

Information Collection Clearance

The Supporting Statement

Licensing Applications for Motor Carrier Operating Authority

Introduction: The Federal Motor Carrier Safety Administration's (FMCSA) is submitting to the Office of Management and Budget (OMB) a revised information collection (IC) titled, "Licensing Applications for Motor Carrier Operating Authority," covered by OMB Control Number 2126-0016, and currently due to expire on August 31, 2008. The Agency revised this IC due to its development of a notice of proposed rulemaking (NPRM) titled, "New Entrant Safety Assurance Process," (see Attachment A). The NPRM would add a new OP-1(NNA) application form for non-North American-domiciled motor property and passenger carriers. This IC currently combines all of the information collection requirements for all application forms in the OP-1 series that are used by the for-hire motor property carriers and brokers of general freight and household goods (OP-1); passenger carriers (OP-1(P)); freight forwarders (OP-1(FF)); and Mexico-domiciled motor property carriers, including household goods and motor passenger carriers, registering to operate beyond municipalities and commercial zones along the U.S.-Mexico international border to points within the U.S. (OP-1(MX)) to apply for registration authority. Since the North American Free Trade Agreement (NAFTA) provisions have not yet taken effect, the number of annual burden hours for the Form OP-1(MX) are still estimated at 2,060 hours out of a total of 55,738 hours previously approved for this information collection.

Part A. Justification.

1. Circumstances that make collection of information necessary:

The FMCSA registers for-hire motor carriers of regulated commodities and of passengers under 49 U.S.C. § 13902(a) Attachment B); surface freight forwarders under 49 U.S.C. § 13903 (Attachment C); property brokers under 49 U.S.C. § 13904 (Attachment D); and certain Mexican motor carriers under 49 U.S.C. § 13902(c) (Attachment B). These motor carriers may conduct transportation services in the United States only if they are registered with the FMCSA. Each registration is effective from the date specified and remains in effect for such period as the Secretary of Transportation (Secretary) determines by regulations. The ICC Termination Act of 1995 (ICCTA), Public Law No. 104-88, 109 Stat. 803 (December 29, 1995) (Attachment E), transferred this registration authority from the former Interstate Commerce Commission (ICC) to the Secretary, who subsequently delegated the registration function to the Federal Highway Administration (FHWA), then to the FMCSA at the time that agency was created.

The ICCTA directed the Secretary to issue regulations to replace the current identification number system, the single State registration system, and the registration and insurance monitoring systems formerly administered by the ICC, with a single, on-line Federal system (see 49 U.S.C. § 13908). An advance notice of proposed rulemaking (ANPRM), which solicited comments on the parameters of the single integrated system, was published in the **Federal Register** on August 26,

1996, at 61 FR 43816 (see Attachment F) and a notice of proposed rulemaking (NPRM) was published in the **Federal Register** on May 19, 2005, at 70 FR 28990 (see Attachment G). It is anticipated that the OP-1 registration forms will remain in use until adoption of the unified on-line Federal registration system required by the ICCTA.

On May 3, 2001, the FMCSA published a notice of proposed rulemaking (NPRM) at 66 FR 22371 (Attachment H) which proposed changes in its regulations to govern applications by Mexican carriers to operate beyond the United States-Mexico border municipalities and commercial zones to points within the U.S. The FMCSA also proposed to revise the application Form OP-1(MX) that would be filed by these Mexican motor carriers. The changes were needed to implement only part of the NAFTA.

On March 19, 2002, the FMCSA published an interim final rule (IFR) at 67 FR 12702 (Attachment I) which proposed to amend 49 CFR part 365 and revise Form OP-1(MX). Under the amended regulations, Mexico-domiciled motor carriers seeking to operate within the United States beyond the commercial border zones, including carriers that previously filed pending Form OP-1(MX) applications, would be required to submit the revised Form OP-1(MX). Under the revised Form OP-1(MX), the FMCSA would collect more detailed information on an applicant motor carrier's size, operations and history than could be collected previously by using the existing form.

The proposed NPRM would require Non-North America-domiciled motor carriers seeking to operate in the United States to complete the new Form OP-1(NNA). The use of the new Form OP-1(NNA) would enable the FMCSA to collect the same type of detailed application information from non-North American motor carriers as required for Mexico-domiciled motor carriers.

This information collection supports the DOT's Strategic Goals of Safety and Economic Growth and Trade by allowing foreign motor carriers to conduct operations in the United States pursuant to the North American Free Trade Agreement and Central American Free Trade Agreement, but requiring foreign (Mexican and non-America domiciled) motor carriers to comply with similar registration procedures as U.S. motor carriers to ensure safety on our Nation's highways.

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

Data contained on the completed Forms OP-1, OP-1(P), OP-1(FF) OP-1(MX) or new OP-1(NNA) provides information to the FMCSA on the type of surface transportation operations which the registration applicant proposes to conduct. The forms also enable FMCSA staff to make a determination concerning the level of insurance coverage which the applicant will be required to obtain to maintain its registration, the applicant's familiarity with relevant safety requirements and its willingness to comply with those requirements in its operations, and applicant's ability to meet any specific statutory and regulatory requirements applicable to its particular proposed operations.

Information on the forms is also used to prepare a notice of the registration application, which is published in the “FMCSA Register.” Publication of the notice initiates a 10-day period during which an interested party may file a complaint seeking denial of the registration on a limited number of statutory grounds.

At the end of the 10-day period, the FMCSA will issue the registration authorizing surface transportation operations if no complaints have been filed; if applicant is willing and able to comply with all applicable statutory and regulatory provisions and safety fitness requirements; and if applicant has made the required insurance and process agent filings.

3. Extent of automated information collections:

Applicants for registration authority file forms in the OP-1 series on a voluntary and, for the most part, one-time basis. Except for the revised Form OP-1(MX) and new OP-1(NNA), the forms call for a limited amount of information to identify the applicant and the nature and scope of its proposed operations. Forms OP-1(MX) and OP-1(NNA) include narrative descriptions of the applicant’s safety policies and procedures and information regarding the drivers and vehicles it plans to use in U.S. operations. However, the implementation of electronic filings for the Form OP-1(NNA) will be delayed due to the very small number of non-North America-domiciled motor carrier applicants. Additionally, implementation of electronic transactions for the Form OP-1(MX) will be deferred until the U.S./Mexico borders are opened for business. It is anticipated that 80 percent (80%) of the responses will be collected electronically.

4. Efforts to identify duplication:

There are no similar filings 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:

Paperwork burdens associated with completing most forms in the OP-1 series are minimal for small businesses, as the forms are easy to understand and complete. Most applicants are required only to check appropriate boxes on the forms and to fill in blank spaces with information on their identity and on the nature of the transportation operations and/or services they propose to register. This information is readily available to the applicants and is the minimum necessary to accomplish the purpose of the filing. Further, the application package contains a list of telephone numbers, which allow applicants to contact FMCSA staff and others to discuss any questions concerning the aspects of the application process and regulatory requirements. All of the OP forms can be filed electronically on the WEB. Mexican and NNA applicants, however, are required to provide additional safety information and certifications of compliance to demonstrate their willingness and ability to comply with applicable safety regulations. The requested information cannot be obtained from any other source since all Mexican and NNA applicants will be domiciled outside of the United States, and we are requesting no more information than is absolutely necessary to ensure compliance with applicable safety regulations.

6. Impact of less frequent collection of information:

There is no requirement that forms in the OP-1 series be filed on a periodic basis. The forms are filed on an “as needed” and usually one-time basis. The purpose of the forms which is to allow transportation entities to meet statutory registration requirements, would be defeated if the information was collected less frequently.

When Mexican motor carriers who have previously filed an OP-1(MX) application form are required to comply with the registration provisions, they may do so by a one-time, re-filing of the revised form. There will be no \$300 filing fee required for this one-time re-filing. All Mexican carriers will be required to report changes in basic identifying information, such as addresses and telephone numbers, through supplemental filings as the changes occur. The FMCSA does not require registrants to re-file the entire form in these circumstances. A new application form is currently required only if the carrier wishes to extend the scope of its authority or is applying for new authority. Under this proposal, where a Mexican carrier wishes to expand its authority, it must make an “initial filing” of the Form OP-1(MX) and go through the full application process to obtain the additional authority.

7. Special circumstances:

There are no special circumstances associated with this information collection.

8. Compliance with 5 CFR § 1320.8:

On December 21, 2006, FMCSA issued a notice of proposed rulemaking (NPRM) entitled, “New Entrant Safety Assurance Process (see Attachment A). The agency received one comment regarding this IC in response to the NPRM from the Advocates for Highway and Auto Safety. The commenter expressed concern about the self-certifying statements on the Form OP-1(MX) for non-NA motor carriers and support for the proposed new Form OP-1(NNA) for non-NA motor carriers. This comment will be addressed in the final rule.

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. The forms call for information identifying the applicant and the scope of its proposed operations. All registration applications filed with the FMCSA become part of a public docket and are open to the public for inspection and review.

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 that the current total annual burden of the information collection associated with the “OP-1” series (OP-1, OP-1(FF), OP-1(P), and OP-1(MX)) is approximately 55,738 hours. The agency estimates revisions associated with the new Form OP-1(NNA) would add approximately 48 hours, for a revised estimated burden of 55,786 hours. A breakout of this burden is provided below.

The FMCSA estimates that the Form OP-1(MX) takes approximately 4 hours to complete. The time required to complete an individual form will vary depending upon the applicant’s knowledge of the English language. Pursuant to Executive Order 13166, dated August 11, 2000, entitled “Improving Access to Services for Persons with Limited English Proficiency,” the FMCSA provides an English/Spanish version of the OP-1(MX) application form and instructions; however, the application must be completed in English.

The FMCSA estimates that 7,200 Mexican carriers are operating in the United States. The vast majority of these Mexican motor carriers currently operating in the United States have Form OP-2 authority that allow them to operate only within the municipalities and commercial zones of the U.S.-Mexico border. The agency estimates that half of the 7,200 Mexican carriers (or 3,600) operating in the U.S. will switch to Form OP-1(MX) authority, while the other half will continue operating within the border commercial zones pursuant to Form OP-2 authority. We assume that new carriers entering the industry will be more likely than current carriers to apply for OP-2 form authority, since most of the large carriers (who would presumably benefit from expanded U.S. operations) are already operating in the border commercial zones pursuant to Form OP-2 authority. While some new applicants may also want to take advantage of the opportunity to operate throughout the United States, many will not have the financial and administrative wherewithal or resources to benefit from the enlarged operations allowed by this NAFTA rule.

Approximately 2,800 Mexican carriers have filed a Form OP-2 annually over the last several years (and, about three-quarters of these have been granted). The FMCSA estimates no increase to this number of new Mexican motor carrier applicants in the foreseeable future, and extends this figure out to 8,400 [2,800 x 3 = 8,400] Mexican applicants over the next 3 years. Additionally, we estimate that three quarters (or 75 percent—6,300) of these new Mexican motor carrier applicants will apply for Form OP-2 authority, with one quarter (or 25 percent—2,100) requesting the expanded Form OP-1(MX) registration authority annually.

As this supporting statement relates to those Mexican motor carrier applicants requesting registration authority by filing Form OP-1(MX), we estimate that during the first year, half of the 7,200 Mexican carriers (or 3,600) currently operating in the U.S., plus 25 percent of the 2,800

new applicants (or 700) would make an “initial filing” of the revised Form OP-1(MX). For future years, the FMCSA estimates that approximately 25 percent of the 2,800 new Mexican applicants (or 700) would file an OP-1(MX) form.

For changes and updates, the agency anticipates that one-quarter of these 3,600 carriers (or 900) operating in the U.S. pursuant to the Form OP-1(MX) authority and one-quarter of the 700 new filings (or 175) seeking Form OP-1(MX) authority in the first year would have a need to file for changes and/or updates of their information on the OP-1(MX) forms. The FMCSA estimates that it would require applicants 30 minutes to fill out a form to request changes, and it would take the government one hour to process the form.

Therefore, the FMCSA estimates an adjusted burden hour calculation for completion of the Form OP-1(MX) as follows:

Mexican carrier re-filings or initial filings of the Form OP-1(MX)

50 percent of 7,200 carriers in 1st year (3,600) x 4 hours per form = 14,400
 25 percent of 2,800 new applicants in 1st year (700) x 4 hours = 2,800
Total burden hours for revised Form OP-1(MX)/Year 1 = 17,200

25 percent of 2,800 new applicants in future years (700) x 4 hours = 2,800
Total burden hours for revised Form OP-1(MX)/Future Years = 2,800

Updates/Changes

25 percent of 3,600 carriers filing in 1st year (900) x 30 min./60 min. = 450
 25 percent of 700 filings for new carriers in 1st year (175) x 30 min./60 min.= 88
Total burden hours for updates/changes in 1st year = 538

25 percent of 5,000 (3,600 + 700 + 700) filings in future years (1,250)
 x 30 min./60 min.

=

625

Total burden hours for updates/changes in each future year = 625

Non-North American carrier re-filings or initial filings of the Form OP-1(NNA)

The new Form OP-1(NNA) application created by the proposed NPRM for non-North American motor carriers would add an estimated 48 annual burden hours to this information collection [12 motor carriers filings x 4 hours to complete application = 48 burden hours per year]. This number is not expected to significantly increase during subsequent years and the number of annual updates/changes will be negligible.

Total burden hours for revised Form OP-1(NNA)/Year 1 = 48
Total burden hours for revised Form OP-1(NNA)/Future Years = 48

Total Annual Number of Responses Year 1 = 23,961 [26,637 previously approved responses – 4,300 (3,600 first year carriers + 700 first year new applicants re-filings/updates of OP-1(MX) Form) + 1,612 (900 first year carriers + 700 first year new applicants update/changes + 12 new filings of new OP-1(NNA)) = 23,961].

Thus, proposals in the IFR and proposed NPRM, when promulgated into a final rule, would result in a change to the total annual burden hours for this information collection as follows:

In the first year: **55,786 annual burden hours** [38,000 (40,060 previously approved burden hours for OP-1 series forms – 2,060 previously approved burden hours for OP-1 (MX) = 38,000) + 17,786 (17,200 first year burden hours for Form OP-1 (MX) + 538 first year burden hours for updates/changes + 48 burden hours for new Form OP-1(NNA)) = 55,786]; and in subsequent years: **41,473 annual burden hours** [38,000 + 2,800 + 625 + 48 = 41,473]

Although most applicants complete the OP-1 application forms themselves, some applicants seek assistance from “permitting” services, non-attorney practitioners, or attorneys. Without the necessary information on wages in the Mexican trucking industry, the FMCSA used several data sources to obtain it. Data from the World Bank show that the labor cost per worker in the manufacturing sector in Mexico from 1995 to 1999 was \$7,607 per year. The comparable figure for the U.S. manufacturing sector was \$28,907. The ratio of these 2 figures is 0.263, which can be used as an approximation of the ratio of Mexico to U.S. wages. Based on the U.S. Bureau of Labor Statistics Occupational Employment Survey, the mean wage for managerial and administrative occupations in Standard Industrial Code (SIC) 42, which includes trucking companies, was \$25.50. Adding 33 percent to that to cover fringe benefits yields a U.S. wage of \$33.92. Multiplying that figure by 0.263 results in an average Mexican wage (for those completing the Form OP-1(MX)) of \$8.92, rounded to \$9.00. Thus, the related salary costs for respondents to complete each Form OP-1(MX) in the first year is estimated to be **\$154,800** (17,200 hours x \$9 per hour) in the first year; and **\$25,200** (2,800 hours x \$9 per) in subsequent years. Similarly, the estimated annual salary cost for respondents to complete the new Form OP-1(NNA) is **\$432** (48 hours x \$9 per hour) and the same in subsequent years.

Salary Costs for Revised Form OP-1(MX)

Total salary costs for all respondents associated with the completion of the revised Form OP-1(MX) are calculated as follows:

Mexican carrier re-filings or initial filings of the Form OP-1(MX)

In the first year, **\$154,800 total annual cost** [17,200 to complete Form OP-1(MX) (14,400 + 2,800 = 17,200) x \$9 hourly salary = \$154,800]; and in subsequent years, **\$25,200 total annual cost** [2,800 total hours to complete revised Form OP-1(MX) x \$9 hourly salary = \$25,200].

Updates/Changes

In the first year, **\$4,842 total burden hours** [538 hours for updates/changes to the revised Form OP-1(MX) x \$9 hourly salary = \$ 4,842]; and in subsequent years, **\$5,625 total burden hours** [625 hours for updates/changes to the revised Form OP-1(MX) x \$9 hourly salary = \$5,625 thereafter].

Salary Costs for Revised Form OP-1(NNA)

Total salary costs for all respondents associated with the completion of the revised Form OP-1(NNA) are calculated as follows:

Non-North American carrier re-filings or initial filings of the Form OP-1(NNA)

In the first year, **\$432** [48 hours to complete Form OP-1(NNA) x \$9 hourly salary = \$432]; and in subsequent years, **\$432** [48 total hours to complete revised Form OP-1(NNA) x \$9 hourly salary = \$432].

13. Estimate of total annual costs to respondent:

There is a registration filing fee of \$300 for each applicant filing Form OP-1(MX). Each foreign applicant is required to submit a filing fee of \$300 with each application package. Once the application is accepted, the fee is non-refundable even if the certificate of registration is not issued to the applicant. However, as the NPRM explains, the application fee will not apply to the one-time, re-filings by the 190 Mexican motor carriers who have previously filed an OP-1(MX) form, or U.S.-owned Mexico-domiciled carriers who currently operate beyond the border commercial zones and are not expanding their operations, or for requests to update and/or change the identifying information. The IFR adopted these requirements without change. Thus, the estimated, future annual costs to respondents to file the Form OP-1(MX) in the first year is **\$1,290,000** [\$300 filing fee x 4,300 (3,600 re-filings + 700 initial filings of new applicants in the 1st year per year that have not previously filed a Form OP-1(MX)) = \$1,290,000]. Estimated costs for filing for future years is **\$210,000** [700 new applicants in future years x \$300 filing fee each = \$210,000].

FMCSA anticipates that the costs for the remaining forms to remain fixed. Therefore, the estimated total annualized cost to the respondents is **\$7,299,000** [\$1,290,000 cost to file Form OP-1(MX) + \$6,009,000 previously approved costs for filing remaining forms = \$7,299,000].

Unlike the Form OP-1(MX), an applicant for the OP-1(NNA) registration is only required to pay a \$300 filing fee if the applicant is a for-hire motor carrier of passengers or property. Of the 64 registered non-North America-domiciled motor carrier, all are private motor carriers and would not be required to pay a filing fee to complete the Form OP-1(NNA).

14. Estimate of cost to the Federal government:

The OP-1(MX) application forms are processed by Grade 9 Transportation Specialists at the Trans-Border Office. The average hourly salary of these employees is \$22.00. The FMCSA estimates that each OP-1 form currently requires approximately 6.5 hours to process through to issuance of a certificate of registration. The FMCSA staff will now review the safety fitness and certifications information submitted with the Form OP-1(MX), which in turn will increase the handling of these applications by two hours, for a total of 8.5 hours. Thus, the estimated annual cost to the Federal government of processing each OP-1(MX) application form in the first year is approximately **\$804,100** [8.5 hours x \$22 x 4,300 annual filings = \$804,100]; and **\$130,900** [8.5 hours x \$22 x 700 = \$130,900] thereafter. The cost to the Federal government to process the OP-1(NNA) is approximately **\$2,244** [8.5 hours x \$22 x 12 annual filings = \$2,244].

Total Estimated Annual Cost to Federal Government: \$806,344 [804,100 for processing Form OP-1(MX) + \$2,244 for processing Form OP-1(NNA) = \$806,344] for first year; and **\$133,144** for subsequent years [\$130,900 approved cost + \$2,244 for processing Form OP-1(NNA) = \$133,144].

15. Explanation of program changes or adjustments:

The first year annual burden hours increased from 55,738 to 55,786 due to a program change resulting from the addition of a new Form OP-1(NNA) required by a proposed NPRM; **55,786 burden hours** [38,000 (40,060 – 2,060) + 17,200 + 538 + 48= 55,786]; and in subsequent years: **41,473 burden hours** [38,000 + 2,800 + 625 + 48= 41,473].

The respondents annual cost increase of \$2,244 is due to cost for processing the new Form OP-1(NNA).

16. Publication of results of data collection:

This information collected is not intended for publication for statistical purposes.

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

The FMCSA is not seeking approval to not display the expiration date of OMB approval of the information collection.

18. Exceptions to certification statement:

The FMCSA is claiming no exception to any element of the certification statement identified in Item 19 of OMB Form 83I.

Part B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

ATTACHMENTS

- A. 2006 Notice of Proposed Rulemaking, entitled “New Entrant Safety Assurance Process.
- B. 49 U.S.C. 13902
- C. 49 U.S.C. 13903
- D. 49 U.S.C. 13904
- E. ICC Termination Act of 1995 (ICCTA) Public Law 104-88, 109 Stat. 803 (December 29, 1995)
- F. Advance Notice of Proposed Rulemaking, entitled “Motor Carrier Replacement Information/Registration System,” dated August 26, 1996 (61 FR 43815).
- G. Notice of Proposed Rulemaking, entitled “Unified Registration System,” dated May 19, 2005 (70 FR 28990).
- H. Notice of Proposed Rulemaking, entitled “Application by Certain Mexico Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border,” dated May 3, 2001 (66 FR 22371).’
- I. IFR entitled, “Application by Certain Mexico-Domiciled Motor Carriers To Operate Beyond United States Municipalities and Commercial Zones on the United States-Mexico Border,” dated March 19, 2002 (67 FR 12702)

Forms OP-1, OP-1(P), OP-1(FF), OP-1(MX) and New OP-1(NNA).