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DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0192]

Agency Information Collection Activities; New Information Collection: Motor Carrier Records Change Form

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The purpose of this ICR entitled “Motor Carrier Records Change Form,” is to more efficiently collect information the Office of Registration and Safety Information (MC-RS) requires to process name and address changes and reinstatements of operating authority. Currently, this data is being collected when carriers request these changes from MC-RS, but without the use of a formal data collection form.

DATES: Please send your comments by **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER].**

OMB must receive your comments by this date in order to act on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA-2014-0192. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal

Motor Carrier Safety Administration, and sent via electronic mail to oir_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jeff Secrist, Chief, Chief, East-South Division, FMCSA Office of Registration & Safety Information, West Building 6th Floor, 1200 New Jersey Avenue, S.E., Washington, DC 20590. Telephone: (202) 385-2367; e-mail jeff.secris@dot.gov. Office hours are from 8:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Motor Carrier Records Change Form.

OMB Control Number: 2126-00XX.

Type of Request: New collection.

Respondents: For-hire motor carriers, brokers and freight forwarders.

Estimated Number of Respondents: 22,300.

Estimated Time per Response: 15 minutes per response.

Expiration Date: N/A.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 5,575 hours [22,300 annual responses x 0.25 hours = 5,575].

BACKGROUND:

The Federal Motor Carrier Safety Administration (FMCSA) registers for-hire motor carriers under 49 U.S.C. 13902, surface freight forwarders under 49 U.S.C. 13903, and

property brokers under 49 U.S.C. 13904. Each registration is effective from the date specified under 49 U.S.C. 13905(c). 49 CFR part 365.413: “Procedures for changing the name or business form of a motor carrier, freight forwarder, or property broker” states that carriers must submit a letter containing the required information to FMCSA’s Office of Registration and Safety Information (MC-RS), formerly sent to FMCSA’s IT Operations Division (MC-RIO), requesting the change; the new form would assist entities in reporting this information accurately and completely. 49 CFR 360.3(f) mentions fees that FMCSA collects for “petition for reinstatement of revoked operating authority,” but does not provide any specifics for the content that petition should take.

For-hire motor carriers, brokers and freight forwarders are required to notify MC-RS when they change the name or address of the company. Currently, the name change request can be filed online through the Licensing and Insurance (L&I) web site, or companies can fax or mail a letter requesting either name or address changes. Carriers can also request reinstatement of a revoked operating authority either via fax or online via the Licensing & Insurance (L&I) web site. But many choose not to file online. About 40% of name changes and 60% of reinstatements are filed online. Of the rest, most are filed by faxing a request letter to MC-RS. All the address changes are received by either fax or mail. The information collected is then entered in the L&I database by FMCSA staff. This enables FMCSA to maintain up-to-date records so that the agency can recognize the entity in question in case of enforcement actions or other procedures required to ensure that the carrier is fit, willing and able to provide for-hire transportation services, and so that entities whose authority has been revoked can resume operation if they are not otherwise blocked from doing so. But the current method of collecting the

data means that many requests include incomplete data, and cannot be processed without additional follow-up efforts by both FMCSA staff and the entities. This multi-purpose form, therefore, would simplify the process of gathering the information needed to process the entities' requests in a timely manner, with the least amount of effort for all parties involved. This multi-purpose form would be filed by registrants on a voluntary, as-needed basis. This multi-purpose form could be put on the FMCSA web site so entities could access and print/fax/e-mail the form to MC-RS. Users may report the following data points (whichever are relevant to their records change request):

What are the legal/doing business as names of the entity/representative?

What is the contact information of entity/representatives (phone number, address, fax number, e-mail address)?

What are the requested changes to name or address of entity?

What is the docket MC/MX/FX number of the entity?

What is the US DOT number of the entity?

Is there any change in ownership, management or control of the entity?

What kind of changes is the entity making to the company?

Which authority does the entity/representative wish to reinstate, motor carrier or broker?

Does the entity/representative authorize the fee for the name change or reinstatement?

Does the entity/representative authorize the reinstatement of operating authority or name/address change?

What is the credit card information (name, number, expiration date, address, date) for the card used to pay the fee?

COMMENT FROM THE PUBLIC:

The FMCSA received two comments to the 60-day comment request Federal Register notice published on June 27, 2014 (79 FR 36578) for this ICR. Comments were received from DOT Authority.com and the National Motor Freight Traffic Association, INC. The full comments and FMCSA's responsive considerations are as follow:

DOTAuthority.com commented "I would like to thank the Federal Motor Carrier Safety Administration ("FMCSA") for inviting the industry to comment on the "Motor Carrier Records Change Form" being discussed in accordance with the Paperwork Reduction Act of 1995.

DOTAuthority.com is a private consulting firm that is one of the premier private agencies for start-up motor carriers looking to acquire their own operating authority. Among the wide variety of filing services offered are DOT & MC Number applications, UCR Registration, and HAZMAT registration. Specific to this proposal, DOTAuthority.com helps motor carriers that are looking to update the name and/or address on their MC and DOT number record and we file petitions for reinstatement on inactive authorities and petitions for reconsideration of dismissed applications.

I am writing to offer this comment to the docket and advise you that DOTAuthority.com fully supports the proposal to streamline the way changes are collected by the Office of Registration and Safety Information.

We ask that in order to avoid confusion in regards to who is submitting the form, that in addition to entity/representative the form should also state 'agent'. This would be in accordance with the FMCSA's existing Frequently Asked Questions (FAQ) found at: <http://www.fmcsa.dot.gov/faq/i-do-not-have-credit-card-can-i-use-someone-elses-credit-card-apply-usdot-number> as well as 49 CFR 365 (<http://www.ecfr.gov/cgi-bin/text->

idx?SID=63a3e958e356cae74ce761f0e28a7b61&node=49:5.1.1.2.8&rgn=div5).

As you know, it has been the policy of the FMCSA for years to allow what essentially constitutes a petition for reconsideration of dismissed applications up to one year from the date of the dismissal to enable the motor carrier to avoid having to pay the \$300 application a second time. We believe the change form should address this issue.

We offer the following information in response to the specific questions posted in the Federal Register on June 27, 2014:

(1) Whether the proposed collection is necessary for the performance of FMCSA's functions.

DOTAuthority.com believes that this document would greatly simplify the process of getting the FMCSA correct and up-to-date information on motor carriers. Therefore, we believe that this proposed collection process is necessary for the performance of FMCSA's functions.

(2) The accuracy of the estimated burden.

We have no reason to believe that the estimated burden identified in the register is in any way inaccurate.

(3) Ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information.

It is our opinion that the quality, usefulness, and clarity of the collected information has been optimized in this proposal.

(4) Ways that the burden could be minimized without reducing the quality of the collected information.

Due to the already low burden cited, we do not see a way to minimize it without risking

the quality of the proposed document.

Thank you again for allowing us to comment on this proposal, which will make for a better and more efficient data collection system.”

The FMCSA in response to DOTAuthority.com states that it considers the term “Representative” to apply to a range of organizations such as process agents, service providers and other individuals or companies authorized to submit documents on behalf of a motor carrier, broker, or freight forwarder, or upon whom court papers may be served in any proceeding brought against such an entity.” We do not feel that it is necessary to add an option for the term “ Agent” to the existing “Applicant” and “Representative” when indicating who completed the form. The commenter’s suggestion that requests for the reactivation of dismissed applications for operating authority (“undismissals”) be added will be considered for future revisions to the form.

The National Motor Freight Traffic Association, Inc. commented as follow:
“The National Motor Freight Traffic Association, Inc. (“NMFTA” or “Association”) submits these comments in support of the creation of a standardized “Motor Carrier Records Change Form,” as proposed by the Federal Motor Carrier Safety Administration (“FMCSA” or “Agency”) in its June 27, 2014 notice at 79 FR 36578 (the “Notice”). The Records Change Form would be used to process name changes, address changes, and requests for reinstatement of operating authority. Currently, when regulated motor carriers, brokers, or freight forwarders (“entities”) request such record changes, they submit the request without the use of any formal data collection form. This sometimes results in submission of incomplete supporting data that cannot be fully processed without follow-up by the FMCSA staff and the involved entities. The

proposed form is intended to clarify the data requirements for such record changes, resulting in a process that is more efficient for all parties involved.

NMFTA is a trade association, with offices located at 1001 North Fairfax Street, Suite 600, Alexandria, Virginia 22314, whose members include approximately 450 less-than-truckload motor carriers operating throughout the United States and Canada. NMFTA has direct experience with FMCSA's record-correction process because it sometimes comes into play when NMFTA assigns entities Standard Carrier Alpha Codes ("SCAC"), unique two-to-four letter codes used to identify entities operating in all modes of the transportation industry for a variety of purposes. Because NMFTA must use the name of the entity as it is registered with DOT for regulated motor carriers, freight forwarders and brokers, the Association validates the accuracy of the information provided by the entity applying for a SCAC against Government records. In a number of cases, NMFTA staff finds discrepancies between the information provided by the applicant on the SCAC application and the information on file with the FMCSA in the Licensing and Insurance system and/or the Safety and Fitness Electronic Records database. The discrepancy often involves the company name, address, or operating status, the exact data points addressed by the proposed form. In such cases, the applicant is instructed to correct the FMCSA's information before the SCAC can be issued and, if the applicant asks how to do this, will be referred to the FMCSA's toll-free 800 number.

Because FMCSA does not have any form that is used to collect the information needed to accomplish the change, correction often involves a time-consuming trial and error process before the change can officially be made by the Agency. The

availability of a standardized form to which NMFTA can direct these parties would be very helpful in facilitating the correction process and indirectly the SCAC-issuance process. Accordingly, NMFTA supports the FMCSA's plan to develop such a form and appreciates the opportunity being given to comment on the proposed form.

However, NMFTA is hampered in its ability to provide complete comments by the lack of an actual form to review. To encourage full public participation in the development process, NMFTA would ask that a draft form and accompanying instructions be placed in the docket, and that another opportunity for comments from interested parties be allowed. In the interim, NMFTA is providing some general comments below based upon the descriptive information contained in the Notice.

DISCUSSION

I. A standardized form would improve the efficiency of the records change process while minimizing the burden on the involved parties.

In the Notice, FMCSA asks parties to comment on whether the proposed collection is "necessary" for the performance of FMCSA's functions. 79 FR at 36579. Since FMCSA has in the past and is now processing record change requests without a standardized form the technical answer to this question is "no". However, given the reported problems that FMCSA and involved entities have had in attempting to make such record changes, when applications are incomplete, inaccurate, or not compliant with regulations, it is clear that the proposed form would ultimately make the record change process more efficient. In short, it will "make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives," in compliance with recent Executive Orders seeking to reduce regulatory burdens and

costs.

The Notice also asks for comments on the estimated burden imposed by the form, which FMCSA identifies as .25 hours per form. *Id.* Even this minimal burden figure is misleading, however, since the time involved in completing the form is time that would currently be spent by parties seeking record changes to compose a letter, fax, or e-mail conveying the same information to FMCSA. With a comprehensive and clear form, less time should be required of a regulated entity to effectively cause a name change, address change, or change in operating status. Consequently, there really is no burden imposed by the form.

II. Additional data points are needed to cover all record changes.

FMCSA has provided a list of 11 data points that users may report on the proposed form. NMFTA believes that several additional data points are needed to conform this form more fully to the language of 49 CFR 365.413, the rule setting forth the procedures for certain record changes.

First, the form should specifically include changes to “business form” as a data point. Such changes are currently subject to the same regulatory procedures as name or address changes as referenced in data point 3. Second, changes reflecting reinstatement of operating authority should be allowed by “freight forwarders”, as well as motor carriers and brokers now referenced in data point 8. As reflected in the Notice, the record change procedures in 49 CFR 365.413 apply uniformly to “a motor carrier, freight forwarder, or property broker.”

Finally, data point 11 regarding the credit card information suggests that the applicable record change fee must be paid by credit card. Credit cards are currently the

exclusive form of payment only when record changes are requested online. Checks or money orders are also allowed when changes are requested by mail. Thus, the data points should include a place to indicate the form of submission and payment, and require the credit-card related information now in data point 11 only if that is the method chosen. In this regard, NMFTA believes that both online and mail submissions, as well as the currently available means of payment, should continue to be allowed. While the majority of applicants may opt for online submission and credit card payments, because that speeds up the record-change process, there are still those who prefer handling such matters using hardcopy submissions accompanied by check or money order.

III. Detailed instructions must accompany the new record change form.

FMCSA also asks commenters to indicate “ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information”. *Id.* In NMFTA’s experience, thorough instructions can be more helpful than the actual data points included on a form in ensuring that the organization or agency processing the form gets all of the data it needs to perform its task. Only complete instructions will eliminate the need for follow-up by Agency staff and entities, as currently exists. FMCSA, however, does not give any indication in the Notice of the type or extent of guidance or instructions that will accompany the form. Some suggestions of information NMFTA believes should be provided with the form are discussed below.

The Notice advises that users should report whichever of the 11 data points “are relevant to their records change request”. To eliminate any uncertainty, it is important that the instructions tell users which data points are relevant to each type of request.

The instructions should also clearly identify the documentation that must be submitted along with each type of request. Absent such direction, FMCSA will likely continue to get information that is just as incomplete as the individualized letter requests currently submitted for record change purposes.

NMFTA would also recommend the following instructions for name and business form changes. Because FMCSA cannot change either a legal or d/b/a name in its database unless the user has previously filed the new name with the appropriate State authority and been given approval for its use, the need for such prior action as well as the proof of the State action needed to support a record change request should be mentioned in the instructions. Similarly, while the form can be used to report name changes associated with changes in business form (e.g., incorporation of a partnership or sole proprietorship), there should be instructions advising users of the steps that must be taken at the State level to actually effectuate the change and the documentation of the change that must be provided to FMCSA along with the form.

In addition, while users may indicate on the form (data point 6) whether the name change was associated with a change in ownership, management or control of the entity, the instructions should advise users of the additional steps that must be taken before requesting a record change when more than a simple name change is involved. In sum, the instructions must make it clear to users that this form only reports changes that have been previously made, it cannot be used to actually make any changes to the applicant's business form or name.

As with name changes, an entity cannot use the records correction form to reinstate its authority unless other preliminary steps have been taken. Specifically, an

entity must obtain the required insurance, surety bond, or trust agreement, and make sure that the provider has filed with FMCSA the appropriate forms demonstrating such proof of financial responsibility for all motor vehicles operated on public highways. Entities seeking to reinstate their authority must also ensure that an effective designation of process agents (BOC-3) has been filed with the Agency. The instructions on the record change form should advise users of the steps required to reinstate operating authority before the change can actually be made in FMCSA records. Perhaps an additional data point requiring confirmation that such steps have been taken would minimize the follow-up associated with reinstatement requests using the proposed form.

CONCLUSION

For the reasons discussed above, NMFTA strongly supports FMCSA's proposal to develop a standardized "Motor Carrier Records Change Form" that can be used for the most common types of record changes requested by regulated motor carriers, property brokers, and freight forwarders. Such a form, if accompanied by complete instructions, including the items discussed above, would help the Agency, regulated entities, and parties such as NMFTA who also work with regulated entities, to accomplish record changes in the most efficient possible manner."

The FMCSA, in response to National Motor Freight Traffic Association, INC., states that it will consider adding the form to the docket once the revisions detailed below are complete.

Regarding the NMFTA's request for change of business to be added to the form, the FMCSA feels that this is addressed by Section C: Name Changes, where options

include incorporating and adding/removing a partner due to divorce, death, or other reasons. This section also specifies which documents must be submitted for each category.

In response to the NMFTA's suggestions, FMCSA will add "Freight Forwarder" as an option for a type of authority that can be reinstated, and add options/instructions for paying by check or money order. FMCSA doesn't intend to add detailed instructions to the form at this time, since we do provide instructions for these transactions in FMCSA's FAQ knowledge base at www.fmcsa.dot.gov/FAQ (as cited at the top of the form). FMCSA will add a reference to these FAQs to Section D (reinstatements) as well.

The NMFTA stated that "...it is important that the instructions tell users which data points are relevant to each type of request." FMCSA has designed the form so that there are 5 sections: Section A, which all users must fill out, includes general entity information, such as company name, DOT/MC number, contact information, etc. Section B is labeled "Address Changes Only." Section C: "Name Changes Only," Section D: "Reinstatement of Operating Authority Only" and Section E: "Payment: Name Changes and Reinstatements Only." This should make it clear which sections need to be filled out. For an address change, just sections A and B; for name changes, A, C and E; for reinstatements, A, D and E.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the

FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87 on: October 21, 2014.

G. Kelly Regal,
Associate Administrator, Office of
Research and Information Technology
and Chief Information Officer.

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