

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

SUPPORTING STATEMENT

Designation of Agents, Motor Carriers, Brokers and Freight Forwarders

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) is submitting to the Office of Management and Budget (OMB) a 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.

1. Circumstances that make collection of information necessary:

FMCSA is authorized to register for-hire motor carriers of regulated commodities under the provisions of 49 U.S.C. § 13902 (Attachment B); surface freight forwarders under the provisions of 49 U.S.C. § 13903 (Attachment C); and property brokers under the provisions of 49 U.S.C. § 13904 (Attachment D). These persons may conduct transportation services only if they are registered pursuant to 49 U.S.C. § 13901 (Attachment E). Registered motor carriers (including private carriers), brokers and freight forwarders must designate an agent on whom service of notices in proceedings before the Secretary may be made (49 U.S.C. 13303). Registered motor carriers must also designate an agent for every State in which they operate and traverse in the United States during such operations, agents on whom process issued by a court may be served in actions brought against the registered transportation entity (49 U.S.C. 13304, 49 CFR 366.4). Every broker shall make a designation for each State in which its offices are located or in which contracts are written at 49 U.S.C. 13304 (Attachment G), and 49 CFR 366.4 (Attachment H). Regulations governing the designation of process agents are found at 49 CFR part 366. This designation is filed with the FMCSA on Form BOC-3, "Designation of Agents for Service of Process." Regulations governing the designation of process agents are found at 49 CFR part 366 (Attachment H). The designation of the agents is filed with the FMCSA on Form BOC-3, "Designation of Agents for Service of Process." The "New Entrant Safety Assurance Process" rule published in 2009 (Attachment I) added the requirement for non-North America-domiciled motor carriers to notify the agency regarding designation of process agents by either: (1) the submission of a completed Form BOC-3, "Designation of Agents for Service of Process," that can be located in the application package, or (2) a letter stating that the applicant will use a process agent that will submit the Form BOC-3 electronically to FMCSA.

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 for-hire 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.

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

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.

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. Approximately **98 percent** of the Form BOC-3's filed with FMCSA are submitted electronically by "blanket" agents who are associations or corporations that have provided FMCSA with a list of process agents for each State. These companies provide process agents nationally to motor carriers for a fee. They have 100 percent capability to file their information electronically with the FMCSA. FMCSA is continuing to encourage motor carriers to use "blanket" agents.

4. Efforts to identify duplication:

There is no similar filing made with any other Federal agency which 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:

The FMCSA published a notice in the Federal Register with a 60-day public comment period to announce this proposed information collection on November 29, 2011 (76 FR 73762) (see Attachment J). No comment was received in response to this notice.

The FMCSA published a notice in the Federal Register on March 14, 2012 (77 FR 15184) with a 30-day public comment period that announced this ICR would be sent to OMB for approval (see Attachment K).

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:

FMCSA's records indicate that 36,475 BOC-3 forms were filed in 2008, 32,812 in 2009, and 33,449 in 2010. For this analysis, the Agency uses the average of these three years (rounded up to the nearest thousand), which results in 35,000 BOC-3 responses. The form is filed on an "as needed" basis, and there is no continuing information collection function associated with the form. FMCSA estimates that registrants take 10 minutes to file Form BOC-3. The form requires very limited information that is readily available to the registrant.

Estimated Annual Burden Hours: 5,833 hours [35,000 registrants × 10 minutes/60 minutes per hour].

Estimated Number of Annual Respondents: 35,000.

Estimated Number of Annual Responses: 35,000.

FMCSA expects completion and submission of Form BOC-3 to be performed by a compliance officer designated by the business entity. The median salary of a compliance officer in the general freight trucking industry is \$23.68 per hour (BLS, May 2010).¹ Two adjustments are made to this hourly compensation estimate. First, employee benefits are estimated at 50.0 percent of the employee wage.² Second, employee wage and benefits is increased by 27 percent to

¹ Occupational Employment Statistics, May 2010 National Industry-Specific Occupational Employment and Wage Estimates, 13-1041 Compliance Officers. Accessed on 23-August-2011 at http://www.bls.gov/oes/current/naics4_484100.htm.

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include relevant firm overhead.³ Applying the estimated 50.0 percent factor for employee benefits and 27 percent for overhead results in \$45.11 in hourly compensation for the compliance officer ($\$45.11 = \$23.68 \times (1 + 0.50) \times (1 + 0.27)$). The total annual salary cost burden associated with the filings is \$263,127 ($\$45.11 \times 5,833$ hours).

13. Estimated total annual costs to respondents:

Approximately 700 BOC-3 forms (2 percent of 35,000 forms) filed annually are mailed to FMCSA. FMCSA estimates a flat cost of \$0.50 for an envelope and postage. The total cost of envelopes and postage for motor carriers who decide to mail Form BOC-3 to the FMCSA would be \$350 (\$0.50 for each of the 700 forms).

Estimated Annual Costs to Respondents: \$350

14. Estimated cost to the Federal government:

Annual costs to the Federal Government include the processing of Form BOC-3 upon receipt from process agents or motor carriers. The Agency assumes this task will take 5 minutes to complete and will be performed by a grade 7 Transportation Assistant at FMCSA at a cost of \$28.15 per hour.⁴ The estimated annual cost to the Federal government for processing 35,000 forms is \$82,104 (35,000 forms x 5 minutes/60 hour x \$28.15).

Estimated Annual Cost to the Federal Government: \$82,104

15. Explanation of program changes or adjustments:

As discussed above, a program change reduction in annual burden hours from 14,835 to 5,833 is due to a decrease in the number of forms filed annually, from 89,000 to 35,000.

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:

FMCSA estimates this 50% employee benefit rate by using the private industry average wage (\$16.03 per hour) and benefit information (\$8.01 per hour) for production, transportation, and moving material workers. Benefits thus amount to 50.0 percent of wages ($0.500 = \$8.01 / \16.03). From "Employer Costs for Employee Compensation—September 2010". Accessed on 23-August-2011 at <http://www.bls.gov/news.release/pdf/ecec.pdf>.

³ Berwick, Farooq. "Truck Costing Model for Transportation Managers". Upper Great Plains Transportation Institute, North Dakota State University (2003) accessed on 23-August-2011 at <http://ntl.bts.gov/lib/24000/24200/24223/24223.pdf>.

⁴ Based on the 2011 wage for GS 7 step 5 of \$18.45 per hour (see http://www.opm.gov/oca/11tables/pdf/gs_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). Accessed on 23-August-2011.

The FMCSA is seeking approval not to display the expiration date of OMB approval of the information collection. It would be inappropriate 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. A final rule entitled, "New Entrant Safety Assurance Process," (73 FR76472), 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. Title 49 U.S.C. § 13901, Requirement for registration.
- F. Title 49 U.S.C. § 13303, Service of notice in proceedings.
- G. Title 49 U.S.C. § 13304, Service of process in court proceedings.
- H. Title 49 CFR part 366, Designation of Process Agent.
- I. A notice of proposed rulemaking, entitled, "New Entrant Safety Assurance Process," (71 FR 76730) dated December 21, 2006.
- J. 60-day comment request Federal Register Notice.
- K. 30-day comment request Federal Register notice.

Form:

BOC-3, "Designation of Agents for Service of Process."