

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

**SUPPORTING STATEMENT
Licensing Applications for Motor Carrier Operating Authority**

Introduction: The Federal Motor Carrier Safety Administration’s (FMCSA) is submitting to the Office of Management and Budget (OMB) a revised information collection request (ICR) titled, “Licensing Applications for Motor Carrier Operating Authority,” covered by OMB Control Number 2126-0016. This ICR is currently due to expire on May 31, 2012. The Agency revised this IC due to its development of a final rulemaking entitled, “New Entrant Safety Assurance Process,” (see Attachment A). The final rule will add a new OP-1(NNA) application form for non-North American-domiciled motor property and passenger carriers. This IC currently combines all of the information collection requirements for all application forms in the OP-1 series that are used by the for-hire motor property carriers and brokers to apply for registration authority of general freight and household goods (OP-1); passenger carriers (OP-1(P)); freight forwarders (OP-1(FF)); and Mexico-domiciled motor property carriers, including Mexico-domiciled motor carriers of household goods and passengers, registering to operate beyond municipalities and commercial zones along the U.S.-Mexico international border to points within the U.S. (OP-1(MX)). Since the North American Free Trade Agreement (NAFTA) provisions for the U.S.-Mexico international border traffic have not yet taken effect, FMCSA will maintain its original estimate for the number of annual burden hours for the Form OP-1(MX) at 2,060 hours out of a total of 55,095 hours previously approved for this information collection.

Part A. Justification.

1. Circumstances that make collection of information necessary:

The FMCSA registers for-hire motor carriers of regulated commodities and of passengers under 49 U.S.C. § 13902(a) (Attachment B); surface freight forwarders under 49 U.S.C. § 13903 (Attachment C); property brokers under 49 U.S.C. § 13904 (Attachment D); and certain Mexican motor carriers under 49 U.S.C. § 13902(c) (Attachment B). These motor carriers may conduct transportation services in the United States only if they are registered with the FMCSA. Each registration is effective from the date specified and remains in effect for such period as the Secretary of Transportation (Secretary) determines by regulations. The ICC Termination Act of 1995 (ICCTA), Public Law No. 104-88, 109 Stat. 803 (December 29, 1995) (Attachment E), transferred this registration authority from the former Interstate Commerce Commission (ICC) to the Secretary who subsequently delegated the registration function to the Federal Highway Administration (FHWA) (FMCSA’s predecessor agency), then to the FMCSA at the time that agency was created.

The ICCTA directed the Secretary to issue regulations to replace the current identification number system, the single State registration system, and the registration and insurance monitoring systems formerly administered by the ICC, with a single, on-line Federal system (see 49 U.S.C. § 13908). An advance notice of proposed rulemaking (ANPRM), which solicited comments on the parameters of the single integrated system, was published in the **Federal Register** on August 26, 1996, at 61 FR 43816 (see Attachment F) and a notice of proposed rulemaking (NPRM) was published in the **Federal Register** on May 19, 2005, at 70 FR 28990 (see Attachment G). It is anticipated that the OP-1 registration forms will remain in use until the Agency's adoption of the unified on-line Federal registration system required by the ICCTA.

On May 3, 2001, the FMCSA published a notice of proposed rulemaking (NPRM) at 66 FR 22371 (Attachment H) which proposed changes in its regulations to govern applications by Mexican carriers to operate beyond the United States-Mexico international border municipalities and commercial zones to points within the U.S. The FMCSA also proposed to revise the current application Form OP-1(MX) that would be filed by these Mexican motor carriers. The changes were needed to implement only part of the NAFTA provisions.

On March 19, 2002, the FMCSA published an interim final rule (IFR) at 67 FR 12702 (Attachment I) which proposed to amend 49 CFR part 365 and revise Form OP-1(MX). Under the amended regulations, Mexico-domiciled motor carriers seeking to operate within the United States beyond the commercial border zones, including carriers that previously filed pending Form OP-1(MX) applications, would be required to submit the revised Form OP-1(MX). Under the revised Form OP-1(MX), the FMCSA would collect more detailed information on an applicant motor carrier's size, operations and history than could be collected previously by using the existing form.

On January 16, 2009, the FMCSA published a final rule entitled, "Elimination of Route Designation Requirement for Motor Carriers Transporting Passengers over Regular Routes," (74 FR 2895) which discontinued the requirement that applicants seeking for-hire authority to transport passengers over regular routes submit a detailed description and a map of the route(s) over which they propose to operate.

This proposed final rule would require Non-North America-domiciled motor carriers seeking to operate in the United States to complete the new Form OP-1(NNA). The use of the new Form OP-1(NNA) would enable the FMCSA to collect the same type of detailed application information from non-North America-domiciled motor carriers as required for Mexico-domiciled motor carriers.

This information collection supports the DOT's Strategic Goals of Safety and Economic Growth and Trade by allowing foreign motor carriers to conduct operations in the United States pursuant to the North American Free Trade Agreement and Central American Free Trade Agreement, but requiring foreign (Mexico- and non-America domiciled) motor carriers to comply with similar registration procedures as U.S. motor carriers to ensure safety on our Nation's highways.

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

Data contained on the completed Forms OP-1, OP-1(P), OP-1(FF) OP-1(MX) or new OP-1(NNA) provides information to the FMCSA on the type of surface transportation operations which the registration applicant proposes to conduct. The forms also enable FMCSA staff to make a determination concerning the level of insurance coverage which the applicant will be required to obtain to maintain its registration, the applicant's familiarity with relevant safety requirements and its willingness to comply with those requirements in its operations, and applicant's ability to meet any specific statutory and regulatory requirements applicable to its particular proposed operations.

Information on the forms is also used to prepare a notice of the registration application, which is published in the "FMCSA Register." Publication of the notice initiates a 10-day period during which an interested party may file a complaint seeking denial of the registration on a limited number of statutory grounds.

At the end of the 10-day period, the FMCSA will issue the registration authorizing surface transportation operations if no complaints have been filed; if applicant is willing and able to comply with all applicable statutory and regulatory provisions and safety fitness requirements; and if applicant has made the required insurance and process agent filings.

3. Extent of automated information collections:

Applicants for registration authority file forms in the OP-1 series on a voluntary and, for the most part, one-time basis. Except for the revised Form OP-1(MX) and new OP-1(NNA), the forms call for a limited amount of information to identify the applicant and the nature and scope of its proposed operations. Forms OP-1(MX) and OP-1(NNA) include narrative descriptions of the applicant's safety policies and procedures and information regarding the drivers and vehicles it plans to use in the U.S. operations. However, the implementation of electronic filings for the Form OP-1(NNA) will be delayed due to the very small number of non-North America-domiciled motor carrier applications the Agency anticipates it will receive each year. Additionally, implementation of electronic transactions for the Form OP-1(MX) will be deferred until the U.S./Mexico borders are opened for business. It is anticipated that 80 percent (80%) of the responses will be collected electronically.

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.

5. Efforts to minimize the burden on small businesses:

Paperwork burdens associated with completing most forms in the OP-1 series are minimal for small businesses, as the forms are easy to understand and complete. Most applicants are required only to check appropriate boxes on the forms and to fill in blank spaces with information on their identity and on the nature of the transportation operations and/or services they propose to register. This information is readily available to the applicants and is the minimum necessary to accomplish the purpose of the filing. Further, the application package contains a list of telephone numbers, which allow applicants to contact FMCSA staff and others to discuss any questions concerning the aspects of the application process and regulatory requirements. All of the OP forms can be filed electronically on the WEB. Mexican and NNA applicants, however, are required to provide additional safety information and certifications of compliance to demonstrate their willingness and ability to comply with applicable safety regulations. The requested information cannot be obtained from any other source since all Mexican and NNA applicants will be domiciled outside of the United States, and we are requesting no more information than is absolutely necessary to ensure compliance with applicable safety regulations.

6. Impact of less frequent collection of information:

There is no requirement that forms in the OP-1 series be filed on a periodic basis. The forms are filed on an “as needed” and usually one-time basis. The purpose of the forms which is to allow transportation entities to meet statutory registration requirements, would be defeated if the information was collected less frequently.

When Mexican motor carriers who have previously filed an OP-1(MX) application form are required to comply with the registration provisions, they may do so by a one-time, re-filing of the revised form. There will be no \$300 filing fee required for this one-time re-filing of the Form OP-1(MX). All Mexican carriers will be required to report changes in basic identifying information, such as addresses and telephone numbers, through supplemental filings as the changes occur. The FMCSA does not require Mexican registrants to re-file the entire form in these circumstances. A new application form is currently required only if the Mexican carrier wishes to extend the scope of its authority or is applying for new authority. Under this proposal, where a Mexican carrier wishes to expand its authority, it must make an “initial filing” of the Form OP-1(MX) and go through the full application process to obtain the additional authority.

7. Special circumstances:

There are no special circumstances associated with this information collection.

8. Compliance with 5 CFR § 1320.8:

On December 21, 2006, FMCSA issued a notice of proposed rulemaking (NPRM) entitled, “New Entrant Safety Assurance Process (see Attachment J). The agency received one comment regarding this ICR in response to the NPRM from the Advocates for Highway and Auto Safety.

This commenter expressed concern about putting the self-certifying statements on the Form OP-1(MX) for non-North America motor carriers, and supported the Agency’s proposal for the new Form OP-1(NNA) for non-North America motor carriers. This comment will be addressed in the final rule.

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 OP-1 forms call for information identifying the applicant and the scope of its proposed operations. All registration applications filed with the FMCSA become part of a public docket and are open to the public for inspection and review.

11. Justification for collection of sensitive information:

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

12. Estimate of burden hours for information requested:

The current total annual burden of the information collection associated with the “OP-1” series (OP-1, OP-1(FF), OP-1(P), and OP-1(MX)) is approximately 55,095 hours and there are currently 21,237 responses for this information collection. The Agency estimates revisions associated with the new Form OP-1(NNA) would add approximately 12 responses and, with 4 burden hours for each response. The total additional burden is 48 hours (12 NNA carriers × 4 hours), for a revised estimated burden of **55,143 hours and 21,249 responses**. This number is not expected to significantly increase during subsequent years and the number of annual updates/changes will be negligible.

| Changes Due to Form OP-1 (NNA) | | | |
|--------------------------------|-----------------------|----------|---------------------|
| | Currently Approved | Revision | New Burden Hours |
| Burden Hours | 55,095 | 48 | 55,143 |
| Responses | 21,237 | 12 | 21,249 |

Estimate of annual respondents and responses: 21,249 [21,237 currently approved + 12 proposed due to final rule = 21,249].

Estimate of burden hours for information requested: 55,143 [55,095 currently approved + 48

proposed due to final rule = 55,143].

13. Estimate of total annual costs to respondents:

The current annual cost to respondents of this information collection is **\$7,291,500**. An applicant for the OP-1(NNA) registration is only required to pay a \$300 filing fee if the applicant is a for-hire motor carrier of passengers or property. Of the 64 registered non-North America-domiciled motor carriers, all are private motor carriers and would not be required to pay the filing fee. Consequently, the annual cost to respondents is **unchanged at \$7,291,500**.

Estimate of total annual costs to respondents: \$7,291,500 [\$7,291,500 currently approved cost + \$0 change for proposed final rule = \$7,291,500].

14. Estimate of cost to the Federal government:

The OP-1 (NNA) application forms are processed by Grade 9 Transportation Specialists at the Trans-Border Office. The hourly salary of these employees is estimated to be \$22.24 (based on the 2009 GS-9, step 5 pay rate). Fringe benefits are estimated to be 36.45 percent¹ of the base wage, for total hourly compensation of \$30.35 ($\$22.24 \times (1 + 0.3645)$). Overhead is estimated to be 12 percent² of hourly compensation, for a final hourly labor cost to the government of \$33.99 ($\$30.35 \times (1 + 0.12)$), which we round to \$34.00 per hour. FMCSA estimates that each OP-1 (NNA) form requires 8.5 hours to process. The additional annual cost to government from Form OP-1 (NNA) will be \$3,468 (12 responses \times 8.5 hours per form \times \$34 per hour), for a revised annual cost to government of **\$1,294,818** (\$1,291,350 current cost + \$3,468 new cost).

Estimate of cost to the Federal government: \$1,294,818 [\$1,291,350 currently approved cost + \$3,468 for Form OP-1 (NNA) = \$1,294,818].

15. Explanation of program changes or adjustments:

The program change increase of an estimated 48 annual burden hours and 12 annual responses are due to a final rule that will implement a new application Form OP-1(NNA) for non-North America-domiciled motor carriers of property and passengers.

16. Publication of results of data collection:

The results of this ICR will not be published or tabulated.

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

1 <http://www.whitehouse.gov/omb/memoranda/fy2007/m07-02.pdf>

2 http://www.whitehouse.gov/omb/circulars/a076/a76_incl_tech_correction.html

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

18. Exceptions to certification statement:

The FMCSA is claiming no exception to any element of the certification statement identified in Item 19 of OMB Form 83I.

Part B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

ATTACHMENTS

- A. A final rule, entitled “New Entrant Safety Assurance Process,” (at 73 FR 76472) dated December 16, 2008.
- B. Title 49 U.S.C. § 13902, Registration of motor carriers.
- C. Title 49 U.S.C. § 13903, Service of notice in proceedings.
- D. Title 49 U.S.C. § 13904, Service of process in court proceedings.
- E. The ICC Termination Act of 1995 (ICCTA), Public Law 104-88, 109 Stat. 803 (December 29, 1995).
- F. An advance notice of proposed rulemaking, entitled “Motor Carrier Replacement Information/Registration System,” dated August 26, 1996 (61 FR 43815).
- G. A notice of proposed rulemaking, entitled “Unified Registration System,” dated May 19, 2005 (70 FR 28990).
- H. A notice of proposed rulemaking, entitled “Application by Certain Mexico Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border,” dated May 3, 2001 (66 FR 22371).
- I. An interim final rule entitled, “Application by Certain Mexico-Domiciled Motor Carriers to Operate Beyond United States Municipalities and Commercial Zones on the United States-Mexico Border,” dated March 19, 2002 (67 FR 12702).
- J. A notice of proposed rulemaking entitled, “New Entrant Safety Assurance Process,” (71 FR 76730), December 21, 2006.

Forms OP-1, OP-1(P), OP-1(FF), OP-1(MX) and New OP-1(NNA).