PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

2. The authority citation for part 387 is revised to read as follows:

Authority: 49 U.S.C. 13101,13301,13906, 14701, 31138, and 31139; and 49 CFR 1.73.

3. In § 387.7, revise the first sentence of paragraph (b)(3) introductory text to read as follows:

§ 387.7 Financial responsibility required.

* * * * *

(b) * * *

(3) *Exception.* A Mexican motor carrier operating solely in the commercial zones with a certificate of registration issued under part 368 may meet the minimum financial responsibility requirements of this subpart by obtaining insurance coverage, in the required amounts, for periods of 24 hours or longer, from insurers that meet the requirements of § 387.11 of this subpart. * * *

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Issued on: April 27, 2001.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 01–11034 Filed 5–1–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 365

[Docket No. FMCSA–98–3298]

RIN 2126–AA34

Application by Certain Mexican Motor Carriers To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border

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

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FMCSA proposes changes in its regulations to govern applications by Mexican carriers to operate beyond municipalities and commercial zones at the United States-Mexico border. The FMCSA also proposes to revise the application form, OP–1(MX), to be filed by these Mexican motor carriers. The proposed form would require additional information about the applicant's business and operating practices to allow the FMCSA to determine if the applicant could meet the safety standards established for operating in interstate commerce in the United States. Carriers that had previously submitted an application would have to submit the updated form. These proposed changes are needed to implement part of the North American Free Trade Agreement (NAFTA).

DATES: We must receive your comments by July 2, 2001.

ADDRESSES: You can mail, fax, hand deliver or electronically submit written comments to the Docket Management Facility, U.S. 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 in your comment the docket number that appears in the heading of this document. 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 at 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.

FOR FURTHER INFORMATION CONTACT: Ms. Valerie Height, (202) 366–1790, Regulatory Development Division, FMCSA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We will include comments received after the comment closing date in the docket, and we will consider late comments to the extent practicable. The FMCSA may, however, issue a final rule at any time after the close of the comment period.

Background

Under the Bus Regulatory Reform Act of 1982, (Pub. L. No. 97–261, 96 Stat. 1103) Congress imposed a two-year moratorium on issuance by the former Interstate Commerce Commission (ICC) of new grants of operating authority to motor carriers domiciled in a foreign country, or owned or controlled by persons of a foreign country. The legislation authorized the President to remove or modify the moratorium upon a determination that such action was in the national interest. As a result of legislative and executive extensions of the moratorium, only a limited class of Mexican motor carriers have operated in the United States on Certificates of Registration issued under what is now 49 CFR part 368.

The terms of NAFTA, Annex I, provide that the moratorium on licensing Mexican motor carriers to operate within the United States would be lifted by the President in phases under the following schedule:

(1) When NAFTA took effect on January 1, 1994, applications by Mexican bus operators to conduct cross border charter and tour bus services in international transportation service between Mexico and all points in the United States were to be accepted and processed by the ICC, and suitable authority issued.

(2) In the second stage, beginning December 17, 1995, Mexican trucking companies engaged in the transportation of property were to be permitted to file applications for cross border operations between Mexico and four United States border states and establish companies within the United States to distribute international cargo within the United States

(3) In the third phase, beginning January 1, 1997, applications were to be accepted and processed for Mexican passenger carriers to conduct regular route passenger operations in international service from Mexico to all points in the United States.

(4) In the fourth phase, beginning January 1, 2000, Mexican property carriers were to be allowed to file applications for cross border operations from Mexico to all points in the United States (except for point-to-point carriage of domestic cargo within the United States, for which the moratorium has not been removed under NAFTA).

(5) Finally, in the last phase, beginning on January 1, 2001, Mexican nationals were to be allowed to establish companies in the United States to provide point-to-point bus services in the United States.

Pursuant to the first phase of NAFTA, on January 1, 1994, the ICC began accepting applications from Mexican passenger carriers to conduct international charter and tour bus operations into the United States. The ICC promulgated rules and a revised application form to effect the processing of Mexican applications (Ex Parte No. 55 (Sub-No. 96), *Freight Operations by Mexican Motor Carriers—Implementation of the North American Trade Agreement,* 10 I.C.C. 2d 854

(1995). These rules were anticipating the implementation of the second phase of NAFTA providing Mexican property carriers with additional access to the United States. A copy of the decision is in the public docket for this rulemaking. The ICC designated the revised application form OP–1(MX). On December 15, 1995, the International Brotherhood of Teamsters sought an emergency stay of the ICC decision in the United States Court of Appeals for the District of Columbia. *International Brotherhood of Teamsters* v. *Secretary of Transportation,* No. 95–1603 (D.C. Cir., filed Dec. 15, 1995). The Teamsters contended that the ICC decision was arbitrary and capricious because it failed to address serious concerns regarding the safe operation of Mexican motor carriers. The Teamsters had requested the ICC to add additional safety questions to the applications filed by Mexican carriers to ensure that the applicants were willing and able to comply with applicable safety regulations.

On December 18, 1995, the DOT announced a delay in implementing the NAFTA motor carrier access provisions. Because of safety concerns related to the operations of Mexican motor carriers and the lack of a motor carrier safety regulation and compliance program in Mexico, the ICC decided not to process applications from Mexican motor carriers for authority to operate in the United States border States in accordance with NAFTA's liberalization schedule. The FHWA continued this decision after the January 1, 1996, termination of the ICC and transfer of responsibilities to the FHWA.

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 met in May 2000 to hear the trucking and investment case, which was the subject of extensive pre- and post-hearing briefings on safety and legal issues.

The panel issued a final report on February 6, 2001. A copy of the report is in the docket. The report unanimously concluded that the blanket refusal to process applications of Mexican motor carriers seeking United States operating authority out of concerns over the carriers' safety was in breach of NAFTA obligations of the United States, specifically NAFTA's liberalization provisions and provisions ensuring national treatment and most-favored-nation treatment for cross-border services. The panel also concluded that alleged deficiencies in Mexico's regulation of motor carrier safety did not relieve the United States of those NAFTA obligations. The panel stated, however, that the Department could subject Mexican motor carriers seeking to operate in the United States to different requirements than it applies to United States and Canadian carriers. The United States and Mexico have engaged in negotiations regarding the implementation of the liberalization provisions in light of the panel's decision.

The FMCSA regulates commercial motor vehicle (CMV) safety in the United States under a comprehensive system of regulations designed to ensure that drivers are medically qualified;, meet applicable licensing standards; can read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals in the English language, respond to official inquiries and make entries on reports and records; and do not operate vehicles while impaired by drugs, alcohol or excessive fatigue. We require that every CMV be equipped with certain standard safety-related equipment and that vehicles be regularly inspected and maintained to ensure that they remain in safe operating condition. We enforce these regulatory requirements through roadside inspections and on-site compliance reviews. Roadside inspections focus on potentially unsafe vehicle and driver violations that may pose a threat to public safety, unless the vehicle or driver is placed out of service. Our compliance reviews entail a review of a carrier's overall compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations. Our investigators examine carrier records (including driver logbooks and drug and alcohol testing information) and evaluate roadside vehicle inspection data, accident records, and other safety related information to determine whether a motor carrier meets safety fitness standards.

The DOT has consulted extensively with Mexican transportation officials regarding the strengthening of Mexican truck safety regulation, and significant progress has been made in this area. Mexico has agreed to utilize the Commercial Vehicle Safety Alliance (CVSA) out-of-service (OOS) criteria and has issued final regulations based on these criteria. These standards cannot be effective without a safety oversight program, including systematic roadside inspections, to ensure compliance with and enforcement of the standards. The DOT officials have worked extensively with Mexican transportation officials on the establishment of such a program. However, Mexico has not yet completed implementation of a comprehensive safety inspection program.

With the exception of border commercial zone drayage operations, Mexican carriers have, for the most part, little or no experience operating under regulations comparable to the FMCSRs. The FMCSA must be prepared to evaluate the safety fitness of motor carriers having no experience operating under a comprehensive system of safety regulation like ours.

The FMCSA asks for public comment on proposed regulations and a revised Form OP–1(MX) that would require additional safety information and certifications of compliance with applicable safety requirements from all Mexican motor carrier applicants operating beyond the commercial zones.

In another NPRM published elsewhere in today's **Federal Register**, RIN 2126–AA33 *Revision of Regulations and Application Form for Mexican-Domiciled Motor Carriers to Operate in U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border,* the FMCSA is proposing changes to the process and form (OP–2) used to obtain a Certificate of Registration. The changes would limit a Certificate of Registration to Mexican-domiciled motor carriers that operate, or will operate, only in the commercial zones adjoining the United States-Mexico border. All other Mexican carriers, including current holders of Certificates of Registration who operate beyond the commercial zones, would be subject to the proposals in this NPRM.

The FMCSA proposes to revise the OP–1(MX) application form by requiring each motor carrier applicant to answer questions to demonstrate its basic knowledge of the FMCSRs and to indicate how it intends to comply with these regulations. In addition, the FMCSA proposes to require each applicant to make specific certifications of compliance. This additional information will enable the FMCSA to determine that each applicant is willing and able to comply with the FMCSRs while conducting operations in the United States. In addition, the FMCSA would require applicants to submit verification from the Mexican government that the applicant is a registered Mexican carrier authorized to conduct motor carrier operations up to the United States-Mexico border and that all drivers who would operate in the United States have a valid Licencia Federal de Conductor issued by the Government of Mexico. These requirements also are consistent with section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (Pub. L.

106–159, 113 Stat. 1748) (MCSIA), which requires the Secretary to establish regulations ensuring that all applicant motor carriers, including foreign motor carriers, are knowledgeable about the FMCSRs before being granted authority to operate in the United States. Failure to provide such verification would result in the rejection of the application.

The FMCSA solicits comment from the public on our proposal that Mexican applicants who have filed for authority on the existing Form OP–1(MX) must file the proposed revised Form OP–1(MX) to update and supplement the information about their operations, including the requirement that the carrier be registered with the Government of Mexico. This requirement would ensure that FMCSA's database contains current and consistent information about Mexican registrants and thus enhance the effectiveness of FMCSA's safety oversight.

These proposed requirements should not distract from, or detrimentally affect, the efforts underway between the Governments of Mexico and the United States to establish compatible regulations and to ensure that a comprehensive safety oversight program is put into place in Mexico. Over the long term, consistent, compatible safety standards and compliance practices will have the greatest impact in promoting safety, facilitating enforcement, reducing the enforcement burden on the border States, and establishing permanent and stable programs.

Proposed Form OP–1(MX)

The FMCSA proposes extensive revisions to the Form OP–1(MX). The FMCSA proposes to add new sections to solicit additional information from the applicant to assist in identifying the nature of the applicant's existing operations in the U.S., if any. Other sections would help identify any previously submitted Form MCS–150, verify the applicant's domicile in Mexico, and confirm that the applicant holds a valid registration from the Government of Mexico. The question regarding domicile would be removed. However, the proposed question regarding whether the applicant holds a valid registration from the Mexican government is new. It is proposed to ensure that only a carrier who has met Mexican Federal government standards and regulations will operate in the United States.

The single form for both passenger and property carriers would lessen the paperwork burden on the Mexican applicants and facilitate the inclusion of additional safety questions and certifications.

Under section 219 of MCSIA, a foreign carrier engaging in transportation in the United States without proper authorization may be disqualified from operating commercial vehicles in the United States. Accordingly, applicants would be asked to disclose whether any affiliated entities have been disqualified.

The proposed form would require an applicant to identify the type(s) of operations requested. The form would make clear that use of the Form OP–1(MX) and issuance of Authority Registrations would be limited to carriers that would operate *beyond* the municipalities along the United States-Mexico border and commercial zones of such municipalities.

Additional information would be requested about insurance held by the carrier.

The FMCSA proposes to add a new section that would require the applicant to certify that it has a system in place to ensure compliance with applicable requirements covering driver qualifications, hours of service, drug and alcohol testing, vehicle condition, accident monitoring, and hazardous materials transportation. In addition, the FMCSA proposes that the applicant provide narrative responses describing how it will monitor hours of service, how it will maintain an accident register and what is its monitoring program. This section would also require that the applicant provide information including the names of individuals in charge of the applicant's safety program. The applicant must provide: specific locations where the applicant maintains current FMCSRs, the names of the individuals in charge of drug and alcohol testing (if applicable). The FMCSA would require only those safety certifications that apply to the applicant. For example, due to the weight of the vehicles they operate, certain applicants would not be subject to the drug and alcohol testing and CDL requirements in 49 CFR parts 382 and 383, respectively, and would not be required to certify compliance with those regulations. The certification information would enable FMCSA to evaluate, upon initial application, the safety compliance program of the applicant. The FMCSA would reject an applicant that cannot offer a specific, unambiguous plan to ensure compliance.

The proposed form would require household goods applicants to affirm a willingness to offer arbitration as a means of settling loss and damage claims in accord with U.S. law.

The FMCSA proposes to add more extensive and specific certifications regarding compliance, including compliance with Department of Labor regulations. Other parts of this certification would require the applicant to affirm its willingness and ability to provide the proposed service and to comply with all pertinent statutory and regulatory requirements. It would remind the applicant of statutory and regulatory responsibilities, which if neglected or violated, might subject the applicant to disciplinary or corrective action by the FMCSA. Another certification, derived from the existing Form OP–2 application, would highlight the need to comply with applicable provisions of the U.S. Internal Revenue Code relating to payment of the Heavy Vehicle Use Tax. An additional certification would ensure that the applicant understands that the agents for service of process designated on the Form BOC–3 would also be deemed the applicant's representative in the United States for service of judicial process and notices under 49 U.S.C. 13304 and administrative notices under 49 U.S.C. 13303. Finally, the applicant would affirm that it is not currently disqualified from operating a commercial motor vehicle in the United States under the provisions of MCSIA.

The FMCSA will conduct workshops and also provide written material, such as handbooks, to help the Mexican applicants understand the various requirements and the proper way to complete the applications.

Proposed Revision to Part 365

The FMCSA proposes to add a new subpart E to part 365 to address the specific requirements of the application process for Mexican carriers. First, proposed § 365.501 sets out that all Mexican-domiciled carriers that want to operate *beyond* the border area must file the Form OP–1(MX). This would be a change from current practice to facilitate uniform treatment of all Mexican carriers that may wish to offer long haul service, and it is discussed as well in the NPRM concerning part 368 published in today's **Federal Register**. These special filing rules would *not* apply to Mexican-owned enterprises domiciled in the United States that want to distribute international cargo within the United States. Nor do they apply to Mexican nationals establishing companies in the United States to provide point-to-point bus services in the United States. Such entities would file either the standard OP–1 or OP–1(P) application form, as appropriate.

In proposed § 365.503, the FMCSA states that applications must be filled

out in English and be complete to be considered. Information on obtaining applications is also provided.

We propose in § 365.505 to provide a waiver from the filing fee for two types of applicants. First would be those who submitted an application under the earlier version of the Form OP–1(MX) before the decision of the United States to stay implementation of the NAFTA entry provisions. Second would be those applicants that currently hold a Certificate of Registration and wish to continue operations solely within the U.S. municipalities and commercial zones along the U.S.-Mexico border.

In proposed § 365.507, the FMCSA states that all applications by Mexican carriers would be reviewed under the existing procedures of part 365. Also, we propose that approval of an application would be conditional upon successful completion of a safety review within 18 months. The safety review is discussed in another NPRM published today in the **Federal Register** (*Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States*).

Proposed § 365.509 would include a requirement for Mexican carriers to notify FMCSA in writing of any changes in, or corrections to, applicant information in the Form OP–1(MX) as well as any changes in the Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, within 45 days of the change. The proposed requirement would assist FMCSA in keeping its information on Mexican carriers current. The proposed requirement would not be an annual re-filing. A carrier with no change in status would not need to take any action apart from the biennial submission of Form MCS–150. A carrier who fails to update required information may be subject to suspension or revocation of its operating authority.

Finally, we propose to add the Form OP–1(MX) as Appendix A to subpart E of part 365.

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). The Office of Management and Budget has reviewed this document. It is anticipated that the economic impact of the proposals in this rulemaking would be minimal. The new or revised Form OP–1(MX), while 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 Mexican carriers, would impose little additional expense upon public agencies or the motoring public.

Nevertheless, the subject of safe operations by Mexican carriers in the United States will likely generate 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 may be of substantial interest to the domestic motor carrier industry, the Congress, and the public at large. A copy of the Regulatory Evaluation prepared for the three companion NPRMs published in today's **Federal Register** is in the docket.

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 FMCSA is issuing this NPRM because of the planned implementation of the NAFTA's motor carrier access provisions. A NAFTA dispute resolution tribunal recently ruled that the United States violated NAFTA by failing to allow any Mexican carriers greater access to the United States.

Mexican carriers would be subject to the same safety regulations as domestic carriers when operating in the U.S. The 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 (OOS) 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. We do not currently have this type of information on Mexican carriers. We do not have abundant information on their safety record, OOS rates, or other overall safety. Thus, a key component of this proposal is the requirement that carriers with OP–1(MX) authority must complete a Form MCS–150 biennially, and notify the FMCSA of corrections to or changes in applicant information on the Form OP–1(MX) as well as changes in the Form BOC–3 within 45 days of the change. This would enable the FMCSA to better monitor these carriers, and to quickly determine whether their safety or OOS rate changes.

The objective of this proposal is to help determine the capability of certain Mexican carriers to operate safely in the United States. The proposal describes what additional information Mexican carriers would have to submit.

This proposal would primarily affect Mexican-domiciled small motor carriers who wish to operate beyond the U.S. municipalities and commercial zones on the U.S.-Mexico border. The amount of information these carriers would have to supply to the FMCSA has been increased, and we estimate that it would take 4 hours to complete each form after compiling the necessary information.

The number of carriers subject to the proposals in this rule and the two companion rules published elsewhere in today's **Federal Register** is the sum of those currently operating within the United States and those who apply for authority in the future. First, we estimated the number of Mexican carriers already operating within the United States. Most of these carriers currently have operating authority and would merely be required to re-file using the revised forms. To operate in the U.S. beyond the municipalities and commercial zones along the U.S.—Mexico border, as proposed in this rule, carriers would file the revised Form OP–1(MX). To continue operations within the U.S. solely in municipalities and commercial zones along the U.S.—Mexico border, these carriers would file using the revised Form OP–2 (see the rulemaking *Revision of Regulations and Application Form for Mexican—Domiciled Motor Carriers to Operate in U.S. Municipalities and Commercial Zones on the U.S.—Mexico Border* published elsewhere in today's **Federal Register**).

The FMCSA's Office of Data Analysis and Information Systems developed a file comprised of Mexican carriers that have recently operated in the United States. As of January 2001, this file contained 11,787 Mexican motor carriers (2.3% of the 500,000 carriers listed in the FMCSA Motor Carrier Management Information System (MCMIS) census file). It includes Mexican carriers with operating authority, carriers who have a DOT number but not authority, carriers with both a DOT number and operating

authority, and other carriers that the Agency believes are operating in the United States with neither operating authority nor a DOT number. These latter carriers are those who have been subject to a roadside inspection in the United States at some point in the last 3 years.

It has been suggested that many of these Mexican carriers no longer operate in the United States. The FMCSA calendar year 2000 MCMIS inspection and accident database identifies approximately 4,500 Mexican motor carriers. The FMCSA also verified that approximately 10,000 Mexican carriers currently have operating authority. Therefore, we constructed three different baseline scenarios for the number of Mexican carriers currently operating in the United States, a low (4,500), medium (9,500) and high (11,787) scenario.

The second step in figuring out the total number of Mexican carriers subject to these proposals is to determine how many *new* carriers will request authority under the proposals. Approximately 1,600 Mexican carriers have filed an OP–2 form annually over the last several years (and a similar number have been granted). Only 190 OP–1(MX) applications are pending, as Mexican carriers stopped filing these forms when it became clear that these forms were not being processed. For the high estimate, the FMCSA assumes that this number will double to 3,200 the first year this proposal is in effect, and then fall to 2,500 applicants per year for the following 9 years. As in the case of domestic carriers, the annual applicant number may include carriers that go out of business and subsequently re-enter the market. For the lower and middle estimates, we estimate that there will be 500 new applicants the first year, and then 200 per year thereafter. This translates into approximately 15,000 applicants in the first year for the high estimate, 10,000 for the medium estimate, and 5,000 for the low estimate. As was noted above, the FMCSA estimates that more than 500,000 motor carriers are currently operating in the United States.

We estimate that it takes 4 hours to complete each form. As was noted above, the vast majority of Mexican motor carriers currently operating in the United States have OP–2 authority. We estimate that half of all these carriers will switch to OP–1(MX) authority, while the other half will continue operating within U.S. municipalities and commercial zones on the U.S.—Mexico border. We assume that the new carriers will be more likely than current carriers to apply for OP–2 authority, since most of the large carriers who would presumably benefit from expanded U.S. operations are already operating in U.S. municipalities and commercial zones on the U.S.—Mexico border under OP–2 authority. While some new applicants will also want to take advantage of the opportunity to operate throughout the United States, many will not have the financial and administrative wherewithal to benefit from the enlarged operations allowed. Accordingly, the Agency estimates that three quarters (75%) of all new applicants will apply for OP–2 authority, with one quarter (25%) requesting OP–1(MX) authority. Nonetheless, changing this value would have no impact on the analysis since the costs of completing the two forms are identical.

A review of the MCMIS census file reveals that the vast majority of Mexican carriers are small. For Mexican carriers with any trucks, the mean number of trucks was 5.1. That mean was pulled up by a small number of large carriers. Seventy-five (75) percent of Mexican carriers had three or fewer trucks, and the 95th percentile carrier had only 15 trucks.

These proposals 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 proposals. Under the revised procedures, an applicant would be required to submit a completed Form BOC–3-Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, and Form MCS–150—Motor Carrier Identification Report (Application for U.S. DOT Number) as attachments to the OP–2 or OP–1(MX) application form. In addition, Mexican carriers would update the FMCSA of certain information changes.

The Form 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 Form BOC–3 merely requires the name, address and other information for a domestic agent to be contacted if the FMCSA needs to contact the motor carrier. The proposals also include other modest changes in the OP–1(MX) and OP–2 forms.

The FMCSA did not propose any different requirements or timetables for small entities. As noted above, we do not believe these requirements would be onerous, with the carriers required to spend 4 hours to complete the relevant forms. Mexican carriers would only be required to complete forms that most domestic U.S. carriers already are required to submit.

The FMCSA would not consolidate or simplify the compliance and reporting requirements for small carriers. As noted above, small U.S. carriers already have to comply with the similar paperwork requirements of part 365. Given the compelling interest in guaranteeing the safety of Mexican carriers operating in the United States, and the fact that the majority of these carriers are small entities, no special changes were proposed.

The FMCSA cannot exempt small carriers from these proposals without seriously diminishing the agency's ability to ensure the safe operations of Mexican carriers. The majority of Mexican carriers operating in the U.S. would be small; exempting them would have the same impact as not issuing these proposals. Therefore, FMCSA certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

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 proposed in this rule making would not have an impact of $100 million or more in any one year.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed 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)

This proposed 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). Consultation with States is not required when a rule is required by statute. The FMCSA, however, has determined that this action would not have significant Federalism implications or limit the policymaking discretion of the States. Comments on this conclusion are welcome and should be submitted to the docket.

Executive Order 13166 (Limited English Proficiency)

Executive Order 13166, ''Improving Access to Services for Persons With Limited English Proficiency,'' dated August 16, 2000 (65 FR 50121), requires each Federal agency to examine the services it provides and develop reasonable measures to ensure that persons 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 application instructions incorporated within the Form OP–1(MX) application. We believe that this action complies with the principles enunciated in the Executive Order.

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.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (49 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.

This proposal will not have any impact on information collection OMB No. 2126–0015, entitled, ''Designation of Agents, Motor Carriers, Brokers and Freight Forwarders.'' This currently approved collection covers the Form BOC–3. The current estimates of annual filings include the minimal additional Mexican motor carriers who would be filing updated information on the Form BOC–3.

The information collection requirements on 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 38,000 burden hours. Two thousand (2,000) of these 38,000 burden hours represent the approved amount for the OP–1(MX) (1,000 respondents per year @ 2 hours each to complete the form). The FMCSA proposes to change the form title to Form OP–1(MX)—Application to Register Mexican Carriers for Motor Carrier Authority Under the North American Free Trade Agreement (NAFTA).''

The Regulatory Evaluation for this proposal uses a numerical range to estimate the number of Mexican carriers anticipated to request OP–1(MX) or OP–2 authority under this proposal and a companion rule published elsewhere in today's **Federal Register** (see NPRM titled *Revision to Regulations and Application Form for Mexican-Domiciled Motor Carriers to Operate in U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border*). We estimate the number of applicants to range between a low estimate of 5,000, a medium estimate of 10,000 or a high estimate of 15,000 applicants. Please reference the Regulatory Flexibility Act analysis in this document or the Regulatory Evaluation for this rulemaking for a detailed discussion on how these estimates were derived. This analysis is based upon the high estimate (15,000) since that number enables the Agency to assess the maximum information collection burden to respondents.

The FMCSA estimates that 11,787 Mexican carriers are currently operating in the United States and are categorized as follows: Mexican carriers operating pursuant to OP–2 Certificates of Registration; Mexican carriers that previously filed an OP–1(MX) application; and Mexican carriers assigned DOT numbers and no OP authority or operating without appropriate authorization. The Agency estimates that half of the 11,787 Mexican carriers (or 5,894) known to be now operating in the U.S. will switch to OP–1(MX) authority, while the other half will continue operating pursuant to OP–2 authority.

Based upon the high estimate scenario, the FMCSA anticipates 3,200 first-time applicants for either OP–2 or OP–1(MX) authority in the first year that this proposal becomes a final rule, and 2,500 applicants annually in subsequent years. The agency estimates that 25 percent of the first year new applicants (800) would file a Form OP–1(MX); and 25 percent of the subsequent-year new applicants (625 annually) would file a Form OP–1(MX).

We assume that first-time applicants will be more likely than current carriers to apply for OP–2 authority, since most of the large carriers who would presumably benefit from expanded U.S. operations are already operating in the border commercial zones pursuant to OP–2 authority. While some new applicants may also want to take advantage of the opportunity afforded by this proposal to operate throughout the United States, many will not have the financial and administrative wherewithal or resources to benefit from the enlarged operations allowed.

This proposal would also require Mexican carriers to submit corrections to or changes in the OP–1(MX) applicant information within 45 days of the change. For changes and updates, the agency anticipates that in the first year, 2,232 carriers would file updates or changes to the Form OP–1(MX). In subsequent years, approximately 208 carriers would file updates or changes to the Form OP–1(MX). The FMCSA estimates that it would take 30 minutes to fill out a form to request changes.

Therefore, the FMCSA estimates an adjusted burden hour calculation for the Form OP–1(MX) as follows:

Mexican carrier re-filings or initial filings of the Form OP–1(MX):
(in first year, known carriers): 5,894 × 4 hrs per form = 23,576 hrs
(in first year, first-time applicants): 800 × 4 hrs per form = 3,200 hrs
(in subsequent-years, first-time applicants): 625 × 4 hrs per form = 2,500 hrs

Updates/Changes:
(all in first year): 2,232 × 30 min. per form = 1,117 hrs
(all in subsequent years): 208 × 30 min. per form = 104 hrs

Therefore, proposals in the NPRM, when promulgated as a final rule, would result in a change to the total burden hours for this information collection as follows:

In the first year: 63,893 [(38,000 − 2,000 = 36,000) + 26,776 + 1,117]; and

in subsequent years: 38,604 [36,000 + 2,500 + 104].

OMB Control Number: 2126–0016.

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

Respondents: Motor carriers that operate CMVs in interstate commerce.

Estimated Annual Hour Burden for this NPRM: Year 1 = ([38,000 −2,000 = 36,000] + 26,776 + 1,117 = 63,893 hrs); Subsequent years = ([38,000 −2,000 = 36,000] + 2,500 + 104 = 38,604 hours).

National Environmental Policy

The agency has analyzed this proposal for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined under DOT Order 5610.1C (September 18, 1979) that this action does not require any environmental assessment. An environmental impact statement is, therefore, not required.

List of Subjects

49 CFR Part 365

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

For the reasons stated in the preamble, the FMCSA proposes to amend 49 CFR part 365 as set forth below:

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

Subpart E—Special Rules for Certain Mexican Carriers

Sec.

365.501 Scope of rules.
365.503 Application.
365.505 Re-registration and fee waiver for certain applicants.
365.507 Review of the application.
365.509 Requirement to notify of change in applicant information.
Appendix A to Subpart E of Part 365—Form OP–1(MX) '' Application to Register Mexican Carriers for Motor Carrier Authority Under the North American Free Trade Agreement (NAFTA)

Subpart E—Special Rules for Certain Mexican Carriers

§ 365.501 Scope of rules.

The rules in this subpart govern the application by a Mexican-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 adjacent to the border.

§ 365.503 Application.

(a) Each applicant applying under this subpart must submit an application that consists of: Form OP–1 (MX), Form MCS–150—Motor Carrier Identification Form, and Form BOC–3—Designation of Agents-Motor Carriers, Brokers and Freight Forwarders.

(b) The 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/formspub.htm. Form OP–1 (MX) is also published in Appendix A to this part.*

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

(a) If you filed an application using Form OP–1(MX) before [*Insert date of publication of the final rule in the* **Federal Register**], you are required to file a new Form OP–1(MX) to update information about your operations. You do not need to submit a fee when you file a new application under this subpart.

(b) If you hold a Certificate of Registration issued before [*Insert date of publication of final rule in the* **Federal Register**] authorizing operations beyond the municipalities and commercial zones along the United States-Mexicoan border, 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 a new application under this subpart.

(1) You must file the application by [*Insert date 1 year after date of publication of final rule in the* **Federal Register**.].

(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 prior to [*Insert date of publication of final rule in the* **Federal Register**] would remain valid until the OP–1(MX) application filed according to paragraph (b) of this section is processed.

§ 365.507 Review of 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) When the FMCSA approves an application submitted under this subpart, the approval will be conditional upon the completion, to the satisfaction of the FMCSA, of a safety review under § 385.21 of this chapter within 18 months of the date of approval.

§ 365.509 Requirement to notify of change in applicant information.

(a) You 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 operating authority. You must notify the FMCSA in writing within 45 days of the change or correction.

(b) If you fail to comply with paragraph (a) of this section, the FMCSA may suspend or revoke your operating authority until you meet those requirements.

BILLING CODE 4910–22–P

Appendix A to Subpart E of Part 365—Form OP–1(MX)—Application To Register Mexican Carriers for Motor Carrier Authority Under the North American Free Trade Agreement (NAFTA)

U.S. Department of Transportation

Federal Motor Carrier Safety Administration

Form Approved
OMB No. 2126-0016
Expires 00/00/00

Instructions for Completing Form OP-1(MX) Application to Register Mexican Carriers for Motor Carrier Authority Under the North American Free Trade Agreement (NAFTA)

Please read these instructions before completing the application form. Retain the instructions and a copy of the complete application for your records. These instructions will assist you 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 foreign (Mexican) 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 in accordance with the provisions of the North American Free Trade Agreement (NAFTA).

This form is also required to be utilized by those 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).

This Form should not be used for registration by Mexican 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, you should instead complete and file Form OP-2.

This form should not be filed by United States based enterprises, owned or controlled by Mexican nationals, providing: (1) truck services for the transportation of international cargo within the United States, or (2) point-to-point bus services in the United States, in accordance with NAFTA provisions. To apply for such registration, you should instead complete and file Form OP-1 or OP-1(P), respectively.

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 Under the North American Free Trade Agreement, 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 judicial process and notices under 49 U.S.C. 13304 and administrative notices under 49 U.S.C. 13303. A person must be designated in each State in which the applicant may operate.

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

4. An Internal Revenue Service Form 2290, Schedule I, which shows payment of Federal Taxes for highway use by heavy vehicles, applicable under 26 U.S.C. § 4481, or a letter, signed by an authorized company official stating why applicant is not subject to this tax requirement. The form should be a copy of the most recent form filed with the IRS.

5. A filing fee of $300 for **each** type of registration requested, payable in U.S. dollars 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, and not by the applicant's attorney or other applicant representative. The same person must sign the oath and certifications.

- 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 continuation sheets by using headings that show both the number of the page of the revised OP-1(MX) form or Attachment page on which the question or response appears and the item number of the question.

ADDITIONAL ASSISTANCE

OP-1(MX)

Additional information on obtaining registration or monitoring the status of your application is available through the Automated Response Capability (ARC) telephone system. After dialing (202) 358-7000, press 1, then request the appropriate menu number indicated below. You may use the ARC 24 hours a day, 7 days a week to obtain information in the following areas:

INFORMATION REQUESTED	MENU NUMBER
Status of your application (NOTE: Use the assigned docket number to expedite your request. The FMCSA will notify you of the docket number by letter.)	1
Status of insurance and process agent filings	2
Assistance in filing your application	3
If you require information that is not available in the automated response system, the ARC will guide you to an appropriate FMCSA staff member who will be able to assist you in other areas.	

U.S. DOT REGISTRATION AND SAFETY RATINGS

To obtain information on registering with U.S. DOT (filing Form MCS-150) call: (800) 832-5660 (Automated Response System)

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

U.S. DOT HAZARDOUS MATERIALS REGULATIONS

To obtain information on whether the commodities you intend 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 contact the U.S. DOT, Research and Special Programs Administration at 1-800-467-4922.

To obtain information about DOT hazardous materials transportation registration requirements, contact the U.S. DOT, Research and Special Programs Administration at 1-800-467-4922.

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 your full legal business name -- the name on the incorporation certificate, partnership agreement, tax records, etc. If you use a trade name that differs from your official business name, indicate this under "Doing Business As Name." Example: If you are John Jones, doing business as Quick Way Trucking, enter "John Jones" under APPLICANT'S 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 you write 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, and Jalisco, Mexico. 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, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024, if the business or mailing address changes. If applicant also maintains an office in the United States, that information should also be provided.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

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 concerning this application.

U.S. DOT NUMBER. Applicants are required to register with the U.S. Department of Transportation (U.S. DOT) before initiating service. Motor carriers that already have been issued a U.S. DOT registration number should provide it; applicants that have not previously registered with U.S. DOT should refer to the U.S. DOT information sources under the "Additional Assistance" part of these Instructions. **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 must have been issued a Registration by the Mexican Government's Secretaria de Communicaciones y Transportes (SCT) before a Mexican Motor Carrier Authority Registration will be issued. Applicant's registration must be contained in the SCT database. If the applicant is in the process of obtaining its SCT registration, indicate the date the application was filed. Applicant must supplement the information once the number has been issued prior to being issued its Authority Registration. If an applicant currently holds an Authority Registration and is supplementing the information contained in its original application, this information is also required. An existing Authority Registration will be suspended if the SCT registration number and information is not supplied.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

SECTION II - OWNERSHIP, CONTROL AND AFFILIATIONS INFORMATION

All applicants must disclose pertinent information concerning the persons who own or control the applicant, and 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 in the United States pursuant to the Motor Carrier Safety Improvement Act of 1999 or any other law.

SECTION III – TYPE (S) OF REGISTRATION REQUESTED

Check the appropriate box (es) for the type(s) of registration you are requesting. For purposes of this application, for-hire motor carrier means an entity that is transporting the goods of others, and motor private carrier means an entity (person or company) 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.

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

SECTION IV - INSURANCE INFORMATION

Check the appropriate line that describes the type of business you will be conducting.

If you are applying for motor passenger carrier registration, check the line that describes the seating capacity of your vehicles. If all the vehicles you operate have a seating capacity of 15 passengers or fewer, you are required to maintain $1,500,000 minimum liability coverage. If any one of the vehicles you operate has a seating capacity of 16 passengers or more, you are required to maintain $5,000,000 minimum liability coverage.

If you are applying for motor property carrier registration and you operate vehicles with a gross vehicle weight rating of 10,000 pounds or more and haul only non-hazardous materials, you are required to 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. If you operate only vehicles with a

gross vehicle weight rating less than 10,000 pounds, you must maintain $300,000 minimum liability coverage. If you operate 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, you 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.

Appropriate insurance forms must be filed within **90 days** after the date notice of your 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. You must contact your insurance company to arrange for the filing of all required insurance forms.

Applicant does not have to submit evidence of insurance with the application, but if the registration is granted, applicant must carry on the vehicle when crossing the border a current Department of Transportation Form MCS-90 and evidence of continuing insurance coverage.

SECTION V - SAFETY CERTIFICATIONS

Applicants for motor carrier registration must complete the safety certifications. You should check the "YES" response only if you can attest to the truth of the statements. The carrier official's signature at the end of this section applies to the Safety Certifications. 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 you are exempt from the U.S. DOT safety fitness regulations because you operate only vehicles with a gross vehicle weight rating under 10,001 pounds, and you will not transport any hazardous materials, you must certify that you are 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.

Applicants should complete all applicable Attachment pages and, if necessary to complete the responses, attach additional pages referring to

the appropriate Sections and items in the application or Attachment pages. If you are exempt from the U.S. DOT safety fitness regulations, you must complete all relevant attachment pages to demonstrate your willingness and ability to comply with general operational safety fitness guidelines and applicable State and local 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 lines, the description(s) which describes the registration(s) for which application is being made. A separate fee is assessed for each registration sought.

SECTION VIII - COMPLIANCE CERTIFICATIONS

All applicants are required to certify accurately to their willingness and ability to comply with statutory and regulatory requirements including those administered by the Department of Labor and certain State agencies, 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 DOT filings and notices.

Applicants are required to certify to their willingness and ability to comply with regulations administered by the Department of Transportation, including the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations, as well as all applicable statutory and regulatory requirements administered by the U.S. Department of Labor, or a State agency operating a plan pursuant to section 18 of the Occupational Safety Health Act of 1970 ("OSHA State plan agency").

Applicants will also be required to certify their willingness to produce records for the purpose of determining compliance with the applicable safety regulations of the FMCSA and the requirements administered by the U.S. Department of Labor.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

The DOT considers compliance with Department of Labor and OSHA state plan agency requirements to be extremely important. An applicant's certification of its willingness to comply with DOL and OSHA requirements reflects an overall intention to comply with U.S. laws. While 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 requirements, such certification is required to avoid notification to DOL of an applicant's unwillingness to comply with these requirements.

SECTION IX - APPLICANT'S OATH

The applicant or an authorized representative may prepare applications. In either case, the applicant must sign the oath. In the case of companies, an authorized employee in the business structure (i.e., an officer, director, or other employee having access to the information necessary to make the oath or affirmation) may sign.

LEGAL PROCESS AGENTS

All motor carrier applicants must designate a process agent in each State where operations are conducted. For example, if you will operate only in California and Arizona, you must designate an agent in each of those States; if you will operate in only one State, an agent must be designated for that State only. Process agents who will accept legal filings on applicant's behalf are designated on FMCSA Form BOC-3. Form BOC-3 must be filed with the application.

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. You should select the State in which you will operate the largest number of motor vehicles in the next year and contact that State's transportation agency, to obtain registration forms and instructions. If the majority of your transportation is in Arizona, but you also operate in another State, you will need to contact a State other than Arizona for this registration. Failure to accomplish this State registration could subject you to substantial State penalties as well as the potential loss of your registration.

Please refer to the additional information provided in your application packet for further information.

MAILING INSTRUCTIONS:

To file for registration you 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 your own records. Mailing addresses for applications:

ALL DOCUMENTS WITH FEES ATTACHED:
Federal Motor Carrier Safety Administration
P. O. Box 100147
Atlanta, GA 30384-0147

FOR EXPRESS MAIL ONLY:
Nationsbank Wholesale Lockbox 100147
6000 Feldwood Road
3rd Floor East
College Park, GA 30349

FOR CREDIT CARD USERS ONLY:
Federal Motor Carrier Safety Administration
Suite 600, 400 Virginia Avenue, SW.
Washington, DC 20024

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 private motor 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 preceding paragraph titled **MAILING INSTRUCTIONS**.
- After an application is received, the filing fee is non-refundable.
- The FMCSA reserves the right to discontinue processing any application for which a check is returned due to insufficient funds. The application will not be processed until the fee is paid in full.

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: _____

U.S. Department of Transportation

Federal Motor Carrier Safety Administration

Form Approved
OMB No. 2126-0016
Expires 00/00/00

FORM-OP-1(MX)
Application to Register Mexican Carriers for Motor Carrier Authority Under the North American Free Trade Agreement (NAFTA)

This application is for all Mexican 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. _____

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) _____

_____

BUSINESS ADDRESS: (Actual Street Address):

_____
(Street Name and Number)

_____

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

(Telephone Number) (Fax Number)

SECTION I – APPLICANT INFORMATION (continued)

MAILING ADDRESS: (If different from above)

(Street Name and Number)

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

U.S. ADDRESS: (Does the applicant currently have an office in the United States? If so, 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)

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

US DOT NUMBER (If available; if not, see Instructions) _____

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 (Identify each of the partners) _____

SECTION IA – ADDITIONAL APPLICANT INFORMATION

1. Do you or your company currently operate in the United States?
☐ Yes ☐ No

1a. If so, indicate the locations where you operate and the ports of entry utilized.

_____

_____

_____

2. Has the applicant previously completed and submitted a Form MCS-150?
☐ Yes ☐ No

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

_____

_____

3. Do you or your company presently hold, or have you 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 prior to the time a lead docket number(s) was assigned, please provide the name of the applicant shown on the application

_____

_____

4. Is the applicant domiciled in Mexico? (Check one)
☐ Yes ☐ No

5. Indicate whether the applicant is owned or controlled by persons of Mexico (Check one)
☐ Yes ☐ No

6. Does the applicant hold a Federal Tax Number from the U.S. Government?
☐ Yes ☐ No

6a. If so, enter the number here: _____

7. Has your company been issued a Registration by the Mexican Government's Secretaria de Communicaciones y Transportes (SCT)?
☐ Yes ☐ No

7a. If so, give the name under which your company is registered, the Registration Number, and the place where the Registration was issued.

_____

_____

SECTION II – OWNERSHIP, CONTROL AND AFFILIATIONS INFORMATION

OWNERSHIP AND CONTROL

- If the applicant is a ***corporation***, list the names, country of residence, citizenship and domicile, if any, of the corporation, all principal officers and stockholders (holding more than 10 percent of stock) of applicant.
- If applicant is a ***partnership***, list the names, country of residence, citizenship and percentage of ownership of partnership for each partner.
- If applicant is an ***individual***, enter that individual's name, country of residence, and citizenship.

Name	Country of Residence	Citizenship	Domicile	Percentage of Ownership

AFFILIATIONS

Disclose any relationship the applicant has, or has had, with any U.S. or foreign motor carrier, broker, or freight forwarder registered with the other 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 you or your company, 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 in the United States pursuant to the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1748)(MCSIA) or any other law. (If you require 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 the MCSIA or any other law?

SECTION III – TYPE(S) OF REGISTRATION REQUESTED

You 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

- ❑ **Charter and special operations** transportation, in interstate or foreign commerce, between Mexico and the United States.

- ❑ Service as a common carrier over **regular routes** between Mexico and the United States (Regular route passenger carrier registration to perform regularly scheduled service only over named roads or highways). Regular route passenger service includes registration to transport newspapers, baggage or passengers, express packages, 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 your passenger carrier service description(s).

- ❑ 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)**
- ❑ **Motor Contract Carrier of Property (except Household Goods)**
- ❑ **Motor Common Carrier of Household Goods**
- ❑ **Motor Contract Carrier of Household Goods**
- ❑ **Private Carrier**

SECTION IV – INSURANCE INFORMATION

MOTOR PASSENGER CARRIER APPLICANTS

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

Applicant will use vehicles with seating capacities of (*check only one*):

- ❑ 16 passengers or more ($5,000,000)
- ❑ 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).

SECTION IV – INSURANCE INFORMATION (continued):

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 _____ Expiration Date_____

Does applicant presently operate or has it operated under trip insurance issued for movements in U.S. border commercial zones?
☐ Yes ☐ No

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 10,000 pounds) and will not transport hazardous materials.

_____Yes _____No

If you answered **yes**, proceed to the end of this section, sign the certification and complete the appropriate attachments to Section V. Refer to the instructions for additional information.

If you answered No, you must complete the remaining questions in Section V, and sign the certification before you complete the appropriate attachments to Section V.

Applicant maintains current copies of all U.S. DOT Federal Motor Carrier Safety Regulations, 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:

_____Yes

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 5 years, to determine whether the individual is qualified and competent to drive safely.

_____Yes

The carrier has established a system and requirements that each driver report to the carrier in writing under the driver's signature, all criminal convictions within 30 days of occurrence, including the following information: the driver's full name, driver's license number, and the date of conviction; details of the offense, including suspension, revocation, or cancellation of driving privileges, and the location of the offense.

_____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

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 insure that drivers complete logbooks correctly, and describing the carrier's record keeping and driver review procedures.

_____Yes

3. Drug and alcohol testing:

The carrier is familiar with the alcohol and controlled substance testing requirements of 49 CFR 382 and 49 CFR 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 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 vehicles that will be used in the United States prior to 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 in compliance with the applicable U.S. DOT Federal Motor Vehicle Safety Standards.

_____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 year (or 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 preventable 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 official.

_____Yes

The carrier is including as an attachment to this application the name, address and telephone number of the employee who should 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 in such regulations.

_____Yes

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

_____Yes

The HM carrier has attached to this application a statement providing information concerning: (1) the names of employees (other than drivers) responsible for assuring compliance with HM regulations referenced in Section V of this application), and (2) a description of their positions, training and experience with respect to safety regulations.

_____Yes

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

_____Yes

7A. For Cargo tank 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 Part 180.

_____Yes

The carrier will register under Part 107, Subpart G, if transporting a minimum of 55 lbs. of explosives, any quantity of highway route controlled quantity of radioactive materials, more than 1 liter of PIH Zone A, other hazardous materials in a tank over 3,500 gallons, or more than 5,000 lbs. loaded in one place.

_____Yes

8. Compliance with all of the following <u>once operations in the United States have begun</u>.

The carrier will insure that drivers operate within the hours of service rules and are not fatigued while on duty.

The carrier will insure that all drivers operating in the United States are at least 21 years of age and possess a valid Commercial Drivers License (CDL) or Licencia Federal de Conductor (LFC).

The carrier will insure that all vehicles operated in the United States are inspected on an annual basis.

The carrier will insure that all violations and defects noted on inspection reports are corrected before vehicle and drivers are permitted to enter or continue in the United States.

_____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 leading to the revocation of the authority granted.

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 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.

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 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.

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

Contact person 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 for HM activities.

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

Cargo Tank Information (HM)

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 for point-to-point carriage of domestic cargo in the U.S., which continues to be prohibited).

   - ❑ 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, express packages, and mail in the same motor vehicle with passengers, or baggage of passengers in a separate motor vehicle.

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

   _____
   _____
   _____

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 is willing and able to comply with all applicable statutory and regulatory requirements administered by the U.S. Department of Labor, or by a state agency operating a plan pursuant to Section 18 of the Occupational Safety and Health Act of 1970 ("OSHA state plan agency,") including, but not limited to, requirements of the Occupational Safety and Health Act, the Surface Transportation Assistance Act, and the Fair Labor Standards Act.

  _____Yes

- Applicant has paid any taxes it owes under Section 4481 of the U.S. Internal Revenue Code (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, 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 produce for review or inspection documents (including employment, timekeeping, payroll, safety and health, and training records) which are requested for the purpose of determining compliance with applicable statutes and regulations administered by the U.S. Department of Labor and OSHA state plan agencies 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 not presently disqualified from operating a commercial vehicle in the United States pursuant to the Motor Carrier Safety Improvement Act of 1999 or any other law.

  _____Yes

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.

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)

_____

(Relationship to applicant, e.g., President or Owner)

Issued on: April 27, 2001.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 01–11035 Filed 5–1–01; 8:45 am]

BILLING CODE 4910–22–C

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 385

[Docket No. FMCSA–98–3299]

RIN 2126–AA35

Safety Monitoring System and Compliance Initiative for Mexican Motor Carriers Operating in the United States

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

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FMCSA proposes to implement a safety monitoring system and compliance initiative to help determine whether Mexican-domiciled carriers conducting operations anywhere in the United States comply with applicable safety regulations and conduct safe operations. This NPRM would revise the safety fitness regulations at 49 CFR part 385 to implement a safety oversight program designed to evaluate the safety fitness of Mexican carriers within 18 months after receiving conditional authority to operate in the United States. This proposal is necessary to implement the entry provisions of the North American Free Trade Agreement (NAFTA).

DATES: We must receive your comments by July 2, 2001.

ADDRESSES: You can mail, fax, hand deliver or electronically submit written comments to the Docket Management Facility, U.S. 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.

FOR FURTHER INFORMATION CONTACT: Valerie Height, (202) 366–1790, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

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

Background

Under the Bus Regulatory Reform Act of 1982 (Public Law No. 97–261, 96 Stat. 1103), Congress imposed a two-year moratorium on the former Interstate Commerce Commission's (ICC) issuance of new grants of U.S. operating authority to motor carriers domiciled in a foreign country, or owned or controlled by persons of a foreign country. The legislation authorized the President to remove or modify the moratorium upon a determination that such action was in the national interest. As a result of legislative and executive extensions, Mexican carriers have been subject to this moratorium since 1982. Since that time, most Mexican motor carriers of property seeking to initiate operations in the United States have been restricted to operating in the municipalities in the United States on the United States-Mexico border or within the commercial zones of such municipalities. Additional information on the implementation of NAFTA is set out in the preamble to the NPRM entitled *Application by Certain Mexican Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border,* which addresses revisions to the part 365 application process and the OP–1(MX) application form and is published elsewhere in today's **Federal Register**. As we discussed in the NPRM addressing part 365, commercial motor vehicle safety in the United States is regulated under a comprehensive system of regulations designed to ensure that drivers are medically qualified; meet applicable licensing standards; can read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals in the English language, to respond to official inquiries and to make entries on reports and records; and do not operate vehicles while impaired by drugs or alcohol or excessive fatigue. Our regulations also require carriers to equip every commercial motor vehicle with certain standard safety-related equipment and that vehicles be regularly inspected and maintained to ensure that they remain in safe operating condition. These regulatory requirements are enforced through roadside inspections and on-site compliance reviews. Roadside inspections focus on potentially unsafe vehicle and driver violations that may pose a threat to public safety unless the vehicle or driver is placed out of service. A compliance review comprises an examination of carrier records (including driver logbooks and drug and alcohol testing information), roadside vehicle inspection data, accident records and other safety related information to determine whether a motor carrier meets safety fitness standards as defined in the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations.

The U.S. DOT has consulted extensively with Mexican transportation officials in their efforts to strengthen Mexican vehicle safety regulations, and significant progress has been made in this area. Mexico has agreed to utilize the Commercial Vehicle Safety Alliance (CVSA) out-of-service criteria and has issued final regulations based on these criteria. These standards cannot be fully effective unless complemented by an adequate safety oversight program, including systematic roadside inspections, to ensure compliance with and enforcement of the criteria. U.S. DOT officials have worked extensively with Mexican transportation officials, but Mexico has not yet completed implementation of a comprehensive safety inspection program.

With the exception of the border commercial zone drayage operations, most Mexican carriers have little or no experience operating under regulations comparable to the FMCSRs. Accordingly, the FMCSA must be prepared to evaluate the safety fitness of motor carriers having no experience operating under our comprehensive system of safety regulations.

Proposed Safety Oversight Program

In this NPRM, the FMCSA proposes a safety oversight program to address U.S.