers seeking authority to operate beyond the border zones. Approximately 190 Mexico-domiciled carriers have filed OP–1(MX) applications with the Department.

Mexico filed complaints against the United States under NAFTA's dispute resolution provisions, challenging the United States' decision to deny further trucking, investment, and bus access. An arbitration panel comprised of five individuals with international trade expertise chosen by the United States and Mexico met in May 2000 to hear the trucking and investment case. The parties engaged in extensive pre- and post-hearing briefing on safety and legal issues.

The panel issued a final report on February 6, 2001, that unanimously concluded that the blanket refusal to process applications of Mexico-domiciled motor carriers seeking U.S. operating authority out of concerns over the carriers' safety was in breach of NAFTA obligations of the United States, specifically NAFTA's provisions ensuring national treatment and most-favored-nation treatment for cross-border services. The panel also unanimously decided that the United States' refusal to permit Mexican nationals to invest in U.S. enterprises that provide transportation of international cargo within the United States violated the United States' NAFTA obligations. In June 2001, the President lifted this part of the moratorium.

With respect to its decision on the U.S. refusal to implement NAFTA's truck access provisions, the panel stated that it did not disagree that truck safety is a legitimate regulatory objective and that it was not limiting U.S. application of its truck safety standards to Mexican carriers operating in the United States provided that they are applied in a manner that is consistent with the United States' NAFTA obligations. The panel noted that compliance with NAFTA obligations did not require the granting of operating authority to Mexican trucking companies that might be unable to comply with U.S. safety regulations. The panel observed that the United States might not be required to treat applications for operating authority from Mexican trucking firms in exactly the same manner as applications from U.S. or Canadian firms, as long as the applications are reviewed on a case-by-case basis. The panel stated that to the extent that Mexican licensing and inspection requirements might not be like U.S. requirements, the United States might be justified in using methods to ensure Mexican carrier compliance with the U.S. regulatory regime that differ from those used for U.S. and Canadian carriers, provided that such different methods are used in good faith to address legitimate safety concerns and fully conform with all relevant NAFTA provisions.

It is important to note that this interim final rule and the two related rules published elsewhere in today's **Federal Register** represent only part of the FMCSA's effort to ensure the safe operation of Mexico-domiciled motor carriers in the United States. For example, Mexico-domiciled motor carriers, their vehicles, and their drivers operating in the United States have been and will continue to be subject to all of FMCSA's safety requirements, inspection procedures, enforcement mechanisms, and fines and out-of-service orders. In addition to being subject to the various safety audits and compliance reviews contained in these rules, these carriers and their vehicles and drivers will continue to be subject to roadside vehicle inspections performed at the border and throughout the United States by FMCSA inspectors and their State partners. FMCSA has received additional funding from Congress to enhance its inspection capabilities at the border. The FMCSA is also conducting seminars in Spanish for Mexican carriers to help ensure that they understand U.S. safety requirements. FMCSA personnel also expect to continue their cooperative efforts with their Mexican Government counterparts toward enhancing Mexico's motor carrier regulatory regime.

The DOT's Research and Special Programs Administration (RSPA) has made considerable progress in harmonizing the hazardous materials standards of the United States and Mexico. Though Mexican hazardous materials standards are not as comprehensive as U.S. standards, those in place are compatible with U.S. standards.

RSPA has also made significant strides in educating Mexico-domiciled hazardous materials shippers and carriers in hazardous materials safety. In 1993, it translated the U.S. Emergency Response Guide into Spanish. Since then, Mexican emergency response information requirements have been harmonized with existing U.S. emergency response information requirements. The U.S., Mexican and Canadian Governments now jointly issue an Emergency Response Guide. RSPA has also translated various hazardous materials brochures and pamphlets into Spanish as well as identified free hazardous materials industry resources to assist the Mexican Government's Secretaria de Comunicaciones y Transportes (SCT) in providing hazardous materials and

emergency response training for its inspectors.

Section 350 of the 2002 DOT Appropriations Act, Public Law 107–87 (Act), prohibits the Secretary of Transportation from obligating or expending funds for reviewing or processing applications of Mexico-domiciled motor carriers for authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico international border until the FMCSA and DOT complete several enumerated actions. Many of the requirements of the Act have been incorporated into this interim final rule and the two companion rules published elsewhere in today's **Federal Register**. Under this interim final rule FMCSA will: (1) Conduct safety examinations or audits on Mexico-domiciled carriers seeking authority to operate beyond the border zones encompassing the nine areas of inquiry required by section 350(a)(1)(B); (2) assign a distinctive U.S. DOT number to each Mexico-domiciled motor carrier operating beyond the border zones, in accordance with section 350(a)(4); (3) require Mexico-domiciled motor carriers operating beyond the border zones to certify that they will have their vehicles inspected by Commercial Vehicle Safety Alliance (CVSA)-certified inspectors every three months, in accordance with section 350(a)(5); and (4) require Mexico-domiciled carriers to provide proof of valid insurance issued by an insurance company licensed in the United States before granting them authority to operate beyond the border zones, in accordance with section 350(a)(8).

FMCSA invites comments about how the interim final rule incorporates these new section 350 provisions into the application and approval process.

Summary of Notice of Proposed Rulemaking (NPRM)

The FMCSA proposed changes to its regulations and application procedures for Mexico-domiciled motor carriers desiring to operate within the United States under the NAFTA liberalized access provisions in the May 3, 2001 **Federal Register** (66 FR 22371). Applicants wanting to conduct transportation services within the United States beyond the border zones would submit a redesigned Form OP–1(MX). The proposed application solicited information to indicate the nature of the operation, demonstrate the applicant's knowledge of the basic requirements of the Federal Motor Carrier Safety Regulations (FMCSRs) and describe how it intended to comply with these regulations. Furthermore, we proposed to require each applicant to make specific certifications of compliance, such as requiring an applicant to submit verification from the Mexican Government that it is a registered Mexico-domiciled carrier authorized to conduct motor carrier operations up to the United States-Mexico border and that all drivers who operate in the United States have a valid Licencia Federal de Conductor (LFC) issued by the Government of Mexico. The applications would also be subject to the other procedures set forth in part 365 for applications in the OP–1 series (e.g., protests and publication in the FMCSA Register).

Discussion of Comments to the NPRM

In response to the three NPRMs relating to NAFTA implementation, the FMCSA received over 200 comments. Over 90 percent of the comments opposed the safety monitoring system or the border opening. Most of the comments focused on the proposed safety monitoring system (66 FR 22415) and will be fully discussed elsewhere in today's **Federal Register**. A large percentage of the commenters addressed all three rules together in a single submission that may have been filed in one or all three public dockets. We have carefully considered them and have revised the Form OP–1(MX) application form and the regulations governing the application process as noted in the preamble sections titled ''Discussion of the Interim Final Rule'' and ''Final Revisions to Form OP–1(MX).'' In this section, FMCSA responds to the comments on Form OP–1(MX) (and common elements to Form OP–2) and part 365.

The Friends of the Earth, Natural Resources Defense Council, Sierra Club, and Center for International Law (Friends of the Earth *et al.*) jointly commented that FMCSA is required to perform additional analysis to meet the requirements of the National Environmental Policy Act (NEPA) and Executive Order 13045, concerning the protection of children from environmental and health and safety risks. The International Brotherhood of Teamsters (Teamsters) also expressed this viewpoint. The Friends of the Earth *et al.* believe that 40 CFR 1501.3(b) requires that if DOT is not certain that an environmental impact statement is required, then it must first prepare an environmental assessment. Regarding compliance with Executive Order 13045, the Friends of the Earth *et al.* believe that this action presents increased pollution and safety concerns that pose a disproportionate risk to children.

The FMCSA is preparing an agency order to meet the requirements of DOT Order 5610.1C (that establishes the Department of Transportation's policy for compliance with NEPA by the Department's administrations). The FMCSA has conducted a programmatic environmental assessment (PEA) of the three rulemakings in accordance with the DOT Order and the regulations of the Council on Environmental Quality. A discussion of the PEA and its findings and the FMCSA's responsibilities under E.O. 13045 is presented later in the preamble under ''Regulatory Analyses and Notices.'' A copy of the PEA is in the docket to this rulemaking.

The Attorney General for the State of California submitted a comment in which he asserted that the FMCSA would be required to perform a ''conformity determination'' pursuant to the Clean Air Act (CAA), before finalizing these rulemakings. Under the CAA, Federal agencies are prohibited from supporting in any way, any activity that does not conform to an approved State Implementation Plan (SIP), (42 U.S.C. 7006). EPA regulations implementing this provision require Federal agencies to determine whether an action would conform with the SIP (a ''conformity determination''), before taking the action (40 CFR 93.150). The Attorney General asserts that the FMCSA must make a conformity determination before taking final action to implement regulations that would allow Mexican trucks to operate beyond the border. The Attorney General provided technical information to support his assertion that allowing Mexican trucks to operate beyond the border would likely not be in conformity with California's SIP.

We have reviewed our obligations under the CAA, and believe that we are in compliance with the general conformity requirements as implemented by the U.S. Environmental Protection Agency (EPA). EPA's implementing regulations exempt certain actions from the general conformity determination requirements. Actions which would result in no increase in emissions or clearly a de minimis increase, such as rulemaking (40 CFR 93.153(c)(iii)), are exempt from requiring a conformity determination. In addition, actions which do not exceed certain threshold emissions rates set forth in 40 CFR 93.153(b) are also exempt from the conformity determination requirements. The FMCSA rulemakings meet both of these exemption standards. First, as noted elsewhere in this preamble to this rule, the actions being taken by the FMCSA are rulemaking actions to improve

FMCSA's regulatory oversight, not an action to modify the moratorium and allow Mexican trucks to operate beyond the border. Second, the air quality impacts from each of the FMCSA's rules neither individually nor collectively exceed the threshold emissions rates established by EPA (see Appendix C of the Environmental Assessment accompanying these rulemakings for a more detailed discussion of air quality impacts). As a result, we believe that FMCSA's rulemaking actions comply with the CAA requirements, and that no conformity determination is required.

The American Insurance Association (AIA) commented that the OP–1(MX) form does not make clear the fact that layered insurance filings (primary and excess securities) are acceptable. The AIA suggested modifying the form to make it clear. The FMCSA does not find this modification to be necessary because the acceptability of layered insurance filings is clearly explained in 49 CFR part 387, subpart C.

The International Brotherhood of Teamsters (Teamsters) commented that the financial responsibility section of the form should be modified to make clear that we would not grant provisional operating authority until we receive the appropriate filings for financial responsibility and service of process agents from the applicant and its financial responsibility agent(s). The AFL–CIO's Transportation Trades Department (TTD) commented that various statements and certifications could be made more understandable. The FMCSA will verify that a carrier has the necessary financial responsibility as part of the pre-authorization safety audit. However, there will be no DOT number issued at that time under which a filing may be made. Therefore, we will permit insurance companies to file evidence of insurance with FMCSA after provisional authority is granted. However, provisional operating authority will not be valid, and the carrier may not operate under that authority, until an insurance filing is made with, and accepted by, the agency. This is consistent with the procedure applicable to U.S. and Canadian carriers required to obtain operating authority under 49 U.S.C. 13901. In a similar vein, we are giving applicants the option of including with the application a notification that a process agent service will electronically file the necessary process agent information within 90 days. As is the case with U.S. and Canadian carriers subject to 49 U.S.C. 13901, a Mexico-domiciled carrier may not operate in the United States until the process agent filing is made with, and accepted by, the agency.

United Parcel Service (UPS) commented that the application and regulations for Mexico-domiciled carriers requesting operating authority should identify express delivery as a separate kind of carrier operation. UPS explains that this distinction would enable the United States to accelerate the timeline for lifting the moratorium for express delivery services, without awaiting action on general trucking.

We do not see the need at this time for the rules to distinguish between express delivery services and general trucking services. We do not expect that the moratorium will be lifted for express delivery services before the lifting of the moratorium on general trucking. In addition, the United States maintains a reservation under the NAFTA on the transportation of goods other than international cargo between points in the United States, and the reservation covers both express delivery services and other motor carrier services.

The Owner-Operator Independent Drivers Association, Inc. (OOIDA) and the California Trucking Association (CTA) recommended that the form specify the additional U.S. laws to which Mexico-domiciled carriers would be subject. The OOIDA commented that since NAFTA requires Mexico-domiciled carriers to comply with U.S. laws and all applicable State laws when operating within the United States, the FMCSA should set forth the particular U.S. laws to which applicants are subject. They believe form references to other laws are too vague and should be more fully enumerated. The CTA recommends modifying the form to require an applicant to certify that it will comply with the laws of other U.S. agencies.

The FMCSA believes that it is beyond the scope of this rulemaking to provide an exhaustive listing and explanation on the OP–1(MX) form of all Federal and State laws to which carriers are subject when operating within the United States. However, we are conducting information sessions for potential applicants where, among other things, we discuss additional information provided by other Federal agencies and State registration requirements. This information will also be on the FMCSA web site.

We have worked closely with other Federal agencies, including the U.S. Department of Labor (DOL), U.S. Environmental Protection Agency (EPA) and others, in drafting and clarifying the statement that appears after the signature line of Section VIII—Compliance Certifications. This statement underscores the importance of complying with all pertinent Federal, State, local and tribal statutory and regulatory requirements, including labor, environmental, and immigration laws. Such compliance includes producing requested records for review and inspection. It also includes compliance by drivers who must meet the requirements under the Immigration and Nationality Act, 8 U.S.C. 1101 *et seq.*, and pass inspection by inspectors of the Immigration and Naturalization Service at the port of entry.

The American Trucking Associations, Inc. (ATA), OOIDA, the Teamsters, and the TTD expressed concern that the hazardous materials requirements listed in the safety certification statements were incomplete, suggesting a more comprehensive listing of requirements, including the hazardous material registration requirement. They suggested additional hazardous materials documentation to be submitted with the application. The Transportation Lawyers Association (TLA) believes that the current and proposed application procedures have a loophole regarding identification of hazardous materials carriers. It contends that the ''check the block'' system, and the fact that none of the information described in the hazardous materials certification statements must be submitted with the application, enable the hazardous materials transporter to escape detection. Neither the form nor application procedures require a carrier who later decides to transport hazardous materials to notify the FMCSA or provide evidence of knowledge of hazardous materials standards—only to increase the amount of insurance carried.

We have corrected and modified the hazardous material certifications in response to these comments. The hazardous materials certification statements have been revised to more thoroughly reference applicable hazardous materials requirements and request the supplemental information required by the Hazardous Materials Regulations. Please reference the section ''Final Revisions to the Form OP–1(MX)'' for a detailed discussion of revisions to the certification statements. Information regarding hazardous materials operations will be verified during the pre-authorization safety audit established in this interim final rule pursuant to section 350 of the DOT Appropriations Act.

Section 350 of the Act prohibits Mexico-domiciled motor carriers from transporting hazardous materials in a placardable quantity beyond the border zones until the United States has completed an agreement with the Government of Mexico ensuring that

drivers of such placardable quantities of hazardous materials meet substantially the same requirements as U.S. drivers carrying such materials. Section 1012(b) of the ''Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001'' (USA PATRIOT Act) [Pub. L. 107–56, October 26, 2001] amended the Hazardous Materials Transportation Act (49 U.S.C. 5101–5127) and the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 31301–31317) by placing limitations on the issuance or renewal of hazardous materials licenses. (The DOT interprets the term ''hazardous materials licenses'' to mean a hazardous materials endorsement for a commercial driver's license because of the reference to section 31305 in section 1012(b).) The OP–1(MX) form will require additional information regarding cargo tank certification, hazardous materials training, and persons responsible for ensuring compliance with the Hazardous Materials Regulations.

The CTA commented that the FMCSA should distribute an applicant's Single State Registration System (SSRS) filing to the appropriate SSRS members. The FMCSA does not have the resources to coordinate the SSRS filings for Mexico-domiciled carriers. We have also removed specific references to the SSRS from the form instructions (although the requirement still remains), because it is one of many State requirements. We do not wish to imply that the SSRS requirement is the sole State requirement for Mexico-domiciled carriers or that it has greater importance than other laws or regulations.

The TLA commented that the definition of private carrier in the instructions to the application form includes a phrase that has historically described a for-hire carrier and suggests that the form be modified. In Section III of the instructions, a motor private carrier is defined as an entity that is ''transporting its own goods, including an entity that is performing such operations under an agreement or contract with a U.S. shipper or other business.''

This definition is an attempt to rephrase, in plain language, the text of 49 U.S.C. 13102(7). Section 13102(7) defines foreign motor private carrier to include persons (except motor carriers of property or motor private carriers) that provide interstate transportation of property by motor vehicle under agreements or contracts with persons who are not motor carriers of property or motor private carriers. The form instructions may be confusing because they do not reference the for-hire motor carrier exclusion in defining a private carrier. Therefore, we have modified the form to provide clarity.

Camara Nacional del Autotransporte de Cargo (CANACAR) commented that we must more fully explain the need for a process agent in the United States and link this requirement directly to safety and NAFTA. CANACAR believes we should require only one process agent in the United States. It commented that requiring more than one would violate NAFTA.

Contrary to CANACAR's suggestion, nothing in the NAFTA limits the rights of the United States to require firms to designate more than one process agent. Requiring Mexico-domiciled carriers to comply with 49 CFR part 366 would not violate NAFTA because the same requirement applies to U.S. and Canadian motor carriers. A process agent service may be used to maintain service of process agents in multiple States, thus eliminating the need for carriers themselves to retain agents in each State. A process agent service is an association or corporation that files with the FMCSA a list of process agents for each State in which the carrier intends to operate.

CANACAR believes that FMCSA must remove registration requirements for agricultural, private, and exempt carriers, because we do not require U.S. and Canadian agricultural, private, and exempt carriers to register under 49 U.S.C. chapter 139.

The Motor Carrier Safety Act of 1984, Public Law 98–554, 98 Stat. 2832, required Mexican motor carriers conducting operations otherwise exempt from the economic regulation requirements (i.e., for-hire carriers of exempt commodities, agricultural and private carriers) to register with the Interstate Commerce Commission to conduct operations in the United States. These requirements are an important element of FMCSA's effort to ensure the safe operation of Mexican motor carriers on U.S. highways. From a safety standpoint, there is no distinction between agricultural, private, and exempt carriers and the Mexican carriers that would otherwise be required to register.

CANACAR also believes that the OP–1(MX) and OP–2 form questions about affiliates will violate section 219 of the Motor Carrier Safety Improvement Act (MCSIA), which it interprets to mean that ''once NAFTA is implemented'' questions about affiliates would no longer be needed. CANACAR commented that section 219 of MCSIA only applies to ''carriers'' and not ''nationals.''

The FMCSA will continue to require OP–1(MX) applicants to submit information on affiliations because it is useful in deterring operations by disqualified carriers. Section 219 of MCSIA authorizes FMCSA to penalize and disqualify foreign motor carriers for operating beyond the border zones before the implementation of NAFTA, but it does not prohibit enforcement after NAFTA's implementation (nor the collection of information on a foreign carrier's affiliations). FMCSA requires similar information from U.S. and Canadian applicants to ensure that unsafe carriers do not evade out-of-service orders or registration suspensions by continuing operations under a different identity.

The Free Trade Alliance San Antonio recommends that we provide a sample completed OP–1(MX) form, including attachments, as a guide to applicants. The FMCSA will address this comment in training materials and in our workshops for potential applicants.

The TLA commented that the proposed forms require a carrier operating ''small vehicles (GVWR under 10,000 pounds)'' to certify that ''it is exempt from the U.S. DOT Federal Motor Carrier Safety Regulations * * * .'' The TLA believes that the certification does not accurately reflect the accompanying instructions stating that an ''exempt'' carrier ''must certify that [it is] familiar with and will observe general operational safety fitness guidelines and applicable State and local laws relating to the safe operation of commercial motor vehicles.'' The TLA further commented that the safety certification mentioned in the instructions was originally authored by the ICC in response to comments filed by it in Ex Parte No. 55 (Sub-No. 94), *Revision of Application Procedures and Corresponding Regulation,* 10 ICC 2d 386, 398–399 (1994). The TLA commented that certification that a carrier who is exempt from the FMCSRs, ''will observe'' applicable Texas State Law is meaningless. The TLA believes that local law has no ability to influence a carrier's adherence to good highway safety practices beyond its extremely limited reach.

Carriers that are exempt from direct DOT oversight-because they operate smaller vehicles which generally operate only locally and do not pose a significant enough public threat to warrant Federal involvement-are nonetheless subject to State safety oversight. Many MCSAP States have not fully exempted smaller vehicles from their safety oversight and are not required to exempt them under MCSAP. Consistent with the Congressional

mandate that safety is our highest priority, the FMCSA will require that OP–1(MX) applicants certify their willingness to inform themselves concerning any State, local and tribal safety laws to which they are subject and to pledge to abide by them.

The Teamsters commented that instead of the check boxes on the form, we should require narratives describing systems and procedures that the applicant now uses or intends to use in the future. They contend that all applicants should be required to submit accident records with the applications and that ''* * * (A)ny responsible carrier would have the information required to compile such a record at the time the application is prepared'' even if it had not been maintaining an accident record as such. The TLA recommends that we require a narrative response about the content of an applicant's household goods arbitration program.

The FMCSA will evaluate information provided in the OP–1(MX) form and will conduct a safety audit of each carrier before deciding to grant provisional operating authority and allowing it to commence operations in the United States. Requests for additional narrative descriptions have been restricted to information necessary to evaluate an applicant's willingness and ability to comply with our safety standards and are not meant to be overly burdensome. The FMCSA will not burden Mexico-domiciled carriers with a requirement to provide a narrative description of their household goods arbitration programs because it is not critical to the safety mission of the agency and can be evaluated during the pre-authorization safety audit.

The Teamsters and Public Citizen commented that applicants should complete a proficiency exam testing their knowledge of the FMCSRs as a part of the application procedure, as allowed by MCSIA. The FMCSA does not find it necessary to require a proficiency exam at this time given the detailed requirements of this interim final rule. These detailed requirements include the application, including safety certifications, the pre-authorization safety audit, and the requirement in the Act that Mexico-domiciled commercial vehicles be inspected at each border crossing during the time they hold provisional authority and until they hold permanent authority for three consecutive years, unless the vehicles have a current CVSA inspection sticker affixed to the vehicle. Identifying the appropriate company individual to take the proficiency test would be problematic as well. In addition, it is not clear that a proficiency exam requirement would meaningfully enhance safety because it would only test the ''proficiency'' of a single carrier employee.

The Teamsters also commented that we should require financial reporting based on the Mexico-domiciled applicant's prior year revenue. Since the nature of a Mexico-domiciled carrier's business within Mexico may be unrelated to planned operations within the United States, that information might not be valid for the purpose of evaluating its fitness to operate within the United States. FMCSA also believes this suggestion is outside of the scope of this rulemaking and FMCSA jurisdiction.

Public Citizen believes the proposed application process for Mexico-domiciled trucks will not ensure compliance for several reasons. First, the SCT database to be used in evaluating a Mexico-domiciled carrier's safety fitness is ''unpopulated'' and ''currently lacks the basic information necessary to process applications or to perform a safety review.'' It proposes as a precondition for granting operating authority that FMCSA set minimum levels of inspection, crash, and other performance and enforcement data to be amassed for an applicant. For example, there must be sufficient data to calculate a score in Safestat(tm), the information system used to determine a domestic carrier's safety fitness. Public Citizen also believes that information reported on the form may be distorted through error or fraud, and the driver's safety records may not be available. It commented that insurance and proof of insurance requirements are dangerously inadequate to protect other drivers on public highways.

The SCT database inquiry is but one component of the planned safety evaluation of OP–1(MX) applicants. The FMCSA will use information in its own databases and will conduct a pre-authorization safety audit to validate an applicant's responses and assess its safety fitness. Furthermore, the insurance requirements for Mexico-domiciled carriers are identical to those applicable to domestic and Canadian carriers. Minimum levels of financial responsibility are set forth in 49 CFR part 387. The FMCSA will verify proof of financial responsibility during the pre-authorization safety audit. Furthermore, a Mexico-domiciled carrier will be unable to operate in the United States beyond the border zones unless evidence of adequate financial responsibility is filed with the FMCSA by an insurance company licensed in the United States. Evidence of insurance must also be maintained on the motor vehicle when operating within the United States and border inspectors will verify proof of financial responsibility electronically by checking the FMCSA's insurance database.

The CTA commented that applicants should file proof of insurance with the application, rather than after FMCSA grants the applicant operating authority. Current 49 CFR part 387 requires the insurer, not the applicant, to make insurance filings with the FMCSA. This requirement allows insurance companies to retain control of the insurance certification documents, thereby significantly decreasing opportunities for fraudulent activity. Section 350(a)(8) of the Act, however, requires the FMCSA to verify proof of financial responsibility with a financial responsibility provider licensed in the United States during the pre-authorization safety audit. Although FMCSA will independently verify a Mexico-domiciled motor carrier applicant's proof of financial responsibility during the pre-authorization audit, the carrier will not have been issued a DOT number under which a filing may be made. Therefore, we will not require actual filing of the insurance at the time of the audit. However, once the carrier is granted provisional operating authority, it must have evidence of acceptable insurance on file with the FMCSA before it may operate within the United States.

A number of parties, including OOIDA, Public Citizen, and the Teamsters, urged that Mexico-domiciled motor carriers should not be allowed to operate beyond the border zones at this time, citing what they view as an inadequate Mexican Government motor carrier safety infrastructure, inadequate inspection facilities at border crossings, and other factors. The Teamsters, for example, note that for these reasons full implementation of NAFTA's motor carrier access provisions is premature and urge FMCSA to ''postpone the border opening.''

FMCSA believes that the regulations being published today, and the other safety measures the agency is taking with respect to Mexico-domiciled motor carriers operating outside the border zone, will give the agency sufficient assurance that these carriers are capable of complying with U.S. safety standards, notwithstanding any shortcomings in the Mexican Government's motor carrier safety infrastructure. FMCSA also believes that, in conjunction with its State partners, it will be able to maintain an adequate safety inspection program at the border. It should be noted, however, that these and other

comments urging a delay in the implementation of NAFTA assume that the regulations published today ''open the border'' or lift the current moratorium on the granting of operating authority. The regulations do neither. The President, not the FMCSA, has that authority pursuant to 49 U.S.C. 13902. The President has announced that the United States will comply with its NAFTA obligations regarding Mexico-domiciled motor carrier access in a manner that will not weaken motor carrier safety. The regulations help ensure motor carrier safety in anticipation of presidential action lifting the moratorium.

In addition, section 350(c)(1) of the Act requires the DOT Inspector General (OIG) to conduct a comprehensive review of FMCSA border operations before the FMCSA may spend any Federal funds to review or act on OP–1(MX) applications. The OIG must assess whether the statutory requirements have been met to ensure the opening of the border does not pose an unacceptable safety risk to the American public. Section 350(c)(2) also requires the Secretary of Transportation to certify in writing in a manner addressing the Inspector General's findings that the opening of the border does not pose an unacceptable safety risk to the American public before the FMCSA may spend any Federal funds to review or act on OP–1(MX) applications.

ABA and Greyhound urge that we not implement our motor carrier-related NAFTA obligations until Mexico reciprocates by implementing its motor carrier-related NAFTA obligations. Again, none of the regulations published today ''open the border'' or lift the current moratorium on the grant of operating authority. In any event, NAFTA itself provides procedures to ensure that each party fulfills its obligations under the Agreement.

In response to comments about the need for ensuring that vehicles operated by Mexico-domiciled motor carriers comply with the applicable Federal Motor Vehicle Safety Standards (FMVSS), we note that enforcement of these safety standards by FMCSA and its State partners will be accomplished through roadside inspections, including inspections at the border. Roadside inspections provide a means of ensuring that vehicles meet the applicable FMVSSs in effect on the date the vehicle was manufactured.

Title 49 CFR part 393 of the FMCSRs currently includes cross-references to most of the FMVSSs applicable to heavy trucks and buses. The rules require that motor carriers operating in the United States, including Mexico-domiciled carriers, must maintain the specified safety equipment and features that the National Highway Traffic Safety Administration (NHTSA) requires vehicle manufacturers to install. Failure to maintain these safety devices or features is a violation of the FMCSRs. If the violations are discovered during a roadside inspection, and they are serious enough to meet the current out-of-service criteria used in roadside inspections (i.e., the condition of the vehicle is likely to cause an accident or cause a mechanical breakdown), the vehicle would be placed out of service until the necessary repairs are made. The FMCSA also has the option of imposing civil penalties for violations of 49 CFR part 393. Any FMVSS violations that involve noncompliance with the standards presently incorporated into part 393 could subject motor carriers to a maximum civil penalty of $10,000 per violation. If the FMCSA determines that Mexico-domiciled carriers are operating vehicles that do not comply with the applicable FMVSSs, this information could be used to take appropriate enforcement action for making a false certification on the application for operating authority.

The FMCSA and NHTSA are initiating several regulatory actions (published elsewhere in today's **Federal Register**) to ensure that labeling requirements of the FMVSSs are enforced against motor vehicles entering the United States. The FMCSA is proposing to amend the FMCSRs to require that all motor carriers ensure that their CMVs have a certification label that meets the requirements of 49 CFR part 567, applied by the vehicle manufacturer or by a registered importer. United States motor carriers typically would only have access to vehicles that meet the applicable FMVSSs and have a certification label that meets the requirements of 49 CFR part 567, but Mexico-domiciled and Canada-domiciled carriers purchasing vehicles for operation within their respective countries may be using vehicles which have not been certified as FMVSS-compliant.

The FMCSA is proposing that U.S. motor carriers comply with the certification label proposal on the effective date of the FMVSS certification rule. The agency is also proposing that foreign motor carriers that begin operations in the United States on or after the effective date of the certification label rule, or expand their operations to go beyond the border zones for the first time, ensure that all CMVs used in the new or expanded operations have the necessary certification label before entering the United States. All other Canada and Mexico-domiciled motor carriers operating in the United States prior to the effective date of the interim final rule would be allowed 24 months to bring their vehicles into compliance with the certification requirements.

NHTSA is taking three separate actions relating to the certification label. The first action is publication of a policy statement that addresses commercial motor vehicles that were not originally manufactured for sale in the United States, and thus were not required at the time of manufacture to be certified as complying with the FMVSSs, but are subsequently sought to be imported into the United States. The statement provides that a vehicle manufacturer may, if it has sufficient basis for doing so, retroactively apply a label to a commercial motor vehicle certifying that the vehicle complied with all applicable FMVSSs in effect at the time it was originally manufactured.

NHTSA recognizes that there are many commercial motor vehicles used by motor carriers in Mexico and Canada that were manufactured in accordance with the FMVSSs, but were not certified as complying with those standards because the vehicles were manufactured for sale in Canada or Mexico. NHTSA is proposing two additional actions related to the FMVSS and foreign-domiciled motor carriers. The first would establish recordkeeping requirements for foreign manufacturers that retroactively certify vehicles. The second would codify, in 49 CFR Part 591, its long-standing interpretation of the term ''import,'' as used in the National Traffic and Motor Vehicle Safety Act of 1966, Public Law 89–563, to include bringing a commercial motor vehicle into the United States for the purpose of transporting cargo or passengers.

Discussion of the Interim Final Rule

The FMCSA has made changes in this interim final rule to the proposed revisions to part 365, based on the comments, section 350 of the 2002 DOT Appropriations Act, and our own review of the proposal.

Section 365.503 has been revised to allow both hard copy and electronic submission of required information on designation of process agents (Form BOC–3) as part of the application process. The FMCSA currently allows only process agent services to electronically file the Form BOC–3. If a carrier elects to use a process agent service, it must include a letter to that effect with the Form OP–1(MX) and ensure that the service electronically files the Form BOC–3 with the FMCSA.

Otherwise, the hard copy Form BOC–3 must accompany the application. The carrier may not begin operations until the Form BOC–3 has been filed with the FMCSA.

Section 365.505 has been revised to extend to 18 months the deadline for filing Form OP–1(MX) by carriers holding a Certificate of Registration issued before April 18, 2002, authorizing operations beyond the municipalities along the U.S.-Mexico border and beyond the commercial zones of such municipalities. These carriers, as well as those carriers who filed the previous version of the OP–1(MX) application form, do not need to submit another fee when filing a new OP–1(MX) application. The FMCSA may suspend or revoke the Certificate of Registration of any carrier that fails to comply with this re-registration requirement and 18-month deadline. Certificates of Registration issued before April 18, 2002, will remain valid until the FMCSA acts on the newly submitted OP–1(MX) application.

The FMCSA has revised the heading of § 365.507 in both the table of sections and the regulatory text to ''FMCSA action on the application'' to accurately reflect how the FMCSA will consider and act on each application. The section now provides that the FMCSA will validate all data and certifications in an application with information in its own databases, in the appropriate databases of the Mexican Government to which it has access as part of the NAFTA implementation process, and with information discovered during a pre-authorization safety audit. The FMCSA will grant provisional operating authority if it determines that the application and the results of the safety audit are consistent with the FMCSA's safety fitness policy. The safety fitness criteria published in new Appendix A to part 365 for the pre-authorization safety audit is similar to the safety fitness criteria for post-operational safety audits for Mexico-domiciled carriers in new Appendix A to part 385 that is being published elsewhere in today's **Federal Register**. We will also assign a distinctive USDOT Number that distinguishes the carrier as a Mexico-domiciled carrier authorized to operate beyond the border zones.

In the companion rule establishing a safety monitoring system for new entrant Mexico-domiciled carriers (published elsewhere in today's **Federal Register**), FMCSA will require commercial motor vehicles to have a valid CVSA inspection decal denoting a successful inspection of the commercial motor vehicle at all times while operating under provisional operating authority in the United States beyond the border zones. Provisional authority to operate beyond the border zones cannot become permanent for at least 18 months, until the carrier has successfully completed an 18-month safety monitoring program, including a compliance review resulting in the assignment of a Satisfactory safety rating as required by § 350(a)(2) of the 2002 DOT Appropriations Act.

Section 365.511 has been added in response to the 2002 DOT Appropriations Act. This section will require that a Mexico-domiciled carrier must continue to seek out and have CVSA inspectors perform CVSA Level I inspections for the first three consecutive years after being granted permanent operating authority.

We have made conforming amendments to §§ 365.101(h) and 365.105(a). We revised § 365.101(h) to reflect the expanded scope of operations authorized by the Form OP–1(MX)-from Mexico to all points in the United States. The previous reference to the four border States was originally designed to register applicants to operate from Mexico to points only within the border States of California, Texas, Arizona and New Mexico.

There are three revisions to § 365.105(a). First, we have specified that household goods carriers and motor passenger carriers are required to submit the OP–1(MX) when applying to operate within the United States beyond the border zones. The previous regulations generally required motor property carriers to use the form. Next, we removed an obsolete reference to Form OP–1(W) because we do not have authority to register water carriers. Finally, we updated the cross-reference to filing fee requirements to reflect the recodification of these requirements in 49 CFR part 360.

Revisions to Form OP–1(MX)

The interim final rule reflects numerous typographical corrections and adjustments to the OP–1(MX) application form to make it consistent with the OP–2 form. All requests for supplemental information that must accompany the application are in bold typeface so that they are conspicuous to the applicant. The substantive revisions are discussed below.

The OP–1(MX) application instructions have been revised to discontinue the requirement that applicants submit Internal Revenue Service (IRS) Form 2290, Schedule 1 (Schedule of Heavy Highway Vehicles) with the OP–1(MX) application. Unlike the OP–1(MX) application procedure, taxes imposed by 26 U.S.C. 4481 are assessed annually. The IRS Form 2290 would only provide evidence of compliance for the current year. However, the applicant must still certify compliance with 26 U.S.C. 4481 under Section VIII of the application.

The instructions clarify the definition of ''applicant'' for purposes of determining who must sign the various certifications and the Section IX—Application Oath.

Next, applicants are cautioned to enter only the city code and telephone numbers when listing Mexican telephone numbers on the form because previous applicants often submitted invalid or incomplete telephone numbers.

Under the Insurance Instructions, we emphasize that although evidence of coverage is not required at the time the application is submitted, a carrier has up 90 days after filing an OP–1(MX) application to submit proof of financial responsibility.

The information on how to receive additional assistance in completing the Forms OP–1(MX) and MCS–150 was revised to list a toll-free telephone number accessible from Mexico. We also updated the information for obtaining assistance with hazardous materials registration procedures and regulations.

The instructions also state that applicants that use a process agent service to designate multiple agents for service of process must attach a letter to the application informing the FMCSA of this option. The applicant must also ensure that the service electronically files the Form BOC–3 with the FMCSA within 90 days after submitting the application. The applicant is also notified that it may not begin operations in the United States until the Form BOC–3 has been filed with FMCSA.

The FMCSA has modified Section IA to add a question asking applicants whether they previously held provisional operating authority that was revoked. If that is the case, the applicant must show how it has corrected the deficiencies that resulted in the revocation, explain what effectively functioning basic safety management systems it now has in place, and provide any information and documents that support its arguments.

The FMCSA has corrected references in Section IA, and in the corresponding instructions, to an ''SCT registration number.'' An applicant must be registered with SCT to be issued operating authority. However, the SCT does not issue an SCT registration number. It uses the RFC number, a Mexican Federal Taxpayer Registration identifier issued by a separate

Government agency, to track the carrier's information in the SCT database. A company is issued a Registro Federal de Contribuyente; individuals are issued a Registro Federal de Causante. The applicant must complete Question 5a under Section IA based upon the applicant's form of business: (1) if the applicant is a sole proprietorship, enter the Registro Federal de Causante; (2) all other business forms should complete Question 5a using the Registro Federal de Contribuyente.

We have deleted a redundant question regarding the applicant's domicile from Section IA and Ownership and Control information from Section II. This information was used to substantiate claims that a carrier was U.S.-owned or controlled and therefore eligible to operate beyond the border zones under a Certificate of Registration. With the implementation of NAFTA's access provisions, Mexico-domiciled carriers applying to operate beyond the border zones will no longer file the OP–2 form. They must file an OP–1(MX), and ownership and control information will not be the basis for granting authority.

Several safety certifications have been modified or added to Section V. The safety certification for applicants that are exempt from the Federal Motor Carrier Safety Regulations because of the weight of their vehicles and because they will not transport hazardous materials (as was discussed in the proposed form instructions but inadvertently omitted from the proposed form) has been restored. These applicants must certify that they will observe safe operating practices and comply with applicable State, local and tribal safety laws.

Under Driver Qualifications, applicants must certify, consistent with 49 CFR 391.23, that they will investigate their drivers' 3-year employment and driving histories. The certification statement concerning the need for carriers to establish a system and instructions for drivers to report criminal convictions has been removed. Current regulations only require domestic drivers to report violations of motor vehicle traffic laws and ordinances. The certification statement relating to the use of properly licensed drivers has been modified to require that the driver's Licencia Federal de Conductor be registered in the SCT database.

The four certification statements proposed under certification section V.8, pertaining to requirements that must be in place once operations within the United States have begun, have been modified to emphasize that they are post-operational requirements and have been integrated into the Hours of Service, Driver Qualifications, and Vehicle Condition certification sections, as appropriate.

In response to comments from the ATA, Teamsters, OOIDA, and the TTD, we have extensively revised the Hazardous Materials (HM) and Cargo Tank certification statements. The HM training certification was modified to cite the relevant HM training regulations (49 CFR part 172, subpart H and 49 CFR 177.816) and the specific hazardous materials safety compliance information that must accompany the application.

We reworded the certification statement regarding the establishment of a system and procedures for inspecting, repairing and maintaining ''vehicles for HM transportation in a safe condition.'' The Hazardous Materials Regulations (HMR) require a system and procedures for inspection, repair and maintenance of reusable hazardous materials packages in a safe condition. The vehicle inspection, repair and maintenance requirement is covered in the Vehicle Condition certification statements.

We added a new certification statement requiring carriers to ensure that all HM vehicles are marked and placarded in compliance with 49 CFR part 172, subparts D and F.

The HM registration certification statement, which is not restricted to Cargo Tank carriers, has been corrected and moved to the Hazardous Materials section.

The Section VIII—Compliance Certification statement concerning process agent(s) has been modified to replace the phrase ''judicial filings and notices'' with ''filings and notices.'' Two new Compliance Certification statements have been added. In the first, responsive to section 350(a)(5) of the DOT Appropriations Act, the applicant must certify it is willing and able to have all vehicles operated in the United States inspected at least every 90 days by a certified CVSA inspector and have decals affixed attesting to satisfactory compliance with Level I CVSA Inspection criteria. This provision will require a Mexico-domiciled motor carrier to seek out a qualified CVSA inspector to conduct a CVSA inspection at least every 90 days until it has operated under permanent authority for at least 3 consecutive years. Mexico-domiciled carriers should seek out and have Mexico-domiciled CVSA inspectors perform such inspections in Mexico before the carrier sends its vehicles to United States ports of entry. This will help the carriers to minimize disruptions to the efficient use of their vehicles, minimize time in the U.S. ports of entry, and provide a more efficient border crossing enroute to its U.S. and Canadian destinations.

The second compliance certification added to Section VIII is designed to ensure that Mexico-domiciled carriers whose registration has been suspended or revoked are not reapplying for operating authority while under suspension or sooner than 30 days after the date of revocation, as prohibited in part 385 subpart B. A signature line also has been placed beneath the Compliance Certification statements, consistent with Section V—Safety Certifications and Section VI—Household Goods Arbitration Certifications.

Certain other changes were made to the Section VIII—Compliance Certifications after discussions with the U.S. Department of Labor and the U.S. Environmental Protection Agency. The proposed Form OP–1(MX) included a certification that the applicant is willing and able to comply with U.S. labor laws. Although the certification is included in a section that is prefaced by the direction ''All applicants must certify as follows:'', the instructions for the form, after first stating that FMCSA considered compliance with labor laws to be ''extremely important,'' then indicated that ''registration will not be withheld based solely on the failure by an applicant to certify that it is willing and able to comply with such [DOL and OSHA] requirements * * *.'' The FMCSA has removed those certification statements and the accompanying instructions. We have added new language that compliance with all pertinent Federal, State, local and tribal statutory and regulatory requirements, including labor and environmental laws, is mandatory. Such compliance includes producing requested records for review and inspection, and that inspectors of the Immigration and Naturalization Service at the port of entry must determine the driver of the vehicle meets the requirements under the Immigration and Nationality Act. The statements do not require certification—they are informational in nature—and thus have been placed after the signature line.

The Filing Fee Policy and Computation Box that formerly appeared in the form instructions have been moved to the back of the form because a carrier cannot provide filing fee information until completing Section III—Types of Registration. The fee policy also discloses that the FMCSA will place a 30-day hold on the application if the filing fee payment is made by personal check.

Finally, FMCSA will translate the form and instructions into Spanish to help applicants understand what each question asks and what types of answers they need to provide.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and Department of Transportation Regulatory Policies and Procedures

The FMCSA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866, and is significant within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979) because of public interest. It has been reviewed by the Office of Management and Budget under Executive Order 12866. However, it is anticipated that the economic impact of the revisions in this rulemaking will be minimal. The new or revised Form OP–1(MX) is intended to foster and contribute to safety of operations, adherence to U.S. law and regulations, and compliance with U.S. insurance and tax payment requirements on the part of Mexico-domiciled carriers.

Nevertheless, the subject of safe operations by Mexico-domiciled carriers in the United States has generated considerable public interest within the meaning of Executive Order 12866. The manner in which the FMCSA carries out its safety oversight responsibilities with respect to this international motor carrier transportation has been of substantial interest to the domestic motor carrier industry, the Congress, and the public at large. The 2002 DOT Appropriations Act includes specific requirements FMCSA must complete to begin reviewing and processing the application Form OP–1(MX) under this interim final rule.

The Regulatory Evaluation analyzes the costs and benefits of this rule and the two companion NAFTA-related rules published elsewhere in today's **Federal Register**. Pursuant to Executive Order 12866, because these rules are so closely interrelated, we did not attempt to prepare separate analyses for each rule.

The evaluation estimated costs and benefits based on three different scenarios, with a high, low and medium number of Mexico-domiciled carriers assumed covered by the rules. The costs of these rules are minimal under all three scenarios. Over 10 years, the costs range from $53 million for the low scenario to approximately $76 million for the high scenario. Forty percent of these costs are borne by the FMCSA, while the remaining costs are paid by Mexico-domiciled carriers. The largest costs are those associated with conducting pre-authorization safety audits, compliance reviews within 18-months of a carrier's receiving provisional operating authority, and the loss of a carrier's ability to operate in the United States.

The FMCSA used the cost effectiveness approach to determine the benefits of these rules. This approach involves estimating the number of crashes that would have to be deterred in order for the proposals to be cost effective. Over 10 years, the low scenario would have to deter 640 forecast crashes to be cost beneficial, the medium scenario would have to deter 838, and the high scenario would have to deter 929. While the overall number of crashes to be avoided under the medium and high scenario is fairly high, the number falls rapidly over the 10-year analysis period and beyond. The tenth year deterrence rate is one-quarter to one-sixth the size of the first year's rate.

A copy of the Regulatory Evaluation is in the docket for this rulemaking.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement and Fairness Act (Pub. L. 104–121), requires Federal agencies to analyze the impact of rulemakings on small entities, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The United States did not have in place a special system to ensure the safety of Mexico-domiciled carriers operating in the United States. Mexico-domiciled carriers will be subject to all the same safety regulations as domestic carriers. However, FMCSA's enforcement of the FMCSRs has become increasingly data dependent in the last several years. Several programs have been put in place to continually analyze crash rates, out-of-service rates, compliance review records, and other data sources to allow the agency to focus on high-risk carriers. This strategy is only effective if the FMCSA has adequate data on carriers' size, operations, and history. Thus, a key component of this rule and the companion application rule for border-zone carriers is the requirement that Mexico-domiciled carriers operating in the United States must complete a Form MCS–150-Motor Carrier Identification Report, and must update their Form OP–1(MX)-Application to Register Mexican Carriers for Motor Carrier Authority To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border or Form OP–2-Application for Mexican Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers Under 49 U.S.C. 13902 when their situation changes. This will allow the FMCSA to better monitor these carriers and to quickly determine whether their safety or out-of-service record changes.

The more stringent oversight procedures established in our safety monitoring interim final rule, RIN 2126–AA35, will also allow the FMCSA to respond more quickly when safety problems emerge. Required safety audits, compliance reviews and CVSA inspections will provide the FMCSA with more detailed information about Mexico-domiciled carriers, and allow the FMCSA to act appropriately upon discovering safety problems.

The objective of these rules is to help ensure the safe operation of Mexico-domiciled carriers in the United States. The rules describe what additional information Mexico-domiciled carriers will have to submit, and outline the procedure for dealing with possible safety problems.

The safety monitoring system, the safety certifications and other information to be submitted in the OP–1(MX) and OP–2 applications, and the pre-authorization safety audit are means of ensuring that: (1) Mexico-domiciled applicants are sufficiently knowledgeable about safety requirements before commencing operations (a prerequisite to being able to comply); and (2) their actual operations in the United States are conducted in accordance with their application certifications and the conditions of their registrations.

These rules will primarily affect Mexico-domiciled small motor carriers who wish to operate in the United States. The amount of information these carriers will have to supply to the FMCSA has been increased, and we estimate that they will spend two additional hours gathering data for the OP–1(MX) and OP–2 application forms. Mexico-domiciled carriers subject to this rule will also have to undergo pre-authorization safety audits and demonstrate continuous compliance with motor vehicle safety standards by undergoing compliance reviews and displaying valid CVSA inspection decals on their vehicles. We presented three growth scenarios in the regulatory evaluation: A high option, with 11,787 Mexico-domiciled carriers in the baseline; a medium scenario, with 9,500 Mexico-domiciled carriers in the

baseline; and a low scenario, with 4,500 Mexico-domiciled carriers in the baseline. Under all three options, the FMCSA believes that the number of applicants will match approximately that observed in the last few years before this publication date, approximately 1,365 applicants per year.

A review of the Motor Carrier Management Information System census file reveals that the vast majority of Mexico-domiciled carriers are small, with 75 percent having three or fewer vehicles. Carriers at the 95th percentile had only 15 trucks or buses.

These rules should not have any impact on small U.S.-based motor carriers.

The Regulatory Evaluation includes a description of the recordkeeping and reporting requirements of these rules. Applicants filing both the OP–1(MX) and OP–2 will also have to submit the Form MCS–150 and the Form BOC–3–Designation of Agent for Service of Process. In addition, Mexico-domiciled carriers will have to notify the FMCSA of any changes to certain information.

The MCS–150 is approximately two pages long. In addition to requiring basic identifying information, it requires that carriers state the type of operation they run, the number of vehicles and drivers they use, and the types of cargo they haul. The BOC–3 form merely requires the name, address and other information for a domestic agent to receive legal notices on behalf of the motor carrier. The rules also include other modest changes in the OP–1(MX) and OP–2 forms.

None of these forms require any special expertise to complete. Any individual with knowledge about the operations of a carrier should be able to fill out these forms.

The FMCSA is not aware of any other rules that duplicate, overlap with, or conflict with these rules.

The FMCSA did not establish any different requirements or timetables for small entities. As noted above, we do not believe these requirements are onerous. Most covered carriers will be required to spend two extra hours to complete the relevant forms, undergo a safety audit and a compliance review or one safety audit (depending on the type of authority they apply for) at four to six hours each and display a valid CVSA inspection decal. The part 385 rule would not achieve its purposes if small entities were exempt. In order to ensure the safety of Mexico-domiciled carriers, the rule must have a consistent procedure for addressing safety problems. Exempting small motor carriers (which, as was noted above, are the vast majority or Mexico-domiciled carriers who would operate in the United States) would defeat the purpose of these rules.

The FMCSA did not consolidate or simplify the compliance and reporting requirements for small carriers. Small U.S.-based carriers already have to comply with the paperwork requirements in part 365. There is no evidence that domestic carriers find these provisions confusing or particularly burdensome. Apropos the part 385 provisions, we believe the requirements are fairly straightforward, and it would not be possible to simplify them. A simplification of any substance would make the rule ineffectual. Given the compelling interest in guaranteeing the safety of Mexico-domiciled carriers operating in the United States, and the fact that the majority of these carriers are small entities, no special changes were made.

Therefore, the FMCSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13211 (Energy Supply, Distribution, or Use)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because as a procedural action it is not economically significant and will not have a significant adverse effect on the supply, distribution, or use of energy.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. Any agency promulgating a final rule likely to result in a Federal mandate requiring expenditures by a State, local, or tribal government or by the private sector of $100 million or more in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. The FMCSA has determined that the changes effected by this rulemaking would not have an impact of $100 million or more in any one year. The Federal Government reimburses inspectors, funds facilities, and provides support through the MCSAP grant program.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Executive Order 13045 (Protection of Children)

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (April 23, 1997, 62 FR 19885), requires that agencies issuing ''economically significant'' rules that also concern an environmental health or safety risk that an agency has reason to believe may disproportionately affect children must include an evaluation of the environmental health and safety effects of the regulation on children. Section 5 of Executive Order 13045 directs an agency to submit for a ''covered regulatory action'' an evaluation of its environmental health or safety effects on children.

The agency has determined that this rule is not a ''covered regulatory action'' as defined under Executive Order 13045. First, this rule is not economically significant under Executive Order 12866 because the FMCSA has determined that the changes in this rulemaking would not have an impact of $100 million or more in any one year. The costs range from $53 to $76 million over 10 years. Second, the agency has no reason to believe that the rule would result in an environmental health risk or safety risk that would disproportionately affect children. Mexico-domiciled motor carriers who intend to operate commercial motor vehicles anywhere in the United States must comply with current U.S. Environmental Protection Agency regulations and other United States environmental laws under this rule and others being published elsewhere in today's **Federal Register**. Further, the agency has conducted a programmatic environmental assessment as discussed later in this preamble. While the PEA did not specifically address environmental impacts on children, it did address whether the rule would have environmental impacts in general. Based on the PEA, the agency has determined that the proposed rule would have no significant environmental impacts.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have

taking implications under E. O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255, August 10, 1999). The FMCSA has determined that this action would not have significant Federalism implications or limit the policymaking discretion of the States.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217 Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Executive Order 13166 (Limited English Proficiency)

Executive Order 13166, Improving Access to Services for Persons With Limited English Proficiency, requires each Federal agency to examine the services it provides and develop reasonable measures to ensure that persons seeking government services but limited in their English proficiency can meaningfully access these services consistent with, and without unduly burdening, the fundamental mission of the agency. The FMCSA plans to provide a Spanish translation of the form OP–1(MX) application and instructions. We believe that this action complies with the principles enunciated in the Executive Order.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA has determined that this proposal would impact a currently approved information collection, OMB No. 2126–0016.

The information collection requirements of Form OP–1(MX) have been approved by the OMB under the control number 2126–0016, titled ''Revision of Licensing Application Forms, Application Procedures, and Corresponding Regulations.'' This approval includes forms OP–1(MX), OP–1(P), OP–1(FF), and OP–1 and totals 40,060 burden hours. Of that amount, 2,060 annual burden hours was estimated as the OP–1(MX) baseline (1,030 respondents per year @ 2 hours each to complete the form).

Carriers anticipating that the moratorium on new grants of operating authority to Mexico-domiciled carriers would be lifted filed 190 applications, but soon ceased to file applications when it became evident that the forms were not being processed due to a delay in implementing the NAFTA agreement. For this reason, OP–1(MX) filings fell well below the 1,000 respondent estimate.

Revisions to OP–1(MX) Baseline: A PRA review normally involves determining the information collection impacts of a rulemaking, comparing those impacts with the current regulation (baseline) and measuring the resulting change. The FMCSA finds it necessary to amend the baseline (1) to be consistent with updated demographic data on Mexico-domiciled carriers from the PEA and Regulatory Flexibility Analysis to this rule, and (2) to take into account an imminent Presidential action that is not subject to PRA review-the issuance of a Presidential Order lifting the moratorium on grants of operating authority to Mexico-domiciled motor carriers to operate within the United States beyond the border zones. The Regulatory Evaluation to this rule projects a high, medium and low estimate for the number of Mexico-domiciled carriers now operating within the United States. The PRA review is based on the medium estimate of 9,500 active carriers. Therefore, the revised baseline assumes that the moratorium is lifted and that Mexico-domiciled carriers are filing the existing OP–1(MX) application form. The agency is revising the form title to ''Application to Register Mexican Carriers for Motor Carrier Authority To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border.''

The FMCSA estimates that 5,108 Mexico-domiciled carriers will request OP–1(MX) operating authority in year one (includes half of the 9,500 active Mexico-domiciled carriers (4,750) plus 25 percent of 1,430 new applicants (358)), and 358 Mexico-domiciled carriers will apply in subsequent years. The existing form takes approximately 2 hours to complete. Since Mexico-domiciled carriers currently are not required to update carrier identification information, there would be zero updates received in year one and subsequent years. The revised baseline is calculated as follows:

OP–1(MX) filings (year one): 10,216 hours [5,108 × 2 hours per form]

OP–1(MX) filings (subsequent years): 716 hours [358 × 2 hours per form]

The revised baseline results in the following annual burden hour estimate for control no. 2126–0016:

Year One: 48,216 hours [38,000 + 10,216]

Subsequent Years: 38,358 [38,000 + 358]

Impact of the interim final rule. This action proposes to amend 49 CFR part 365 and revise Form OP–1(MX). Under the amended regulations, Mexico-domiciled motor carriers seeking to operate within the United States beyond the border zones, including carriers that previously filed pending Form OP–1(MX) applications, would be required to submit the revised Form OP–1(MX). Under the revised Form OP–1(MX), the FMCSA will collect more detailed information on an applicant motor carrier's size, operations, and history than can be collected using the current form. In addition, all grants of operating authority issued under the revised form would be conditioned upon the carrier's successful completion of a pre-operational safety audit and an 18-month safety monitoring program (established in an interim final rule published elsewhere in today's **Federal Register**), including a compliance review. For these reasons, the FMCSA anticipates that the number of carriers would be lower than the revised baseline. The FMCSA estimates that 5,091 Mexico-domiciled carriers would apply for OP–1(MX) authority in year one, and 341 carriers thereafter. Due to the additional information requested on the form, the FMCSA estimates that it will take 4 hours to complete.

The FMCSA must be notified in writing of certain key changes in the information on the form within 45 days of the change. For changes and updates, the agency anticipates that annually approximately one quarter of those granted authority will update their applications. It will take approximately 30 minutes to complete the updates. For simplicity's sake, we based the number of individuals granted authority on the estimated total number of first-year applicants.

OP–1(MX) Updates/Changes:

(In year one): 1,273 = (5,091 × .25 = 1272.75 rounded)

(In subsequent years): 1,358 (5,091 + 341 = 5,432 × .25)

Therefore, the FMCSA estimates that the interim final rule will adjust the annual burden hour estimate for the OP–1(MX) as follows:

Mexico-domiciled carrier filings of the Form OP–1(MX):

(In first year): 20,364 hours [5,091 × 4 hours per form]

(In subsequent years): 1,364 hours [341 × 4 hours per form]

Updates/Changes:

(In first year): 1,273 × .50 hour per form = 637 hours (rounded)

(In subsequent years): 1,358 × .50 hour per form = 679 hours

The total burden hours for this information collection in the first year is 59,001 hours [(38,000 hours + 20,364 hours + 637 hours)] and in subsequent years is 40,043 hours [38,000 hours + 1,364 hours + 679 hours].

OMB Control Number: 2126–0016

Title: Revision of Licensing Application Forms, Application Procedures, and Corresponding Regulations.

Respondents: Mexico-domiciled motor carriers.

Estimated Annual Hour Burden for this Interim Final Rule: Year 1 = 59,001 hours; Subsequent years = 40,043 hours.

You may submit any additional comments on the information collection burden addressed by this interim final rule to the Office of Management and Budget (OMB). The OMB must receive your comments by April 18, 2002. You must mail or hand deliver your comments to: Attention: Desk Officer for the Department of Transportation, Docket Library, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street, NW., Washington, DC 20503.

National Environmental Policy Act

The FMCSA is a new administration within the Department of Transportation (DOT). The FMCSA is currently developing an agency order that will comply with all statutory and regulatory policies under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). We expect the draft FMCSA Order to appear in the **Federal Register** for public comment in the near future. The framework of the FMCSA Order is consistent with and reflects the procedures for considering environmental impacts under DOT Order 5610.1C. FMCSA has analyzed this rule under the NEPA and DOT Order 5610.1C, and has issued a Finding Of No Significant Impact (FONSI). The FONSI and the environmental assessment are in the docket to this rule.

List of Subjects in 49 CFR Part 365

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the FMCSA amends 49 CFR part 365 as follows:

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

1. The authority citation for part 365 is revised to read as follows:

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.73.

2. In § 365.101, revise paragraph (h) to read as follows:

§ 365.101 Applications governed by these rules.

* * * * *

(h) Applications for Mexico-domiciled motor carriers to operate in foreign commerce as common, contract or private motor carriers of property (including exempt items) between Mexico and all points in the United States. Under NAFTA Annex I, page I–U–20, a Mexico-domiciled motor carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

3. In § 365.105, revise paragraph (a) to read as follows:

§ 365.105 Starting the application process: Form OP–1.

(a) All applicants must file the appropriate form in the OP–1 series, effective January 1, 1995. Form OP–1 for motor property carriers and brokers of general freight and household goods; Form OP–1(P) for motor passenger carriers; Form OP–1(FF) for freight forwarders of household goods; and Form OP–1(MX) for Mexico-domiciled motor property carriers, including household goods and motor passenger carriers. A separate filing fee in the amount set forth at 49 CFR 360.3(f)(1) is required for each type of authority sought in each transportation mode.

* * * * *

4. Add a new subpart E to part 365 to read as follows:

Subpart E—Special Rules for Certain Mexico-Domiciled Carriers

Sec.

365.501 Scope of rules.
365.503 Application.
365.505 Re-registration and fee waiver for certain applicants.
365.507 FMCSA action on the application.
365.509 Requirement to notify FMCSA of change in applicant information.
365.511 Requirement for CVSA inspection of vehicles during first three consecutive years of permanent operating authority.
Appendix A to Subpart E of Part 365—Explanation of Pre-Authorization Safety Audit Evaluation Criteria for Mexico-Domiciled Motor Carriers

Subpart E—Special Rules for Certain Mexico-domiciled Carriers

§ 365.501 Scope of rules.

(a) The rules in this subpart govern the application by a Mexico-domiciled motor carrier to provide transportation of property or passengers in interstate commerce between Mexico and points in the United States beyond the municipalities and commercial zones along the United States-Mexico international border.

(b) A Mexico-domiciled carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

§ 365.503 Application.

(a) Each applicant applying under this subpart must submit an application that consists of:

(1) Form OP–1 (MX)—Application to Register Mexican Carriers for Motor Carrier Authority To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border;

(2) Form MCS–150—Motor Carrier Identification Report; and

(3) A notification of the means used to designate process agents, either by submission in the application package of Form BOC–3—Designation of Agents-Motor Carriers, Brokers and Freight Forwarders or a letter stating that the applicant will use a process agent service that will submit the Form BOC–3 electronically.

(b) The Federal Motor Carrier Safety Administration (FMCSA) will only process your application if it meets the following conditions:

(1) The application must be completed in English;

(2) The information supplied must be accurate, complete, and include all required supporting documents and applicable certifications in accordance with the instructions to Form OP–1 (MX), Form MCS–150, and Form BOC–3;

(3) The application must include the filing fee payable to the FMCSA in the amount set forth at 49 CFR 360.3(f)(1); and

(4) The application must be signed by the applicant.

(c) You must submit the application to the address provided in Form OP–1(MX).

(d) You may obtain the application forms from any FMCSA Division Office or download it from the FMCSA website at: *http://www.fmcsa.dot.gov/factsfigs/formspubs.htm.*

§ 365.505 Re-registration and fee waiver for certain applicants.

(a) If you filed an application using Form OP–1(MX) before May 3, 2002, you are required to file a new Form OP–1(MX). You do not need to submit a new fee when you file a new application under this subpart.

(b) If you hold a Certificate of Registration issued before April 18, 2002, authorizing operations beyond the municipalities along the United States-Mexico border and beyond the commercial zones of such municipalities, you are required to file an OP–1(MX) if you want to continue those operations. You do not need to submit a fee when you file an application under this subpart.

(1) You must file the application by November 4, 2003.

(2) The FMCSA may suspend or revoke the Certificate of Registration of any applicable holder that fails to comply with the procedures set forth in this section.

(3) Certificates of Registration issued before April 18, 2002, will remain valid unbvtil the FMCSA acts on the OP–1(MX) application.

§ 365.507 FMCSA action on the application.

(a) The FMCSA will review and act on each application submitted under this subpart in accordance with the procedures set out in this part.

(b) The FMCSA will validate the accuracy of information and certifications provided in the application by checking data maintained in databases of the governments of Mexico and the United States.

(c) *Pre-authorization safety audit.* Every Mexico-domiciled carrier that applies under this part must satisfactorily complete an FMCSA-administered safety audit before FMCSA will grant provisional operating authority to operate in the United States. The safety audit is a review by the FMCSA of the carrier's written procedures and records to validate the accuracy of information and certifications provided in the application and determine whether the carrier has established or exercises the basic safety management controls necessary to ensure safe operations. The FMCSA will evaluate the results of the safety audit using the criteria in Appendix A to this subpart.

(d) If a carrier successfully completes the pre-authorization safety audit and the FMCSA approves its application submitted under this subpart, FMCSA will publish a summary of the application as a preliminary grant of authority in the FMCSA Register to give notice to the public in case anyone wishes to oppose the application, as required in § 365.109(b) of this part.

(e) If the FMCSA grants provisional operating authority to the applicant, it will assign a distinctive USDOT Number that identifies the motor carrier as authorized to operate beyond the municipalities in the United States on the U.S.-Mexico international border and beyond the commercial zones of such municipalities. In order to operate in the United States, a Mexico-domiciled motor carrier with provisional operating authority must:

(1) Have its surety or insurance provider file proof of financial responsibility in the form of certificates of insurance, surety bonds, and endorsements, as required by § 387.301 of this subchapter;

(2) File a hard copy of, or have its process agent(s) electronically submit, Form BOC–3—Designation of Agents-Motor Carriers, Brokers and Freight Forwarders, as required by part 366 of this subchapter; and

(3) Comply with all provisions of the safety monitoring system in subpart B of part 385 of this subchapter, including successfully passing CVSA Level I inspections at least every 90 days and having decals affixed to each commercial motor vehicle operated in the United States as required by § 385.103(c) of this subchapter.

(f) The FMCSA may grant permanent operating authority to a Mexico-domiciled carrier no earlier than 18 months after the date that provisional operating authority is granted and only after successful completion to the satisfaction of the FMCSA of the safety monitoring system for Mexico-domiciled carriers set out in subpart B of part 385 of this subchapter. Successful completion includes obtaining a satisfactory safety rating as the result of a compliance review.

§ 365.509 Requirement to notify FMCSA of change in applicant information.

(a) A motor carrier subject to this subpart must notify the FMCSA of any changes or corrections to the information in parts I, IA or II submitted on the Form OP–1(MX) or the Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders during the application process or after having been granted provisional operating authority. The carrier must notify the FMCSA in writing within 45 days of the change or correction.

(b) If a carrier fails to comply with paragraph (a) of this section, the FMCSA may suspend or revoke its operating authority until it meets those requirements.

§ 365.511 Requirement for CVSA inspection of vehicles during first three consecutive years of permanent operating authority.

A Mexico-domiciled motor carrier granted permanent operating authority must have its vehicles inspected by Commercial Vehicle Safety Alliance (CVSA)-certified inspectors every three months and display a current inspection decal attesting to the successful completion of such an inspection for at least three consecutive years after receiving permanent operating authority from the FMCSA.

Appendix A to Subpart E of Part 365—Explanation of Pre-Authorization Safety Audit Evaluation Criteria for Mexico-Domiciled Motor Carriers

I. General

(a) Section 350 of the Fiscal Year 2002 DOT Appropriations Act (Pub. L. 107–87) directed the FMCSA to perform a safety audit of each Mexico-domiciled motor carrier before the FMCSA grants the carrier provisional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico international border.

(b) The FMCSA will decide whether it will conduct the safety audit at the Mexico-domiciled motor carrier's principal place of business in Mexico or at a location specified by the FMCSA in the United States, in accordance with the statutory requirements that 50 percent of all safety audits must be conducted onsite and on-site inspections cover at least 50 percent of estimated truck traffic in any year. All records and documents must be made available for examination within 48 hours after a request is made. Saturdays, Sundays, and Federal holidays are excluded from the computation of the 48-hour period.

(c) The safety audit will include:

(1) Verification of available performance data and safety management programs;

(2) Verification of a controlled substances and alcohol testing program consistent with part 40 of this title;

(3) Verification of the carrier's system of compliance with hours-of-service rules in part 395 of this subchapter, including recordkeeping and retention;

(4) Verification of proof of financial responsibility;

(5) Review of available data concerning the carrier's safety history, and other information necessary to determine the carrier's preparedness to comply with the Federal Motor Carrier Safety Regulations, parts 382 through 399 of this subchapter, and the Federal Hazardous Material Regulations, parts 171 through 180 of this title;

(6) Inspection of available commercial motor vehicles to be used under provisional operating authority, if any of these vehicles have not received a decal required by § 385.103(d) of this subchapter;

(7) Evaluation of the carrier's safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections;

(8) Verification of drivers' qualifications, including confirmation of the validity of the Licencia de Federal de Conductor of each driver the carrier intends to assign to operate under its provisional operating authority; and

(9) An interview of carrier officials to review safety management controls and evaluate any written safety oversight policies and practices.

(d) To successfully complete the safety audit, a Mexico-domiciled motor carrier must demonstrate to the FMCSA that it has the required elements in paragraphs (c)(2), (3), (4), (7), and (8) above and other basic safety management controls in place which function adequately to ensure minimum acceptable compliance with the applicable safety requirements. The FMCSA developed a ''safety audit evaluation criteria,'' which uses data from the safety audit and roadside inspections to determine that each applicant for provisional operating authority has basic safety management controls in place.

(e) The safety audit evaluation process developed by the FMCSA is used to:

(1) Evaluate basic safety management controls and determine if each Mexico-domiciled carrier and each driver is able to operate safely in the United States beyond municipalities and commercial zones on the United States-Mexico international border; and

(2) Identify motor carriers and drivers who are having safety problems and need improvement in their compliance with the FMCSRs and the HMRs, before FMCSA grants the carriers provisional operating authority to operate beyond United States municipalities and commercial zones on the United States-Mexico international border.

II. Source of the Data for the Safety Audit Evaluation Criteria

(a) The FMCSA's evaluation criteria are built upon the operational tool known as the safety audit. The FMCSA developed this tool to assist auditors and investigators in assessing the adequacy of a Mexico-domiciled carrier's basic safety management controls.

(b) The safety audit is a review of a Mexico-domiciled motor carrier's operation and is used to:

(1) Determine if a carrier has the basic safety management controls required by 49 U.S.C. 31144;

(2) Meet the requirements of Section 350 of the DOT Appropriations Act; and

(3) In the event that a carrier is found not to be in compliance with applicable FMCSRs and HMRs, the safety audit can be used to educate the carrier on how to comply with U.S. safety rules.

(c) Documents such as those contained in driver qualification files, records of duty status, vehicle maintenance records, and other records are reviewed for compliance with the FMCSRs and HMRs. Violations are cited on the safety audit. Performance-based information, when available, is utilized to evaluate the carrier's compliance with the vehicle regulations. Recordable accident information is also collected.

III. Overall Determination of the Carrier's Basic Safety Management Controls

(a) The carrier will not be granted provisional operating authority if the FMCSA fails to:

(1) Verify a controlled substances and alcohol testing program consistent with part 40 of this title;

(2) Verify a system of compliance with hours-of-service rules of this subchapter, including recordkeeping and retention;

(3) Verify proof of financial responsibility;

(4) Verify records of periodic vehicle inspections; and

(5) Verify drivers' qualifications of each driver the carrier intends to assign to operate under such authority, as required by parts 383 and 391 of this subchapter, including confirming the validity of each driver's Licencia de Federal de Conductor.

(b) If the FMCSA confirms each item under II (a)(1) through (5) above, the carrier will be granted provisional operating authority, except if FMCSA finds the carrier has inadequate basic safety management controls in at least three separate factors described in part III below. If FMCSA makes such a determination, the carrier's application for provisional operating authority will be denied.

IV. Evaluation of Regulatory Compliance

(a) During the safety audit, the FMCSA gathers information by reviewing a motor carrier's compliance with ''acute'' and ''critical'' regulations of the FMCSRs and HMRs.

(b) Acute regulations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier.

(c) Critical regulations are those where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls.

(d) The list of the acute and critical regulations, which are used in determining if a carrier has basic safety management controls in place, is included in Appendix B, VII. List of Acute and Critical Regulations to part 385 of this subchapter.

(e) Noncompliance with acute and critical regulations are indicators of inadequate safety management controls and usually higher than average accident rates.

(f) Parts of the FMCSRs and the HMRs having similar characteristics are combined together into six regulatory areas called ''factors.'' The regulatory factors, evaluated on the adequacy of the carrier's safety management controls, are:

(1) Factor 1—General: Parts 387 and 390;

(2) Factor 2—Driver: Parts 382, 383 and 391;

(3) Factor 3—Operational: Parts 392 and 395;

(4) Factor 4—Vehicle: Part 393, 396 and inspection data for the last 12 months;

(5) Factor 5—Hazardous Materials: Parts 171, 177, 180 and 397; and

(6) Factor 6—Accident: Recordable Accident Rate per Million Miles.

(g) For each instance of noncompliance with an acute regulation, 1.5 points will be assessed.

(h) For each instance of noncompliance with a critical regulation, 1 point will be assessed.

(i) *Vehicle Factor.* (1) When at least three vehicle inspections are recorded in the Motor Carrier Management Information System (MCMIS) during the twelve months before the safety audit or performed at the time of the review, the Vehicle Factor (part 396) will be evaluated on the basis of the Out-of-Service (OOS) rates and noncompliance with acute and critical regulations. The results of the review of the OOS rate will affect the Vehicle Factor as follows:

(i) If the motor carrier has had at least three roadside inspections in the twelve months before the safety audit, and the vehicle OOS rate is 34 percent or higher, one point will be assessed against the carrier. That point will be added to any other points assessed for discovered noncompliance with acute and critical regulations of part 396 to determine the carrier's level of safety management control for that factor.

(ii) If the motor carrier's vehicle OOS rate is less than 34 percent, or if there are less than three inspections, the determination of the carrier's level of safety management controls will only be based on discovered noncompliance with the acute and critical regulations of part 396.

(2) Over two million inspections occur on the roadside each year in the United States. This vehicle inspection information is retained in the MCMIS and is integral to evaluating motor carriers' ability to successfully maintain their vehicles, thus preventing them from being placed OOS during roadside inspections. Each safety audit will continue to have the requirements of part 396, Inspection, Repair, and Maintenance, reviewed as indicated by the above explanation.

(j) *Accident Factor.* (1) In addition to the five regulatory factors, a sixth factor is included in the process to address the accident history of the motor carrier. This factor is the recordable accident rate, which the carrier has experienced during the past 12 months. Recordable accident, as defined in 49 CFR 390.5, means an accident involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in a fatality; a bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(2) Experience has shown that urban carriers, those motor carriers operating entirely within a radius of less than 100 air miles (normally urban areas), have a higher exposure to accident situations because of their environment and normally have higher accident rates.

(3) The recordable accident rate will be used in determining the carrier's basic safety management controls in Factor 6, Accident. It will be used only when a carrier incurs two

or more recordable accidents within the 12 months before the safety audit. An urban carrier (a carrier operating entirely within a radius of 100 air miles) with a recordable rate per million miles greater than 1.7 will be deemed to have inadequate basic safety management controls for the accident factor. All other carriers with a recordable accident rate per million miles greater than 1.5 will be deemed to have inadequate basic safety management controls for the accident factor. The rates are the result of roughly doubling the United States national average accident rate in Fiscal Years 1994, 1995, and 1996.

(4) The FMCSA will continue to consider preventability when a new entrant contests the evaluation of the accident factor by presenting compelling evidence that the recordable rate is not a fair means of evaluating its accident factor. Preventability will be determined according to the following standard: ''If a driver, who exercises normal judgment and foresight, could have foreseen the possibility of the accident that in fact occurred, and avoided it by taking steps within his/her control which would not have risked causing another kind of mishap, the accident was preventable.''

(k) *Factor Ratings*

(1) The following table shows the five regulatory factors, parts of the FMCSRs and HMRs associated with each factor, and the accident factor. Each carrier's level of basic safety management controls with each factor is determined as follows:

(i) Factor 1—General: Parts 390 and 387;

(ii) Factor 2—Driver: Parts 382, 383, and 391;

(iii) Factor 3—Operational: Parts 392 and 395;

(iv) Factor 4—Vehicle: Parts 393, 396 and the Out of Service Rate;

(v) Factor 5—Hazardous Materials: Part 171, 177, 180 and 397; and

(vi) Factor 6—Accident: Recordable Accident Rate per Million Miles;

(2) For paragraphs III (k)(1)(i) through (v) (Factors 1 through 5), if the combined violations of acute and or critical regulations for each factor is equal to three or more points, the carrier is determined not to have basic safety management controls for that individual factor.

(3) For paragraphs III (k)(1)(vi), if the recordable accident rate is greater than 1.7 recordable accidents per million miles for an urban carrier (1.5 for all other carriers), the carrier is determined to have inadequate basic safety management controls.

(l) Notwithstanding FMCSA verification of the items listed in part II (a)(1) through (5) above, if the safety audit determines the carrier has inadequate basic safety management controls in at least three separate factors described in part III, the carrier's application for provisional operating authority will be denied. For example, FMCSA evaluates a carrier finding:

(1) One instance of noncompliance with a critical regulation in part 387 scoring one point for Factor 1;

(2) Two instances of noncompliance with acute regulations in part 382 scoring three points for Factor 2;

(3) Three instances of noncompliance with critical regulations in part 396 scoring three points for Factor 4; and

(4) Three instances of noncompliance with acute regulations in parts 171 and 397 scoring four and one-half (4.5) points for Factor 5.

Under this example, the carrier will not receive provisional operating authority because it scored three or more points for Factors 2, 4, and 5 and FMCSA determined the carrier had inadequate basic safety management controls in at least three separate factors.

Issued on: March 7, 2002.

Joseph M. Clapp,

Administrator.

Note: The following form will not appear in the Code of Federal Regulations.

BILLING CODE 4910–EX–P

U.S. Department of Transportation

Form Approved
OMB No. 2126-0016

Federal Motor Carrier Safety Administration

Instructions for Completing Form OP-1(MX) Application to Register Mexican Carriers for Motor Carrier Authority To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border

Please read these instructions before completing the application form. Retain the instructions and a copy of the complete application for the applicant's records. These instructions will assist an applicant in preparing an accurate and complete application. Applications that do not contain the required information will be rejected and may result in a loss of the application fee. **The application must be completed in English** and typed or printed in ink. If additional space is needed to provide a response to any item, use a separate sheet of paper. Identify applicant on each supplemental page and refer to the section and item number in the application for each response.

PURPOSE OF THIS APPLICATION FORM:

The Form OP-1(MX) is required to be filed by Mexico-domiciled for-hire motor carriers of passengers or property and motor private carriers who wish to register to transport property or passengers in the United States beyond U.S. municipalities on the United States-Mexico border and the commercial zones of such municipalities.

This form is also required to be utilized by those Mexico-domiciled persons or entities who had previously filed applications for registration and who are required to supplement the information in their original applications by completing and re-filing the revised Form OP-1(MX).

This form should not be used for registration by Mexico-domiciled carriers to perform transportation only in municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities. To apply for such registration, complete and file Form OP-2.

This form should not be filed by U.S.-domiciled enterprises owned or controlled by Mexican nationals. Such enterprises must complete and file Form OP-1 or OP-1(P), for property or passengers, respectively.

Under NAFTA Annex I, page I-U-20, a Mexico-domiciled carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

WHAT TO FILE:

All applicants must submit the following:

1. An original and one copy of a completed revised Form OP-1(MX) Application to Register Mexican Carriers for Motor Carrier Authority To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border, with all necessary attachments and statements.

2. A signed and dated Form BOC-3, Designation of Agents for Service of Process, which reflects the applicant's full and correct name, as shown on the Form OP-1(MX), and applicant's address, including the street address, the city, State, country and zip code, must be attached to the application. The BOC-3 form must show street address(es), and not post office box numbers, for the person(s) designated as the agent(s) for service of process and administrative notices in connection with the enforcement of any applicable Federal statutes or regulations. A person must be designated in each State in which the applicant will operate. Please refer to the section "Legal Process Agents" for instructions for filing the Form BOC-3 when using a Process Agent Service. **The applicant may not begin operations unless the Form BOC-3 has been filed with the FMCSA.**

3. A completed and signed Form MCS-150 Motor Carrier Identification Report.

4. A filing fee of $300 for **each** type of registration requested in Section III, payable in U.S. dollars on a U.S. bank to the Federal Motor Carrier Safety Administration, by means of a check, money order, or an approved credit card. Cash is not accepted.

GENERAL INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM:

- All questions on the application form must be answered completely and accurately. If a question or supplemental attachment does not apply to the applicant, it should be answered "not applicable."

- The application must be typewritten or printed in ink. Applications written in pencil will be rejected.

- The application must be completed in English.

- The completed certification statements and oath must be signed by the applicant only. For example:

    - If the company is a sole proprietorship, the owner must sign.
    - If the company is a partnership, one of the partners must sign.
    - If the company is a corporation, an official of the company must sign (President, Vice President, Secretary, Treasurer, etc.).

  The same person must sign the oath and certifications. An applicant's attorney or any other representative is not permitted to sign.

- Use the attachment pages included, as appropriate, to provide any descriptions, explanations, statements or other information that is required to be furnished with the application. If additional space is needed to respond to any question, please use separate sheets of paper. Identify applicant on each supplemental page and refer to the section and item number in the application for each response.

- Include only the city code and telephone number for Mexican telephone phone numbers. **Do not** include the Mexico international access code (011-52).

ADDITIONAL ASSISTANCE

FORM OP-1(MX) OR MCS-150

Call 001 (800) 832-5660 for additional information on obtaining FMCSA registration numbers (USDOT or MX) or to monitor the status of an application.

SAFETY RATINGS

For information concerning a carrier's assigned safety rating, call: 001 (800) 832-5660.

U.S. DOT HAZARDOUS MATERIALS REGULATIONS

To obtain information on whether the commodities an applicant intends to transport are considered as hazardous materials:

Refer to the provisions governing the transportation of hazardous materials found under Parts 100 through 180 of Title 49 of the Code of

Federal Regulations (CFR), particularly the Hazardous Materials Table at 49 CFR § 172.101 or visit the U.S. DOT, Research and Special Programs Administration web site: http://hazmat.dot.gov. The web site also provides information about DOT hazardous materials transportation registration requirements.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

SECTION I - APPLICANT INFORMATION

APPLICANT'S LEGAL BUSINESS NAME and DOING BUSINESS AS NAME. The applicant's name should be its full legal business name -- the name on the incorporation certificate, partnership agreement, tax records, etc. If the applicant uses a trade name that differs from its official business name, indicate this under "Doing Business As Name." Example: If the applicant is John Jones, doing business as Quick Way Trucking, enter "John Jones" under LEGAL BUSINESS NAME and "Quick Way Trucking" under DOING BUSINESS AS NAME.

Because the FMCSA uses computers to retain information about licensed carriers, it is important to spell, space, and punctuate any name the same way each time the applicant writes it. Example: John Jones Trucking Co., Inc.; J. Jones Trucking Co., Inc.; and John Jones Trucking are considered three separate companies.

BUSINESS ADDRESS/MAILING ADDRESS. The business address is the physical location of the business. Example: El Camino Real #756, Guadalajara, Jalisco, Mexico. Please include the Mexican "colonia" or "barrio."

If applicant receives mail at an address different from the business location, also provide the mailing address. Example: P. O. Box 3721. **NOTE:** To receive FMCSA notices and to ensure that insurance documents filed on applicant's behalf are accepted, notify in writing the Federal Motor Carrier Safety Administration, Room 8218, 400 7th Street, SW., Washington, DC 20590, if the business or mailing address changes. If applicant also maintains an office in the United States, that information should also be provided.

REPRESENTATIVE. If someone other than the applicant is preparing this form, or otherwise assisting the applicant in completing the application, provide the representative's name, title, position, or relationship to the applicant, address, and telephone and FAX numbers. Applicant's representative will be the person contacted if there are questions

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

concerning this application. Do not include the "colonia" or "barrio" unless the address is in Mexico.

U.S. DOT NUMBER. Applicants are required to obtain a U.S. DOT Number from the U.S. Department of Transportation (U.S. DOT) before initiating service. Motor carriers that already have been issued a U.S. DOT Number should provide it. Applicants that have not previously obtained a U.S. DOT Number will be issued a U.S. DOT number along with their provisional operating authority.

NOTE: A completed and signed Form MCS-150 Motor Carrier Identification Report must be submitted separately with this application.

FORM OF BUSINESS. A business is a corporation, a sole proprietorship, or a partnership. If the business is a sole proprietorship, provide the name of the individual who is the owner. In this situation, the Owner is the registration applicant. If the business is a partnership, provide the full name of each partner.

SECTION IA – ADDITIONAL APPLICANT INFORMATION

All applicants must answer each question in this section. Applicants cannot obtain Operating Authority unless registered with the Mexican Government's Secretaria de Comunicaciones y Transportes (SCT). Therefore, if the applicant is in the process of obtaining an SCT registration, indicate the date that the applicant applied. When the applicant receives its SCT registration, the applicant must supplement this OP-1(MX) application with that information, including its RFC Number (Registro Federal de Contribuyente if the applicant is a company. Registro Federal de Causante if applicant is an individual), before the FMCSA will issue Operating Authority. If the applicant currently holds a valid Certificate of Registration and is applying to operate beyond the U.S.-Mexico border area as required by 49 CFR 365.505, the SCT Registration information, including the RFC Number, is also required. The FMCSA will not suspend an existing Certificate of Registration while an applicant is applying for SCT registration.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

SECTION II - AFFILIATIONS INFORMATION

All applicants must disclose pertinent information concerning any relationships or affiliations which the applicant has had with other entities registered with FMCSA or its predecessor agencies. Applicant must indicate whether these entities have been disqualified from operating commercial motor vehicles anywhere in the United States pursuant to Section 219 of the Motor Carrier Safety Improvement Act of 1999.

SECTION III – TYPE (S) OF REGISTRATION REQUESTED

Check the appropriate box(es) for the type(s) of registration the applicant is requesting. For purposes of this application, a motor private carrier is an entity that is transporting its own goods, including an entity that is not a for-hire carrier but is providing interstate transportation under an agreement or contract with a shipper or other business.

A separate filing fee is required for each type of registration requested.

SECTION IV - INSURANCE INFORMATION

Check the appropriate box(es) that describes the type(s) of business the applicant will be conducting.

If the applicant is applying for motor passenger carrier registration, check the box that describes the seating capacity of its vehicles. If all the vehicles the applicant operates have a seating capacity of 15 passengers or fewer, the applicant must maintain $1,500,000 minimum liability coverage. If any one of the vehicles the applicant operates has a seating capacity of 16 passengers or more, the applicant must maintain $5,000,000 minimum liability coverage.

If the applicant is applying for motor property carrier registration and it operates vehicles with a gross vehicle weight rating of 10,000 pounds or more and hauls only non-hazardous materials, the applicant must maintain $750,000 minimum liability coverage for the protection of the public. Hazardous materials referred to in the FMCSA's insurance regulations in item (c) of the table at 49 CFR 387.303 (b)(2) require $1 million minimum liability coverage; those in item (b) of the table at 49 CFR 387.303 (b)(2) require $5 million minimum liability coverage.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

If the applicant operates only vehicles with a gross vehicle weight rating less than 10,000 pounds, the applicant must maintain $300,000 minimum liability coverage. If the applicant operates only such vehicles but will be transporting any quantity of Division 1.1, 1.2 or 1.3 explosives; any quantity of poison gas (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group 1, Hazard Zone A materials); or highway route controlled quantity of radioactive materials, the applicant must maintain $5 million minimum liability coverage.

Minimum levels of cargo insurance must be maintained by all motor common carriers in the amount of $5,000 for loss of or damage to property carried on any one motor vehicle, and $10,000 for loss of or damage to property occurring at any one time and place.

Applicant does not have to submit evidence of insurance with the application. However, applicant will be required to present acceptable evidence of necessary insurance coverage to the FMCSA as part of a pre-authorization safety audit. Appropriate insurance forms must be filed within **90 days** after the date that notice of the application is published in the *DOT/FMCSA Register*: Form BMC-91 or BMC-91X for bodily injury and property damage; Form BMC-34 for cargo liability (common property carriers only).

The FMCSA does not furnish copies of insurance forms. The applicant must contact its insurance company to arrange for the filing of all required insurance forms.

If an application is granted by the FMCSA and an MX number is issued, operating authority is still not effective and operations under that authority may not begin unless an insurance filing has been made with and accepted by the FMCSA as required under 49 CFR 387.301. A current DOT Form MCS-90 and evidence of continuing insurance coverage must also be on each of the applicant's vehicles when it crosses the border. This policy also applies to Mexico-domiciled motor private carriers and exempt carriers registering to operate within the United States beyond the border area.

SECTION V - SAFETY CERTIFICATIONS

Applicants for motor carrier registration must complete the safety certifications. The applicant should check the "YES" response only if the applicant can attest to the truth of the statements. The carrier official's signature at the end of this section applies to the Safety Certifications.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

The "Applicant's Oath" at the end of the application form applies to all certifications. False certifications are subject to the penalties described in that oath.

If the applicant is exempt from the U.S. DOT safety fitness regulations because it operates only vehicles with a gross vehicle weight rating under 10,001 pounds, and it will not transport any hazardous materials, the applicant must certify that it is familiar with and will observe general operational safety fitness guidelines and applicable State, local and tribal laws relating to the safe operation of commercial vehicles.

Applicants should complete all applicable Attachment pages and, if necessary to complete the responses, attach additional pages identifying the applicant on each supplemental page and referring to the section and item number in the application for each response. If the applicant is exempt from the U.S. DOT safety fitness regulations, the applicant must complete all relevant attachment pages to demonstrate the applicant's willingness and ability to comply with general operational safety fitness guidelines and applicable State, local and tribal laws.

SECTION VI - HOUSEHOLD GOODS ARBITRATION CERTIFICATIONS

Applicants for household goods registration as defined in 49 U.S.C. 13102(10) must certify their agreement to offer arbitration as a means of settling loss and damage claims as a condition of registration. The signature should be that of the same company official who completes the Applicant's Oath.

SECTION VII - SCOPE OF OPERATING REGISTRATION SOUGHT

Applicant must indicate, by checking one or more boxes, the description(s) of the registration(s) for which application is being made.

SECTION VIII - COMPLIANCE CERTIFICATIONS

All applicants are required to certify accurately to their willingness and ability to comply with statutory and regulatory requirements, to their tax payment status, and to their understanding that their agent for service of process is their official representative in the U.S. to receive filings and notices in connection with enforcement of any Federal statutes and regulations.

Applicants are required to certify their willingness to produce records for the purpose of determining compliance with the applicable safety regulations of the FMCSA.

Form OP-1(MX)
Revised March 2002

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

Applicants are required to certify that they are not now disqualified from operating a commercial motor vehicle in the U.S. pursuant to the Motor Carrier Safety Improvement Act of 1999.

Applicants are required to certify that they are not now prohibited from filing an application because a previously granted FMCSA registration is currently under suspension or was revoked less than 30 days before the filing of this application.

SECTION IX - APPLICANT'S OATH

The applicant or an authorized representative may prepare applications. In either case, the applicant must sign the oath and all safety certifications. (For information on who may sign, see "General Instructions for Completing the Application Form" in the instructions for this application.)

LEGAL PROCESS AGENTS

All motor carrier applicants must designate a process agent in each State where operations are conducted. For example, if the applicant will operate only in California and Arizona, it must designate an agent in each of those States; if the applicant will operate in only one State, an agent must be designated for that State only. Process agents who will accept filings and notices on behalf of the applicant are designated on FMCSA Form BOC-3. Form BOC-3 must be filed with the application, unless the applicant uses a Process Agent Service. If the applicant opts to use a Process Agent Service, it must submit a letter with the application informing the FMCSA of this decision and have the Process Agent Service electronically file the BOC-3 with FMCSA within 90 days after the applicant submits its application. **Applicants may not begin operations unless the Form BOC-3 has been filed with the FMCSA.**

STATE NOTIFICATION

Before beginning operations, all applicants must contact the appropriate regulatory agencies in every State in and through which the carrier will operate to obtain information regarding various State rules applicable to interstate registrations. It is the applicant's responsibility to comply with registration, fuel tax, and other State regulations and procedures. Please refer to the additional information provided in the application packet for further information.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

MAILING INSTRUCTIONS:

To file for registration an applicant must submit an ***original and one copy*** of this application with the appropriate filing fee to FMCSA. **Note:** Retain a copy of the completed application form and any attachments for the applicant's records.

Mailing address for applications:

FOR REGULAR MAIL (CHECK OR MONEY ORDER PAYMENT)
Federal Motor Carrier Safety Administration
P. O. Box 100147
Atlanta, GA 30384-0147

FOR EXPRESS MAIL (CHECK OR MONEY ORDER PAYMENT)
Bank of America, Lockbox 100147
6000 Feldwood Road
3rd Floor East
College Park, GA 30349

FOR CREDIT CARD PAYMENT
FMCSA Trans-border Office
P.O. Box 530870
San Diego, CA 92153-0870

FOR RE-APPLICATION (NO PAYMENT REQUIRED)
FMCSA Trans-border Office
P.O. Box 530870
San Diego, CA 92153-0870

U.S. Department of Transportation

Federal Motor Carrier Safety Administration

Form Approved
OMB No. 2126-0016

FORM OP-1(MX)
Application to Register Mexican Carriers for Motor Carrier Authority To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border

This application is for all Mexico-domiciled carriers requesting to register to operate as motor carriers of passengers or property in interstate commerce between Mexico and points in the United States **beyond** the municipalities and commercial zones adjacent to the border, and for all Mexican persons or entities who had previously filed applications for registration under NAFTA provisions and who are required to supplement the information in their original applications by completing and re-filing the revised Form OP-1(MX).

For FMCSA Use Only

Docket No. MX_____

DOT No. _____

Filed _____

Fee No. _____

CC Approval Number _____

Application Tracking Number _____

PAPERWORK BURDEN

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. It is estimated that an average of 4 burden hours per response is required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024

SECTION I - APPLICANT INFORMATION

LEGAL BUSINESS NAME:_____

DOING BUSINESS AS NAME: (Trade Name, if any) _____

_____

Form OP-1(MX)
Revised March 2002

BUSINESS ADDRESS: (Actual Street Address):

(Street Name and Number)

(City) (State) (Country) (Zip Code)

(Colonia)

(_____)_____ (_____)_____
(Telephone Number) (Fax Number)

MAILING ADDRESS: (If different from above)

(Street Name and Number)

(City) (State) (Country) (Zip Code)

(Colonia)

U.S. ADDRESS: (Does the applicant currently have an office in the United States? If yes, give address and telephone number.)

(Street Name and Number)

(City) (State) (Country) (Zip Code)

(_____)_____ (_____)_____
(Telephone Number) (Fax Number)

APPLICANT'S REPRESENTATIVE: (Person who can respond to inquiries)

(Name and title, position, or relationship to applicant)

(Street Name and Number)

(City) (State) (Country) (Zip Code)

(Colonia – Mexican addresses only)

(_____)_____ (_____)_____
(Telephone Number) (Fax Number)

US DOT NUMBER (If available) _____

Form OP-1(MX)
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FORM OF BUSINESS (Check one)

☐ CORPORATION (Give Mexican or U.S. State of Incorporation) _____

_____

☐ SOLE PROPRIETORSHIP (Give full name of individual)

_____

(First Name) (Middle Name) (Surname)

☐ PARTNERSHIP (Give full name of each partner)_____

_____

SECTION IA – ADDITIONAL APPLICANT INFORMATION

1. Does the applicant currently operate in the United States?

☐ Yes ☐ No

1a. If yes, indicate the locations where the applicant operates and the ports of entry utilized.

_____

_____

_____

2. Has the applicant previously completed and submitted a Form MCS-150?

☐ Yes ☐ No

2a. If yes, give the name under which it was submitted.

_____

_____

3. Does the applicant presently hold, or has it ever applied for, regular (MC) or Mexican (MX) authority from the former U.S. Interstate Commerce Commission, the U.S. Federal Highway Administration, the Office of Motor Carrier Safety, or the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation under the name shown on this application, or under any other name?

☐ Yes ☐ No

3a. If yes, please identify the lead docket number(s) assigned to the application or grant of authority.

_____

_____

3b. If the application was rejected before the time a lead docket number(s) was assigned, please provide the name of the applicant shown on the application.

_____

_____

3c. If yes, did FMCSA revoke the applicant's provisional operating authority or provisional Certificate of Registration after April 18, 2002, because the applicant failed to receive a Satisfactory safety rating or because the FMCSA otherwise determined the applicant's basic safety management controls were inadequate.

☐ Yes ☐ No

3d. If the applicant answered yes to 3c above, it must explain how it has corrected the deficiencies that resulted in revocation, explain what effectively functioning basic safety management systems the applicant has in place, and provide any information and documents that support its case. (If the applicant requires more space, **attach the information to this application form**.)

_____

_____

_____

_____

4. Does the applicant hold a Federal Tax Number from the U.S. Government?

☐ Yes ☐ No

4a. If yes, enter the number here: _____

5. Is the applicant registered with the Mexican Government's Secretaria de Comunicaciones y Transportes (SCT)?

☐ Yes ☐ No

5a. If yes, give the name under which the applicant is registered with the SCT, the applicant's RFC Number, and the place where SCT Registration was issued.

_____

_____

_____

_____

_____

5b. If no, indicate the date the applicant applied with SCT.

_____

SECTION II – AFFILIATIONS INFORMATION

Disclose any relationship the applicant has, or has had, with any U.S. or foreign motor carrier, broker, or freight forwarder registered with the former ICC, FHWA, Office of Motor Carrier Safety, or Federal Motor Carrier Safety Administration within the past 3 years. For example, this relationship could be through a percentage of stock ownership, a loan, a management position, a wholly-owned subsidiary, or other arrangement.

If this requirement applies to the applicant, provide the name of the affiliated company, the latter's MC or MX number, its U.S. DOT Number, if any, and the company's latest U.S. DOT safety rating. Applicant must indicate whether these entities have been disqualified from operating commercial motor vehicles anywhere in the United States pursuant to Section 219 of the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1748)(MCSIA). (If the applicant requires more space, **attach the information to this application form**.)

Name of affiliated company	MC or MX Number	U.S. DOT Number	U.S. DOT Safety Rating	Ever Disqualified under Section 219 of the MCSIA?

SECTION III – TYPE(S) OF REGISTRATION REQUESTED

Applicant must submit a filing fee for each type of registration requested (for each checked box).

Applicant seeks to provide the following transportation service:

PASSENGER REGISTRATION

- ❑ Service as a **common carrier** of passengers between Mexico and the United States.
- ❑ Service as a **contract carrier** between Mexico and the United States, under continuing contract(s) with persons or organizations requiring passenger transportation service.

PROPERTY REGISTRATION

- ❑ **Motor Common Carrier of Property (except Household Goods).** Under NAFTA Annex I, page I-U-20, a Mexico-domiciled carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.
- ❑ **Motor Contract Carrier of Property (except Household Goods).** Under NAFTA Annex I, page I-U-20, a Mexico-domiciled carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.
- ❑ **Motor Common Carrier of Household Goods.**
- ❑ **Motor Contract Carrier of Household Goods.**
- ❑ **Motor Private Carrier.**

SECTION IV – INSURANCE INFORMATION

MOTOR PASSENGER CARRIER APPLICANTS

All motor passenger carriers operating in the United States, including Mexico-domiciled carriers, must maintain public liability insurance. The amounts in parentheses represent the minimum amount of coverage required.

Applicant will use (*check only one*):

- ❑ Any vehicle has a seating capacity of 16 passengers or more ($5,000,000)
- ❑ All vehicles have seating capacities of 15 passengers or fewer only ($1,500,000)

MOTOR PROPERTY CARRIER APPLICANTS *(including Household Goods Carriers)*

NOTE: Refer to **SECTION IV** under the *Instructions to the Form OP-1(MX)* for information on cargo insurance filing requirements for motor common carriers.

- ❑ Applicant will operate vehicles having a gross vehicle weight rating (GVWR) of 10,000 pounds or more to transport:
  - ❑ Non-hazardous commodities ($750,000)
  - ❑ Hazardous materials referenced in the FMCSA insurance regulations at 49 CFR § 387.303(b)(2)(c) ($1,000,000).
  - ❑ Hazardous materials referenced in the FMCSA insurance regulations at 49 CFR § 387.303(b)(2)(b) ($5,000,000).
- ❑ Applicant will operate only vehicles having a GVWR under 10,000 pounds to transport:
  - ❑ Any quantity of Division 1.1, 1.2 or 1.3 explosives; and quantity of poison gas (Division 2.3, Hazard Zone A or Division 6.1, Packing Group 1, Hazard Zone A materials); or highway route controlled quantity of radioactive materials ($5,000,000).
  - ❑ Commodities other than those listed above ($300,000).

Does the applicant presently hold public liability insurance?

☐ Yes ☐ No

If applicant does hold such insurance, please provide the information below:

Insurance Company: _____
Address: _____
_____
Maximum Insurance Amount: _____
Policy Number: _____
Date Issued: _____
Insurance Effective Date: _____
Insurance Expiration Date: _____

Does applicant presently operate or has it operated under trip insurance issued for movements in U.S. border commercial zones?

☐ Yes ☐ No

Form OP-1(MX)
Revised March 2002

SECTION V – SAFETY CERTIFICATIONS

Applicant certifies that it is exempt from the U.S. DOT Federal Motor Carrier Safety Regulations (FMCSRs) because it will operate only small vehicles (GVWR under 10,001 pounds) and will not transport hazardous materials.

_____Yes _____No

If applicant answers yes, it must complete the following single safety certification, skip to the end of this section, sign the certification, and complete questions 1 and 2 under the next section - **Safety and Compliance Information and Attachments to Section V**.

Applicant certifies that it is familiar with and will observe general operational safety fitness guidelines and applicable State, local and tribal laws relating to the safe operation of commercial vehicles.

_____Yes

If applicant answers No, it must complete the remaining questions in Section V, sign the certification, and complete the **Safety and Compliance Information and Attachments for Section V**.

Applicant maintains current copies of all U.S. DOT Federal Motor Carrier Safety Regulations, Federal Motor Vehicle Safety Standards, and the Hazardous Materials Regulations (if a property carrier transporting hazardous materials), understands and will comply with such Regulations, and has ensured that all company personnel are aware of the current requirements.

_____Yes

Applicant certifies that the following tasks and measures will be fully accomplished and procedures fully implemented before it commences operations in the United States:

1. Driver qualifications:

The carrier has in place a system and procedures for ensuring the continued qualification of drivers to operate safely, including a safety record for each driver, procedures for verification of proper licensing of each driver, procedures for identifying drivers who are not complying with the U.S. and

Mexican safety regulations, and a description of a retraining and educational program for poorly performing drivers.

_____Yes

The carrier has procedures in place to review drivers' employment and driving histories for at least the last 3 years, to determine whether the individual is qualified and competent to drive safely.

_____Yes

The carrier has established a program to review the records of each driver at least once every 12 months and will maintain a record of the review.

_____Yes

The carrier will ensure, once operations in the United States have begun, that all of its drivers operating in the United States are at least 21 years of age and possess a valid Licencia Federal de Conductor (LFC) and that the driver's LFC is registered in the SCT database.

_____Yes

2. Hours of service:

The carrier has in place a record keeping system and procedures to monitor the hours of service performed by drivers, including procedures for continuing review of drivers' log books, and for ensuring that all operations requirements are complied with.

_____Yes

The carrier has ensured that all drivers to be used in the United States are knowledgeable of the U.S. hours of service requirements, and has clearly and specifically instructed the drivers concerning the application to them of the 10 hour, 15 hour, and 60 and 70 hour rules, as well as the requirement for preparing daily log entries in their own handwriting for each 24 hour period.

_____Yes

The carrier has **attached to this application** statements describing the carrier's monitoring procedures to ensure that drivers complete logbooks correctly, and describing the carrier's record keeping and driver review procedures.

_____Yes

The carrier will ensure, once operations in the United States have begun, that its drivers operate within the hours of service rules and are not fatigued while on duty.

_____Yes

3. Drug and alcohol testing:

The carrier is familiar with the alcohol and controlled substance testing requirements of 49 CFR part 382 and 49 CFR part 40 and has in place a program for systematic testing of drivers.

_____Yes

The carrier has **attached to this application** the name, address, and telephone number of the person(s) responsible for implementing and overseeing alcohol and drug programs, and also of the drug testing laboratory and alcohol testing service that are used by the company.

_____Yes

4. Vehicle condition:

The carrier has established a system and procedures for inspection, repair and maintenance of its vehicles in a safe condition, and for preparation and maintenance of records of inspection, repair and maintenance in accordance with the U.S. DOT's Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations.

_____Yes

The carrier has inspected all vehicles that will be used in the United States before the beginning of such operations and has proof of the inspection on-board the vehicle as required by 49 CFR 396.17.

_____Yes

The carrier's vehicles were manufactured or have been retrofitted in compliance with the applicable U.S. DOT Federal Motor Vehicle Safety Standards.

_____Yes

The carrier will ensure that all vehicles operated in the United States are inspected at least every 90 days by a certified Commercial Vehicle Safety Alliance inspector in accordance with the requirements for a Level I Inspection under the criteria of the North American Standard Inspection, as defined in 49 CFR 350.105, once operations in the United States begin and until such time as the carrier has held permanent operating authority from the FMCSA for at least 36 consecutive months. After the 36-month period expires, the carrier will ensure that all vehicles operated in the United States are inspected in accordance with 49 CFR 396.17 at least once every 12 months thereafter.

_____Yes

The carrier will ensure, once operations in the United States have begun, that all violations and defects noted on inspection reports are corrected before vehicle and drivers are permitted to enter the United States.

_____Yes

5. Accident monitoring program:

The carrier has in place a program for monitoring vehicle accidents and maintains an accident register in accordance with 49 CFR 390.15.

_____Yes

The carrier has **attached to this application** a copy of its accident register for the previous 12 months, or a description of how the company will maintain this register once it begins operations in the United States.

_____Yes

The carrier has established an accident countermeasures program and a driver training program to reduce accidents.

_____Yes

The carrier has **attached to the application** a description and explanation of the accident monitoring program it has implemented for its operations in the United States.

_____Yes

6. Production of records:

The carrier can and will produce records demonstrating compliance with the safety requirements within 48 hours of receipt of a request from a representative of the USDOT/FMCSA or other authorized Federal or State official.

_____Yes

The carrier is including as an **attachment to this application** the name, address and telephone number of the employee to be contacted for requesting records.

_____Yes

7. Hazardous Materials (to be completed by carriers of hazardous materials only).

The HM carrier has full knowledge of the U.S. DOT Hazardous Materials Regulations, and has established programs for the thorough training of its personnel as required under 49 CFR part 172, Subpart H and 49 CFR 177.816. The HM carrier has **attached to this application** a statement providing information concerning (1) the names of employees responsible for ensuring compliance with HM regulations, (2) a description of their HM safety functions, and (3) a copy of the information used to provide HM training.

_____Yes

The carrier has established a system and procedures for inspection, repair and maintenance of its reusable hazardous materials packages (cargo tanks, portable tanks, cylinders, intermediate bulk containers, etc.) in a safe condition, and for preparation and maintenance of records of inspection, repair, and maintenance in accordance with the U.S. DOT Hazardous Materials Regulations.

_____Yes

The HM carrier has established a system and procedures for filing and maintaining HM shipping documents.

_____Yes

The HM carrier has a system in place to ensure that all HM trucks are marked and placarded as required by 49 CFR part 172, Subparts D and F.

_____Yes

The carrier will register under 49 CFR part 107, Subpart G, if transporting any quantity of hazardous materials requiring the vehicle to be placarded.

_____Yes

7A. For Cargo Tank (CT) Carriers (of HM):

The carrier **submits with this application** a certificate of compliance for each cargo tank the company utilizes in the U.S., together with the name, qualifications, CT number, and CT number registration statement of the facility the carrier will be utilizing to conduct the test and inspections of such tanks required by 49 CFR part 180.

_____Yes

_____

Signature of applicant

By signing these certifications, the carrier official is on notice that the representations made herein are subject to verification through inspections in the United States and through the request for and examination of records and documents. Failure to support the representations contained in this application could form the basis of a proceeding to assess civil penalties and/or lead to the revocation of the authority granted.

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Safety and Compliance Information and Attachments for Section V

1. Individual responsible for safe operations and compliance with applicable regulatory and safety requirements.

NAME	ADDRESS	POSITION

2. Location where current copies of the Federal Motor Carrier Safety Regulations and other regulations are maintained.

ATTACHMENT FOR SECTION V, NO. 1, DRIVER QUALIFICATIONS
Intentionally Left Blank

ATTACHMENT FOR SECTION V, NO. 2, HOURS OF SERVICE

MONITORING STATEMENTS

Statements describing monitoring procedures for ensuring correctness of logbook completion by drivers and describing record keeping and driver review procedures.

ATTACHMENT FOR SECTION V, NO. 3, DRUG AND ALCOHOL TESTING

Person(s) responsible for implementing and overseeing alcohol and drug programs.

NAME	ADDRESS	POSITION

The drug testing laboratory and the alcohol testing service that are used by the carrier.

NAME	ADDRESS	TELEPHONE NO.

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ATTACHMENT FOR SECTION V, NO. 4,
Intentionally Left Blank

ATTACHMENT FOR SECTION V, NO. 5, ACCIDENT MONITORING PROGRAM

1. Describe how company will maintain accident register (49 CFR 390.15(b)) once it begins operations in U.S.

ATTACHMENT FOR SECTION V, NO. 5, ACCIDENT MONITORING PROGRAM

2. Describe and explain accident monitoring program for operations in U.S. (49 CFR 391.25 and 391.27).

ATTACHMENT FOR SECTION V, NO. 6, PRODUCTION OF RECORDS

Contact person(s) for requesting records:

Name	Address	Telephone Number

ATTACHMENT FOR SECTION V, NO. 7, HAZARDOUS MATERIALS (TO BE COMPLETED BY CARRIERS OF HAZARDOUS MATERIALS ONLY)

Statement respecting person(s) (other than drivers) responsible for ensuring compliance with HM regulations (49 CFR 172.704) for HM activities.

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ATTACHMENT FOR SECTION V, NO. 7A, (FOR CARGO TANK CARRIERS OF HM)

Cargo Tank Information (HM) (49 CFR part 180, Subpart E):

SECTION VI - HOUSEHOLD GOODS ARBITRATION CERTIFICATIONS

Household Goods Motor Common and Contract Carrier Applicants must certify as follows:

Household goods carrier registration is now conditioned on the carrier's agreement to offer arbitration as a means of settling loss and damage claims.

Applicant certifies that it will offer arbitration in accordance with the requirements of 49 U.S.C. § 14708.

_____
Signature

SECTION VII – SCOPE OF OPERATING REGISTRATION SOUGHT

1. Applicant seeks to provide the following transportation service in foreign commerce:

   - ❑ For a Mexican carrier to transport property between the United States–Mexico international border and all points in the United States (except under NAFTA Annex I, page I-U-20, a Mexico-domiciled carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo).

   - ❑ For Mexican passenger carriers, charter and tour bus operations between the U.S.-Mexico international border and points in the United States.

   - ❑ For Mexican passenger carriers, service as a common carrier over regular routes. (Regular route passenger carrier authority to perform regularly scheduled service only over named roads or highways.) Regular route passenger service includes authority to transport newspapers, baggage of passengers, and mail in the same motor vehicle with passengers, or baggage of passengers in a separate motor vehicle.

   Applicants requesting registration to operate over regular routes – On a **separate sheet of paper attached to the application**, describe the specific route involved in applicant's passenger carrier service description(s). Applicant must also furnish a map clearly identifying each regular route involved in its passenger carrier service description(s).

2. Indicate the principal border crossing points which applicant intends to utilize.

   _____
   _____
   _____

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SECTION VIII – COMPLIANCE CERTIFICATIONS

All applicants must certify as follows:

- Applicant is willing and able to provide the proposed operations or service and to comply with all pertinent statutory and regulatory requirements and regulations issued or administered by the U.S. Department of Transportation, including operational regulations, safety fitness requirements, motor vehicle safety standards, and minimum financial responsibility requirements.

  _____ Yes

- Applicant has paid any taxes it owes under Section 4481 of the U.S. Internal Revenue Service (26 U.S.C. §4481) for the most recent taxable period as defined under Section 4482(c) of the Internal Revenue Code.

  _____ Yes

- Applicant understands that the agent(s) for service of process designated on FMCSA Form BOC-3 will be deemed applicant's official representative(s) in the United States for receipt of filings and notices in administrative proceedings under 49 U.S.C. 13303, and for receipt of filings and notices issued in connection with the enforcement of any Federal statutes or regulations.

  _____ Yes

- Applicant is willing and able to produce for review or inspection documents which are requested for the purpose of determining compliance with applicable statutes and regulations administered by the Department of Transportation, including the Federal Motor Carrier Safety Regulations, Federal Motor Vehicle Safety Standards and Hazardous Materials Regulations, within 48 hours of any written request. Applicant understands that the written request may be served on the person identified in the attachment for Section V, number 6, or the designated agent for service of process.

  _____ Yes

- Applicant is willing and able to have all vehicles operated in the United States inspected at least every 90 days by a certified Commercial Vehicle Safety Alliance inspector and have decals affixed attesting to satisfactory compliance with Level I CVSA Inspection criteria. This requirement will end after applicant has held permanent operating authority from FMCSA for three consecutive years.

  _____ Yes

- Applicant is not presently disqualified from operating a commercial vehicle in the United States pursuant to the Motor Carrier Safety Improvement Act of 1999.

  _____ Yes

- Applicant is not prohibited from filing this application because its FMCSA registration is currently under suspension or was revoked less than 30 days before the filing of this application.

  _____ Yes

_____

Signature

All motor carriers operating within the United States, including Mexico-domiciled motor carriers applying for operating authority under this form, must comply with all pertinent Federal, State, local and tribal statutory and regulatory requirements when operating within the United States. Such requirements include, but are not limited to, all applicable statutory and regulatory requirements administered by the U.S. Department of Labor, or by an OSHA state plan agency pursuant to Section 18 of the Occupational Safety and Health Act of 1970. Such requirements also include all applicable statutory and regulatory environmental standards and requirements administered by the U.S. Environmental Protection Agency or a State, local or tribal environmental protection agency. Compliance with these statutory and regulatory requirements may require motor carriers and/or individual operators to produce documents for review and inspection for the purpose of determining compliance with such statutes and regulations.

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SECTION IX – APPLICANT'S OATH

APPLICANT'S OATH MUST BE COMPLETED (SIGNED) BY APPLICANT

I, _____,

(First Name) (Middle Name) (Surname) (Title)

verify under penalty of perjury, under the laws of the United States of America, that I understand the foregoing certifications and that all responses are true and correct. I certify that I am qualified and authorized to file this application. I know that willful misstatement or omission of material facts constitute Federal criminal violations under 18 U.S.C. §§ 1001 and 1621 and that each offense is punishable by up to 5 years imprisonment and a fine under Title 18, United States Code, or civil penalties under 49 U.S.C. §521(b)(2)(B) and 49 U.S.C. Chapter 149.

I further certify that I have not been convicted in U.S. Federal or State courts, after September 1, 1989, of any offense involving the distribution or possession of controlled substances, or that if I have been so convicted, that I am not ineligible to receive U.S. Federal benefits, either by court order or operation of law, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862).

_____ _____

(Signature) (Date)

_____

(Applicant's Title, e.g., President or Owner)

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FMCSA FILING FEES

Fee Schedule effective January 1996
Fee for Registration . . . $300.00

FEE POLICY

- Filing fees must be payable to the **Federal Motor Carrier Safety Administration**, by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or by approved credit card.
- Separate fees are required for each **type of registration** requested. If applicant requests registration as a for-hire motor carrier and as a motor private carrier, multiple fees are required. The applicant may submit a single payment for the sum of the applicable fees.
- Filing fees must be **sent along with the original and one copy of the application** to the appropriate address under the paragraph titled **MAILING INSTRUCTIONS** on page 10 of the instructions to this form.
- After an application is received, the filing fee is non-refundable.
- An application submitted with a personal check will be held for 30 days from the date received. The FMCSA reserves the right to discontinue processing any application for which a check is returned due to insufficient funds. No application will be processed until the fee is paid in full.
- **NO FILING FEE IS REQUIRED FOR APPLICANTS WHO SUBMITTED A FORM OP-1(MX) BEFORE MARCH 19, 2002.**

FILING FEE INFORMATION

All applicants must submit a filing fee of $300.00 for each type of registration requested. The total amount due is equal to the fee(s) times the number of boxes checked in ***Section III*** of the Form OP-1(MX). Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in ***Section III*** _____ x filing fee $ _____ = $ _____

INDICATE AMOUNT $_____ AND METHOD OF PAYMENT:

☐ CHECK OR ☐ MONEY ORDER, PAYABLE TO: **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

☐ VISA ☐ MASTERCARD

Credit Card Number _____

Expiration Date: _____

Signature _____ Date: _____

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[FR Doc. 02–5891 Filed 3–14–02; 8:45 am]
BILLING CODE 4910–EX–C