

**Department of Transportation
Federal Motor Carrier Safety Administration**

SUPPORTING STATEMENT

**Revision for Application for Certificate of Registration for Foreign Motor Carriers and
Foreign Motor Private Carriers**

SUMMARY

- This ICR is a revision. There is a decrease in the number of respondents and in the burden hours calculated. The change is due primarily for two reasons: 1) the removal of new applicants using form OP-2; and 2) the reduction in hours to complete the form from 4 hours to 1.5 hours.
- New applicants now are required to use form MCSA-1, which is accessed through the online Unified Registration System (URS). Only existing entities that have already used form OP-2 in the past, may continue to submit form OP-2 for changes and/or updates.

INTRODUCTION

The purpose of this information collection request (ICR) is to request the Office of Management and Budget's (OMB) revise 3-year approved clearance for the information collection titled "Application for Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers" (OMB Control No. 2126-0019), which is currently due to expire on October 31, 2021.

This ICR applies to the following respondents:

- Existing Domiciled Foreign (Mexico) Motor Carriers and Foreign (Mexico) Private Carriers that wish to operate across the Mexico-United States border into the United States (49 USC 13902(c))

New applicants for the "Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers" must use form MCSA-1, which is accessible through the Unified Registration System (URS). Form MCSA-1 is covered by the currently-approved ICR titled "Unified Registration System, FMCSA Registration/Updates" (OMB Control No. 2126-0051).

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 annually to continue those operations. Before that law, these carriers had been exempt from regulation by the former Interstate Commerce Commission (ICC). 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 as the application form to be used by these foreign motor carriers operating 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 Mexico-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 complied 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.

The ICC Termination Act of 1995 (ICCTA), Public Law No. 104-88, 109 Stat. 803 (Attachment C), transferred responsibility for registration of foreign carriers from the former ICC to the Department of Transportation (Surface Transportation Board) and Federal Motor Carrier Safety Administration (FMCSA or the agency).

Congress adopted a comprehensive licensing scheme for registering foreign (Mexico-based) motor carriers to operate across the Mexico-United States border into the United States and for issuance of operating authority for these carriers, now carried out under the authority of 49 U.S.C. § 13902(c) by the FMCSA. This collection of information, required by § 13902(c) (Attachment D) 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 United States and Canadian motor carriers.⁽²⁾ Form OP-2, the application form used by foreign (Mexico-based) motor carriers, thus establishes continuing compliance with this statutory

¹ Title 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.

² See OMB No. 2126-0016 "Renewal for Additional Operating Authority for Existing Carrier and New and Additional Operating Authority for Mexico Domiciled Carriers," which covers Forms OP-1, OP-1(P), OP-1(FF), and/or (NNA).

requirement.

Currently, FMCSA is in the process of developing the “Unified Registration System (URS),” which is a system developed to streamline FMCSA’s registration process. The URS is a result of the Final Rule titled “Unified Registration System,” (78 FR 52608) dated August 23, 2013, which implemented statutory provisions for an online registration system for entities that are subject to FMCSA’s licensing, registration, and certification regulations (Attachment D). The purpose of the Unified Registration System (URS) is to streamline the OP form series into one dynamic form (MCSA-1) and serve as a clearinghouse and repository of information for entities required to register with FMCSA.

Previous to the development of the URS, in order to register with FMCSA or apply for additional authorities, applicants submitted the OP-2 form. The OP-2 form is available on FMCSA’s website. Respondents can print the form and mail the form back to FMCSA, or print the form and upload the document(s) via email. With the development of the URS, the current goal is for the OP-2 form to fold into one overarching form: form MCSA-1. This form is accessed through URS, and is a dynamic form that is meant to be used by all motor carriers seeking authority or seeking to add to their existing authority, with the exception of form OP-1(MX).

In the development of the URS, FMCSA began a phased rollout in 2015. The first phase became effective on December 12, 2015. The first phase impacted only first-time applicants seeking an FMCSA-issued registration.

FMCSA had planned subsequent URS rollout phases for existing registrants wishing to add additional authorities; however, there have been substantial delays, and subsequent phases have not been rolled out to date. As a result, on January 17, 2017, FMCSA issued a Final Rule titled “Unified Registration System; Suspension of Effectiveness,” which indefinitely suspended URS effectiveness dates for existing registrants (82 FR 5292) (Attachment E).

Pursuant to the delay in the URS system subsequent phases and resulting rule, FMCSA continues to accept forms OP-2 for existing applicants. New applicants are now required to go through the URS to access the dynamic MCSA-1 Form. The information collection activities associated with MCSA-1 are covered under a different ICR, titled “FMCSA Registration/Updates,” OMB Control No. 2126-0051.

This information collection supports the DOT’s Strategic Goal of Safety by monitoring foreign (Mexico-based) motor carriers to conducting operations in the United States.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE IS THE INFORMATION NEEDED

Data captured by existing applications, changes to form OP-2, provide the FMCSA with evidence to assess the foreign (Mexico-based) motor carrier’s safety program and its ability to comply with the safety standards of the United States. 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 ensures 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. All new applicants for the “Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers” must use form MCSA-1, which is accessed through the Unified Registration System (URS). Form MCSA-1 is covered by the currently approved ICR titled “*Unified Registration System, FMCSA Registration/Updates*” (OMB Control No. 2126-0051).

4. EFFORTS TO IDENTIFY DUPLICATION

There are no similar filings made with any other Federal agency or within the DOT 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 Form OP-2 for existing applicants will remain unchanged. Each existing 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 FMCSA is requesting no more information than is absolutely necessary to ensure compliance with applicable safety regulations. Existing registrants may use Form OP-2 when name or address changes have been made. Updates may also be made to their location and operating status when circumstances are warranted.

6. IMPACT OF LESS FREQUENT COLLECTION OF INFORMATION

Foreign (Mexico-based) motor carriers desiring to update their certificate 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 when initially filing the MCSA-1. However, there is no associated fee for existing applicants wishing to make changes to their address, location, or operating status using the OP-2 form. New applications are only required for the initial request for certificate(s) of registration to operate as a foreign motor carrier from Mexico within municipalities and commercial zones along the United States-Mexico international border.

7. SPECIAL CIRCUMSTANCES

There are no special circumstances that relate to this ICR.

8. COMPLIANCE WITH 5 C.F.R. § 1320.8

On February 12, 2021, FMCSA published a 60-day Federal Register notice (86 FR 9423) as seen in Attachment E. The FMCSA received 0 comments in response to the 60-day Federal Register notice. During the period of this information collection process, FMCSA has been engaged with the respondents who use the form (Application for Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers (OP-2)) via telephone calls and emails assisting with questions and requirements.

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. Existing applicants wishing to make changes to their registration information use Form OP-2, which 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

The burden for this ICR includes the time required for existing applicants to submit updates to their registration using Form OP-2. FMCSA estimates respondent updates using Form OP-2 requires on average 1.5 hours to complete.⁽⁴⁾ However, the time required to complete updates to 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, titled, "Improving Access to Services for Persons with Limited English Proficiency" (65 FR 50121; Aug. 16, 2000), (Attachment G). The paper format of the application is available in the English/Spanish version; application updates must be completed in English.

FMCSA received, on average, 31 updates to form OP-2 filed from 2017 to 2019.⁽³⁾ As shown in

³⁰ Data Source: FMCSA's "Licensing & Insurance" database. Snapshot taken November 232020. Data administrator: Senture LLC.20.

Table 1, the total annual burden associated with these application updates is 47 hours (31 applications × 1.5 hours per application = 47 hours).⁽⁴⁾

The agency assumes that the respondent occupation for this task corresponds to Business Operations Specialist. The median hourly wage of Business Operations Specialists of the General Freight Trucking industry (North American Industry Classification System [NAICS] code 484000) is \$28.03.^(5,6) To arrive at a loaded wage, the agency first estimated a load factor of 1.549 by dividing the total cost of compensation for private industry workers of the transportation and warehousing industry (\$41.57) series by the average cost of hourly wages and salaries (\$26.84) for the same series as reported by the Bureau of Labor Statistics in May 2019.⁽⁷⁾ Multiplying the median hourly wage by the load factor results in a loaded hourly wage of \$43.42.

The agency estimates the burden labor hour cost per respondent to be approximately \$66 (\$2,041 ÷ 31 respondents = \$66). As shown in Table 1, the total annual burden labor cost to the industry is \$2,041 (\$2,041 = 47 hours × \$43.42 per hour).

Table 1. Respondents, Burden Hour, and Burden Hour Cost Estimates for Form OP-2.

Year	Number of Respondents (a)	Number of Responses (a × 1 = b)	Average Burden Hours per Response (c)	Total Burden Hours (b × c = d)	Total Burden Hour Cost (d × \$43.42 = e)
1	31	31	1.5	47	\$2,041
2	31	31	1.5	47	\$2,041
3	31	31	1.5	47	\$2,041
Total	93	93	4.5	141	\$6,123
3-year average	31	31	1.5	47	\$2,041

Estimated Total Annual Burden: 47 hours.

Estimated Annual Number of Respondents: 31.

Estimated Annual Number of Responses: 31.

Estimated Annual Burden Hour Cost to Respondents: \$2,041.

⁴ Applications received with updates to already existing forms can take a respondent anywhere from 2 minutes to 1.5 hours to complete. FMCSA rounds upwards and assumes each form update takes 1.5 hours to complete. Previously FMCSA estimated the time to complete OP-2 was 4 hours. As FMCSA only expects to receive updates or changes to form OP-2, FMCSA reduces the time to complete the form from 4 hours to 1.5 hours.

⁵ FMCSA was unable to obtain comparable Mexican wage rates for Business Operations Specialists of the General Freight Trucking industry. For the purposes of this ICR, we use U.S. wages with the understanding that the resulting calculations may be overestimated.

⁶ Bureau of Labor Statistics. Occupational Employment and Wages, May 2019, NAICS 484100 - General Freight Trucking. www.bls.gov/oes/2019/may/naics3_484000.htm. Accessed November 30, 2020.

⁷ Bureau of Labor Statistics. "Table 4. Employer costs per hour worked for employee compensation and costs as a percentage of total compensation: private industry workers, by industry group, September 17, 2020." www.bls.gov/news.release/pdf/ecec.pdf. Accessed November 30, 2020.

13. ESTIMATED TOTAL ANNUAL COSTS TO RESPONDENTS

Respondents may incur costs in addition to burden hour costs. There are mailing costs if the respondent chooses to submit updates to Form OP-2 by mail rather than electronically.

Updates to Form OP-2

FMCSA estimates 31 annual respondents will file by mail, at an estimated cost of \$5 per respondent (paper, envelope, and postage). This results in a total annual cost of \$155 ($31 \times \$5 = \155).

Estimated Total Annual Non-Labor Cost to Respondents

Annualized, the agency estimates that 31 respondents will incur a non-labor total cost of \$155 (\$0 in filing fees + \$155 in mailing costs = \$155).

Estimated Non-Labor Costs to Respondents: \$155.

Estimated Labor Costs to Respondents: \$2,041.

Estimated Labor and Non-Labor Costs to Respondents: \$2,196 ($\$2,041 + \$155 = \$2,196$).

14. ESTIMATE OF COST TO THE FEDERAL GOVERNMENT

The agency estimates that reviewing the contents of the package, deciding whether to grant or reject the applications, issuing a certificate of registration to the carrier where appropriate, and performing the ministerial functions associated with the handling of the 31 applications received annually takes approximately 10 minutes (0.167 hours) per form, or 5 hours per year (31×0.167 hours = 5 hours).

Tasks associated with Form OP-2 are performed by a General Schedule Grade 9 Transportation Specialist in headquarters at a wage cost of approximately \$32.33 per hour.⁽⁸⁾ The loaded rate for Federal Government workers is 1.28.⁽⁹⁾ Multiplying the loaded rate by the wage rate provides a total cost per compensation of \$41.38 ($1.28 \times \$32.33 = \41.38) per hour. The total estimated annual cost to the Federal Government is \$207 (5 hours \times \$41.38 per hour).

15. EXPLANATION OF PROGRAM CHANGES OR ADJUSTMENTS

The respondent burden hours decreased by 2,061 (47 hours proposed – 2,108 hours currently approved = –2,061 hours). The change is due primarily for two reasons: 1) the removal of new applicants using form OP-2; and 2) the reduction in hours to complete the form from 4 hours to 1.5 hours. New applicants now are required to use form MCSA-1, which is accessed through the

⁸ Based on the 2020 Washington, Baltimore wage for GS-9 step 5 of \$32.33 per hour.

https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf.

⁹ Consistent with other FMCSA ICRs.

online Unified Registration System (URS). Form MCSA-1 is covered by the currently approved ICR titled “*Unified Registration System, FMCSA Registration/Updates*” (OMB Control No. 2126-0051). Only existing entities that have already used form OP-2 in the past, may continue to submit form OP-2 for changes and/or updates. As FMCSA is only expected to receive changes and/or updates, FMCSA reduces the time to complete the form from 4 hours to 1.5 hours.

31 respondents will incur a non-labor total cost of \$155, compared to 527 respondents, in the previous ICR submission, which incurred a total non-labor cost of \$144,235 (\$144,000 in filing fees + \$235 in mailing costs). There is a decrease of \$85,884 in estimated labor-related burden costs to respondents (\$87,925 currently approved – \$2,041 proposed = \$85,884). This is largely due to new forms not being collected as part of this ICR.

16. PUBLICATION OF RESULTS OF DATA COLLECTION

The information collected is published in the FMCSA Register.

17. APPROVAL FOR NOT DISPLAYING THE EXPIRATION DATE OF OMB APPROVAL

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. 26 U.S.C. § 4481.
- B. 49 CFR pt. 368.
- C. The ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (Dec. 29, 1995).
- D. 49 U.S.C. § 13902(c).
- E. 60-day Federal Register notice (86 FR 9423), February 12, 2021.
- F. 30-day Federal Register notice (86 FR 36317), July 9, 2021.
- G. Executive Order 13166 titled, “Improving Access to Services for Persons with Limited English Proficiency,” August 16, 2000 (65 FR 50121).