Federal Register

Thursday,
May 3, 2001

Part III

Department of Transportation

Federal Motor Carrier Safety Administration

49 CFR Part 365, et al.

Revision of Regulations and Application Form for Mexican-Domiciled Motor Carriers To Operate in U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border; Proposed Rules

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 368 and 387

[Docket No. FMCSA–98–3297]

RIN 2126–AA33

Revision of Regulations and Application Form for Mexican-Domiciled Motor Carriers To Operate in U.S. Municipalities and Commercial Zones on the U.S-Mexico Border

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM); request for comments.

SUMMARY: The FMCSA proposes to revise its regulations and form that relate to the issuance of Certificates of Registration to any Mexican-domiciled motor carrier (of property) that wants to operate only in U.S. municipalities and commercial zones adjacent to Mexico in Texas, New Mexico, Arizona, or California. The notice also proposes a change to FMCSA's regulations governing financial responsibility of motor carriers to accurately reflect the requirements placed on these Mexican motor carriers. Other carriers that currently hold or may want to apply for a Certificate of Registration would now apply under separate FMCSA regulations. These revisions are part of our implementation of the North American Free Trade Agreement (NAFTA) entry provisions. The proposed changes would ensure that we receive adequate information to assess an applicant's safety program and its ability to comply with U.S. safety standards before it is registered to operate in the U.S. They would also enable us to maintain an accurate census of registered carriers. In addition, we would update the regulations as needed to reflect the transfer of motor carrier regulatory functions from the Federal Highway Administration (FHWA) to FMCSA.

DATES: We must receive your comments by July 2, 2001.

ADDRESSES: You can mail, fax, hand deliver or electronically submit written comments to the Docket Management Facility, U.S. Department of Transportation, Docket Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, FAX (202) 493–2251, on-line at *http://dmses.dot.gov/search.htm*. You must include the docket number that appears in the heading of this document in your comment. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. You can also view all comments or download an electronic copy of this document from the DOT Docket Management System (DMS) at *http://dmses.dot.gov/search.htm* by typing the last four digits of the docket number appearing at the heading of this document. The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines in the ''Help'' section of the web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or you may print the acknowledgement page that appears after you submit comments on-line.

FOR FURTHER INFORMATION CONTACT: Valerie Height, (202) 366–1790, Regulatory Development Division, FMCSA, 400 7th Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We will consider all comments we receive before the close of business on the comment closing date. We will include comments we receive after the comment closing date in the docket, and we will consider late comments to the extent practicable. The FMCSA may, however, issue a final rule at any time after the close of the comment period.

Background

Since 1982, significant limitations have been in place concerning operations by Mexican-domiciled motor carriers in the United States. A moratorium has existed on grants of operating authority under the jurisdiction of the former Interstate Commerce Commission (ICC). Access has been allowed only for certain motor carriers that fell outside the ICC's licensing jurisdiction. These carriers receive Certificates of Registration by filing Form OP–2 under the provisions of what is now 49 CFR part 368. Mexican-domiciled carriers who are eligible for Certificates of Registration are those who operate solely in the municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities (border area), as well as certain private carriers and carriers of exempt goods who operate beyond the border area.

Current Proposal

With the implementation of the NAFTA entry provisions, it is expected that additional Mexican-domiciled motor carriers will seek to operate in the United States, most of them beyond the border area. In deciding how to organize the treatment of all Mexican-domiciled carriers in this changing environment, the FMCSA considered both the advisability of uniform treatment, the familiarity of small businesses with the existing regime, and the need to ensure that all Mexican-domiciled carriers that enter the United States, whether to operate in commercial zones close to the border or beyond, meet our safety standards (*i.e.*, carrier requirements, vehicle requirements, and driver requirements, including but not limited to, the ability of the driver to read and speak the English language sufficiently to converse with the general public, understand highway traffic signs and signals in the English language, respond to official inquiries and make entries on reports and records).

We are proposing to continue the use of the Form OP–2 (with substantial changes discussed later) and the issuance of Certificates of Registration only for those carriers whose operations are limited to the border area. The FMCSA believes that there are carriers that are most familiar with the Certificate of Registration and want to continue operating in a limited area; however, we are interested in comments on the need to maintain the Certificate of Registration process. With the proposed changes to the Form OP–2, the only other main distinction between holders of Certificates of Registration and other Mexican-domiciled carriers operating in the United States would concern the type of insurance required to be held (trip versus continuous). This is addressed under the proposed changes to part 387 later in this preamble.

Further we are proposing that all current holders of Certificates of Registration would need to file new forms with the FMCSA. Those carriers who wish to continue operating only in the border area would file the Form OP–2 in accordance with the procedures in part 368. All other holders of Certificates of Registration who want to operate beyond the border area would file Form OP–1(MX) like all other Mexican-domiciled property carriers now seeking the ability to operate under the implementation of the NAFTA entry provisions. We are proposing to include these carriers in revisions to 49 CFR part 365 that are published elsewhere in today's **Federal Register**. That NPRM

also proposes changes to Form OP–1(MX).

For all holders of Certificates of Registration, their Certificates of Registration would remain valid until the FMCSA has acted on an application submitted on the Form OP–2 or Form OP–1(MX). No filing fee is required for current holders of a Certificate of Registration who operate solely in municipalities in the U.S. on the U.S.-Mexico international border or within the commercial zones of such municipalities and are only updating their application information. However, if the current holder of a Certificate of Registration is requesting to expand the territorial scope of its current operations beyond this area, it must submit a new application using Form OP–1(MX), and is subject to the filing fee. That application will be processed as a new application.

The FMCSA proposes to modify parts 368, 387 and Form OP–2 as part of our implementation of the NAFTA entry provisions. The proposed changes will help ensure that we receive adequate information to assess a carrier's safety program and its ability to comply with U.S. safety standards. The changes will also enable us to maintain an accurate census of registered carriers. We are also seeking comments on the proposal to reissue all existing Certificates of Registration and to require current holders of Certificates of Registration to submit additional safety information about their operations. We are proposing revisions to part 368 that relate to the Form OP–2 modifications. In addition, we are updating the regulations as needed to reflect the transfer of motor carrier regulatory functions from FHWA to FMCSA.

Finally, under the ICC Termination Act (Pub. L. 104–88) and the Motor Carrier Safety Improvement Act (Pub. L. 106–159, 113 Stat. 1767)(December 9, 1999) (MCSIA), the FMCSA is directed to develop a new registration system to replace, in part, the current process. We believe that handling all applications by Mexican-domiciled motor carriers of property that want to operate beyond the border area under the same procedures is part of developing this new system of registration that captures all the important information that the FMCSA needs for ensuring safety.

This NPRM is one of three proposals related to carriers operating between Mexico and the U.S. published in today's **Federal Register**. Another NPRM seeks comments on changes to Form OP–1(MX) and 49 CFR part 365. The FMCSA made a conscious decision to propose retaining two different application forms, the OP–2 and the OP–1(MX). The third NPRM seeks comments on a safety monitoring program for Mexican carriers operating in the U.S. These three proposals are part of a coordinated effort to assess and monitor the safety performance of Mexican carriers before and as they operate in the U.S.

Proposed Revisions to 49 CFR Part 368

The titles to part 368 and § 368.1 would be revised to more accurately reflect the types of operations covered under part 368. Section 368.1 would be modified to clarify that a vehicle found to be operating beyond the authority granted in the Certificate of Registration may be ordered out of service and would be subject to applicable penalties. This authority was added by section 219 of MCSIA.

Section 368.2 would include only definitions for the terms ''interstate transportation'' and ''Mexican-domiciled motor carrier.''

Existing §§ 368.3, 368.4 and 368.5 would be revised and consolidated under a new proposed § 368.3 to clearly describe the application procedures for a Certificate of Registration. Under the revised procedures, an applicant would be required to submit a completed Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, and Form MCS–150–Motor Carrier Identification Report (Application for U.S. DOT Number) as attachments to the OP–2 application form. Applicants should be aware that under a recent revision, Form MCS–150 must be submitted every 2 years, following the initial application for a Certificate of Registration (65 FR 70509, November 24, 2000). The Form OP–2 itself would be extensively revised to require significantly more safety information.

Proposed § 368.4 would include a new requirement for holders of Certificates of Registration to notify FMCSA in writing of any changes in, or corrections to, applicant information in the Form OP–2 as well as any changes in the Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, within 45 days of the change. Currently, there is no requirement for filing of updated information after the initial application has been received. The proposed requirement would assist FMCSA in keeping its information on Mexican carriers current. The proposed requirement would not be an annual re-filing. A carrier with no change in status would not need to take any action apart from the biennial submission of Form MCS–150. A carrier who fails to update required information may be subject to suspension or revocation of its Certificate of Registration.

Proposed § 368.5 would require certain current holders of Certificates of Registration to register using the new Form OP–2 and attached Forms BOC–3 and MCS–150. However, no fee would be required for this registration. Current holders of Certificates of Registration would have a 1-year period to meet this one-time requirement. Current Certificates of Registration would remain valid until the new Form OP–2 has been processed.

Proposed § 368.6 would specify that approval would require evidence in the application that the carrier is currently registered with the Mexican Federal Government and in databases that are available to the FMCSA. This section would also make necessary technical corrections to change references from FHWA to FMCSA and delete outdated references to an ''employee review board.''

Proposed § 368.7 would require a holder of a Certificate of Registration to carry a copy of it in the vehicle. This is an existing requirement that was previously found in § 368.3.

Proposed § 368.8 would adopt provisions for appealing a decision denying an application and would make necessary terminology changes from FHWA to FMCSA.

Proposed Revisions to 49 CFR Part 387

Part 387 prescribes the minimum levels of financial responsibility that motor carriers must maintain. We are proposing to revise § 387.7 to make it clear that the longstanding exception that allows Mexican carriers operating in the border area to hold only trip insurance would be limited to those carriers and would not extend to other Mexican-owned or domiciled motor carriers operating under grants of authority issued under part 365.

Proposed Revisions to Form OP–2

The FMCSA proposes extensive revisions to the Form OP–2. The FMCSA proposes to add a new section to solicit additional information from the applicant to assist in identifying the nature of the applicant's existing operations in the U.S., if any, to help identify any previously submitted Form MCS–150, to verify the applicant's domicile in Mexico, and to confirm that the applicant holds a valid registration from the Mexican Federal Government. The question regarding domicile would be moved to the proposed new section ''Additional Applicant Information.'' However, the proposed question regarding whether the applicant holds a valid registration from the Mexican

Federal Government is new. It is proposed to ensure that only a carrier who has met Mexican Federal Government standards and regulations will hold a U.S. Certificate of Registration.

Under section 219 of MCSIA, a foreign carrier engaging in transportation in the United States without proper authorization may be disqualified from operating commercial vehicles in the United States. Accordingly, applicants would be asked to disclose whether any affiliated entities have been disqualified.

The proposed form would require an applicant to identify the type(s) of operations requested. The FMCSA would make clear that use of the Form OP–2 and issuance of Certificates of Registration would be limited to carriers that would operate solely in U.S. municipalities along the United States-Mexico border and commercial zones of such municipalities.

Additional information would be requested about insurance held by the applicant.

FMCSA proposes to add a new section that would require the applicant to certify that it has a system in place to ensure compliance with applicable requirements covering driver qualifications, hours of service, drug and alcohol testing, vehicle condition, accident monitoring, and hazardous materials transportation. In addition, FMCSA proposes that the applicant provide narrative responses describing how it will monitor hours of service, how it will maintain an accident register and what is its monitoring program. This part would also require that the applicant provide information including the names of individuals in charge of the applicant's safety program; locations where Federal Motor Carrier Safety Regulations (FMCSRs) are maintained, names of the individuals in charge of drug and alcohol testing (if applicable), and the drug testing laboratory used (if applicable). The FMCSA would evaluate only those safety certifications that apply to the applicant. For example, due to the weight of the vehicles they operate, certain applicants would not be subject to the drug and alcohol testing and CDL requirements in 49 CFR parts 382 and 383, respectively, and would not be required to certify compliance with those regulations. The certification information would enable FMCSA to evaluate, upon initial application, the safety compliance program of the applicant.

The proposed form would require household goods applicants to affirm a willingness to offer arbitration as a means of settling loss and damage claims in accord with U.S. law.

The FMCSA proposes to add more extensive and specific certifications regarding compliance, including compliance with Department of Labor regulations. Other parts of this certification would require the applicant to affirm its willingness and ability to provide the proposed service and to comply with all pertinent statutory and regulatory requirements. It would remind the applicant of statutory and regulatory responsibilities, which if neglected or violated, might subject the applicant to disciplinary or corrective action by FMCSA. Another certification, derived from the existing Form OP–2 application, would highlight the need to comply with applicable provisions of the U.S. Internal Revenue Code relating to payment of the Heavy Vehicle Use Tax. An additional certification would ensure that the applicant understands that the agents for service of process designated on the Form BOC–3 would also be deemed the applicant's representative in the United States for service of judicial process and notices under 49 U.S.C. 13304 and administrative notices under 49 U.S.C. 13303. Finally, the applicant would affirm that it is not currently disqualified from operating a commercial motor vehicle in the United States under the provisions of MCSIA.

The FMCSA will conduct workshops and also provide written material, such as handbooks, to help the Mexican applicants understand the various requirements and the proper way to complete the applications.

Request for Comments

The FMCSA solicits comments from the public on all aspects of this proposal, specifically the proposals to:

(1) Require new applicants for, and current holders of, Certificates of Registration to submit the revised Form OP–2;

(2) Require new applicants and current holders of Certificates of Registration to attach to the revised Form OP–2 a newly completed Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders;

(3) Require new applicants and current holders of Certificates of Registration to attach to the revised Form OP–2 a newly completed Form MCS–150-Motor Carrier Identification Report (Application for U.S. DOT Number); and

(4) Establish for all holders of Certificates of Registration a requirement for prompt updates concerning carrier operations, current addresses, and Form BOC–3 agents for service of process information.

The FMCSA further solicits comments on the desirability of combining Form OP–2 and Form OP–1(MX).

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and Department of Transportation Regulatory Policies and Procedures

The FMCSA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866, and is significant within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). It has been reviewed by the Office of Management and Budget. It is anticipated that the economic impact of the proposals in this rulemaking would be minimal. The new or revised Form OP–2, while intended to foster and contribute to safety of operations, adherence to U.S. law and regulations, and compliance with U.S. insurance and tax payment requirements on the part of Mexican carriers, would impose little additional expense upon public agencies or the motoring public.

Nevertheless, the subject of safe operations by Mexican carriers in the United States will likely generate considerable public interest within the meaning of Executive Order 12866. The manner in which the FMCSA carries out its safety oversight responsibilities with respect to this international motor carrier transportation may be of substantial interest to the domestic motor carrier industry, the Congress, and the public at large. A copy of the Regulatory Evaluation prepared for the three companion NPRMs published in today's **Federal Register** is in the docket.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement and Fairness Act (Pub. L. 104–121), requires federal agencies to analyze the impact of rulemakings on small entities, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The FMCSA is issuing this NPRM because of the planned implementation of the NAFTA's motor carrier access provisions. A NAFTA dispute resolution tribunal recently ruled that the United States violated NAFTA by failing to allow any Mexican carriers greater access to the United States.

Mexican carriers would be subject to the same safety regulations as domestic carriers when operating in the U.S. The FMCSA's enforcement of the FMCSRs has become increasingly data dependent in the last several years. Several programs have been put in place to continually analyze crash rates, out-of-service (OOS) rates, compliance review records, and other data sources to allow the agency to focus on high-risk carriers. This strategy is only effective if the FMCSA has adequate data on carriers' size, operations, and history. We do not currently have this type of information on Mexican carriers. We do not have abundant information on their safety record, OOS rates, or other overall safety. Thus, a key component of this proposal is the requirement that holders of Certificates of Registration must complete a Form MCS–150 biennially, and notify the FMCSA of corrections to or changes in applicant information on the Form OP–2 as well as changes in the Form BOC–3 within 45 days of the change. This would enable the FMCSA to better monitor these carriers, and to quickly determine whether their safety or OOS rate changes.

The objective of this proposal is to help determine the capability of certain Mexican carriers to operate safely in the United States. The proposal describes what additional information Mexican carriers would have to submit.

This proposal would primarily affect Mexican-domiciled small motor carriers who wish to wish to operate solely within U.S. municipalities and commercial zones on the U.S.-Mexico border. The amount of information these carriers would have to supply to the FMCSA has been increased, and we estimate that it would take 4 hours to complete each form after compiling the necessary information.

The number of carriers subject to the proposals in this rule and the two companion rules published elsewhere in today's **Federal Register** is the sum of those currently operating within the United States and those who apply for authority in the future. First, we estimated the number of Mexican carriers already operating within the United States. Most of these carriers currently have operating authority and would merely be required to re-file using the revised forms. To continue operations solely within the border area as proposed in this rule, carriers would re-file the revised Form OP–2. To take advantage of NAFTA's liberalized access provisions, these carriers would re-file using the revised Form OP–1(MX) (see the rulemaking *Application by Certain Mexican Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border* published elsewhere in today's **Federal Register**.)

The FMCSA's Office of Data Analysis and Information Systems developed a file comprised of Mexican carriers that have recently operated in the United States. As of January 2001, this file contained 11,787 Mexican motor carriers (2.3% of the 500,000 carriers listed in the FMCSA Motor Carrier Management Information System (MCMIS) census file). It includes Mexican carriers with operating authority, carriers who have a DOT number but not authority, carriers with both a DOT number and operating authority, and other carriers that the Agency believes are operating in the United States with neither operating authority nor a DOT number. These latter carriers are those who have been subject to a roadside inspection in the United States at some point in the last 3 years.

It has been suggested that many of these Mexican carriers no longer operate in the United States. The FMCSA calendar year 2000 MCMIS inspection and accident database identifies approximately 4,500 Mexican motor carriers. The FMCSA also verified that approximately 10,000 Mexican carriers currently have operating authority. Therefore, we constructed three different baseline scenarios for the number of Mexican carriers currently operating in the United States, a low (4,500), medium (9,500) and high (11,787) scenario.

The second step in figuring out the total number of Mexican carriers subject to these proposals is to determine how many *new* carriers will request authority under the proposals. Approximately 1,600 Mexican carriers have filed a Form OP–2 annually over the last several years (and a similar number have been granted). Only 190 OP–1(MX) applications are pending, as Mexican carriers stopped filing these forms when it became clear that these forms were not being processed. For the high estimate, the FMCSA assumes that this number will double to 3,200 in the first year after this proposal becomes a final rule, and then fall to 2,500 applicants per year for the following 9 years. As in the case of domestic carriers, the annual applicant number may include carriers that go out of business and subsequently re-enter the market. For the lower and middle estimates, we estimate that there will be 500 new applicants the first year, and then 200 per year thereafter. This translates into approximately 15,000 applicants in the first year for the high estimate, 10,000 for the medium estimate, and 5,000 for the low estimate. As was noted above, the FMCSA estimates that more than 500,000 motor carriers are currently operating in the United States.

We estimate that it takes 4 hours to complete each form. As was noted above, the vast majority of Mexican motor carriers currently operating in the United States have OP–2 authority. We estimate that half of all these carriers will switch to OP–1(MX) authority, while the other half will continue operating within U.S. municipalities and commercial zones on the U.S.—Mexico border. We assume that the new carriers will be more likely than current carriers to apply for OP–2 authority, since most of the large carriers who would presumably benefit from expanded U.S. operations are already operating in U.S. municipalities and commercial zones on the U.S.—Mexico border under OP–2 authority. While some new applicants will also want to take advantage of the opportunity to operate throughout the United States, many will not have the financial and administrative wherewithal to benefit from the enlarged operations allowed. Accordingly, the FMCSA estimates that three quarters (75%) of all new applicants will apply for OP–2 authority, with one quarter (25%) requesting OP–1(MX) authority. Nonetheless, changing this value would have no impact on the analysis since the costs of completing the two forms are identical.

A review of the MCMIS census file reveals that the vast majority of Mexican carriers are small. For Mexican carriers with any trucks, the mean number of trucks was 5.1. That mean was pulled up by a small number of large carriers. Seventy-five (75) percent of Mexican carriers had three or fewer trucks, and the 95th percentile carrier had only 15 trucks.

These proposals should not have any impact on small U.S. based motor carriers.

The regulatory evaluation includes a description of the recordkeeping and reporting requirements of these proposals. Under the revised procedures, an applicant would be required to submit a completed Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, and Form MCS–150-Motor Carrier Identification Report (Application for U.S. DOT Number) as attachments to the OP–2 or OP–1(MX) application form. In addition, Mexican carriers would update the FMCSA of certain information changes.

The Form MCS–150 is approximately two pages long. In addition to requiring basic identifying information, it requires

that carriers state the type of operation they run, the number of vehicles and drivers they use, and the types of cargo they haul. The Form BOC–3 merely requires the name, address and other information for a domestic agent to be contacted if the FMCSA needs to contact the motor carrier. The proposals also include other modest changes in the OP–1(MX) and OP–2 forms.

The FMCSA did not propose any different requirements or timetables for small entities. As noted above, we do not believe these requirements would be onerous, with the carriers required to spend 4 hours to complete the relevant forms. Mexican carriers would only be required to complete forms that most domestic U.S. carriers already are required to submit.

The FMCSA would not consolidate or simplify the compliance and reporting requirements for small carriers. As noted above, small U.S. carriers already have to comply with the similar paperwork requirements of part 365. Given the compelling interest in guaranteeing the safety of Mexican carriers operating in the United States, and the fact that the majority of these carriers are small entities, no special changes were proposed.

The FMCSA cannot exempt small carriers from these proposals without seriously diminishing the agency's ability to ensure the safe operations of Mexican carriers. The majority of Mexican carriers operating in the U.S. would be small; exempting them would have the same impact as not issuing these proposals. Therefore, FMCSA certifies that this proposed rule would not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. Any agency promulgating a final rule likely to result in a Federal mandate requiring expenditures by a State, local, or tribal government or by the private sector of $100 million or more in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. The FMCSA has determined that the changes proposed in this rulemaking would not have an impact of $100 million or more in any one year.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under E. O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255, August 10, 1999). Consultation with States is not required when a rule is required by statute. The FMCSA, however, has determined that this action would not have significant Federalism implications or limit the policymaking discretion of the States. Comments on this conclusion are welcome and should be submitted to the docket.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217 Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Executive Order 13166 (Limited English Proficiency)

Executive Order 13166, Improving Access to Services for Persons With Limited English Proficiency, requires each Federal agency to examine the services it provides and develop reasonable measures to ensure that persons limited in their English proficiency can meaningfully access these services consistent with, and without unduly burdening, the fundamental mission of the agency. The FMCSA plans to provide a Spanish translation of the application instructions incorporated within the Form OP–2 application. We believe that this action complies with the principles enunciated in the Executive Order.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (49 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor or require through regulations. The FMCSA has determined that this proposal would impact a currently approved information collection, OMB No. 2126–0019.

This proposal will not have any impact on information collection OMB No. 2126–0015, entitled, ''Designation of Agents, Motor Carriers, Brokers and Freight Forwarders.'' This currently approved collection covers the Form BOC–3. The current estimates of annual filings include the minimal additional Mexican motor carriers who would be filing updated information on the Form BOC–3.

The OMB has approved the information collection requirements on Form OP–2 under the control number 2126–0019, titled ''Application for Certificate of Registration for Foreign Motor Carrier and Foreign Motor Private Carriers Under 49 U.S.C. 13902(c).'' This includes approval for ''Form OP–2—Application for Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers Under 49 U.S.C. 13902(c)'', approved for 2,000 burden hours (1,000 respondents per year @ 2 hours each to complete the form). The FMCSA proposes to change the form title to Form OP–2—Application for Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers Under 49 U.S.C. 13902.''

The Regulatory Evaluation for this proposal uses a numerical range to estimate the number of Mexican carriers anticipated to request OP–2 or OP–1(MX) authority under this proposal and a companion rule published elsewhere in today's **Federal Register** (see NPRM titled *Application by Certain Mexican Motor Carriers to Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border.*). We estimate the number of applicants to range between a low estimate of 5,000, a medium estimate of 10,000 or a high estimate of 15,000 applicants. Please reference the Regulatory Flexibility Act analysis in this document or the Regulatory Evaluation for this rulemaking for a detailed discussion on how these estimates were derived. This analysis is based upon the high estimate (15,000) since that number enables the FMCSA to assess the maximum

information collection burden to respondents.

The FMCSA estimatesd in the regulatory evaluation that 11,787 Mexican carriers are currently operating in the United States and are categorized as follows: Mexican carriers operating pursuant to OP–2 Certificates of Registration; Mexican carriers that previously filed an OP–1(MX) application; and Mexican carriers assigned DOT numbers and no OP authority or operating without appropriate authorization. The Agency estimates that half of the 11,787 Mexican carriers (or 5,894) known to be now operating in the U.S. will switch to OP–1(MX) authority, while the other half will continue operating pursuant to OP–2 authority.

Based upon the high estimate scenario, the FMCSA anticipates 3,200 first-time applicants for either OP–2 or OP–1(MX) authority in the first year that this proposal becomes a final rule, and 2,500 applicants annually in subsequent years. The agency estimates that 75 percent of the first year new applicants (2,400) would file a Form OP–2; and 75 percent of the subsequent-year new applicants (1,875 annually) would file a Form OP–2.

We assume that first-time applicants will be more likely than current carriers to apply for OP–2 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 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.

This proposal would also require Mexican carriers to submit corrections to or changes in the OP–2 applicant information within 45 days of the change. For changes and updates, the agency anticipates that in the first year, 2,765 carriers would file updates or changes to the Form OP–2. In subsequent years, approximately 625 carriers would file updates or changes to the Form OP–2. The FMCSA estimates that it would take 30 minutes to fill out a form to request changes.

Therefore, the FMCSA estimates an adjusted burden hour calculation for the Form OP–2 as follows:

Mexican carrier re-filings or initial filings of the Form OP–2:

(in first year, known carriers): 5,894 x 4 hrs per form = 23,576 hrs

(in first year, first-time applicants): 2,400 × 4 hrs per form = 9,600 hrs

(in subsequent-years, first-time applicants): 1,875 × 4 hrs per form = 7,500 hrs

Updates/Changes:

(all in first year): 2,765 × 30 min. per form = 1,383 hrs

(all in subsequent years): 625 × 30 min. per form = 313 hrs

Therefore, the total burden hours for this information collection in the first year is 34,559 [(23,576 + 9,600 = 33,176) + 1,383]; and 7,813 in subsequent years [7,500 + 313].

OMB Control Number: 2126–0019.

Title: Application for Certificate of Registration for Foreign Motor Carrier and Foreign Motor Private Carriers Under U.S.C. 13902.

Respondents: Foreign motor carriers.

Estimated Annual Hour Burden for this NPRM: Year 1 = 34,559 hours; Subsequent years = 7,813 hours.

National Environmental Policy

The agency has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined under DOT Order 5610.1C (September 18, 1979) that this action does not require any environmental assessment. An environmental impact statement is, therefore, not required.

List of Subjects

49 CFR Part 368

Administrative practice and procedure, Highways and roads, Insurance, Motor Carriers of property.

49 CFR Part 387

Freight forwarders, Highways and roads, Motor carriers, Surety bonds.

For the reasons set forth in the preamble, the FMCSA proposes to amend 49 CFR parts 368 and 387 as follows:

1. Revise part 368 to read as follows:

PART 368—APPLICATION FOR A CERTIFICATE OF REGISTRATION TO OPERATE IN MUNICIPALITIES IN THE UNITED STATES ON THE UNITED STATES-MEXICO INTERNATIONAL BORDER OR WITHIN THE COMMERCIAL ZONES OF SUCH MUNICIPALITIES

Sec.
368.1 Certificate of registration.
368.2 Definitions.
368.3 Applying for a certificate of registration.
368.4 Requirement to notify of change in applicant information.
368.5 Re-registration of certain carriers holding certificates of registration.
368.6 Review of the application.
368.7 Requirement to carry certificate of registration in the vehicle.
368.8 Appeals.
Appendix A to Part 368—Form OP–2—Application for Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers Under 49 U.S.C. 13902

Authority: 49 U.S.C. 13301 and 13902; Pub. L. 106–159, 113 Stat. 1748; and 49 CFR 1.73.

§ 368.1 Certificate of registration.

(a) A Mexican-domiciled motor carrier must apply to the FMCSA and receive a Certificate of Registration to provide interstate transportation in municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities as defined in 49 U.S.C. 13902(c)(4)(A).

(b) A Certificate of Registration permits only interstate transportation of property in municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities. A holder of a Certificate of Registration who operates a vehicle beyond this area is subject to applicable penalties and the vehicle may be placed out of service.

§ 368.2 Definitions.

Interstate transportation means transportation described at 49 U.S.C. 13501, and transportation in the United States otherwise exempt from the Secretary's jurisdiction under 49 U.S.C. 13506(b)(1).

Mexican-domiciled motor carrier means a motor carrier of property whose principal place of business is located in Mexico.

§ 368.3 Applying for a certificate of registration.

(a) If you wish to obtain a Certificate of Registration under this part, you must submit an application that consists of: Form OP–2—Application for Mexican Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers Under 49 U.S.C. 13902, Form MCS–150—Motor Carrier Identification Report, and Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders.

(b) The FMCSA will only process your application for a Certificate of Registration if it meets the following conditions:

(1) The application must be completed in English.

(2) The information supplied must be accurate and complete in accordance with the instructions to the Form OP–2, Form MCS–150 and Form BOC–3.

(3) The application must include all the required supporting documents and

applicable certifications set forth in the instructions to the Form OP–2, Form MCS–150 and Form BOC–3.

(4) The application must include the filing fee payable to the FMCSA in the amount set forth in 49 CFR § 360.3(f)(1); and

(5) The application must be signed by the applicant.

(c) If you fail to furnish the complete application as described under paragraph (b) of this section your application may be rejected.

(d) If you submit false information under this section, you will be subject to applicable Federal penalties.

(e) You must submit the application to the address provided in the instructions to the Form OP–2.

(f) You may obtain the application described in paragraph (a) of this section from any FMCSA Division Office or download it from the FMCSA web site at: http://www.fmcsa.dot.gov/factsfigs/formspubs.htm. Form OP–2 is also published in Appendix A to this part.

§ 368.4 Requirement to notify of change in applicant information.

(a) You must notify the FMCSA of any changes or corrections to the information in Parts I, IA or II submitted on the Form OP–2 or the Form BOC–3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders during the application process or while you have a Certificate of Registration. You must notify the FMCSA in writing within 45 days of the change or correction.

(b) If you fail to comply with paragraph (a) of this section, the FMCSA may suspend or revoke the Certificate of Registration until you meet those requirements.

§ 368.5 Re-registration of certain carriers holding certificates of registration.

(a) Each holder of a Certificate of Registration that permits operations only in municipalities in the United States along the United States-Mexico international border or in commercial zones of such municipalities issued prior to [*Insert date of publication of final rule in the* **Federal Register**.] who wishes to continue solely in those operations must submit an application according to procedures established under § 368.3 of this part, except the filing fee in paragraph (b)(4) of that section is waived. You must file your application by [*Insert date 1 year after date of publication of final rule in the* **Federal Register**.].

(b) The FMCSA may suspend the Certificate of Registration of any applicable holder that fails to comply with the procedures set forth in this section.

(c) Certificates of Registration issued prior to [*Insert date of publication of final rule in the* **Federal Register**.] would remain valid until the OP–2 application filed according to paragraph (a) of this section is processed.

§ 368.6 Review of the application.

(a) The Federal Motor Carrier Safety Administration will review the application for correctness, completeness, and adequacy of information. Minor errors will be corrected without notice to the applicant. Incomplete applications will be rejected.

(b) Compliance will be determined solely on the basis of the application, required attachments, and the safety fitness of the applicant as determined by the information supplied in the application, including evidence that the applicant, its vehicles and drivers are registered with the Federal Government of Mexico and included in Mexican electronic databases that are available for inspection by the FMCSA.

(c) If the applicant does not require or is not eligible for a Certificate of Registration, the FMCSA will deny the application and notify the applicant.

(d) If the FMCSA grants the application, it will issue a Certificate of Registration.

(1) The Certificate of Registration will permit operations only in U.S. municipalities and commercial zones adjacent to the United States-Mexico border.

(2) The Certificate of Registration will be conditioned upon completion, to the satisfaction of FMCSA, of a safety review under § 385.215 of this title within 18 months of the date of the Certificate.

(e) Notice of the authority sought will not be published in either the **Federal Register** or the FMCSA Register. Protests or comments will not be allowed. There will be no oral hearings.

§ 368.7 Requirement to carry certificate of registration in the vehicle.

A holder of a Certificate of Registration must maintain a copy of the Certificate of Registration in any vehicle providing transportation service within the scope of the Certificate.

§ 368.8 Appeals.

An applicant has the right to appeal denial of the application. The appeal must be in writing and specify in detail why the agency's decision to deny the application was wrong. The appeal must be filed with the Director, Data Analysis and Information Systems within 20 days of the date of the letter denying the application. The decision of the Director will be the final agency order.

BILLING CODE 4910–EX–P

Appendix A to Part 368—Form OP–2—Application for Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers Under 49 U.S.C. 13902

U.S. Department of Transportation

Federal Motor Carrier Safety Administration

Form Approved
OMB No. 2126-0019
Expires on 00/00/00

Instructions for completing Form OP-2 Application for Mexican Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers Under 49 U.S.C. 13902

Please read these instructions before completing the application form. Retain the instructions and a copy of the complete application for your records. These instructions will assist you in preparing an accurate and complete application. Applications that do not contain the required information will be rejected and **may** result in a loss of the application fee. **The application must be completed in English** and typed or printed in ink. If additional space is needed to provide a response to any item, use a separate sheet of paper. Identify applicant on each supplemental page and refer to the section and item number in the application for each response.

PURPOSE OF THIS APPLICATION FORM:

This Form OP-2 is required to be filed by foreign (Mexican) motor carriers and motor private carriers who wish to register to transport property only in municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities.

This form is also required to be utilized by Mexican for-hire and private motor carriers that hold a Certificate of Registration from the former Interstate Commerce Commission, the Federal Highway Administration, the Office of Motor Carrier Safety or the Federal Motor Carrier Safety Administration issued before **[Insert date of publication of final rule in Federal Register]** with a territorial scope of operations limited to municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities and are required to supplement the information in their original applications by completing and re-filing the revised Form OP-2.

This form should not be used for registration by Mexican for-hire and private motor carriers to perform transportation in the United States beyond the commercial zones of municipalities on the international border, by United States based enterprises, owned or controlled by Mexican nationals, providing truck services for the transportation of international cargo within the United States as permitted under provisions of the North American Free Trade Agreement (NAFTA), nor by carriers previously issued a Certificate of Registration that authorized operations beyond border municipalities and their respective commercial zones. To register under NAFTA, or to reregister operations beyond commercial zones, you should instead complete and file Form OP-1(MX). To apply for authority to establish U.S.-based enterprises, owned or controlled by Mexican nationals, providing: (1) truck services for the transportation of international cargo within the United States, or (2) point-to-point bus services in the United States, in accordance with NAFTA provisions, complete and file Form OP-1 or OP-1(P), respectively.

WHAT TO FILE:

All applicants must submit the following:

1. An original and one copy of a completed revised Form OP-2, Application for Certificate of Registration for Foreign Motor Carriers and Foreign Motor Private Carriers, with all necessary attachments and statements.

2. A signed and dated Form BOC-3, Designation of Agents for Service of Process, which reflects the applicant's full and correct name, as shown on the Form OP-2, and applicant's address, including the street address, the city, state, country and zip code, must be attached to the application. The BOC-3 form must show street address(es), and not post office box numbers, for the person(s) designated as the agent(s) for service of judicial process and notices under 49 U.S.C. 13304 and administrative notices under 49 U.S.C. 13303. A person must be designated in each state in which the applicant may operate.

3. A completed and signed Form MCS-150 Motor Carrier Identification Report.

4. Internal Revenue Service Form 2290, Schedule I, which shows payment of Federal taxes for highway use by heavy vehicles, applicable under 26 U.S.C. § 4481, or a letter, signed by an authorized company official stating why applicant is not subject to this tax requirement. The form should be a copy of the most recent form filed with the IRS.

5. A filing fee of $300 for **each** type of registration requested, payable in U.S. dollars to the Federal Motor Carrier Safety Administration, by means of a check, money order or an approved credit card. Cash is not accepted.

GENERAL INSTRUCTIONS FOR COMPLETING THE APPLICATION FORM:

- All questions on the application form must be answered completely and accurately. If a question or supplemental attachment does not apply to the applicant, it should be answered "not applicable."

- The application must be typewritten or printed in ink. Applications written in pencil will be rejected.

- The application must be completed in English.

- The completed certification statements and oath must be signed by the applicant only, and not by the applicant's attorney or other applicant representative. The same person must sign the oath and certifications.

- Use the attachment pages included, as appropriate, to provide any descriptions, explanations, statements or other information that is required to be furnished with the application. If additional space is needed to respond to any question, please use separate sheets of paper. Identify continuation sheets by using headings that show both the number of the page of the revised OP-2 form or Attachment page on which the question or response appears and the item number of the question.

ADDITIONAL ASSISTANCE

OP-2

Additional information on obtaining registration or monitoring the status of your application is available through the Automated Response Capability (ARC) telephone system. After dialing (202) 358-7000, press 1, then request the appropriate menu number indicated below. You may use the ARC 24 hours a day, 7 days a week to obtain information in the following areas:

INFORMATION REQUESTED	MENU NUMBER
Status of your application (NOTE: Use the assigned docket number to expedite your request. The FMCSA will notify you of the docket number by letter.	1
Status of insurance and process agent filings	2
Assistance in filing your application	3
If you require information that is not available in the automated response system, the ARC will guide you to an appropriate FMCSA staff member who will be able to assist you in other areas.	

U.S. DOT REGISTRATION AND SAFETY RATINGS

To obtain information on registering with U.S. DOT (filing Form MCS-150) call: (800) 832-5660 (Automated Response System)

For information concerning a carrier's assigned safety rating, call: (800) 832-5660

U.S. DOT HAZARDOUS MATERIALS REGULATIONS

To obtain information on whether the commodities you intend to transport are considered as hazardous materials:

Refer to the provisions governing the transportation of hazardous materials found under Parts 100 through 180 of Title 49 of the Code of Federal Regulations (CFR), particularly the Hazardous Materials Table at 49 CFR § 172.101 or contact the U.S. DOT, Research and Special Programs Administration at 1-800-467-4922.

To obtain information about DOT hazardous materials transportation registration requirements, contact the U.S. DOT, Research and Special Programs Administration at 1-800-467-4922.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

SECTION I - APPLICANT INFORMATION

APPLICANT'S LEGAL BUSINESS NAME and DOING BUSINESS AS NAME. The applicant's name should be your full legal business name -- the name on the incorporation certificate, partnership agreement, tax records, etc. If you use a trade name that differs from your official business name, indicate this under "Doing Business As Name." Example: If you are John Jones, doing business as Quick Way Trucking, enter "John Jones" under APPLICANT'S LEGAL BUSINESS NAME and "Quick Way Trucking" under DOING BUSINESS AS NAME.

Because the FMCSA uses computers to retain information about licensed carriers, it is important to spell, space, and punctuate any name the same way each time you write it. Example: John Jones Trucking Co., Inc.; J. Jones Trucking Co., Inc.; and John Jones Trucking are considered three separate companies.

BUSINESS ADDRESS/MAILING ADDRESS. The business address is the physical location of the business in Mexico. Example: El Camino Real #756, Guadalajara, Jalisco, Mexico. If applicant receives mail at an address different from the business location, also provide the mailing address. Example: P. O. Box 3721. **NOTE:** To receive FMCSA notices and to ensure that insurance documents filed on applicant's behalf are accepted, notify in writing the Federal Motor Carrier Safety Administration, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024, if the business or mailing address changes. If applicant also maintains an office in the United States, that information should also be provided.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

REPRESENTATIVE. If someone other than the applicant is preparing this form, or otherwise assisting the applicant in completing the application, provide the representative's name, title, position, or relationship to the applicant, address, and telephone and FAX numbers. Applicant's representative will be the person contacted if there are questions concerning this application.

6. **U.S. DOT NUMBER.** Applicants are required to obtain a US DOT number from the U.S. Department of Transportation (U.S. DOT) before initiating service. Motor carriers that already have been issued a U.S. DOT number should provide it; applicants that have not previously obtained a U.S. DOT number should refer to the U.S. DOT information sources under the "Additional Assistance" part of these Instructions. **NOTE:** a completed and signed Form MCS-150 Motor Carrier Identification Report must be submitted separately with this application.

FORM OF BUSINESS. A business is a corporation, a sole proprietorship, or a partnership. If the business is a sole proprietorship, provide the name of the individual who is the owner. In this situation, the Owner is the registration applicant. If the business is a partnership, provide the full name of each partner.

SECTION IA – ADDITIONAL APPLICANT INFORMATION

All applicants must answer each question in this section. Applicants must have been issued a Registration by the Mexican Government's Secretaria de Communicaciones y Transportes (SCT) before a Certificate of Registration will be issued. Applicant's registration must be contained in an SCT database. If the applicant is in the process of obtaining its SCT registration, indicate the date the application was filed. Applicant must supplement the information once the number has been issued prior to being issued its CR. If an applicant currently holds a CR and is supplementing the information contained in its original application, this information is also required. An existing CR will be suspended if the SCT registration number and information is not supplied.

SECTION II - OWNERSHIP, CONTROL AND AFFILIATIONS INFORMATION

All applicants must disclose pertinent information concerning the persons who own or control the applicant, and concerning any relationships or

affiliations which the applicant has had with other entities registered with FMCSA or its predecessor agencies. Applicant must indicate whether these entities have been disqualified from operating commercial motor vehicles in the United States pursuant to the Motor Carrier Safety Improvement Act of 1999 or any other law.

SECTION III – TYPE(S) OF REGISTRATION REQUESTED

Check the appropriate box(es) for the type(s) of registration you are requesting. For purposes of this application, for-hire motor carrier means an entity that is transporting the goods of others, and motor private carrier means an entity (person or company) that is transporting its own goods, including an entity that is performing such operations under an agreement or contract with a U.S. shipper or other business.

If you are reregistering you do not need to complete this section. Please refer to the following for a description of the commercial zones:

COMMERCIAL ZONES
UNITED STATES/MEXICO PORTS OF ENTRY

Commercial zones, unless otherwise defined, are determined through a formula dependant upon the population of the municipality (49 CFR 372, Subpart B). The commercial zones for all United States/Mexico ports of entry allow for transportation from the corporate limits of the municipality as follows:

	Location	Population	Commercial Zone
Limits			
Arizona			
	Douglas	13,270	4 miles
	Lukeville	65	3 miles
	Naco	1,000	3 miles
	Nogales	19,745	4 miles
	San Luis	6,405	4 miles
	Sasabe	37	3 miles
California			
	Andrade	20	3 miles
	Calexico	22,246	4 miles
	Otay Mesa	Unknown	20 miles
	San Diego	1,110,500	20 miles

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

	Location	Population	Commercial Zone
Limits			
	Tecate	212	20 miles**
New Mexico			
	Columbus	N/A	+++
	Santa Teresa	Unknown	+++
Texas			
	Brownsville	266,600+	*
	Del Rio	30,705	6 miles
	Eagle Pass	20,651	4 miles
	El Paso	592,400	15 miles
	Fabens	1,599	3 miles
	Hidalgo	384,800++	*
	Laredo	126,300	8 miles
	Presidio	3,072	4 miles
	Progresso	1,951	*
	Rio Grande City	9,891	*
	Roma	8,059	*

*Cameron, Hidalgo, Starr and Willacy Counties, Texas
Transportation within a zone comprised of Cameron, Hidalgo, Starr and Willacy Counties, Texas, by motor carriers of property, in interstate or foreign commerce, not under common control, management, or arrangement for shipments to or from points beyond such zone, is partially exempt from regulation under 49 U.S. Code §13506.

To the extent that commercial zones of municipalities within the above four counties extend beyond the boundaries of such commercial zones, they shall be considered to be part of the zone and partially exempt from regulation under 49 U.S. Code §13506.

**Considered a part of the San Diego commercial zone.
+Population based upon Brownsville-Harlingen metropolitan area.
++Population based upon McAllen-Edinburg-Mission metropolitan area.
+++The area comprised of Dona Ana and Luna counties.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

SECTION IV - INSURANCE INFORMATION

Check the appropriate line that describes the type of business you will be conducting.

If you are applying for motor property carrier registration and you operate vehicles with a gross vehicle weight rating of 10,000 pounds or more and haul only non-hazardous materials, you are required to maintain $750,000 minimum liability coverage for the protection of the public. Hazardous materials referred to in the FMCSA's insurance regulations in item (c) of the table at 49 CFR 387.303 (b)(2) require $1 million minimum liability coverage; those in item (b) of the table at 49 CFR 387.303 (b)(2) require $5 million minimum liability coverage. If you operate only vehicles with a gross vehicle weight rating under 10,000 pounds, you must maintain $300,000 minimum liability coverage. If you operate only such vehicles but will be transporting any quantity of Division 1.1, 1.2 or 1.3 explosives; any quantity of poison gas (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group 1, Hazard Zone A materials); or highway route controlled quantity of radioactive materials, you must maintain $5 million minimum liability coverage

Applicant does not have to submit evidence of insurance with the application, but if the registration is granted, applicant must carry on the vehicle when crossing the border a current Department of Transportation Form MCS-90 and evidence of insurance, which shows either trip insurance coverage, or evidence of continuing insurance coverage.

The FMCSA does not furnish copies of insurance forms. You must contact your insurance company to obtain all required insurance forms.

SECTION V - SAFETY CERTIFICATIONS

Applicants for motor carrier registration must complete the safety certifications. You should check the "YES" response only if you can attest to the truth of the statements. The carrier official's signature at the end of this section applies to the Safety Certifications. The "Applicant's Oath" at the end of the application form applies to all certifications. False certifications are subject to the penalties described in that oath.

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

If you are exempt from the U.S. DOT safety fitness regulations because you operate only vehicles with a gross vehicle weight rating under 10,001 pounds, and you will not transport any hazardous materials, you must certify that you are familiar with and will observe general operational safety fitness guidelines and applicable State and local laws relating to the safe operation of commercial motor vehicles.

Applicants should complete all applicable attachment pages and, if necessary to complete the responses, attach additional pages referring to the appropriate Sections and items in the application or Attachment pages. If you are exempt from the U.S. DOT safety fitness regulations, you must complete all relevant attachment pages to demonstrate your willingness and ability to comply with general operational safety fitness guidelines and applicable State and local laws.

SECTION VI - HOUSEHOLD GOODS ARBITRATION CERTIFICATIONS

For-hire carriers of property operating entirely in commercial zone areas that intend to transport household goods as defined in 49 U.S.C. 13102 (10) must certify their agreement to offer arbitration as a means of settling loss and damage claims as a condition of registration. The signature should be that of the same company official who completes the Applicant's Oath.

SECTION VII - COMPLIANCE CERTIFICATIONS

All applicants are required to certify accurately to their willingness and ability to comply with statutory and regulatory requirements including those administered by the Department of Labor and certain state agencies, to their tax payment status, and to their understanding that their agent for service of process is their official representative in the U.S. to receive filings and notices under 49 U.S.C. 13303.

Applicants are required to certify to their willingness and ability to comply with regulations administered by the Department of Transportation, including the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations, as well as all applicable statutory and regulatory requirements administered by the U.S. Department of Labor, or a state agency operating a plan pursuant to section 18 of the Occupational Safety Health Act of 1970 ("OSHA state plan agency").

Applicants will also be required to certify their willingness to produce records for the purpose of determining compliance with the applicable safety regulations of the FMCSA and the requirements administered by the U.S. Department of Labor.

The DOT considers compliance with Department of Labor and OSHA state plan agency requirements to be extremely important. An applicant's certification of its willingness to comply with DOL and OSHA requirements reflects an overall intention to comply with U.S. laws. While registration will not be withheld based solely on the failure by an applicant to certify that it is willing and able to comply with such requirements, such certification is required to avoid notification to DOL of an applicant's unwillingness to comply with these requirements.

SECTION VIII - APPLICANT'S OATH

The applicant or an authorized representative may prepare applications. In either case, the applicant must sign the oath. In the case of companies, an authorized employee in the business structure (i.e., an officer, director, or other employee having access to the information necessary to make the oath or affirmation) may sign.

LEGAL PROCESS AGENTS

All motor carrier applicants must designate a process agent in each State where operations are conducted. For example, if you will operate only in commercial zones along the U.S./Mexico border in CA and AZ, you must designate an agent in each of those states; if you will operate in only one state, an agent must be designated for that state only. Process agents who will accept legal filings on applicant's behalf are designated on FMCSA Form BOC-3. Form BOC-3 must be filed with the application.

STATE NOTIFICATION

Before beginning operations, all applicants must contact the appropriate regulatory agencies in every state in which the carrier will operate to obtain information regarding various state rules applicable to interstate registrations. It is the applicant's responsibility to comply with registration, fuel tax, and other state regulations and procedures. Begin this process by selecting the state of California, New Mexico or Texas as your base state for payment of your Single State Registration fees. See 49 CFR Part 367. You should select the state in

SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE APPLICATION FORM

which you will operate the largest number of motor vehicles in the next year and contact that state's transportation agency (the California Public Utilities Commission, in San Francisco; the New Mexico State Corporation Commission, in Santa Fe; or the Texas Department of Transportation, in Austin), to obtain registration forms and instructions. Arizona does not participate in the Single State Registration System. If the majority of your transportation is in AZ, but you also operate in another state, you will need to contact a state other than AZ for this registration. Failure to accomplish this state registration could subject you to substantial state penalties as well as the potential loss of your registration. Please refer to the additional information provided in your application packet for further information.

MAILING INSTRUCTIONS:

To file for registration you must submit an ***original and one copy*** of this application with the appropriate filing fee to FMCSA. **Note:** Retain a copy of the completed application form and any attachments for your own records.

Mailing addresses for applications:

ALL DOCUMENTS WITH FEES ATTACHED (REGULAR MAIL ONLY):
Federal Motor Carrier Safety Administration
P. O. Box 100147
Atlanta, GA 30384-0147

FOR EXPRESS MAIL ONLY:
NationsBank Wholesale Lockbox 100147
6000 Feldwood Road
3rd Floor East
College Park, GA 30349

FOR CREDIT CARD USERS ONLY:
Federal Motor Carrier Safety Administration
Suite 600, 400 Virginia Avenue, SW.
Washington, DC 20024

FOR CURRENT CERTIFICATE OF REGISTRATION HOLDERS SUBMITTING UPDATED INFORMATION ONLY:
Federal Motor Carrier Safety Administration
Suite 600, 400 Virginia Avenue, SW.
Washington, DC 20024

FMCSA FILING FEES

Fee Schedule effective January 1996 Fee for Registration . . . $300.00

FEE POLICY

- Filing fees must be payable to the **Federal Motor Carrier Safety Administration**, by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or by approved credit card.

- Separate fees are required for each **type of registration** requested. If applicant requests registration as a for-hire motor carrier and as a private motor carrier, multiple fees are required. The applicant may submit a single payment for the sum of the applicable fees.

- Filing fees must be **sent along with the original and one copy of the application** to the appropriate address under the preceding paragraph titled **MAILING INSTRUCTIONS**.

- After an application is received, the filing fee is non-refundable.

- The FMCSA reserves the right to discontinue processing any application for which a check is returned due to insufficient funds. The application will not be processed until the fee is paid in full.

- **NO FILING FEE IS REQUIRED FOR CURRENT CERTIFICATE OF REGISTRATION HOLDERS WHO OPERATE ONLY IN MUNICIPALITIES IN THE U.S. ON THE U.S.-MEXICO INTERNATIONAL BORDER OR WITHIN THE COMMERCIAL ZONES OF SUCH MUNICIPALITIES AND ARE ONLY UPDATING THEIR APPLICATION INFORMATION**. However, if applicant is expanding the territorial scope of its current operations beyond this area, it must submit a new application using Form OP-1(MX), and a $300 filing fee. The application will be processed as a new application.

FILING FEE INFORMATION

All applicants must submit a filing fee of $300.00 for each type of registration requested. The total amount due is equal to the fee(s) times the number of boxes checked in ***Section III*** of the Form OP-2. Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in ***Section III*** _____ x filing fee $ _____ = $ _____

INDICATE AMOUNT $_____ AND METHOD OF PAYMENT:

☐ CHECK OR ☐ MONEY ORDER, PAYABLE TO: **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

☐ VISA ☐ MASTERCARD

Credit Card Number _____

Expiration Date: _____

Signature _____ Date: _____

U.S. Department of Transportation

Federal Motor Carrier Safety Administration

Form Approved
OMB No. 2126-0019
Expires 00/00/00

FORM – OP-2
Application for Mexican Certificate of Registration for Foreign Motor Carriers and Foreign Private Carriers Under 49 U.S.C. 13902

This application is for (1) all Mexican for-hire motor carriers and private motor carriers who wish to register to transport property only in municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities; and for Mexican for-hire and private motor carriers that hold a Certificate of Registration from the former Interstate Commerce Commission, the Federal Highway Administration, the Office of Motor Carrier Safety or the Federal Motor Carrier Safety Administration issued **[Insert date of publication of final rule in Federal Register]** authorizing operations in the border commercial zones and that are required to file the revised Form OP-2.

For FMCSA Use Only

Docket No. MX _____

DOT No. _____

Filed _____

Fee No. _____

PAPERWORK BURDEN

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. It is estimated that an average of 4 burden hours per response is required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024

SECTION I - APPLICANT INFORMATION

LEGAL BUSINESS NAME: _____

DOING BUSINESS AS NAME: _____

BUSINESS ADDRESS: (Actual Street Address):

_____
(Street Name and Number)

_____
(City) (State) (Country) (Zip Code)

(_____)_____ (_____)_____
(Telephone Number) (Fax Number)

SECTION I – APPLICANT INFORMATION (continued)

MAILING ADDRESS: (If different from above)

_____
(Street Name and Number)

_____
(City) (State) (Country) (Zip Code)

U.S. ADDRESS: (Does the applicant currently have an office in the United States? If so, give address and telephone number.)

_____
(Street Name and Number)

_____
(City) (State) (Country) (Zip Code)

(_____)_____ (_____)_____
(Telephone Number) (Fax Number)

APPLICANT'S REPRESENTATIVE: (Person who can respond to inquiries)

_____
(Name and title, position, or relationship to applicant)

_____
(Street Name and Number)

_____
(City) (State) (Country) (Zip Code)

(_____)_____ (_____)_____
(Telephone Number) (Fax Number)

US DOT NUMBER (If available; if not, see Instructions) _____

FORM OF BUSINESS (Check one)

☐ CORPORATION (Give Mexican or U.S. State of Incorporation) _____

_____

☐ SOLE PROPRIETORSHIP (Give full name of individual)

_____
(First Name) (Middle Name) (Surname)

☐ PARTNERSHIP (Identify each of the partners) _____

_____

SECTION IA – ADDITIONAL APPLICANT INFORMATION

1. Do you or your company currently operate in the United States?
☐ Yes ☐ No

1a. If yes, indicate the locations where you operate and the ports of entry utilized.

_____

_____

_____

2. Has the applicant previously completed and submitted a Form MCS-150?
☐ Yes ☐ No

2a. If so, give the name under which it was submitted.

_____

_____

3. Do you or your company presently hold, or have you ever applied for regular (MC) or Mexican (MX) authority from the former U.S. Interstate Commerce Commission, the U.S. Federal Highway Administration, the Office of Motor Carrier Safety or the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation under the name shown on this application, or under any other name?
☐ Yes ☐ No

3a. If yes, please identify the lead docket number(s) assigned to the application or grant of authority.

_____

_____

3b. If the application was rejected prior to the time a lead docket number(s) was assigned, please provide the name of the applicant shown on the application.

_____

_____

4. Is the applicant domiciled in Mexico? (Check one)
☐ Yes ☐ No

5. Indicate whether the applicant is owned or controlled by persons of Mexico (Check one)
☐ Yes ☐ No

6. Does the applicant hold a Federal Tax Number from the U.S. Government?
☐ Yes ☐ No

6a. If yes, enter the number here: _____

7. Has your company been issued a Registration by the Mexican Government's Secretaria de Communicaciones y Transportes (SCT)?
☐ Yes ☐ No

7a. If yes, give the name under which your company is registered, the Registration Number, and the place where the Registration was issued.

_____

_____

SECTION II – OWNERSHIP, CONTROL AND AFFILIATIONS INFORMATION

OWNERSHIP AND CONTROL

- If the applicant is a ***corporation***, list the names, country of residence, citizenship and domicile, if any, of the corporation, all principal officers and stockholders (holding more than 10 percent of stock) of applicant.
- If applicant is a ***partnership***, list the names, country of residence, citizenship and percentage of ownership of partnership for each partner.
- If applicant is an ***individual***, enter that individual's name, country of residence, and citizenship.

Name	Country of Residence	Citizenship	Domicile	Percentage of Ownership

AFFILIATIONS

Disclose any relationship the applicant has, or has had, with any U.S. or foreign motor carrier, broker, or freight forwarder registered with the former ICC, FHWA, Office of Motor Carrier Safety, or Federal Motor Carrier Safety Administration within the past 3 years. For example, this relationship could be through a percentage of stock ownership, a loan, a management position, a wholly- owned subsidiary, or other arrangement.

If this requirement applies to you or your company, provide the name of the affiliated company, the latter's MC or MX number, its U.S. DOT Number, if any, and the company's latest U.S. DOT safety rating. Applicant must indicate whether these entities have been disqualified from operating commercial motor vehicles in the United States pursuant to the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1748)(MCSIA) or any other law. (If you require more space, attach the information to this application form.

Name of affiliated company	MC or MX Number	U.S. DOT Number	U.S. DOT Safety Rating	Ever Disqualified under the MCSIA or any other law?

SECTION III – TYPE(S) OF REGISTRATION REQUESTED

You must submit a filing fee for each type of registration requested (for each checked box). **If you will operate beyond commercial zone you are not eligible for a Certificate of Registration. Please use form OP-1(MX) to apply for such authority.**

Applicant seeks to provide the following transportation service:

FOR-HIRE MOTOR CARRIER

- ❑ Service as a **for-hire motor carrier of property (except household goods),** between Mexico and points entirely in a municipality that is adjacent to Mexico, in contiguous municipalities in the U.S., any one of which is adjacent to Mexico, or in a zone that is adjacent to, and commercially a part of the municipality(ies).
- ❑ Service as a **for-hire motor carrier of household goods** between Mexico and points entirely in a municipality that is adjacent to Mexico, in contiguous municipalities in the U.S., any one of which is adjacent to Mexico, or in a zone that is adjacent to, and commercially a part of the municipality(ies).

PRIVATE MOTOR CARRIER

- ❑ Service as a **private motor carrier of property** (handling your own goods) between Mexico and points entirely in a municipality that is adjacent to Mexico, in contiguous municipalities in the U.S., any one of which is adjacent to Mexico, or in a zone that is adjacent to, and commercially a part of the municipality(ies).

SECTION IV – INSURANCE INFORMATION

- ❑ Applicant will operate vehicles having a gross vehicle weight rating (GVWR) of 10,000 pounds or more to transport:
  - ❑ Non-hazardous commodities ($750,000)
  - ❑ Hazardous materials referenced in the FMCSA insurance regulations at 49 CFR § 387.303(b)(2)(c) ($1,000,000).
  - ❑ Hazardous materials referenced in the FMCSA insurance regulations at 49 CFR § 387.303(b)(2)(b) ($5,000,000).
- ❑ Applicant will operate only vehicles having a GVWR of less than 10,000 pounds to transport:
  - ❑ Any quantity of Division 1.1, 1.2 or 1.3 explosives; any quantity of poison gas (Division 2.3, Hazard Zone A or Division 6.1, Packing Group 1, Hazard Zone A materials); or highway route controlled quantity of radioactive materials ($5,000,000).
  - ❑ Commodities other than those listed above ($300,000).

SECTION IV – INSURANCE INFORMATION (continued)

Does the applicant presently hold public liability insurance?
☐ Yes ☐ No

If applicant does hold such insurance, please provide the information below:

Insurance Company _____
Address: _____
_____
Maximum Insurance Amount _____
Policy Number _____
Date Issued _____
Insurance Effective Date _____ Expiration Date_____

Does applicant presently operate or has it operated under trip insurance issued for movements in U.S. border commercial zones?
☐ Yes ☐ No

SECTION V – SAFETY CERTIFICATIONS

Applicant certifies that it is exempt from the U.S. DOT Federal Motor Carrier Safety Regulations (FMCSRs) because it will operate only small vehicles (GVWR under 10,001 pounds) and will not transport hazardous materials.

_____Yes _____No

If you answered **yes**, proceed to the end of this section, sign the certification and complete the appropriate attachments to Section V. Refer to the instructions for additional information.

If you answered No, you must complete the remaining questions in Section V, and sign the certification before you complete the appropriate attachments to Section V.

Applicant maintains copies of all U.S. DOT Federal Motor Carrier Safety Regulations (FMCSRs) and the Hazardous Materials Regulations (HMR)(if a property carrier transporting hazardous materials), understands and will comply with such Regulations, and has ensured that all company personnel are aware of the requirements.

_____Yes

Applicant certifies that the following tasks and measures will be fully accomplished and procedures fully implemented before it commences operations in the United States:

1. Driver qualifications:

The carrier has in place a system and procedures for ensuring the continued qualification of drivers to operate safely, including a safety record for each driver, procedures for verification of proper licensing of each driver, procedures for identifying drivers who are not complying with the U.S. and Mexican safety regulations, and a description of a retraining and educational program for poorly performing drivers.

_____Yes

The carrier has procedures in place to review drivers' employment and driving histories for at least the last 5 years, to determine whether the individual is qualified and competent to drive safely.

_____Yes

The carrier has established a system and requirements that each driver report to the carrier in writing under the driver's signature, all criminal convictions within 30 days of occurrence, including the following information: the driver's full name, driver's license number, and the date of conviction; details of the offense, including suspension, revocation, or cancellation of driving privileges, and the location of the offense.

_____Yes

The carrier has established a program to review the records of each driver at least once every 12 months and will maintain a record of the review.

_____Yes

2. Hours of service:

The carrier has in place a record keeping system and procedures to monitor the hours of service performed by drivers, including procedures for continuing review of drivers' log books, and for ensuring that all operations requirements are complied with.

_____Yes

The carrier has ensured that all drivers to be used in the United States are knowledgeable of the U.S. hours of service requirements, and has clearly and specifically instructed the drivers concerning the application to them of the 10 hour, 15 hour, and 60 and 70 hour rules, as well as the requirement for preparing daily log entries in their own handwriting for each 24 hour period.

_____Yes

The carrier has attached to this application statements describing the carrier's monitoring procedures to ensure that drivers complete logbooks correctly, and describing the carrier's record keeping and driver review procedures.

_____Yes

3. Drug and alcohol testing:

The carrier is familiar with the alcohol and controlled substance testing requirements of 49 CFR 382 and 49 CFR 40 and has in place a program for systematic testing of drivers.

_____Yes

The carrier has attached to this application the name, address, and telephone number of the person responsible for implementing and overseeing alcohol and drug programs, and also of the drug testing laboratory and alcohol testing services that are used by the company.

_____Yes

4. Vehicle condition:

The carrier has established a system and procedures for inspection, repair and maintenance of its vehicles in a safe condition, and for preparation and maintenance of records of inspection, repair and maintenance in accordance with the U.S. DOT's FMCSRS and the Hazardous Materials Regulations (HMR).

_____Yes

The carrier's vehicles were manufactured in compliance with the applicable U.S. DOT Federal Motor Vehicle Safety Standards.

_____Yes

The carrier has inspected all vehicles that will be used in the United States prior to the beginning of such operations and has proof of the inspection on-board the vehicle as required by 49 CFR 396.17.

_____Yes

5. Accident monitoring program:

The carrier has in place a program for monitoring vehicle accidents and maintains an accident register in accordance with 49 CFR 390.15

_____Yes

The carrier has attached to this application a copy of its accident register for the previous year (or 12 months), or a description of how the company will maintain this register once it begins operations in the United States.

_____Yes

The carrier has established an accident countermeasures program and a driver training program to reduce preventable accidents.

_____Yes

The carrier has attached to the application a description and explanation of the accident monitoring program it has implemented for its operations in the United States.

_____Yes

6. Production of records:

The carrier can and will produce records demonstrating compliance with the safety requirements within 48 hours of receipt of a request from a representative of the USDOT/FMCSA or other authorized official.

_____Yes

The carrier is including as an attachment to this application the name, address and telephone number of the employee who should be contacted for requesting records.

_____Yes

7. Hazardous Materials (to be completed by carriers of hazardous materials only).

The HM carrier has full knowledge of the U.S. DOT HMR, and has established programs for the thorough training of its personnel in such regulations.

The carrier has established a system and procedures for inspection, repair and maintenance of its vehicles for HM transportation in a safe condition, and for preparation and maintenance of records of inspection, repair and maintenance in accordance with the HMR.

_____Yes

The HM carrier has attached to this application a statement providing information concerning (1) the names of employees (other than drivers) responsible for assuring compliance with HM regulations referenced in Section V of this application), and (2) a description of their positions, training and experience with respect to safety regulations

_____Yes

The HM carrier has established a system and procedures for maintaining HM shipping documents.

_____Yes

7A. For Cargo tank carriers (of HM):

The carrier submits with this application a certificate of compliance for each cargo tank the company utilizes in the U.S., together with the name, qualifications, CT number, and CT number registration statement of the

facility the carrier will be utilizing to conduct the test and inspections of such tanks required by Part 180.

_____Yes

The carrier will register under Part 107, Subpart G, if transporting a minimum of 55 lbs. of explosives, any quantity of highway route controlled quantity of radioactive materials, more than 1 liter of PIH Zone A, other HM in a tank over 3,500 gallons, or more than 5,000 lbs. loaded in one place.

_____Yes

8. Compliance with all of the following once operations in the United States have begun.

The carrier will insure that drivers operate within the hours of service rules and are not fatigued while on duty.

The carrier will insure that all drivers operating in the United States are at least 21 years of age and possess a valid Commercial Drivers License (CDL) or Licensia Federal de Conductor (LFC).

The carrier will insure that all vehicles operated in the United States are inspected on an annual basis.

The carrier will insure that all violations and defects noted on inspection reports are corrected before vehicle and drivers are permitted to enter the United States.

_____Yes

_____

Signature of applicant

By signing these certifications, the carrier official is on notice that the representations made herein are subject to verification through inspections in the United States and through the request for and examination of records and documents. Failure to support the representations contained in this application could form the basis of a proceeding leading to the revocation of the authority granted.

Safety and Compliance Information and Attachments for Section V

1. Individual responsible for safe operations and compliance with applicable regulatory and safety requirements.

NAME	ADDRESS	POSITION

2. Location where copies of the Federal Motor Carrier Safety Regulations and other regulations are maintained.

ATTACHMENT FOR SECTION V, NO. 1, DRIVER QUALIFICATIONS
Intentionally Left Blank

ATTACHMENT FOR SECTION V, NO. 2, HOURS OF SERVICE

MONITORING STATEMENTS

Statements describing monitoring procedures for ensuring correctness of logbook completion by drivers and describing record keeping and driver review procedures.

_____

_____

_____

_____

_____

_____

_____

_____

_____

ATTACHMENT FOR SECTION V, NO. 3, DRUG AND ALCOHOL TESTING

Person responsible for implementing and overseeing alcohol and drug programs

NAME	ADDRESS	POSITION

The drug testing laboratory and the alcohol testing services that are used by the carrier.

NAME	ADDRESS	TELEPHONE NO.

ATTACHMENT FOR SECTION V, NO. 4,
Intentionally Left Blank

ATTACHMENT FOR SECTION V, NO. 5, ACCIDENT MONITORING PROGRAM

1. Describe how company will maintain accident register once it begins operations in U.S.

ATTACHMENT FOR SECTION V, NO. 5, ACCIDENT MONITORING PROGRAM

2. Describe and explain accident monitoring program for operations in U.S.

ATTACHMENT FOR SECTION V, NO. 6, PRODUCTION OF RECORDS

Contact person(s) for requesting records

Name	Address	Telephone Number

ATTACHMENT FOR SECTION V, NO. 7, HAZARDOUS MATERIALS (TO BE COMPLETED BY CARRIERS OF HAZARDOUS MATERIALS ONLY)

Statement respecting person(s) (other than drivers) responsible for ensuring compliance with HM regulations for HM activities

ATTACHMENT FOR SECTION V, NO. 7A, FOR CARGO TANK CARRIERS OF HM)

Cargo Tank Information (HM)

SECTION VI - HOUSEHOLD GOODS ARBITRATION CERTIFICATIONS

If applicant will be transporting household goods between Mexico and border commercial zones, it must certify as follows:

Household goods carrier registration is now conditioned on the carrier's agreement to offer arbitration as a means of settling loss and damage claims.

Applicant certifies that it will offer arbitration in accordance with the requirements of U.S.C. § 14708.

_____
Signature

SECTION VII – COMPLIANCE CERTIFICATIONS

All applicants must certify as follows:

- Applicant is willing and able to provide the proposed operations or service and to comply with all pertinent statutory and regulatory requirements and regulations issued or administered by the U.S. Department of Transportation, including operational regulations, safety fitness requirements, motor vehicle safety standards, and minimum financial responsibility requirements.

  _____Yes

- Applicant is willing and able to comply with all applicable statutory and regulatory requirements administered by the U.S. Department of Labor, or by a state agency operating a plan pursuant to Section 18 of the Occupational Safety and Health Act of 1970 ("OSHA state plan agency,") including, but not limited to, requirements of the Occupational Safety and Health Act, the Surface Transportation Assistance Act, and the Fair Labor Standards Act.

  _____Yes

- Applicant has paid any taxes it owes under Section 4481 of the U.S. Internal Revenue Code (26 U.S.C. §4481) for the most recent taxable period as defined under Section 4482(c) of the Internal Revenue Code (26 U.S.C. §4482(c)).

  _____Yes

- Applicant understands that the agent(s) for service of process designated on FMCSA Form BOC-3 will be deemed applicant's official representative(s) in the United States for receipt of filings and notices in administrative proceedings under 49 U.S.C. 13303, and for receipt of judicial filings and notices issued in connection with the enforcement of any Federal statutes or regulations.

  _____Yes

- Applicant is willing and able to produce for review or inspection documents which are requested for the purpose of determining compliance with applicable statutes and regulations administered by the Department of Transportation, including the Federal Motor Carrier Safety Regulations, Motor Vehicle Safety Standards, and Hazardous Materials Regulations, within 48 hours of any written request. Applicant understands that the written request may be served on the person identified in the attachment for Section V, number 6, or the designated agent for service of process.

  _____ Yes

- Applicant is willing and able to produce for review or inspection documents (including employment, timekeeping, payroll, safety and health, and training records), which are requested for the purpose of determining compliance with applicable statutes and regulations administered by the U.S. Department of Labor and OSHA state plan agencies, within 48 hours of any written request. Applicant understands that the written request may be served on the person identified in the attachment for Section V, number 6, or the designated agent for service of process.

  _____ Yes

- Applicant is not presently disqualified from operating a commercial vehicle in the United States pursuant to the Motor Carrier Safety Improvement Act of 1999 or any other law.

  _____Yes

SECTION VII – APPLICANT'S OATH

APPLICANT'S OATH MUST BE COMPLETED AND SIGNED BY APPLICANT

I, _____,

(First Name) Middle Name) (Surname) (Title)

verify under penalty of perjury, under the laws of the United States of America, that I understand the foregoing certifications and that all responses are true and correct. I certify that I am qualified and authorized to file this application. I know that willful misstatement or omission of material facts constitute Federal criminal violations under 18 U.S.C. §§ 1001 and 1621 and that each offense is punishable by up to 5 years imprisonment and a fine under Title 18, United States Code.

I further certify that I have not been convicted in U.S. Federal or State courts, after September 1, 1989, of any offense involving the distribution or possession of controlled substances, or that if I have been so convicted, that I am not ineligible to receive U.S. Federal benefits, either by court order or operation of law, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862).

_____ _____

(Signature) (Date)

_____

(Relationship to applicant, e.g., President or Owner)

Form OP-2
Revised 00/01

36

BILLING CODE 4910–EX–C

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

2. The authority citation for part 387 is revised to read as follows:

Authority: 49 U.S.C. 13101,13301,13906, 14701, 31138, and 31139; and 49 CFR 1.73.

3. In § 387.7, revise the first sentence of paragraph (b)(3) introductory text to read as follows:

§ 387.7 Financial responsibility required.

* * * * *

(b) * * *

(3) *Exception.* A Mexican motor carrier operating solely in the commercial zones with a certificate of registration issued under part 368 may meet the minimum financial responsibility requirements of this subpart by obtaining insurance coverage, in the required amounts, for periods of 24 hours or longer, from insurers that meet the requirements of § 387.11 of this subpart. * * *

* * * * *

Issued on: April 27, 2001.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

[FR Doc. 01–11034 Filed 5–1–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 365

[Docket No. FMCSA–98–3298]

RIN 2126–AA34

Application by Certain Mexican Motor Carriers To Operate Beyond U.S. Municipalities and Commercial Zones on the U.S.-Mexico Border

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FMCSA proposes changes in its regulations to govern applications by Mexican carriers to operate beyond municipalities and commercial zones at the United States-Mexico border. The FMCSA also proposes to revise the application form, OP–1(MX), to be filed by these Mexican motor carriers. The proposed form would require additional information about the applicant's business and operating practices to allow the FMCSA to determine if the applicant could meet the safety standards established for operating in interstate commerce in the United States. Carriers that had previously submitted an application would have to submit the updated form. These proposed changes are needed to implement part of the North American Free Trade Agreement (NAFTA).

DATES: We must receive your comments by July 2, 2001.

ADDRESSES: You can mail, fax, hand deliver or electronically submit written comments to the Docket Management Facility, U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 FAX (202) 493–2251, on-line at *http://dmses.dot.gov/submit.* You must include in your comment the docket number that appears in the heading of this document. You can examine and copy all comments at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. You can also view all comments or download an electronic copy of this document from the DOT Docket Management System (DMS) at *http://dms.dot.gov/search.htm* and typing the last four digits of the docket number appearing at the heading of this document. The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help and guidelines at the ''Help'' section of the web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments on-line.

FOR FURTHER INFORMATION CONTACT: Ms. Valerie Height, (202) 366–1790, Regulatory Development Division, FMCSA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: We will include comments received after the comment closing date in the docket, and we will consider late comments to the extent practicable. The FMCSA may, however, issue a final rule at any time after the close of the comment period.

Background

Under the Bus Regulatory Reform Act of 1982, (Pub. L. No. 97–261, 96 Stat. 1103) Congress imposed a two-year moratorium on issuance by the former Interstate Commerce Commission (ICC) of new grants of operating authority to motor carriers domiciled in a foreign country, or owned or controlled by persons of a foreign country. The legislation authorized the President to remove or modify the moratorium upon a determination that such action was in the national interest. As a result of legislative and executive extensions of the moratorium, only a limited class of Mexican motor carriers have operated in the United States on Certificates of Registration issued under what is now 49 CFR part 368.

The terms of NAFTA, Annex I, provide that the moratorium on licensing Mexican motor carriers to operate within the United States would be lifted by the President in phases under the following schedule:

(1) When NAFTA took effect on January 1, 1994, applications by Mexican bus operators to conduct cross border charter and tour bus services in international transportation service between Mexico and all points in the United States were to be accepted and processed by the ICC, and suitable authority issued.

(2) In the second stage, beginning December 17, 1995, Mexican trucking companies engaged in the transportation of property were to be permitted to file applications for cross border operations between Mexico and four United States border states and establish companies within the United States to distribute international cargo within the United States

(3) In the third phase, beginning January 1, 1997, applications were to be accepted and processed for Mexican passenger carriers to conduct regular route passenger operations in international service from Mexico to all points in the United States.

(4) In the fourth phase, beginning January 1, 2000, Mexican property carriers were to be allowed to file applications for cross border operations from Mexico to all points in the United States (except for point-to-point carriage of domestic cargo within the United States, for which the moratorium has not been removed under NAFTA).

(5) Finally, in the last phase, beginning on January 1, 2001, Mexican nationals were to be allowed to establish companies in the United States to provide point-to-point bus services in the United States.

Pursuant to the first phase of NAFTA, on January 1, 1994, the ICC began accepting applications from Mexican passenger carriers to conduct international charter and tour bus operations into the United States. The ICC promulgated rules and a revised application form to effect the processing of Mexican applications (Ex Parte No. 55 (Sub-No. 96), *Freight Operations by Mexican Motor Carriers—Implementation of the North American Trade Agreement,* 10 I.C.C. 2d 854