

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

SUPPORTING STATEMENT

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

Introduction: The Federal Motor Carrier Safety Administration (FMCSA) requests the Office of Management and Budget's (OMB) approval of its extension of a currently-approved information collection request (ICR) entitled, "Designation of Agents, Motor Carriers, Brokers and Freight Forwarders," covered by OMB Control Number 2126-0015. The ICR is currently due to expire on November 30, 2016.

1. Circumstances that make collection of information necessary:

Registered motor carriers subject to 49 U.S.C. § 13901, including 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 A). A similar requirement applies to private motor carriers (49 U.S.C. § 503, see Attachment B). 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 C). Regulations governing the designation of process agents are found at 49 CFR part 366 (see Attachment D). A designation of process agents is filed with FMCSA on Form BOC-3 entitled; "Designation of Agents, Motor Carriers, Brokers and Freight Forwarders" (see Attachment E).

The ICC Termination Act of 1995 (ICCTA) enacted 49 U.S.C. 13908 (see Attachment F), which required the Secretary to propose regulations to replace four current identification and registration systems with a single, online, Federal system — the Unified Registration System (URS). The Unified Carrier Registration Act of 2005, subtitle C of title IV of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [Pub. L. 109-59, 119 Stat. 1714, August 10, 2005] (see Attachment G) modified the requirements for a unified registration system by amending § 13908. In particular, SAFETEA-LU added the service of process agents systems under 49 U.S.C. §§ 503 and 13304 within the new unified registration system.

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 Unified Registration System (URS) Final Rule (78 FR 52608 dated August 23, 2013) adds 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.

3. Extent of automated information collection:

The Government Paperwork Elimination Act (GPEA) (Pub. L. 105-277, Oct. 21, 1998) requires agencies to 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 with FMCSA. 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.

4. Efforts to identify duplication:

There is no similar filing made with any other Federal agency that will 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 motor carrier identification number (or freight forwarder identification number if applicable), date, name and address of the entity, 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 June 16, 2016, FMCSA published a notice in the Federal Register requesting public comments on “Designation of Agents, Motor Carriers, Brokers, and Freight Forwarders” Information Collection Request OMB Control Number 2126-0015 (81 FR 39317) (Attachment J). No comments were received.

On May 19, 2005, FMCSA published a notice of proposed rulemaking (NPRM) for the Unified Registration System (70 FR 28990) (see Attachment H), 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 issued a supplemental notice of proposed rulemaking (SNPRM) that retained the proposal to include private and exempt for-hire motor carriers among those entities that would be required to file process agent designations (Attachment I; 76 FR 66516; Oct. 26, 2011). FMCSA received two comments on the SNPRM, both supporting the proposal.

Additionally, on August 23, 2013, FMCSA published a Final Rule titled, “Unified Registration System” (78 FR 52608 dated) (see Attachment L) that requires those entities that are subject to the FMCSA’s licensing, registration and certification regulations to use a new electronic on-line application Form MCSA-1 titled, “FMCSA Registration/Update(s)” so that the Agency can obtain more accurate and accessible data for all regulated entities subject to its jurisdiction. On October 21, 2015, FMCSA published a final rule delaying the final effective date of the URS rule until September 30, 2016, with full compliance not due until December 31, 2016 (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 estimates the burden to file Form BOC-3 is 10 minutes per new applicant (with approximately 75,371¹ new carrier applicants projected each year). All new carriers are required to file form BOC-3. FMCSA estimates that approximately 35,000 other 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

	All New Carriers	Other Refiles	Hours
Year 1	73,971	35,000	18,162
Year 2	75,363	35,000	18,394
Year 3	76,779	35,000	18,630
Annual	75,371	35,000	18,395

Almost all forms are submitted by blanket process agent companies. Labor costs are estimated at \$4.78 per filing, using the mean wage for an insurance industry insurance claims and policy processing clerk (\$18.63 loaded with fringe benefits at 1.409 percent, based on BLS data or \$26.25/hour for 2014 and projected to \$28.77 using the OMB wage growth rate of 3.1 percent to 2017).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 \$28.77 x 18,162 hours = \$522,521 in the first year with an annual cost of \$529,234.³

Estimate of Annual Respondents: 110,371 respondents in the first year [35,000 currently-approved applicants plus 75,371 new entrants].

Estimate of Annual Burden Hours: 18,395 [110,371 respondents times 10 minutes per response].

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.

14. Estimate of cost to the Federal government:

¹ MCMIS data retrieved on January 28, 2014

² [BLS, May 2014 National Industry-Specific Occupational Employment and Wage Estimates for the insurance industry and BLS, Employer Costs for Employee Compensation, September 2015.](#)

³ FMCSA includes the calculations used in the estimates of costs and burden hours in order to increase the transparency of the analysis. The estimates presented in this analysis are subject to rounding errors.

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 decrease in annual burden hours from 30,369 to 18,395 is due to a revised estimate of the affected population. Annually an estimated 75,371 new carriers will complete the Form BOC-3, and an estimated 35,000 non-exempt for-hire and passenger carriers will re-file. The previous revision was affected by an increase in the affected population due to the URS1 rulemaking which required all private and exempt for-hire carriers to file the form.

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:

- Attachment A: 49 U.S.C. § 13303
- Attachment B: 49 U.S.C. § 503
- Attachment C: 49 U.S.C. § 13304
- Attachment D: 49 CFR part 366
- Attachment E: Form BOC-3 entitled; “Designation of Agents, Motor Carriers, Brokers and Freight Forwarders
- Attachment F: 49 U.S.C. 13908
- Attachment G: The Unified Carrier Registration Act of 2005, subtitle C of title IV of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [Pub. L. 109-59, 119 Stat. 1714, August 10, 2005]
- Attachment H: Notice of Proposed Rulemaking (NPRM); request for comments entitled, “Unified Registration System” (70 FR 28990 dated May 19, 2005)
- Attachment I: Supplemental Notice of Proposed Rulemaking (SNPRM) entitled, “Unified Registration System” (75 FR 66506 dated October 26, 2011)
- Attachment J: Federal Register Notice requesting comments on “Designation of Agents, Motor Carriers, Brokers, and Freight Forwarders” Information Collection Request OMB Control Number 2126-0015 (81 FR 39317, dated June 16, 2016)
- Attachment K: Final Rule entitled, “Unified Registration System” (78 FR 52608 dated

August 23, 2013)

- Attachment L: Final Rule; extension of effective dates entitled, “Unified Registration System” (80 FR 63695 dated October 21, 2015)