

Information Collection Clearance

The Supporting Statement

Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) submits to the Office of Management and Budget (OMB) its request to revise a currently-approved information collection request (ICR) entitled, “*Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property*,” covered by OMB Control Number 2126-0008. This IC is due to expire on March 31, 2013.

Part A. Justification.

1. Circumstances that make collection of information necessary:

Sections 29 and 30 of the Motor Carrier Act of 1980 (codified at 49 U.S.C. § 31139, see Attachment A) require the Secretary of Transportation (Secretary) to promulgate regulations that establish minimum levels of financial responsibility for motor carriers of property to cover public liability, property damage, and environmental restoration. Section 18 of the Bus Regulatory Reform Act of 1982 (codified at 49 U.S.C. § 31138, see Attachment B) requires the Secretary to promulgate regulations that establish minimum levels of financial responsibility for for-hire motor carriers of passengers to cover public liability and property damage.

The Endorsement for Motor Carrier Policies of Insurance for Public Liability, Forms MCS-90 (Attachment C) and MCS-90B (Attachment D); and the Motor Carrier Public Liability Surety Bond Forms MCS-82 (Attachment E) and MCS-82B (Attachment F) contain the minimum amount of information necessary to document that a motor carrier has obtained, and has in effect, the required levels of financial responsibility as set forth in applicable regulations (motor carriers of property--49 CFR § 387.9; and motor carriers of passengers-- 49 CFR § 387.33, both at Attachment G). These regulations require that such carriers of property and passengers cannot operate until they have obtained minimum levels of financial responsibility – 49 CFR § 387.7(a), 387.31(a)).

The currently-approved information collection supports the Department of Transportation’s (DOT) Strategic Goal related to "Safety" because the information concerns the safe operation of commercial motor vehicles (CMVs) by drivers who operate in interstate commerce on the nation's highways.

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

The FMCSA and the public use the information collected to verify that a motor carrier of property or passengers has obtained, and has in effect, the required minimum levels of financial responsibility. It is mandated that motor carriers maintain proof of the required financial

responsibility at their principal places of business, available upon request of an FMCSA safety investigator during compliance reviews. Insurance Endorsements and Surety Bonds are considered public information and must be produced by a motor carrier of passengers for review upon reasonable request by a member of the public.

Motor carriers domiciled in Canada, Mexico, and Non-North America domiciled carriers who conduct passenger transportation operations within the United States must obtain an Insurance Endorsement or Surety Bond. All vehicles operated in the United States by these motor carriers must have a legible copy of the Insurance Endorsement or Surety Bond in the vehicle available to Federal or State enforcement officials during roadside inspections.

This ICR has been disaggregated into five information collections (ICs) as follow:

- a. IC-1, Form MCS-90B, Endorsement for Motor Carrier Policies of Insurance for Public Liability Under Section 18 of the Bus Regulatory Reform Act of 1982.
- b. IC-2, Form MCS-90, Endorsement for Motor Carrier Policies of Insurance for Public Liability Under Section 29 and 30 of the Motor Carrier Act of 1980.
- c. IC-3, Form MCS-82B, Motor Carrier Public Liability Surety Bond Under Section 18 of the Regulatory Reform Act of 1982.
- d. IC-4, Form MCS-82, Motor Carrier Public Liability Surety Bond Under Sections 29 and 30 of the Motor Carrier Act of 1980.
- e. IC-5, Placing Documents in Vehicles. Non-U.S.-domiciled carriers must place legible copies of the carriers' Insurance Endorsements or Surety Bonds in the cabs of all vehicles operated in the United States.

3. Extent of automated information collection:

The endorsements (Forms MCS-90/90B) and surety bonds (Forms MCS-82/82B) are not submitted to FMCSA. Insurance companies and agents provide these forms directly to motor carriers to document that required levels of insurance are in place. For this reason, FMCSA has little information on the extent to which insurers prepare and transmit these forms electronically or through other automated means. There are no FMCSA requirements that would prohibit or interfere with automation of this information collection between insurers and insured motor carriers.

4. Efforts to identify duplication:

There are no similar financial responsibility filings made with any other Federal agency or within the Department of Transportation that would result in duplication of this information.

Most for-hire motor carriers of passengers that are subject to the FMCSA's financial responsibility requirements were also subject to the more complex financial responsibility requirements of the former Interstate Commerce Commission (ICC). The ICC maintained an automated monitoring system of insurance compliance that was updated continuously. As a result of the ICC Termination Act of 1995 (ICCTA) [Public Law 104-88, 109 Stat. 803, December 29, 1995, see Attachment H],

Congress transferred to the Federal Highway Administration (now the FMCSA) the functions concerning the ICC's financial responsibility requirements for motor carriers of passengers and property. The ICCTA preserves all effective ICC regulations, rules, and decisions until the Secretary determines whether modification of these documents is warranted, thereby preserving the status quo for the interim.

On August 10, 2005, the president signed into law: The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [Public Law 109-59, 119 Stat. 1763 (Section 4304 of SAFETEA-LU), see Attachment I]. SAFETEA-LU requires the Secretary to initiate a rulemaking proceeding to replace the DOT's identification number system, the single State registration system, the registration/licensing system, and the financial responsibility information system with a unified on-line Federal system. This process of system replacement has been initiated in the October 26, 2011, Supplemental Notice of Proposed Rulemaking (SNPRM) titled, "Unified Registration System," (76 FR 66506), see Attachment J). Through the rulemaking process, information collection redundancies in these areas will be identified and eventually eliminated.

5. Efforts to minimize the burden on small businesses:

The requirement to obtain and have in effect a minimum level of financial responsibility applies to all for-hire motor carriers of non-hazardous **property** in interstate or foreign commerce and most for-hire and private motor carriers of hazardous waste, hazardous materials, and hazardous substances, regardless of size. However, private motor carriers that transport hazardous waste and certain hazardous materials not in bulk, in intrastate commerce, and private motor carriers that transport non-hazardous property in intrastate or interstate commerce, are not subject to any minimum level of financial responsibility. A significant portion of these motor carriers are small businesses. FMCSA cannot further reduce the burden without neglecting statutory obligations. The requirement to obtain and have in effect a minimum level of financial responsibility applies to all for-hire motor carriers of **passengers** in interstate commerce, regardless of size. However, motor carriers of passengers that only operate vehicles with a seating capacity of 15 passengers or fewer have a lower required level of financial responsibility (\$1,500,000) than motor carriers of passengers that operate vehicles with a seating capacity of 16 passengers or more (\$5,000,000). FMCSA cannot further reduce the burden without neglecting statutory liability obligations.

6. Impact of less frequent collection of information:

An insurance endorsement may be required to be completed by a motor carrier upon one of the following events: (1) the establishment of a new motor carrier operation subject to the financial responsibility requirements, (2) an operational change to the type of carriage (property) or change in seating capacity of vehicles operated (passenger) which changes the required level of financial responsibility, (3) a change in the amount of public liability coverage, (4) a change in the amount of primary or excess insurance, (5) a change of the insurance policy number, (6) the issuance of a new insurance policy, or (7) the replacement of a surety bond with an insurance policy.

A surety bond may be required to be completed by a motor carrier upon one of the following events: 1) the establishment of a new motor carrier operation subject to the financial responsibility requirements, (2) a change to the type of carriage (property) or change in seating capacity of vehicles operated (passenger) which changes the required level of financial responsibility, or (3) the replacement of an insurance policy with a surety bond.

The frequency of this information collection cannot be reduced. The elimination of this information collection would hinder the ability of the FMCSA to ensure that motor carriers of property and passengers have in effect an appropriate level of financial responsibility for the types of commodities transported (property) or seating capacity (passenger) of vehicles operated on the public highways.

7. Special circumstances:

There are no special circumstances with this information collection.

8. Compliance with 5 CFR 1320.8:

On December 13, 2012 (77 FR 74270, see Attachment K), FMCSA published a notice in the Federal Register requesting public comments on the proposed revision of this information collection. No comments were received in response to this notice.

The FMCSA published a second notice on March 1, 2013 (78 FR 13932, see Attachment L) with a 30-day comment period that announced this information collection was being submitted to OMB for approval. On March 20, 2013 (78 FR 17282, see Attachment M) FMCSA published a correction to this notice to send all comments to Federal Docket Management System (FDMS) Docket Number FMCSA-2012-0379.

9. Payments or gifts to respondents:

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

10. Assurance of confidentiality:

Confidentiality is not an issue because the motor carrier of property or passengers retains possession of its own record. These records are not sent to the Federal government.

11. Justification for collection of sensitive information:

There are no questions of a sensitive nature.

12. Estimate of burden hours for information requested:

ASSUMPTIONS FOR BURDEN ESTIMATES

Motor carriers of property or passengers may obtain and maintain their required level of financial responsibility through a policy of insurance or a surety bond. The Insurance Endorsement (MCS-90 and MCS-90B) is completed by the motor carrier's insurance company, but must be obtained by the motor carrier of property or passengers. The Surety Bond (Forms MCS-82 and MCS-82B) is completed by the motor carrier's surety company, but must be obtained by the motor carrier. Data from FMCSA's Licensing and Insurance (L&I) database indicate that there are 1,361 active insurers filing insurance endorsements (MCS-90 and MCS-90B) and 351 active insurers filing surety bonds (MCS-82 and MCS-82B); included in those totals are 269 insurers that file both insurance endorsements and surety bonds. FMCSA estimates that the completion of either form takes approximately 2 minutes. The Insurance Endorsement or Surety Bond must be maintained at the motor carrier's principal place of business. FMCSA assumes that Insurance Endorsements are maintained in the normal course of business, whereas the retention of Surety Bonds creates an additional burden of 1 minute per carrier. Last, non-U. S.-domiciled carriers are required to place copies of Insurance Endorsements or Surety Bonds in their commercial motor vehicles (49 CFR 387.7(f) and 49 CFR 387.31(f), see both at Attachment G); this activity is assumed to take 1 minute per vehicle.

There are currently 196,287 carriers subject to the financial responsibility requirements. The paperwork requirements for carriers not domiciled in the United States are slightly different from those domiciled in the U. S. Table 1 shows the number of carriers by country. Included with the figures for Mexico are three non-North-America (NNA)-domiciled property carriers.

	U. S.	Mexico & NNA	Canada	Total
Passenger Carriers	6,259	9	311	6,579
Property Carriers	173,342	9,164	7,201	189,708
Total	179,601	9,173	7,512	196,287

Source: Licensing and Insurance Database as of August 24, 2012.

INFORMATION COLLECTIONS (IC 1-4): PREPARING INSURANCE ENDORSEMENTS AND SURETY BONDS

All motor carriers subject to the financial responsibility requirements, regardless of where they are domiciled, will have Insurance Endorsements or Surety Bonds prepared and filed for them by their insurers. The Agency examined activity on its L&I database during calendar years 2009 to 2011 to estimate the amount of the information collection burden associated with the four ICs in the future. This past activity is shown in Table 2 below.

Table 2: Information Collection Activity, 2009-2011					
		U. S.	Mexico & NNA	Canada	Total
Insurance Endorsements	(IC-1) MCS-90B: Passenger Carriers	16,934	38	247	17,219
	(IC-2) MCS-90: Property Carriers	320,915	127	7,498	328,540
	All Carriers	337,849	165	7,745	345,759
Surety Bonds	(IC-3) MCS-82B: Passenger Carriers	1	0	0	1
	(IC-4) MCS-82: Property Carriers	1,851	0	93	1,944
	All Carriers	1,852	0	93	1,945
Source: Licensing and Insurance Database as of August 24, 2012.					

The totals in Table 2 include the 5.5 percent of filings that are pending or rejected. Pending and rejected filings will be retained in the information collection calculations because they still represent a source of burden.

The annual burden was estimated by multiplying the annual average number of filings of each type of document by the time burden estimated for each document. As stated, both forms are assumed to take 1 minute to complete, and Surety Bonds include 1 extra minute of filing time that occurs outside the normal course of business. Table 3 presents the annual burden calculations associated with the information collections set forth in this ICR.

Table 3: Annual Burden for Information Collections				
		Responses	Burden Minutes per Response	Annual Hourly Burden
Insurance Endorsements	(IC-1) MCS-90B: Passenger Carriers	5,740	2	191
	(IC-2) MCS-90: Property Carriers	109,513		3,650
	All Carriers	115,253		3,842
Surety Bonds	(IC-3) MCS-82B: Passenger Carriers	0	3	0
	(IC-4) MCS-82: Property Carriers	648		32
	All Carriers	648		32
Source: Licensing and Insurance Database as of August 24, 2012.				

For the information collections 1-4 above that require entities to prepare Insurance Endorsements and Surety Bonds, FMCSA estimates the number of responses **at 115,901** (5,740 for IC-1 Passenger Carrier Insurance Endorsements + 109,513 for IC-2 Property Carrier Insurance Endorsements + 0 for IC-3 Passenger Carrier Surety Bonds + 648 for IC-4 Property Carrier Surety Bonds).

The estimated annual burden is 3,874 hours (191 hours for IC-1 Passenger Carrier Insurance Endorsements + 3,650 hours for IC-2 Property Carrier Insurance Endorsements + 0 hours for IC-3 Passenger Carrier Surety Bonds + 32 hours for IC-4 Property Carrier Surety Bonds). This represents an increase of 258 burden hours over the 3,616 burden hours for these activities included in the previously approved burden estimates.

PLACING FINANCIAL RESPONSIBILITY DOCUMENTS IN VEHICLES

Non-U. S.-domiciled carriers must place legible copies of the carriers’ Insurance Endorsements or Surety Bonds in the cabs of all vehicles operated in the United States. FMCSA used data from the Motor Carrier Management Information System (MCMIS) to estimate the average number of vehicles per carrier. Each new *accepted* filing noted in L&I is assumed to be associated with the replacement of documents in vehicles. Table 4 shows the estimated number of vehicles into which new documents will be placed each year.

Table 4: Estimated Number of Vehicles Affected

		Average Accepted Filings	Average Number of Vehicles*	Total Vehicles
Canada	Passenger Carriers	81	11	895
	Property Carriers	2,514	14	35,201
	Total			36,095
Mexico & NNA	Passenger Carriers	13	1	13
	Property Carriers	42	6	252
	Total			265

*As of calendar year 2011.
Source: L&I Database as of August 24, 2012 and MCMIS as of December 2011.

As stated above, FMCSA estimates that it takes 1 minute to place new copies of financial responsibility documents in each vehicle. Table 5 shows the total amount of estimated paperwork burden for this activity.

		Responses	Burden Minutes per Response	Annual Hourly Burden
Canada	Passenger Carriers	895	1	15
	Property Carriers	35,201		587
	Total	36,095		602
Mexico & NNA	Passenger Carriers	13		0
	Property Carriers	252		4
	Total	265		4

Source: L&I Database as of August 24, 2012 and MCMIS as of December 2011.

For placing financial responsibility documents in each vehicle, the estimated **number of responses is 36,360** (36,095 for Canada-domiciled carriers and 265 for Mexico- and NNA-domiciled carriers).

The estimated annual burden is 606 hours (602 hours for Canada-domiciled carriers and 4 hours for Mexico- and NNA-domiciled carriers). This represents an increase of 166 hours from the 440 hours for this activity included in the previously approved paperwork burden estimates.

TOTAL ESTIMATED BURDEN HOURS

Table 6 presents a summary of these paperwork burden estimates and a comparison to the previously-approved estimates.

Table 6: Summary Annual Burden for All Activities						
	Responses			Annual Burden Hours		
	New (2011)	Old (2008)	Revision	New (2011)	Old (2008)	Revision
ICs 1-4	115,901	108,150	7,751	3,874	3,616	258
IC-5 Document Replacement	36,360	26,390	9,970	606	440	166
Total	152,261	134,540	17,721	4,480	4,056	424

Estimated Annual Number of Respondents: 6,074 [1,361 insurers for IC1 + 1,361 insurers for IC2 + 351 insurers for IC3 + 351 insurers for IC4 + 2,650 carriers for IC5 (Canada: 81 passenger carriers + 2,514 property carriers) + (Mexico & NNA: 13 passenger carriers + 42 property carriers)].

Estimated Annual Number of Responses: 152,261 [115,901 responses for ICs 1-4 + 36,360 responses for document replacement = 152,261].

Estimate Annual Burden: 4,480 hours [3,874 annual burden hours for ICs 1-4 + 606 annual burden hours for IC-5 document replacement = 4,480].

Total annual burden increased by 424 hours, from 4,056 hours. The burden for ICs 1-4 which entails preparing Insurance Endorsements and Surety Bonds increased by 258 hours, reflecting the increase in the number of carriers. In addition, the burden for placing financial responsibility documents in vehicles increased by 166 hours, reflecting the increase in the number of vehicles affected by this paperwork activity. This occurred though the number of respondents declined by 165 entities to 6,074 entities. (While the number of insurers increased, the number of Canadian property carriers decreased by a larger amount).

LABOR COSTS

FMCSA assumes that generally three types of employees will complete the paperwork and record keeping burden associated with the Financial Responsibility Regulations. The preparation of Insurance Endorsements and Surety Bonds would be done by staff at insurance and surety companies. Currently, all carriers must use U. S.-domiciled insurance and surety firms. The retention of Surety Bonds at motor carrier's principal place of business, and the placement of copies

of Insurance Endorsements and Surety Bonds in commercial motor vehicles operated within the U. S. by motor carriers domiciled in a contiguous foreign country would be handled by motor carrier clerical staff and vehicle maintenance staff, respectively. Table 7 presents the wage estimates used.

Table 7: Hourly Labor Costs for Information Collection and Record Keeping Activities¹					
			U.S.	Canada	Mexico & NNA
	Insurance Underwriters		\$58.00		
	Motor Carrier Clerks		\$36.00	\$38.00	\$4.00
	Vehicle Maintenance Staff			\$38.00	\$4.00

¹ Labor costs are as of calendar year 2011 and include fringe benefits calculated at 55 percent (%) of wages and an additional 27% for overhead costs.
All amounts converted to U.S. Dollars using the average exchange rates for 2011.

Sources:

U.S.: Bureau of Labor Statistics
For wages, see www.bls.gov/oes/current/oesrci.htm.
For fringe benefits, see http://www.bls.gov/news.release/archives/ecec_03142012.pdf.

Canada: Statistics Canada
For wages, see <http://www5.statcan.gc.ca/cansim/a26?lang=eng&retrLang=eng&id=2820070&pattern=Wages&tabMode=dataTable&srchLan=-1&p1=1&p2=-1>. For fringe benefits and overhead, see US rates.

Mexico: Observatorio Laboral
See www.observatoriolaboral.gob.mx/wb/ola/ola_informacion_de_ocupaciones.

Table 8 shows the details of labor costs to respondents. The estimated total labor costs of paperwork

activities associated with financial responsibility requirements is \$247,344 per year.

Table 8: Total Labor Costs of Information Collections						
		Responses	Minutes per Response	Burden Hours	Cost per Hour	Total Costs
Submitting Financial Responsibility Documents		115,901	2	3,863	\$58.00	\$224,076
Retaining Surety Bonds	U.S.	617	1	10	\$36.00	\$370
	Canada	31		1	\$38.00	\$20
	Mexico & NNA	0		0	\$4.00	\$0
Placing Documents in Vehicles	Canada	36,095	1	602	\$38.00	\$22,860
	Mexico & NNA	265		4	\$4.00	\$18
Total						\$247,344

13. Estimate of total annual cost to respondents:

FMCSA estimates no other costs to respondents other than the costs associated with the paperwork burden hours shown in item #12 above (which are not to be included in item #13). There are no capital/start-up costs or operation/maintenance costs associated with the information collection burden.

14. Estimate of cost to the Federal government:

This information collection imposes no cost to the Federal government.

15. Explanation of changes from the previous estimates:

The latest data resulted in increases in the estimated annual burden hours, from 4,046 to 4,480, and the estimated total annual responses, from 134,540 to 152,261, for the current insurance filing activity and registration information requirements. This was due to an increase in the total number of carriers and an increase in the number of vehicles into which new financial responsibility documents are placed each year. Labor costs for the U.S. and Canada were produced by using the most current data available on wages, fringe benefits, and overhead costs. However, fringe benefits and overhead costs for Canadian workers were for kept at the same rate as U.S. workers, while the labor costs for Mexican workers were left unchanged.

16. Publication of results of data collection:

N/A. This information will not be published.

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

No approval for not displaying the expiration date for OMB approval is being requested.

18. Exception to certification statement:

None.

Attachments

- A. Title 49 U.S.C. § 31139.
- B. Title 49 U.S.C. § 31138.
- C. Form MCS-90, Endorsement for Motor Carrier Policies of Insurance for Public Liability.
- D. Form MCS-90B, Endorsement for Motor Carrier Policies of Insurance for Public Liability.
- E. Form MCS-82, Motor Carrier Public Liability Surety Bond.
- F. Form MCS-82B, Motor Carrier Public Liability Surety Bond.
- G. Title 49 CFR § 387.
- H. The ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803, December 29, 1995).
- I. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Section 4304 of SAFETEA-LU) [Public Law 109-59, 119 Stat. 1763, August 10, 2005].
- J. A Supplemental Notice of Proposed Rulemaking (SNPRM) titled, “*Unified Registration System*,” (76 FR 66506, October 26, 2011).
- K. A Federal Register notice requesting a 60-day public comment period (77 FR 74270), dated December 13, 2012.
- L. A Federal Register notice requesting a 30-day public comment period (78 FR13932) dated March 1, 2013.
- M. A correction to the Federal Register notice requesting a 30-day public comment period (78 FR 17282) dated March 20, 2013.