

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

SUPPORTING STATEMENT

**Designation of Agents, Motor Carriers, Brokers and Freight Forwarders
OMB Control Number 2126-0015**

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) requests the Office of Management and Budget's (OMB) approval of its revised information collection request (ICR) titled, "Designation of Agents, Motor Carriers, Brokers and Freight Forwarders," covered by OMB Control Number 2126-0015. The ICR is currently due to expire on May 31, 2012. The Agency is proposing to revise this ICR due to its development of a supplemental notice of proposed rulemaking (SNPRM) entitled "Unified Registration System" (see Attachment A), that would add the requirement that exempt for hire and private motor carriers use Form BOC-3 to notify the Agency regarding their designation of process agents.

1. Circumstances that make collection of information necessary:

Registered motor carriers subject to 49 U.S.C. § 13901, brokers and freight forwarders¹ must designate an agent upon whom service of notices in proceedings before the Secretary of Transportation (Secretary) may be made (49 U.S.C. § 13303, see Attachment B). A similar requirement applies to motor private carriers (49 U.S.C. § 503, see Attachment C). Motor carriers subject to 49 U.S.C. § 13901 must also designate agents upon whom process issued by a court may be served for every State in which they operate (49 U.S.C. § 13304, see Attachment D). Regulations governing the designation of process agents are found at 49 CFR part 366 (see Attachment E). These regulations do not apply to motor private carriers and for-hire carriers exempt from the § 13901 registration requirements. A designation of process agents is filed with FMCSA on Form BOC-3 (see Attachment F).

The proposed rule would add a new requirement for private motor carriers and for-hire motor carriers exempt from the § 13901 registration requirements to designate process agents and notify FMCSA by the submission of a completed Form BOC-3, "Designation of Agents, Motor Carriers, Brokers and Freight Forwarders." Form BOC-3 will continue to be used, and will not be incorporated into the new Form MCSA-1.

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

¹ Freight forwarders currently are subject to the requirement to designate process agents under 49 U.S.C. § 13303, although part 366 of title 49, Code of Federal Regulations, does not include them within the scope of that part. Consequently, the Agency has required such designations by freight forwarders notwithstanding the omission of freight forwarders in part 366. The SNPRM is proposing to add language in § 366.1 to make clear that the designation of process agent requirement continues to apply to freight forwarders and to fully implement 49 U.S.C. § 13303.

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

Currently, information contained on the completed Form BOC-3 identifies a process agent for each State in which the motor carrier, freight forwarder or broker will operate. These process agents are authorized by the transportation entity to accept, on its behalf, legal process or notice in Agency and court proceedings. Persons considering bringing legal actions against a carrier, broker or freight forwarder may obtain the name of its process agent in a particular State by contacting FMCSA. Extending the requirement to designate a service of process agent to all URS registrants will enhance the public's ability to serve legal process on responsible individuals when seeking compensation for losses resulting from a crash, and will assist FMCSA in locating hard-to-find motor carriers in connection with enforcement-related interventions, as well as identifying the appropriate individual(s) upon whom to serve notices for enforcement actions.

3. Extent of automated information collection:

The Government Paperwork Elimination Act (GPEA) requires that agencies provide for the option of electronic submission of information and the use of electronic signatures, when practicable. Today, approximately **98 percent** of the Form BOC-3s filed with FMCSA are submitted electronically by "blanket" companies who are associations or corporations that provide FMCSA with a list of process agents for each State. These companies provide process agents nationally to motor carriers for a fee. There is no separate fee for filing Form BOC-3. The cost of filing, estimated in Section 12 below, is included in the fee paid to the process agent company. "Blanket" companies have 100 percent capability to file their information electronically with FMCSA. The FMCSA is continuing to encourage motor carriers to use "blanket" companies.

4. Efforts to identify duplication:

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

5. Efforts to minimize the burden on small businesses:

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

6. Impact of less frequent collection of information:

Form BOC-3 is submitted by registration applicants to meet a statutory requirement to designate agents for service of process. It is filed on an “as-needed” basis and cannot be done less frequently.

7. Special circumstances:

There are no special circumstances related to this information collection.

8. Compliance with 5 CFR 1320.8:

On May 19, 2005, FMCSA published a notice of proposed rulemaking (NPRM) for the Unified Registration System (70 FR 28990) (see Attachment G), which included a proposal to extend the filing of process agent information to exempt-for-hire motor carriers and private interstate motor carriers while retaining the requirement for non-exempt motor carriers, property brokers, and freight forwarders (70 FR 28999). The FMCSA received twelve comments related to this proposal from carriers, State agencies, and organizations representing truckers both supporting and opposing the proposal. After evaluating the comments, FMCSA is issuing a supplemental notice of proposed rulemaking (SNPRM) that retains the proposal to include private and exempt for-hire motor carriers among those entities that would be required to file process agent designations, and will again seek further comments on this proposal.

9. Payments or gifts to respondents:

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

10. Assurance of confidentiality:

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

11. Justification for collection of sensitive information:

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

12. Estimate of burden hours for information requested:

The estimated annual burden hours for this information collection are 69,373 hours [39,371 annualized hours].

The FMCSA estimates the burden to file Form BOC-3 is 10 minutes per new registrant (with approximately 26,000 new exempt-for-hire and private registrants projected each year). In the first year of this new requirement, all exempt-for-hire and private carriers with recent activity (327,226 carriers) will file as well. In subsequent years, FMCSA estimates that approximately

31,000 private and exempt-for-hire carriers will change their process agent and re-file in addition to the new exempt-for-hire and private carriers. In addition, FMCSA estimated that approximately 89,000 carriers currently file the BOC-3 annually. The form is filed on an “as needed” basis, and there is no continuing information collection function associated with the form. The form requires very limited information that is readily available to the filer. Table 1 presents the number of responses for each year covered by this information collection and the burden hours by year.

Table 1: Responses and Burden Hour by Year

	Private/Exempt	Other	Hours
Year 1	327,226	89,012	69,373
Year 2	56,811	89,012	24,304
Year 3	57,600	89,012	24,435
Annualized			39,371

Almost all forms are submitted by blanket process agent companies. Labor costs are estimated at \$4.64 per filing, using the mean wage for an insurance industry insurance claims and policy processing clerk (\$17.73 loaded with fringe at 1.388 percent, based on BLS data or \$24.61/hour for 2010 and projected to \$27.81 using the OMB wage growth rate of 3.1 percent to 2014).² As the loaded wage for truck drivers is only slightly higher and they file very few forms, this ICR uses the single wage rate to estimate labor costs. The labor cost associated with the filings is \$27.81 x 69,373 hours = \$1,929,020 in the first year and approximately \$678,000 in the subsequent years. The annualized cost is \$1,094,762.

Estimate of Annual Respondents: 416,238 respondents in the first year and approximately 57,000 in the subsequent years [89,012 currently-approved registrants plus 327,226 private and exempt-for-hire new entrants and carriers with recent activity in the first year]. Annualized number of respondents is 236,224.

Estimate of Annual Burden Hours: 69,373 hours in the first year and approximately 24,000 hours in subsequent years. Annualized number of burden hours is 39,371.

13. Estimate of total annual costs to respondents:

As noted above, most forms are filed by blanket companies on behalf of carriers. It is not possible to determine what costs are associated with these filings as the costs are incorporated in the fee paid to the blanket company. Some associations provide this service as a benefit for members; the cost of filing, in these cases, is some fraction of the membership fee.

² BLS, May 2010 National Industry-Specific Occupational Employment and Wage Estimates for the insurance industry and BLS, Employer Costs for Employee Compensation, December 2010.

14. Estimate of cost to the Federal government:

The FMCSA does not assume that it will incur any costs for these electronic filings.

15. Explanation of program changes or adjustments:

The program change increase in annual burden hours from 14,835 to 69,373 is due to an SNPRM that would require an estimated 300,000 private and for-hire-exempt carriers to complete the Form BOC-3 in the first year, about 31,000 private and for-hire-exempt carriers to re-file in subsequent years, and about 26,000 new private and exempt-for-hire carriers to file each year.

16. Publication of results of data collection:

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

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

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

18. Exception to certification statement:

There are no exceptions to the certification statement.

ATTACHMENTS:

- A. Supplemental Notice of Proposed Rulemaking entitled: Unified Registration System, (76 FR 66508), October 26, 2011.
- B. Title 49 U.S.C. § 13303, Service of notice in proceedings.
- C. Title 49 U.S.C. § 503, Service of notice and process on certain motor carriers of migrant workers and on motor private carriers.
- D. Title 49 U.S.C. § 13304, Service of process in court proceedings.
- E. Title 49 CFR part 366, Designation of Process Agent.
- F. Form BOC-3, Designation of Agents - Motor Carriers, Brokers and Freight Forwarders.
- G. Notice of Proposed Rulemaking entitled, "Unified Registration System," (70 FR 28990), May 19, 2005.

FORM:

BOC-3