

**Department of Transportation
Office of the Chief Information Officer**

**SUPPORTING STATEMENT
Application for A Certificate of Registration for
Foreign Motor Carriers and Foreign Motor Private Carriers**

The purpose of this request is to seek the Office of Management and Budget's (OMB) approval for a revision of a currently-approved information collection (IC) OMB Control Number 2126-0019 entitled "Application for A Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers," which is due to expire on August 31, 2008.

Part A. Justification.

1. Circumstances that make collection of information necessary:

The Motor Carrier Safety Act of 1984 (1984 Act), Public Law No. 98-554, 98 Stat. 2832, required certain Mexican-domiciled motor carriers performing operations in the United States to obtain certificates of registration, on an annual basis, in order to continue those operations. Prior to that time, however, these carriers had been exempt from regulation by the former Interstate Commerce Commission (ICC). Further, to obtain these certificates of registration, motor carriers subject to these requirements were required to demonstrate that they maintained specified levels of insurance coverage; that they were performing safe operations, in accordance with the Department of Transportation's (DOT) safety regulations; and that they had paid any applicable Federal heavy vehicle taxes under 26 U.S.C. § 4481 (Attachment A). To implement the statute, the ICC adopted regulations at 49 CFR part 1171, now found at 49 CFR part 368 (Attachment B), and prescribed Form OP-2 (Attachment C) as the application form to be used by these foreign motor carriers to operate in the United States.

In 1988, as part of the Anti-Drug Abuse Act of 1988 (1988 Act), Public Law No. 100-690, 102 Stat. 4181,¹ Congress revised the 1984 Act. The 1988 Act expanded the statute to require all Mexican-domiciled for-hire and private motor carriers of exempt and regulated commodities to obtain certificates of registration. Also, the 1988 Act repealed the requirement for annual renewals of certificates of registration, and allowed the initial certificates of registration to remain in effect indefinitely, provided the carrier complies with other regulatory provisions of the statute. It also permitted these carriers to have insurance policies of limited duration and to show evidence of insurance at the international boundary line (on a per trip basis, or the so-called "trip insurance" concept), rather than filing certificates of insurance with the former ICC.

The ICC Termination Act of 1995 (ICCTA), Public Law No. 104-88, 109 Stat. 803 (Attachment D), transferred responsibility for registration of foreign carriers from the former ICC to the Secretary of Transportation (Secretary), who subsequently delegated this authority to the Federal Highway Administration (FHWA), then to the FMCSA at the time that agency was created in

¹Title IX, subtitle B of the Anti-Drug Abuse Act of 1988 is referred to as the Truck and Bus Safety and Regulatory Reform Act of 1988.

1999 (see Motor Carrier Safety Improvement Act of 1999 (MCSIA), Public Law 106-159, 113 Stat. 1748 (December 9, 1999) (Attachment E). The FMCSA adopted the OP-2 application form that was used previously by the ICC and the related regulations at 49 CFR part 368 governing the registration of foreign (Mexico-based) motor carriers.

Congress adopted a distinct licensing scheme for registering foreign (Mexico-based) motor carriers to operate across the Mexico-U.S. border into the United States, which is now carried out under the authority of 49 U.S.C. § 13902(c). The former ICC, in accordance with these statutory requirements, adopted a comprehensive program for issuing operating authority to these carriers, which is now carried out by the FMCSA. This collection of information is required by

§ 13902(c) (Attachment F) and 49 CFR part 368 has ensured that applications filed by foreign (Mexico-based) motor carriers receive the same thorough review given to registration applications filed by U.S. motor carriers. Form OP-2, the application form used by foreign (Mexico-based) motor carriers, thus establishes continuing compliance with this statutory requirement.

On March 19, 2002 (67 FR 12652), the FMCSA published a final rule (Attachment G) to revise its regulations and application form relating to the issuance of Certificates of Registration to those Mexico-domiciled motor carriers (of property) that desire to operate in the United States only within municipalities adjacent to Mexico in Texas, New Mexico, Arizona and California, and within the commercial zones of such municipalities (“border zones”). The final rule became effective April 18, 2002. This information collection supports the DOT’s Strategic Goal of Safety by allowing foreign Mexico-based motor carriers to conduct operations in the United States pursuant to the North American Free Trade Agreement., but requiring them to comply with similar registration procedures as the U.S. motor carriers.

This information collection supports the Department’s strategic goal of safety.

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

Data contained on the Form OP-2 will provide the FMCSA with evidence to assess the foreign (Mexico-based) motor carrier’s safety program and its ability to comply with U.S. safety standards. It also provides information concerning changes in each carrier’s operating status to ensure actual compliance with safety requirements. This enables the agency to maintain an accurate census of registered carriers and ensure safety.

3. Extent of automated information collection:

The Government Paperwork Elimination Act (GPEA), Public Law 105-277 (October 21, 1998), requires agencies to provide for the option of electronic submission of information and the use of electronic signatures, when practicable. Form OP-2 is filed by applicants on a voluntary, and for the most part, one-time basis. It calls for necessary information to identify the applicant and the scope of its proposed operations. The FMCSA estimates that 20 percent of the OP-2 forms will

be submitted electronically annually on the WEB.

4. Efforts to identify duplication:

There are no similar filings made with any other Federal agency or within the Department of Transportation that would result in duplication of this information. However, where applicable, some applicants are required to file IRS Form 2290, Schedule I, with the Internal Revenue Service (IRS) to reflect that payments have been made to the IRS for Federal taxes for highway use by heavy vehicles, pursuant to 26 U.S.C. § 4481.

5. Efforts to minimize the burden on small businesses:

Paperwork burdens associated with completing the Form OP-2 will remain unchanged. Each applicant is required to demonstrate its willingness and ability to comply with applicable safety regulations. It is essential to capture the population of carriers and to make certain the information is current. The requested information cannot be obtained from any other source, and the FMCSA is requesting no more information than is absolutely necessary to insure compliance with applicable safety regulations. Once the initial filing is made, carriers are only required to submit name or address changes. Updates to their location and operating status are also required when circumstances warrant.

6. Impact of less frequent collection of information:

Foreign (Mexico-based) motor carriers desiring to obtain certificates of registration to operate across the Mexico/United States international boundary line must file an application, Form OP-2, and comply with certain other prescribed requirements before being granted authority to conduct operations in the United States. Once the certificate of registration is issued, it remains in effect until the authority to operate is revoked voluntarily, at the request of the motor carrier, or unless the FMCSA revokes the authority involuntarily, for cause.

There is a \$300 filing fee required for this one-time filing. A new OP-2 application form is currently required only for initial requests for Certificates of Registration to operate as a motor carrier from Mexico within municipalities and commercial zones along the U.S.-Mexico international border.

7. Special circumstances:

There are no special circumstances that relate to this ICR.

8. Compliance with 5 CFR § 1320.8:

On June 9, 2008, FMCSA published a notice in the Federal Register (73 FR 32624) (Attachment H) with a 60-day comment period announcing its intention to seek OMB review and approval to revise this ICR. No comments were received in response to this notice.

On August 15, 2008, FMCSA published a notice in the Federal Register (73 FR 48009) (See Attachment I) with a 30-day comment period that announced that FMCSA was sending this ICR to OMB for approval.

9. Payments or gifts to respondents:

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

10. Assurance of confidentiality:

There is no assurance of confidentiality. The Form OP-2 calls for information identifying the applicant and the scope of its proposed operations in the United States. Further, Form OP-2, like all registration applications filed with the FMCSA, becomes part of a public docket and is open to the public for inspection.

11. Justification for collection of sensitive information:

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

12. Estimate of burden hours for information requested:

It is estimated that, on average, the OP-2 application form takes a carrier four (4) hours to complete. The time required to complete an individual application will vary depending on the applicant's knowledge of the English language. Pursuant to Executive Order 13166, dated August 11, 2000, entitled "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121; Aug. 16, 2000) (Attachment J), the FMCSA provides an English/Spanish version of the OP-2 application form and instructions; however, the application must be completed in English. The electronic version of the application is also provided in English and Spanish.

There are an estimated 7,200 Mexico-domiciled motor carriers operating in the United States. The vast majority of these Mexico-domiciled motor carriers currently operating in the United States already hold Form OP-2 authority. Therefore, the annual burden hour estimate for this ICR is based on Mexico-domiciled motor carriers Form OP-2 application data derived from FMCSA's Motor Carrier Management Information System (MCMIS).

The FMCSA estimates that the respondents will continue to take an average of four (4) hours to complete the OP-2 Form as indicated in the previous submission. Therefore, the estimated annual burden hours attributed to the respondents is **2,460 burden hours** [615 applications filed x 4 burden hours] = 2,460 burden hours.

Estimated Total Annual Burden Hours: 2,460.

Estimated Annual Number of Respondents: 615 Mexico-domiciled motor carriers.

Estimated Annual Number of Responses: 615.

13. Estimate of total annual costs to respondent:

Although most applicants complete the OP-2 application form by themselves, some applicants seek assistance from “permitting” services, non-attorney practitioners, or attorneys. Without the necessary information on wages in the Mexico trucking industry, the FMCSA used several data sources to obtain it. Data from the International Labor Organization (ILO) shows that the earnings per hour for a worker in the manufacturing sector in Mexico in 2002 was 25.2 pesos.² According to Yahoo Finance, this converts to \$2.40 per hour.³ The comparable figure for the U.S. manufacturing workers was \$15.30. The ratio of these 2 figures is 0.157, which can be used as an approximation of the ratio of Mexico to U.S. wages. Based on the U.S. Bureau of Labor Statistics Occupational Employment Survey, the mean wage for management occupations (excluding Chief Executives) in NAICS 48400 (trucking transportation) was \$36.10 in 2003. Multiplying that figure by 0.157 results in an average Mexico wage (for those completing the OP-2 Form) of \$5.70, rounded to \$6.00.

Total salary costs for all respondents associated with completion of the Form OP-2 are calculated as follows:

2,460 [total burden hours to complete the OP-2 Form] x \$6 [hourly salary] = **\$14,760** in the first year and in each future year.

There is a filing fee of \$300 for each type of registration requested by the applicant filing the Form OP-2. Once the application is accepted, the fee is non-refundable, even if the Certificate of Registration is not issued to the applicant. The application fee does not apply to requests to update and/or change the identifying information. Thus, the estimated, future annual costs to respondents to file Form OP-2 is **\$184,500** [\$300 filing fee x 615 annual motor carrier applications = \$184,500].

Total Estimate of Annual Costs to Respondents: \$199,260 [\$14,760 to complete Form OP-2 + \$184,500 for filing fees].

14. Estimate of cost to the Federal government:

It is estimated that docketing these applications, reviewing the contents of the package, deciding whether to grant or reject the application, issuing a Certificate of Registration to the carrier,

² See <http://laborsta.ilo.org/>.

³ As of May 9th, 2005. See <http://quote.yahoo.com/m5?a=1&s=MXN&t=USD&c=0>.

where appropriate, and performing the ministerial functions associated with the handling of these 615 Form OP-2 Mexican applications will take approximately 8.5 hours each for a total of **5,228 staff hours** [615 applications per year x 8.5 hours to process = 5,228 (rounded up from 5,227.5)]; and the same amount in each future year. The average hourly salary of a Grade 9, Transportation Specialist at the Trans-Border Office who performs these functions is \$25.00. Therefore, the total estimated salary cost for the Federal government for processing the OP-2 applications is **\$130,688** [615 applications per year x 8.5 hours x \$25 = \$130,688 (rounded up from 130,687.5)] in the first year; and the same amount in each future year.

Estimated Annual Cost to Federal Government: \$130,688.

15. Explanation of program changes or adjustments:

The annual burden hour adjustment for this ICR is due to a decrease in the estimated number of application filings by Mexico-domiciled motor carriers from 2,800 to 615 for Certificates of Registration to operate in the United States. As a result, the annual cost estimate for completion of the Form OP-2 decreased **\$707,740** [\$907,000 previously approved annual cost to respondents - \$199,260 (\$184,500 filing fee + \$14,760 cost to complete Form OP-2) = 707,740].

16. Publication of results of data collection:

The information collected is not to be published.

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

The FMCSA is not seeking approval to not display the expiration date of OMB approval of the information collection.

18. Exceptions to certification statement:

None.

ATTACHMENTS

- A. Title 26 U.S.C. § 4481.
- B. Title 49 CFR part 368.
- C. Form OP-2 entitled, "Application for A Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers."
- D. The ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803.
- E. The Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, 113 Stat. 1748.
- F. 49 U.S.C. § 13902(c).
- G. A final rule, entitled "Revision and Application Form for Mexico-Domiciled Motor Carriers to Operate in United States Municipalities and Commercial Zones on the United States-Mexico Border," (67 FR 12652), March 19, 2002.

- H. A sixty-day comment request Federal Register notice (73 FR 32624), June 9, 2008.
- I. A thirty-day comment request Federal Register notice (73 FR 48009, August 15, 2008.
- J. Executive Order 13166, entitled “Improving Access to Services for Persons with Limited English Proficiency,” dated August 11, 2000 (65 FR 50121; Aug. 16, 2000).

Part B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.