

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 extend a currently-approved information collection request (ICR) titled, “*Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property*,” covered by OMB Control Number 2126-0008. This ICR is due to expire on June 30, 2016.

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 may not operate until they have obtained minimum levels of financial responsibility – 49 CFR § 387.7(a)(property), 387.31(a) (passengers).

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

investigations or audits. Insurance Endorsements and Surety Bonds are considered public information and must be produced by a motor carrier of property and 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 follows:

- 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 Bus 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 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 paperwork burdens made with any other Federal agency or within the Department of Transportation that would result in duplication of this information.

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 many 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, in interstate, foreign or intrastate commerce. 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 FMCSA minimum levels of financial responsibility. A significant portion of the motor carriers subject to this information collection 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, subject to exceptions. 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 primary insurance, (4) a change of the insurance policy number, (5) the issuance of a new insurance policy, or (6) 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 February 25, 2016 (81 FR 9582, see Attachment H), FMCSA published a notice in the Federal Register requesting public comments on the proposed revision of this information collection. Two comments were received in response to this notice. FMCSA contacted one of the commenters and

determined that the question was about a company-specific FMCSA registration issue unrelated to the notice, which has already been resolved. FMCSA believes the other comment can be interpreted as an advertisement for the commenter's company, and not a question about the notice.

The FMCSA published a second notice on June 21, 2016 (81 FR 40393, see Attachment I) with a 30-day comment period that announced this information collection was being submitted 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:

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. Nor do records which might be inspected upon request retain confidential information.

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 must obtain their required level of financial responsibility through a policy of insurance or a surety bond, unless they utilize the self-insurance provisions of 49 CFR 387.309. 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 231 active insurers filing surety bonds (MCS-82 and MCS-82B), a decrease of 120 since the previous revision of this supporting statement. FMCSA does not have available information about active insurers filing insurance endorsements, and estimates that the current population, if it decreased in the same proportion as the number of insurers filing surety bonds, is 896. 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. In the previously approved supporting statement, FMCSA assumed that Insurance Endorsements are maintained in the normal course of business, whereas the retention of Surety Bonds would create an additional burden of 1 minute per carrier. As 49 CFR 387.7(d) and 49 CFR 387.31(d) require the retention of both Insurance Endorsements and Surety Bonds, FMCSA has revised that assumption to include an additional burden of 1 minute per carrier for the retention of *both* Surety Bonds and Insurance Endorsements. FMCSA has not estimated the burden for those

property carriers utilizing self-insurance, since the number of such carriers is de minimus¹. Lastly, Mexican-, and Canadian-, and non-North America-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. Numbers may not total due to rounding.

There are 135,513 carriers that file evidence of financial responsibility with FMCSA. This universe of carriers is the best estimate FMCSA has of the carriers subject to this information collection. The paperwork requirements for carriers not domiciled in the United States are slightly different from those domiciled in the United States. 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	3,949	6	266	4,221
Property Carriers	116,801	7,908	6,583	131,292
Total	120,750	7,914	6,849	135,513

Source: Licensing and Insurance Database as of 12/14/2012, 12/27/2013, 12/19/2014, pulled July 2015.

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 for them by their insurers. The Agency examined activity on its L&I database for calendar years 2012 to 2014 to estimate the amount of the information collection burden associated with the four ICs in the future. Data shown are estimates for a single year based on an average of the 3 years of L&I data reviewed. This activity is shown in Table 2 below.

¹ FMCSA regulations do not require passenger carriers participating in FMCSA's self-insurance program pursuant to 49 CFR 387.309 to maintain their self-insurance decisions at the carriers' principal place of business. 49 CFR 387.31(d).

		U. S.	Mexico & NNA	Canada	Total
Insurance Endorsements	(IC-1) MCS-90B: Passenger Carriers	4,999	7	333	5,339
	(IC-2) MCS-90: Property Carriers	219,057	8,763	8,149	235,969
	All Carriers	224,056	8,770	8,482	241,308
Surety Bonds	(IC-3) MCS-82B: Passenger Carriers	0	0	0	0
	(IC-4) MCS-82: Property Carriers	2,526	1	82	2,609
	All Carriers	2,526	1	82	2,609
<i>Source: MCMIS and L&I Database as of 12/14/2012, 12/27/2013, 12/19/2014 pulled July 2015.</i>					

The annual burden was estimated by multiplying the annual average number of responses of each type of document by the time burden estimated for each document. As stated, both forms are assumed to take 2 minutes to complete, and require 1 minute of filing time for the retention of the documents. Table 3 presents the annual burden calculations associated with the information collections set forth in this ICR.

		Responses	Burden Minutes per Response	Annual Hourly Burden
Insurance Endorsements	(IC-1) MCS-90B: Passenger Carriers	1,780	3	89
	(IC-2) MCS-90: Property Carriers	78,656		3,933
	All Carriers	80,436		4,022
Surety Bonds	(IC-3) MCS-82B: Passenger Carriers	0	3	0
	(IC-4) MCS-82: Property Carriers	870		43
	All Carriers	870		43
<i>Source: MCMIS and L&I Database as of 12/14/2012, 12/27/2013, 12/19/2014, 07/24/2015, pulled July 2015.</i>				

For the information collections 1-4 above that require entities to prepare Insurance Endorsements and Surety Bonds, FMCSA estimates the number of responses **at 81,306** (1,780 for IC-1 Passenger Carrier Insurance Endorsements + 78,656 for IC-2 Property Carrier Insurance Endorsements + 0 for IC-3 Passenger Carrier Surety Bonds + 870 for IC-4 Property Carrier Surety Bonds).

The estimated annual burden is 4,065 hours (89 hours for IC-1 Passenger Carrier Insurance Endorsements + 3,933 hours for IC-2 Property Carrier Insurance Endorsements + 0 hours for IC-3 Passenger Carrier Surety Bonds + 43 hours for IC-4 Property Carrier Surety Bonds). This represents an increase of 191 burden hours from the 3,874 burden hours for these activities included in the previously approved burden estimates.

PLACING FINANCIAL RESPONSIBILITY DOCUMENTS IN VEHICLES

Mexican-, Canadian-, and NNA-domiciled carriers must place legible copies of the carriers’ Insurance Endorsements or Surety Bonds in 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	111	10	1,110
	Property Carriers	2,716	11	29,880
	Total			30,990
Mexico & NNA	Passenger Carriers	2	13	30
	Property Carriers	2,921	4	11,684
	Total			11,714
*As of calendar year 2014				
Source: L&I snapshots as of 12/27/2013 and 12/19/2014 pulled July 2015.				

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.

Table 5: IC-5, Annual Burden from Placing Documents in Vehicles

		Responses	Burden Minutes per Response	Annual Hourly Burden
Canada	Passenger Carriers	1,110	1	19
	Property Carriers	29,880		498
	Total	30,990		516
Mexico & NNA	Passenger Carriers	30		1
	Property Carriers	11,684		195
	Total	11,714		195
Source: MCMIS and L&I Database as of 12/14/2012, 12/27/2013, 12/19/2014 pulled July 2015.				

For placing financial responsibility documents in each vehicle, the estimated **number of responses is 42,704** (30,990 for Canada-domiciled carriers and 11,714 for Mexico- and NNA-domiciled carriers).

The estimated annual burden is 712 hours (516 hours for Canada-domiciled carriers and 195 hours for Mexico- and NNA-domiciled carriers). This represents an increase of 106 hours from the 606 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.

	Responses			Annual Burden Hours		
	New (2015)	Old (2011)	Revision	New (2015)	Old (2011)	Revision
ICs 1-4	81,306	115,902	-34,596	4,065	3,874	191
IC-5 Document Replacement	42,704	36,360	6,344	712	606	106
Total	124,010	152,262	-28,252	4,777	4,480	297

Estimated Annual Number of Respondents: 8,004 [896 insurers for IC1 + 896 insurers for IC2 + 231 insurers for IC3 + 231 insurers for IC4 + 5,750 carriers for IC5 (Canada: 111 passenger carriers + 2,716 property carriers) + (Mexico & NNA: 2 passenger carriers + 2,921 property carriers)].

Estimated Annual Number of Responses: 124,010 [81,306 responses for ICs 1-4 + 42,704 responses for document replacement = 124,010].

Estimate Annual Burden: 4,777 hours [4,065 annual burden hours for ICs 1-4 + 712 annual burden hours for IC-5 document replacement =4,777].

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, U.S and Mexican-based carriers must use insurance and surety firms authorized to issue insurance in the United States. FMCSA does allow Canadian-based motor carriers to use Canadian-domiciled insurance companies. However, for the purposes of these labor cost estimates, all insurance companies are assumed to be U.S. domiciled. The retention of Surety Bonds and Insurance Endorsements at a motor carrier’s principal place of business, and the placement of copies of Insurance Endorsements and Surety Bonds in 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	\$61.00		
Motor Carrier Clerks	\$34.00	\$38.00	\$5.00
Vehicle Maintenance Staff		\$49.00	\$5.00

¹ Labor costs are as of calendar year 2015 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 2015.
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 \$192,100 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		81,306	2	2,710	\$61.00	\$165,322
Retaining Surety Bonds and Insurance Endorsements	U.S.	75,527	1	1259	\$34.00	\$42,799
	Canada	2,855		48	\$38.00	\$1,808
	Mexico & NNA	2,924		49	\$5.00	\$244
Placing Documents in Vehicles	Canada	30,990	1	516	\$49.00	\$25,308
	Mexico & NNA	11,714		195	\$5.00	\$976
Total						\$236,456

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:

This program adjustment increase of 297 estimated annual burden hours [4,777 proposed annual burden hours - 4,480 currently approved annual hours = 297] was the result of a revision to the estimated filing time for the retention of Insurance Endorsements, described in item # 12, offset by a decrease in the estimated number of carriers. In addition, there was a 28,251 decrease in the number of annual responses [152,261 currently approved number of responses - 124,010 proposed number of annual responses = 28,251]. This was due to a decrease in the total number of carriers and an increase in the number of vehicles into which new financial responsibility documents are placed each year.

The increase in the number of vehicles per carrier in IC-5 added some annual responses, which offset the decrease in annual responses from carriers in IC 1-4.

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. 49 U.S.C. § 31139.
- B. 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. 49 CFR Part 387.
- H. A Federal Register notice requesting a 60-day public comment period (81 FR 9582), dated February 25, 2016.
- I. A Federal Register notice requesting a 30-day public comment period (81 FR 40393) dated June 21, 2016.