

**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 February 29, 2012. The application is being revised to clarify several questions in the Safety Certifications, Household Goods Arbitration Certifications, and Affiliations sections of the Form OP-2 and instructions.

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 Also, the 1988 Act repealed the requirement for annual renewals of certificates of registration, and allowed the initial certificates of registration to remain in effect indefinitely,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.

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.

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 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 registration procedures that are similar to the ones U.S. motor carriers must comply with.

Changes to the OP-2 Application are as follows.

- o Add “NA” boxes to the following sections and pages: Section II, page 8; Section V, pages 13-21; and Section VI page 32,
- o Rewrite the Safety Certification Statement on Section V, page 12.
- o Instead of the signature line being above the paragraph, it should be placed below the paragraph.
- o Filing Fee Information section. Add a line for “print name, address, and telephone number of the card” being used underneath the signature line located in the box.

Changes to the Instructions for the OP-2 Application are as follows:

- Section II, page 5, at the end of the paragraph, add a new sentence “If there are no affiliations, select “NA.”
- Section V, page 8 in the first paragraph after sentence 3, add a new sentence that reads: “If the statement does not apply, select NA.” “The carrier’s official signature...”
- Section VI, page 9, at the end of the paragraph, add a new sentence that reads: “If you do not transport household goods, select “NA.”

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 ensure

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 July 22, 2011, FMCSA published a notice in the Federal Register (76 FR 44081) (Attachment H) with a 60-day comment period announcing its intention to seek OMB review and approval to revise this ICR. XX comments were received in response to this notice.

On October 25, 2011, FMCSA published a notice in the Federal Register (76 FR 66119) (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:

FMCSA estimates the OP-2 application form requires an average of 4 hours to complete. However, the time required to complete an individual application will vary depending on the applicant's knowledge of English. FMCSA provides an English/Spanish version of the OP-2 application form and instructions pursuant to Executive Order 13166 dated August 11, 2000, "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121; Aug. 16, 2000) (Attachment J). Both the electronic and paper formats of the application are available in the English/Spanish; applications must be completed in English.

The average number of OP-2 applications filed from 2008 to 2010 was approximately 400. FMCSA assumes there will be no significant change to the number of filings in future years. The total annual burden associated with these applications is **1,600 hours** (400 applications × 4 hours).

Estimated Total Annual Burden: 1,600 hours.

Estimated Annual Number of Respondents: 400.

Estimated Annual Number of Responses: 400.

13. Estimate of total annual costs to respondent:

FMCSA charges a filing fee of \$300 for each type of registration requested by the applicant filing the Form OP-2. After the application is accepted, the fee is not 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. The estimated annual costs to respondents to file Form OP-2 is **\$120,000** (\$300 filing fee × 400 applications).

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, where appropriate, and performing the ministerial functions associated with the handling of the 400 applications received annually takes approximately 8.5 hours per form, or 3,400 hours per year. Tasks associated with the OP-2 are performed by a grade 9 Transportation Specialist at the Trans-Border Office at a cost of approximately \$34 per hour.² The estimated annual cost to the federal government is \$115,600, but application fees offset this cost.

² Based on the 2011 wage for GS 9 step 5 of \$22.57 per hour (see http://www.opm.gov/oca/11tables/pdf/g_s_h.pdf), plus 36.25 percent of that base wage for fringe benefits, plus 12 percent of wages and fringe benefits to account for overhead (see http://www.whitehouse.gov/omb/circulars_a076_a76_incl_tech_correction).

15. Explanation of program 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 615 to 400. The estimates of costs to respondents and to the federal government also decreased corresponding to the change in number of applicants. The previously approved supporting statement also contained the cost of labor associated with completing the form. This cost should not be included and has been removed. Last, the hourly labor cost to the federal government was revised from \$25 to \$34.

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 (76 FR 44081), July 22, 2011.
- I. A thirty-day comment request Federal Register notice (76 FR 66119, October 25, 2011.
- 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.