

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John F. Garziglia and Patricia M. Chuh, Esqs., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-15, adopted January 28, 1998, and released February 6, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 365, 385, and 387

[FHWA Docket No. FHWA-97-2709]

RIN 2125-AE01

Registration of For-Hire Motor Carriers, Property Brokers, and Freight Forwarders

AGENCY: Federal Highway Administration [FHWA], DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The FHWA proposes to adopt interim rules governing registration of for-hire motor property and passenger carriers, property brokers, and freight forwarders. The interim rules are required by 49 U.S.C. 13901-13905, provisions of the Interstate Commerce Commission Termination Act of 1995 (ICCTA), Pub. L. 104-88, 109 Stat. 803, that mandate a registration system to be administered by the Secretary of Transportation to replace the former Interstate Commerce Commission's licensing system for motor carriers, property brokers, and freight forwarders. It is anticipated that these interim rules would be used until the FHWA completes the rulemaking required by 49 U.S.C. 13908 which is currently underway.

DATES: Comments must be received on or before April 14, 1998.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: *For information regarding rulemaking and operational issues:* Patricia Burke, Office of Motor Carrier Information Analysis, (202) 358-7028; and *for information regarding legal issues:* Michael Falk, Office of Chief Counsel, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Federal Register's home page at: <http://www.nara.gov/nara/fedreg> and the Government Printing Office's database at: http://www.access.gpo.gov/su_docs.

Statutory Background

The ICCTA eliminates the Interstate Commerce Commission (ICC), transfers certain ICC functions to the Department of Transportation, and, as particularly pertinent, at 49 U.S.C. 13901-13905, establishes a registration system to replace the licensing system previously administered by the ICC. The ICCTA requires that for-hire motor property and passenger carriers, property brokers, and freight forwarders operating in interstate or foreign commerce must register with the Secretary of Transportation (the Secretary) to provide such transportation or related services. The ICCTA further directs the Secretary to register such entities when minimum prescribed criteria are met.

Under 49 U.S.C. 13908, the Secretary, in cooperation with the States and after notice and opportunity for public comment, is directed to issue regulations to replace this registration system, as well as DOT's current identification number system (see 49 CFR 385.21), the single State registration system prescribed by 49 U.S.C. 14504, and the financial responsibility information system prescribed by 49 U.S.C. 13906, with a single, on-line Federal system. The new system envisioned by section 13908 is intended to "serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers, and freight forwarders, and others required to register with (DOT) as well as information on safety fitness and compliance with required levels of financial responsibility."

The ICCTA makes clear that the registration system prescribed in 49 U.S.C. 13901-13905 is intended only as a temporary, stand-alone procedure while DOT undertakes to design and implement the revised identification

and safety oversight system as directed by Congress. In an advance notice of proposed rulemaking (ANPRM), FHWA Docket No. MC-96-25 (FHWA 97-2349), Motor Carrier Replacement/Information System, 61 FR 43816 (August 26, 1996), the FHWA initiated the process required by section 13908 to develop a single, on-line Federal system. The ANPRM invited comments from interested persons and entities concerning the four information systems that potentially could be embraced by the single system envisioned by section 13908. The ANPRM solicited responses to specific questions and, in particular, expressly invited comments on any necessary and appropriate changes to the registration system established by the ICCTA and whether and how it should be modified to contribute most effectively to the integrated system envisioned. Comments received in response to the ANPRM currently are being evaluated with a view toward developing a specific proposal as contemplated by section 13908.

Procedural Background

Since the ICCTA's implementation date, the FHWA has been processing registration requests submitted by motor property and passenger carriers, property brokers, and freight forwarders, generally under the licensing regulations of the former ICC, previously codified at 49 CFR part 1160, redesignated as 49 CFR part 365 at 61 FR 54706 (October 21, 1996). To accommodate registration requests in this process, the FHWA has been using the former ICC's application forms with minimal revisions to reflect the ICCTA's jurisdictional changes. This approach is consistent with section 204 of the ICCTA which preserves all ICC regulations, orders, decisions, and authorities that remain viable after enactment of the new law. On April 1, 1996, at 61 FR 14372, the FHWA adopted, in general, all viable ICC rules and decisions until such time as changes are warranted.

Under that general adoption principal, the FHWA has had ample occasion to review registration requests submitted under the former ICC's application procedures. The experience using the redesignated part 365 rules suggests the need for further refinement of the former ICC's regulations, procedures, and application forms on an interim basis to accommodate a registration system as is now temporarily in place rather than a licensing scheme for which they originally were developed.

In addition, the rulemaking initiated by today's NPRM embraces issues raised

in petitions to reopen the ICC proceedings in which the original part 1160 rules were developed, Ex Parte No. 55 (Sub-No. 94) and Ex Parte No. 55 (Sub-No. 86), consolidated in 10 I.C.C.2d 386 (1994). The interim rules and application forms proposed here have been developed with attention to those reopening petitions filed by the American Bus Association (ABA) and the Transportation Lawyers Association Committee on Federal Agency Practice (TLA), supported by the American Insurance Association (AIA). The petitions were pending before the ICC at the time of its termination and, accordingly, were transferred to the FHWA for disposition.

The FHWA advises petitioners that their petitions and comments will be considered in this rulemaking to the extent that they are relevant to the registration system. Accordingly, the petitions and comments that have been submitted by the TLA, the ABA, and the AIA in response to the licensing rules issued by the former ICC will be placed in this docket and considered as part of this rulemaking. In addition, these parties are invited to amend their existing petitions or to submit further comments as they deem appropriate.

Statutory and Procedural Parameters for Registration

In this NPRM, the FHWA proposes to adopt revisions to the registration procedures and requirements as interim rules and proposes corresponding changes to the registration application forms and registration review and notification procedures. These revisions are intended to produce a simplified registration process consistent with the ICCTA, to accommodate other recent statutory changes that relate to the registration process (such as specialized considerations for certain registrant categories), and to consider relevant issues raised by the TLA and the ABA in their petitions to reopen the proceedings on which the former part 1160, now part 365, regulations are premised.

Given the generally simplified approach of the regulations now codified at part 365, the intended transitional nature of the registration system envisioned by the ICCTA, and the fact that the system may be altered significantly in the proceeding mandated by 49 U.S.C. 13908, the FHWA is attempting to avoid unnecessary or premature regulatory changes in this interim period. Accordingly, the part 365 interim rules proposed here essentially parallel the former part 1160 procedures to the extent they are compatible with the

registration system mandated by the ICCTA.

The ICCTA's registration parameters permit some further streamlining, simplification, and modification of the rules and application forms at this interim stage. Most of the revisions proposed here are necessary to implement the statutorily prescribed registration system consistently and effectively among all affected transportation modes. Certain of the proposed procedural and information-gathering revisions would permit the FHWA to align and integrate more effectively the registration fitness and general safety screenings that now are housed within the FHWA. For example, the proposed coordinated submission of the MCS-150 forms with the registration applications would ensure that safety performance information would start accruing immediately with respect to even the newest registrant.

Certain other proposed procedural revisions are not statutorily prescribed, but derive from the FHWA's interest in administering the registration system in a manner that takes realistic account of industry norms and practices. The proposed extension of registration compliance time frames is so motivated. Finally, the proposed interim rules and registration forms also incorporate several new explanatory references and/or certification devices that are designed to best accommodate statutory changes affecting specific registrant categories. The expanded information directed to publicly funded passenger carriers and carriers or freight forwarders of household goods is representative of this approach.

Scope of Registration Obligation

With one significant revision discussed below, the FHWA's registration jurisdiction over motor carriers, property brokers, and freight forwarders essentially corresponds with that of the former ICC. All persons or commercial entities providing for-hire motor carrier transportation of property or passengers or forwarding or brokerage of property in interstate or foreign commerce are required to register with the FHWA pursuant to 49 U.S.C. 13901 *et seq.*

As specifically concerns freight forwarders, the ICCTA includes a registration provision at 49 U.S.C. 13903 that represents an expansion of the FHWA's jurisdiction as compared with the former ICC's licensing jurisdiction under the predecessor provision at 49 U.S.C. 10923. The ICCTA requires registration of both forwarders of general freight and household goods. See FHWA Docket No. MC-96-43

(notice of proposed rulemaking, 62 FR 4096, January 28, 1997).

For licensing and most other purposes, the ICC's jurisdiction over freight forwarders had been limited to the household goods segment of the forwarding industry by the Surface Freight Forwarder Deregulation Act of 1986, Pub. L. 99-521, 100 Stat. 2993 (October 22, 1986). Consistent with the ICCTA's expansion of registration jurisdiction to all interstate, for-hire surface freight forwarders, the freight forwarder industry expressly is advised of its revised registration and compliance obligations. All freight forwarders of general commodities, as well as household goods, are required to register their operations with the FHWA by filing Form OP-1(FF). This registration obligation extends, not only to new forwarder entrants, but also to those general commodities freight forwarders that previously held ICC authority mooted by the Surface Freight Forwarder Deregulation Act of 1986 and those forwarders previously issued authority by the former ICC restricted to the forwarding of household goods, but that also forward general freight.

The FHWA now is accepting and will continue to process registration applications on behalf of such entities. The interim rules and revised Form OP-1(FF) application proposed here would reflect the expansion of jurisdiction to general commodities forwarders.

We note that 49 U.S.C. 13541(a) provides that the Secretary shall exempt entities from the statutory provisions governing interstate transportation by motor carriers, property brokers, and freight forwarders upon a finding that application of an involved provision is not necessary to carry out the transportation policy of section 13101, is not necessary to protect shippers from the abuse of market power or that the involved transaction or service is of limited scope, and that such action is in the public interest. This exemption authority, however, is limited by the subsection 13541(e) provision that it not be used to relieve a person from the application of and compliance with any law, rule, regulation, standard, or order pertaining, as pertinent here, to insurance and safety fitness.

In view of the 49 U.S.C. 13541 exemption provisions, we specifically invite comments on whether the FHWA should consider relieving certain entities from specific interim registration requirements proposed here. In particular, we would like to receive views on the advisability of exempting from certain registration requirements, to the extent permitted under 49 U.S.C. 13541(e), specific transportation

industry segments (e.g., general commodity freight forwarders or transit operators that receive grants under 49 U.S.C. 5307, 5310, or 5311 as discussed subsequently in this notice). The FHWA will consider any comments received on this issue to assess the extent, if any, to which relief from particular registration requirements might be available and feasible under 49 U.S.C. 13541 or, alternatively, to evaluate the need for further legislative action to achieve meaningful relief in this area.

Interim Rules. The proposed interim rules are set forth below. For the most part they would provide for changes to the former part 1160 regulations only where necessary to render the registration process fully consistent with that mandated by the ICCTA. Essentially, they would represent a continuation of the procedures that have been followed under section 204 of the ICCTA's general adoption provisions since the FHWA initiated its registration responsibilities on January 1, 1996. To the limited extent that more significant changes to the registration rules or procedures are proposed (e.g., provisions for integrating with the registration process transfers of ownership and submission of the MCS-150 forms), they either are mandated by jurisdictional changes in the new statute or are necessary to realize the full efficiencies inherent in the FHWA's unified registration and safety compliance monitoring.

As previously noted, however, comments received will be accorded full consideration with a view toward ensuring that the registration process is in keeping with the terms of the ICCTA and is consistent with administrative resources and other program elements within the FHWA's purview, particularly safety compliance. In addition, comments will assist the FHWA as it continually evaluates the effectiveness and responsiveness of the interim registration process in developing the single, on-line Federal replacement system mandated by 49 U.S.C. 13908.

Commenters are urged to formulate their responses to this proceeding with a view toward the interim nature of the involved rules. Although the rules proposed here are subject to full notice and comment procedures, interested participants should be aware that the FHWA intends to deal with such issues as the pre-registration safety fitness certification methodology in its rulemaking under 49 U.S.C. 13908.

Interim forms. With the exception of Mexican owned or controlled property carriers, all domestic and foreign for-hire motor property carriers and

property brokers are required to file the Form OP-1 registration application form. All domestic and foreign for-hire motor passenger carriers are required to file the Form OP-1(P) registration application form. Freight forwarders of general commodities and household goods are required to file the form OP-1(FF) registration application form.

The FHWA is in the process of developing registration rules and procedures specifically applicable to Mexican carriers. Until such time as those rules are implemented, the interim registration rules proposed here would be applicable to Mexican carriers as follows:

(1) Mexican owned or controlled carriers that transport property (including otherwise exempt items) in foreign commerce between the U.S.-Mexico border and points in California, Arizona, New Mexico, and Texas, and Mexican owned or controlled enterprises established in the United States to transport international cargo in foreign commerce, subject to special provisions of the North American Free Trade Agreement (NAFTA), would file the Form OP-1(MX) registration application; and

(2) Mexican owned or controlled passenger carriers operating pursuant to special provisions of NAFTA, would file the Form OP-1(P) registration application.

This notice incorporates in the appendices to part 365 proposed revised versions of the registration application forms. As with the proposed interim registration regulations, the proposed revised application forms would closely resemble those used by the former ICC and would incorporate primarily incremental changes to reflect new statutory or jurisdictional references required by the ICCTA.

No materially new information collection procedures or uses are contemplated. The proposed revised registration forms would preserve to the extent feasible the information collection categories and format of the former ICC's licensing application forms. The proposed integration into the registration process of the MCS-150 filings would represent merely an effort to coordinate ongoing information collection processes, rather than a new information solicitation.

Indeed, the incremental revisions proposed to the forms, as well as the general streamlining and simplification of the application format and accompanying instructions, allow for a reduction in the estimated burden hours required for completing the OP-1, OP-1(P), and OP-1(FF) forms by prospective registrants. Concurrently with this

notice, we are submitting the forms as a revised information collection to the Office of Management and Budget (OMB) for review under section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

As with the interim regulations proposed here, the revised registration forms would be used only as transitional devices while the 49 U.S.C. 13908 replacement system is being developed and implemented. The FHWA has minimized the form revisions proposed to preserve all viable aspects of a process with which the motor carrier, broker, and freight forwarder industries are familiar and comfortable.

In addition, the proposed interim rules would embrace procedures at § 365.511 to accomplish voluntary revocation of registrations. Essentially, this process and the accompanying Form OCE-46 closely parallel those presently in place. Indeed, the proposed revisions to the revocation request form only represent ministerial changes to reflect the FHWA's assumption of jurisdiction in this area and no new or revised information requests are involved. Accordingly, the voluntary revocation form need not be evaluated by OMB as a revised information collection device. Nonetheless, the FHWA will entertain comments of interested parties in this area, as well.

Registration Effective Periods

Section 103 of the ICCTA, 49 U.S.C. 13905(b), permits the Secretary to specify by regulation the effective dates for registrations issued under 49 U.S.C. 13902-13904. The Conference Report states that such terms are not to exceed periods of five years. H. Rep. No. 104-422, at 212 (1995). Registration applicants are advised that the comprehensive replacement system prescribed in 49 U.S.C. 13908 will address the issues of specific registration effective periods and registration renewal procedures. Accordingly, the proposed interim registration rules do not address such matters. Registrations issued pursuant to the interim rules adopted in this proceeding and any other registrations as provided in the rules issued pursuant to 49 U.S.C. 13908 will be subject to the effective periods established in that proceeding.

In the interim, the proposed rules provide that registrations would remain in effect as long as the registrant maintains compliance with all applicable statutory and regulatory provisions, including those pertaining to insurance coverage for the protection of the public, designation of process agents, tariffs or schedules, and motor

carrier safety. Failure to maintain compliance would constitute sufficient grounds for revocation of registration authority by the FHWA.

Safety Fitness Evaluation

As previously noted, the proposed revised application forms and procedures would allow the FHWA to integrate effectively its recently acquired jurisdiction over the registration process with its existing safety compliance monitoring and rating responsibilities. This goal will be a paramount feature of the FHWA's rulemaking responsibilities under 49 U.S.C. 13908. The proposed interim registration process affords numerous possibilities for realizing efficiencies and collaborative safeguards in administering these unified safety fitness responsibilities.

For-hire motor carriers now have the assurance that safety fitness monitoring will be exercised consistently and continually—initially when the carriers are scrutinized as registrants and then under the FHWA's safety fitness monitoring and rating agenda. This affords enhanced prospects for integrating the safety information collection and evaluation processes administered within the FHWA. The more closely coordinated procedures proposed in the interim rules should inure to the benefit of the agency through administrative efficiencies, to the benefit of registrants through unification of filing responsibilities, and to the benefit of the motor carrier industry and general public through improved safety fitness monitoring of new entrants.

Specific measures incorporated in the proposed interim rules to effect these improvements include the following:

- (1) Introduction of the requirement that all new motor carrier entrants submit a Form MCS-150 *concurrently with* their registration application forms;
- (2) Expansion and clarification of the advisories provided on the registration forms concerning the scope of exemptions from DOT safety regulations; and
- (3) Commitment of the FHWA to continual monitoring of the performance of new and unrated registrants *from the onset of their operations* under the Safety Compliance and Evaluation system.

Now that the FHWA's jurisdiction extends to both safety screening of prospective registrants and ongoing safety fitness evaluation and rating of operating carriers, the interim registration process offers significant prospects for effectively integrating pre- and post-registration safety monitoring and oversight. The safety compliance

obligations of prospective registrants best can be highlighted by apprising them of their concurrent obligations to introduce themselves into the FHWA's safety surveillance processes using the Form MCS-150. Their compliance with this process can be facilitated by including the Form MCS-150 as an enclosure with the registration application. The proposed interim rules would specify that all motor carrier registration applications must be accompanied by a completed Form MCS-150 or must provide a U.S. DOT number for the registrant, indicating that a Form MCS-150 currently is on file. To conform with this requirement, the proposed interim rules would provide for a technical amendment to 49 CFR 385.21(b).

Revisions Concerning Household Goods Service

Motor Carriers and Property Brokers

The former part 1160 rules and the corresponding licensing forms used by the ICC recognized specialized service categories that distinguished motor property carriers and brokers of household goods from their general freight counterparts. These distinctions derived from statutory provisions previously codified at 49 U.S.C. 10922(c), 10923(a) and (c)(3) and (5), and 10924(a), that established distinct public need or public interest licensing criteria for household goods common carriers, household goods contract carriers, and household goods brokers, respectively. Accordingly, the licensing application forms that pertained to household goods carriers or brokers included specific certifications or information requests reflecting the heightened public need and public interest standards that distinguished the licensing criteria for such entrants from the more general fitness standards applicable to general freight carriers and brokers. Consistent with the need to conduct specialized pre-licensing evaluations of household goods carriers and brokers, such entities also were assessed a separate application filing fee.

Because the registration provisions of the ICCTA did not preserve the above-referenced distinct licensing criteria for household goods carriers and brokers, there is no need to continue separately evaluating such entrants in the interim registration system. With the exception of the arbitration provision discussed subsequently, the proposed interim rules and registration forms would no longer require household goods carriers and brokers to provide separate or

additional information, certifications, or fees in order to fulfill their registration obligations.

To identify household goods carriers and brokers for reporting and/or enforcement purposes, however, the proposed revised application forms would continue to request that registrants classify themselves with reference to their household goods service intentions. Similarly, the interim registration documents issued to such entities under the proposed rules would continue to specify household goods service where applicable.

Freight Forwarders

As previously discussed, the ICCTA embraces forwarders of both general freight and household goods. The proposed interim rules and the proposed freight forwarder registration application form would reflect this extension of the registration obligation beyond the household goods segment of the forwarding industry. Consistent with the approach adopted for motor property carriers and brokers, freight forwarder registration applicants under the proposed interim rules would be required to indicate the nature of their service (general freight, household goods, or a composite), and their registration documents would continue to reflect their service intentions. Separate filing fees would not be assessed for those entities seeking to register for more than one type of forwarder service category, however. As discussed below, the proposed revisions also would reflect the arbitration commitment imposed by the ICCTA as a condition of freight forwarder registration under 49 U.S.C. 14708.

Arbitration Certifications

The ICCTA, at 49 U.S.C. 14708, for the first time conditions registration of household goods carriers and household goods freight forwarders on their agreement to offer shippers arbitration as a means of settling disputes. Accordingly, the proposed interim rules would reflect this new pre-registration requirement and the proposed revised Form OP-1 (for motor property carriers) and Form OP-1 (FF) (for freight forwarders) would incorporate an arbitration certification required of registrants in these limited categories.

The arbitration certification would be designed as an affirmative check-box entry on the involved registration forms and would be noted in the accompanying instructions. This format would strike a desirable balance between sufficiently apprising household goods motor carrier and freight forwarder registrants of their arbitration obligation and not unduly

encumbering the registration process. As a further advisory measure, the registration documents issued to household goods carriers and forwarders would include a note referencing the arbitration commitment, as well as other pre-registration requirements—including insurance filing, process agent designations, and, to the limited extent applicable, tariff filing or publishing.

Compliance Time Frames

The proposed interim rules would extend the time frames for submitting to the FHWA supplemental compliance documents required as a condition to registration—*i.e.*, insurance or surety bond forms and designation of process agent forms. The system defined in former part 1160 provided for submission of the required compliance documents within an initial 20-day period from the date of publication of application filings—formerly in the “ICC Register,” now in the “Federal Highway Administration-Office of Motor Carriers Register (FHWA-OMC Register).”¹

Registrants that failed to meet this initial compliance deadline were advised by letter sent on the 30th day after publication that they had an additional 60-day period to effect compliance. They further were advised that, if this additional compliance period was not met, their registration requests would be dismissed for want of prosecution. In the FHWA’s experience processing registration requests since the ICCTA’s January 1, 1996, effective date, the vast majority of registration applicants failed to effect compliance within the initial 20-day period. They had to be advised further of their compliance obligations through correspondence that extended the compliance time period.

Under the revised compliance system proposed here, the interim registration rules would provide for a 90-day compliance period running from the date a registration notice is published in the “FHWA-OMC Register.” They further would provide for automatic dismissal of any registration application for which the compliance requirement is not met. This expanded compliance time period would conform more appropriately with the commercial and circumstantial realities confronting registrants and the insurance and agent representatives with whom they must deal.

¹ Published as the “ICC Register” from 1983 to 1995; retitled as the “FHWA-OMC Register” in 1996. It is a daily listing of motor carrier applications, decisions, and notices issued by FHWA’s Office of Motor Carrier Information Analysis, Washington, DC 20590.

This proposed integration of the 90-day time frame and the dismissal for want of prosecution provision into the registration regulations, moreover, would bring equity and predictability to the registration process. It also would permit the FHWA to avoid the administratively burdensome and costly step of sending extension of time and dismissal correspondence to non-complying registrants. The proposed automatic dismissal of non-complying registration requests on the 90th post-publication day, moreover, would be administered without exception and regardless of registrant circumstances. This would foreclose the cumbersome process of entertaining individual waiver petitions or appeals to the announced procedures. The FHWA emphasizes that nothing in this proposed procedural reform would impede the processing of registration applications or in any way cause delay in the issuance of registration notices to those registrants that meet the compliance requirements in a timely manner.

The proposed extension of the compliance time limit to 90 days would serve as a concession to the many registrants that have found the initial 20-day limit unrealistic and the 60-day extension notification confusing. In reality, the proposed 90-day compliance time frame and non-negotiable dismissal provision would reflect prevailing compliance norms. They would relieve the registration process of supplemental correspondence and potentially arbitrary or inequitable extensions of time, granted on the basis of individual appeals.

Complaint Time Frames

The proposed interim rules would retain the 10-day time period for filing complaints in response to registration applications. The FHWA’s experience in processing registration requests, as well as the licensing experience of the predecessor ICC, confirm that this 10-day time frame is reasonable and adequate to accommodate the interests of potential complainants and to ensure the continued integrity of the registration process. Indeed, since assuming registration jurisdiction under the ICCTA in January 1996, the FHWA has received only three protests in registration proceedings, involving challenges based on either the trade name of a motor property carrier registrant or the alleged Mexican ownership of an applicant. Given this statistically insignificant level of contested registration requests and the ability of the relatively few complainants to avail themselves of

facsimile transmissions to make known their positions, there appears to be no persuasive basis for revising the 10-day time period.

Registrant Name Changes and Transfers

The proposed interim rules would incorporate provisions for accomplishing registrant name changes. These provisions are adapted from the name change procedures included as part of the ICC's regulations governing transfers of operating rights at former 49 CFR part 1181, redesignated as subpart D of 49 CFR part 365 at 61 FR at 54707. Under the proposed interim rules, as now, name changes would be confined to limited circumstances in which registrants change a legal or trade name, generally in situations that do not entail any change in the ownership or control of the business.

The proposed interim rules would not link the name change procedures to rules governing the transfer of registrations as had been the case under the former ICC's licensing jurisdiction. The statutory provision for transferring operating authority, previously codified at 49 U.S.C. 10926, was omitted in the general revision of title 49, U.S.C., subtitle IV. Accordingly, we perceive no basis for continuing to entertain requests for the transfer of registrations, whether issued under the FHWA's jurisdiction or previously as ICC operating authority. The proposed interim rules would not retain those portions of recently redesignated 49 CFR part 365 subpart D, formerly 49 CFR part 1181, that govern transfer proceedings.

Although as a transitional measure the FHWA has been issuing registrations to transferees in proceedings filed pursuant to the former part 1181 transfer regulations, the FHWA proposes to discontinue this practice effective upon issuance of interim final rules in this proceeding. All pending transfer proceedings filed pursuant to former 49 CFR part 1181 would be processed. Any transfer applications filed on or after the effective date of interim final rules adopted in this proceeding would be returned to the parties with a notification that the filing fee would be applied to a new registration application, if submitted on the transferee's behalf within 30 days of the correspondence date.

The proposed interim registration rules would provide that any entity seeking to operate as a motor property or passenger carrier, property broker, or freight forwarder must identify its operations to the FHWA as a new registrant, using the appropriate

application in the Form OP-1 Series. Upon issuance of the interim final rules, it no longer would be feasible to transfer operating rights previously issued by the ICC or registration documents issued under the FHWA's jurisdiction. Nor would it be permissible for registered entities to preserve and operate under an "MC" or "FF" number previously issued to another licensee or registrant.

Disclosure of Affiliations and Changes in Control

The ICCTA did not revive or continue those statutory provisions previously codified at 49 U.S.C. 11343, 11344, 11345, and 11348, to the extent they established jurisdiction and set forth standards for review of consolidations, mergers, and acquisitions of control of motor property carriers. Accordingly, in the previously referenced notice at 61 FR 14372, the FHWA advised motor property carriers that their acquisitions of control are no longer subject to approval and authorization pursuant to former section 11343. The regulations governing such transactions at 49 CFR parts 1186, 1187, and 1188, to the extent they involve motor property carriers, similarly are no longer viable and need not be integrated into the registration rules or procedures. Insofar as the ICCTA, at 49 U.S.C. 14303, provides for continuing jurisdiction by the Surface Transportation Board (STB) over motor passenger carrier mergers, consolidations, and control arrangements (but not transfers of such authority), the STB has jurisdiction to remove or revise, as appropriate, the former ICC's regulations governing such transactions at 49 CFR parts 1182, 1187, and 1188.

By proposing to eliminate prospects for transferring previously issued ICC operating authority or FHWA registrations, the FHWA does not intend otherwise to prohibit carriers from acquiring authority from existing registrants or from entering into collaborative business transactions, such as the purchase of customer lists or contracts, the goodwill of an ongoing concern, or trade names, logos, or company identities. When such practices or arrangements entail the assumption of a registrant's operations by a successor-in-interest, however, the new entrant would be required to file a registration application and would be assigned its own registration number, rather than that of the predecessor carrier, broker, or forwarder.

Although there is no residual jurisdiction over motor property carrier consolidations, mergers, and acquisitions of control as would require or permit the FHWA's preliminary

review and approval of such transactions, there is a continuing need to include within the registration process safeguards and mechanisms for ascertaining registrants' ownership and control interests. The FHWA only can verify and monitor the fitness of all registrants by requiring that they provide and, where necessary, update information concerning their affiliations and control relationships.

Accordingly, the request for "AFFILIATIONS" information on the proposed registration application forms would be preserved. Further, to ensure that the information provided is not incomplete or misleadingly selective, the arbitrary 3-year time frame that now circumscribes this information request would be eliminated. Registrants would be expected to disclose on the application forms all commercial, financial, or management relationships they have had with any ICC-licensed or FHWA-registered entity during the full course of their commercial history.

On the same fitness oversight premise, the proposed interim rules would require that entities re-register any time there is a change in their ownership, control configuration, or commercial identity that exceeds the scope of a name change. The re-registration process would ensure a modicum of control over the accuracy and reliability of registration information on file with the FHWA. Only in this manner can the FHWA continue to monitor effectively the universe of registrants and maintain the integrity of the system we are charged with administering.

Reinstatement of Revoked Registrations/Authorities

For similar reasons, the FHWA proposes to revise the practice of reinstating revoked registrations, including those formerly issued as operating authorities by the ICC. As a transitional device since implementation of the ICCTA, the FHWA has been following the ICC's practice by permitting carriers, brokers, and forwarders that have had their authorities revoked without prejudice (either upon registrant request or due to a lapse in insurance coverage or other cause) to request reinstatement simply by filing new evidence of adequate financial responsibility and paying the required reinstatement fee.

Reinstatement has been permitted without regard to the amount of time that has elapsed since revocation of the involved registration/authority. Therefore, at the time of reinstatement there essentially is no assurance of accuracy or timeliness of the

information on file in the application forms originally submitted. It is of concern that this reinstatement process does not allow for sufficient control over the information profile the FHWA can maintain for affected carriers, brokers, and forwarders. Under such procedures, the FHWA may not adequately be able to observe its fitness oversight mandate, particularly in instances where a significant amount of time has passed since the registrant last conducted operations.

The FHWA is further constrained in its ability to pursue an unrestricted reinstatement policy by the express terms of the ICCTA at 49 U.S.C. 13905. That provision directs that only those motor carriers, brokers, and forwarders holding authority "in effect on the day before the effective date of this section (December 31, 1995) shall be deemed ... to be registered to provide such transportation or service under this part." Because the "grandfathering" provision was restricted in this manner, authorities issued by the former ICC that were in a revoked status on the day before the effective date of the ICCTA technically should not be susceptible to reinstatement or any other exercise of the FHWA's registration jurisdiction.

To ensure that the reinstatement process does not undermine or otherwise encumber the informational safeguards of the registration process, the FHWA proposes to no longer entertain reinstatement requests involving authorities filed more than one year after the effective date of the involved revocation. Registration requests on file prior to the effective date of interim final rules adopted in this proceeding would be processed irrespective of these limitations. As of the effective date, however, carriers, brokers, and freight forwarders with registrations or operating authorities that have been revoked for a period exceeding one year would be required to submit the appropriate application in the Form OP-1 Series and to register anew under the proposed interim rules.

Procedures for Voluntary Registration Revocation

The FHWA proposes to continue the practice of permitting registrants to request voluntary revocation of their registrations. Registrants seeking to do so would be required to submit Form OCE-46, Request for Revocation of Registration, to the FHWA, Office of Motor Carriers, Licensing and Insurance Division, as provided in the proposed interim rules at 49 CFR 365.511. The proposed revised version of this voluntary revocation form, incorporating only such changes as are

necessary to reflect the FHWA's assumption of jurisdiction in this area, is set forth in the appendices to part 365. Registrations that have been revoked upon request of the registrant would be subject to the above-described reinstatement provisions in the same manner and to the same extent as registrations that have been revoked for failure to maintain required financial responsibility levels.

Reactivation of Dismissed or Withdrawn Applications

As a further measure to preserve the integrity of the registration system and to ensure the continuing accuracy of information provided on the application form, the proposed interim rules would provide that there no longer is an opportunity for applicants to reactivate a registration filing that has been dismissed for want of prosecution or withdrawn at the applicant's request. Submission of a new application in the Form OP-1 Series would be the only mechanism available to reinstate such registration requests.

Special Transit Operation Provisions

The ICCTA amended the financial responsibility provisions of 49 U.S.C. 31138(e) by adding subsection (4), exempting from the requirements of that section for-hire motor transit operators that provide interstate service and that receive grants under 49 U.S.C. 5307, 5310, or 5311, or that contract to provide transportation service funded in whole or in part by such grant funds. In lieu of the minimum Federal levels of financial responsibility required of motor passenger carrier registrants generally, such transit operators (hereinafter identified as "Federal Transit Administration (FTA) grantees" or "transit service providers") are permitted to carry as their minimum financial responsibility obligation the highest level of insurance required by any of the States in which they operate.

The ICCTA amendment to 49 U.S.C. 31138(e) only adjusted the minimum financial responsibility levels FTA grantees are required to observe; it did not relieve FTA grantees with interstate transit service areas of their obligation to register with the FHWA as required of all interstate for-hire carriers under 49 U.S.C. 13902. Similarly, the ICCTA amendment did not relieve FTA grantees of their obligation under 49 U.S.C. 13906 to file with the FHWA evidence of insurance under 49 CFR part 387 as a condition of registration.

FTA grantees operating in interstate transit service areas that exceed commercial zone limits generally provide service of a nature that does not

conform with any of the statutory exemption provisions that might otherwise remove carriers from the reach of FHWA jurisdiction and, thus, relieve them of registration obligations—*e.g.*, the commercial zone exemption of 49 U.S.C. 13506(b)(1), the "casual, occasional, or reciprocal" transportation exemption of 49 U.S.C. 13506(b)(2), or the taxicab exemption of 49 U.S.C. 13506(a)(2). In addition, FTA grantees are advised that there are no exemptions from registration requirements related to vehicle capacity, frequency of interstate operations, or the non-profit status of a transportation operation.

Further, the FHWA believes that no meaningful relief from statutory registration requirements can be made available to FTA grantees under the general exemption authority of 49 U.S.C. 13541. The statute expressly constrains the Secretary from exercising that exemption authority to relieve a person from the application of, and compliance with, any law or regulation pertaining to specified matters including insurance and safety fitness—matters integral to the registration process.

Accordingly, FTA grantees that provide interstate service within areas that exceed commercial zone limits are required to register their operations with the FHWA and, as part of that process, to file evidence that they maintain the minimum levels of financial responsibility coverage required under 49 U.S.C. 31138(e). This notice proposes to amend the 49 CFR part 387 regulations governing minimum levels of financial responsibility for motor carriers to reflect the revised compliance option made available by the ICCTA to transit service providers.

In administering the registration process as it pertains to FTA grantees, the FHWA recognizes that these transit service providers for the most part are small entities not accustomed to dealing with Federal agencies and generally inexperienced as concerns Federal motor carrier safety and economic regulation. Indeed, many of the FTA grantees are not primarily motor carriers, but offer transit service only as an ancillary feature of their principal social service or not-for-profit function. In keeping with the FHWA's longstanding policy of assisting small businesses in understanding and complying with regulatory requirements, and particularly in light of provisions of the Small Business Regulatory Enforcement Fairness Act of 1995 (SBREFA), the FHWA is committed to simplifying and

facilitating the registration process for FTA grantees.

Specific measures already in place to accomplish this include: (1) providing with the Form OP-1(P) a supplemental compliance information insert, advising FTA grantees of and requesting information about their insurance compliance options in a manner similar to that proposed in this notice for the "INSURANCE" section of the Form OP-1(P); (2) staffing a telephone information line ((202)358-7083) with access to registration specialists who can assist FTA grantees in completing the registration application form and filing the required evidence of financial responsibility; and (3) encouraging direct telephone contact between licensing specialists and FTA grantee registration applicants to correct deficiencies or clarify information in registration filings in lieu of rejecting applications.

As the FHWA continues to evaluate and implement the interim registration rules proposed here, we envision further opportunities to coordinate our registration screening responsibilities with FTA processes and to ease the registration paperwork burden for transit service providers by ensuring that all possible redundancies are eliminated from the registration application process for such applicants. To the extent that the 49 U.S.C. 13902(b) registration provisions subject FTA grantees to public interest considerations consistent with those in FTA's annual certifications and assurances for grants under 49 U.S.C. 5307, 5310, and 5311, we will confer with FTA to coordinate public interest findings if such findings are necessary in the registration process.

We are collaborating with the FTA to provide registration training opportunities for State officials who administer the grant programs. This will create an additional source of information for FTA grantees needing assistance in completing the registration application and in complying with registration requirements. We also are committed to facilitating and simplifying the insurance filing process for transit service providers by making available through the FTA to transit providers' insurance agents the BMC-91 and BMC-91X forms. (Other supplemental forms required to be filed by registration applicants—Form BOC-3 for designation of process agents and Form MCS-150 for registering with DOT—already are provided as part of the registration information package sent to prospective applicants.) Finally, we are working with FTA to develop a more informative information sheet

targeted at transit service provider registration applicants. The information sheet, provided as a courtesy to all prospective registrants requesting Form OP-1(P), will profile transit service providers' particular financial responsibility requirements, advise transit service providers of the filing fee waiver option available to them, and address common FTA grantee concerns about properly identifying their form of business when registering their operations with the FHWA.

In sum, we anticipate maintaining and will work continually to strengthen the FHWA's ongoing collaborative effort with the FTA. Our goal is to eliminate all possible redundancies from the registration process and to afford FTA grantees the full benefit of effective and accessible information resources to facilitate their compliance with registration requirements.

Passenger Application Revisions Responsive to NAFTA Provisions

The proposed interim rules and Form OP-1(P) passenger carrier registration application would provide for processing applications filed pursuant to the North American Free Trade Agreement (NAFTA), including certain NAFTA provisions that have not yet been implemented. Passenger carrier operations that would be authorized pursuant to Phase III of NAFTA, if implemented, would be limited to bona fide international transportation between the U.S.-Mexico border and specified points in the United States. Carriers registered under this provision would not be permitted to transport passengers in intrastate commerce under 49 U.S.C. 13902(b)(3).

For clarification purposes, the proposed interim rules and Form OP-1(P) also include expanded references to other specialized service categories for Mexican owned or controlled passenger carriers providing special or tour bus operations across the U.S.-Mexico border, pursuant to already implemented NAFTA provisions.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue interim final rules at any time after the close of the comment period. In addition to late comments, the FHWA also will continue to file in the docket relevant information that becomes

available after the comment closing date, and interested persons should continue to examine the docket for new material.

The FHWA encourages commenters to develop their views while mindful of the interim nature of this proceeding and of its relationship to the ongoing collaborative efforts of the FHWA and those interested in developing a single, on-line information/registration system.

The FHWA has developed the rules, forms, and procedures proposed here after considerable transitional experience under the registration system adapted from the former ICC's licensing process. This has permitted our thorough assessment of the regulations and procedures as they pertain to our revised jurisdiction and our selective retention of those features that best conform with existing FHWA processes and the needs of registration applicants.

To the full extent practicable, the revised rules and application forms proposed here continue to reflect the predecessor licensing provisions administered by the former ICC and with which carriers, brokers, and forwarders now within the FHWA's registration jurisdiction already are familiar. For the most part, the proposed interim registration rules and application forms embrace limited changes that either are directly mandated by the ICCTA or are required to realize effective implementation of the FHWA's unified oversight of registration and monitoring of safety compliance. To a more limited extent this proceeding proposes discretionary revisions to the registration forms and procedures now in place. These changes are incremental, but would operate to ensure the continued integrity of the registration process while simplifying and clarifying registration guidelines for applicants.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this proposed action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of the Department of Transportation's Regulatory Policies and Procedures. This proposed action preserves the essential nature of the registration procedures already in place, makes primarily incremental changes to accommodate the ICCTA's jurisdictional revisions or to facilitate the FHWA's management of the registration docket, and will be in place for only a limited, transitional period. Accordingly, it is anticipated that the economic impact of this proceeding will be minimal.

Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, Pub. L. 96-354, 5 U.S.C. 601-612, the FHWA has evaluated the anticipated effects of these proposed interim rules on small entities. Based on the evaluation, the FHWA hereby certifies that this proposed action would not have a significant economic impact on a substantial number of small entities.

Essentially, this rulemaking action would preserve in the new registration context mandated by the ICCTA the procedural guidelines and standards previously imposed upon motor carriers, property brokers, and household goods freight forwarders under the former ICC's licensing jurisdiction. Accordingly, the projected economic impact upon the vast majority of small entities affected by this proceeding is expected to be negligible. To the limited extent that the revised registration application forms clarify and simplify the registration process, particularly for first-time applicants, they can be expected to reduce filing burdens in a way that would have a positive, although not profound, economic impact on small entities. Although the revised statutory registration provisions expand the FHWA's regulatory reach to the general commodities segment of the freight forwarding industry, the FHWA finds the affected small entities not to be a population of sufficient size, nor the economic impact upon them to be of sufficient magnitude, to warrant a significant economic impact finding.

Executive Order 12612 (Federalism Assessment)

The interim rules proposed here have been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The proposed interim rules do not impose additional costs or burdens on the States, nor do they affect the ability of the States to discharge traditional State government functions.

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.

Paperwork Reduction Act

The interim rules proposed here involve an information collection requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* The revised registration application forms, however, in all critical respects would preserve the format, procedural guidance, and, to the full extent feasible, the substantive inquiries of their predecessor forms that have been approved by the Office of Management and Budget (OMB).

To the limited extent that the proposed forms would provide for revised information requests, the projected time required for applicants to respond to such information collections would be more than compensated by elimination of other previously requested data, rendered superfluous or irrelevant by the ICCTA. In addition, we anticipate that the revised instructions and streamlined response format of the application forms would clarify and simplify the registration process in a manner that would appreciably reduce the time required to complete the Form OP-1, OP-1(P), and OP-1(FF) registration applications.

Accordingly, we anticipate a downward revision in the estimated burden hours currently reflected in the OMB inventory for completion of Forms OP-1, OP-1(P), and OP-1(FF)—from 2.5 to 1.5 hours per response. This revision would make the burden hours reflected in the OMB inventory consistent with those already recorded for the Form OP-1(MX). That form was developed by the former ICC after that agency had the benefit of considerable experience using the other forms in the OP-1 Series. Thus, the Form OP-1(MX) already reflected streamlined and simplified instructions and organizational features. The FHWA finds that the 1.5 burden hours estimated for completion of Form OP-1(MX) represent a more realistic assessment of the time commitment that would be required of the average applicant for completion of any form in the proposed revised OP-1 Series. The estimated burden hours include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed to complete the forms, and completing and reviewing the collection of information.

The composite annual reporting burden ascribed in the OMB inventory to Forms OP-1, OP-1(P), and OP-1(FF) is 45,000 hours, based on an estimate of 18,000 application filings annually at 2.5 burden hours per response. The FHWA's recent experience in processing

registration applications during Fiscal Years 1996 and 1997 indicates that the level of filings continues to remain relatively constant. The projection of 18,000 annual application filings on the proposed forms at the revised estimated paperwork burden of 1.5 hours per response yields an anticipated composite information collection burden of 27,000 hours annually.

The revised information collection requirements contained in this action will be submitted to OMB under the Paperwork Reduction Act and 5 CFR 1320. This document serves as the FHWA's 60-day notice under 5 CFR 1320.8(d)(1). Comments concerning the paperwork burden and burden hour estimates in this proceeding may be directed to OMB and the FHWA, respectively, by addressing them to:

Office of Management and Budget,
Office of Information and Regulatory
Affairs, Washington, DC 20503
and
Federal Highway Administration, Forms
Clearance Officer Earl Coles (HMS-
12), Office of Information and
Management Services, 400 Seventh
St., SW., Washington, DC 20590

National Environmental Policy Act

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 that this action would not affect the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 365

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Highways and roads, Motor carriers.

49 CFR Part 385

Administrative procedures, Commercial motor vehicle safety, Highways and roads, Highway safety, Motor carriers.

49 CFR Part 387

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

Issued on: February 3, 1998.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA hereby proposes to amend title 49, Code of Federal Regulations, chapter III, subchapter B, by revising parts 365, 385, and 387 as set forth below:

1. Part 365 is revised to read as follows:

PART 365—REGISTRATION OF INTERSTATE, FOR-HIRE MOTOR CARRIERS, PROPERTY BROKERS, AND FREIGHT FORWARDERS

Subpart A—How to Register

- 365.101 Registrations governed by these rules.
- 365.103 Effective periods of registrations.
- 365.105 Modified procedure.
- 365.107 Starting the registration process: the Form OP-1 series.
- 365.109 Types of registrations.
- 365.111 Review of the registration application.
- 365.113 Changing the registration application form or filing supplementary evidence after the registration form is filed.
- 365.115 Obtaining a copy of the registration application.
- 365.117 Registrant withdrawal.
- 365.119 Disposition of registration applications.

Subpart B—Provisions Governing Opposed Registration Applications

- 365.201 Definitions.
- 365.203 Time periods for filing complaints.
- 365.205 Contents of the complaint.
- 365.207 Filing a reply statement.

Subpart C—Contesting Disposition of the Registration Application

- 365.301 Procedures for requesting reconsideration of a rejected registration application.
- 365.303 Procedures for appealing disposition of a registration application.

Subpart D—Provisions Governing Transfers or Changes in the Control, Ownership, or Name of a Registrant

- 365.401 Registration transfers and changes in ownership or control of registrants.
- 365.403 Procedures for changing the name or business form of a registrant.

Subpart E—General Rules Governing the Registration Process

- 365.501 Governing rules.
 - 365.503 Contacting another party.
 - 365.505 Serving copies of pleadings.
 - 365.507 Replies to motions.
 - 365.509 Facsimile filings.
 - 365.511 Voluntary registration revocation.
 - 365.513 Reinstatement of revoked registrations.
 - 365.515 Discontinued applications.
- Appendix A to Part 365—Form OP-1
Appendix B to Part 365—Form OP-1(P)
Appendix C to Part 365—Form OP-1(FF)

Appendix D to Part 365—Form OP-1(MX)
Appendix E to Part 365—Form OCE-46

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901-13906, 14708, 31138, and 31144; 49 CFR 1.48.

Subpart A—How to Register

§ 365.101 Registrations governed by these rules.

These rules govern the registration of entities providing transportation or service of the following types:

- (a) For-hire motor common or contract carriers of property or passengers, operating in interstate or foreign commerce;
- (b) Brokers of for-hire motor vehicle transportation of property in interstate or foreign commerce;
- (c) Freight forwarders of property in interstate or foreign commerce;
- (d) Intrastate motor common carriers of passengers providing service on a route over which the carrier is registered to provide interstate operations; and
- (e) Mexican carriers operating in interstate or foreign commerce as common, contract, or private motor carriers of property (including exempt items), between the U.S./Mexico border, on the one hand, and, on the other, points in California, Arizona, New Mexico, and Texas.

§ 365.103 Effective periods of registrations.

Registrations will remain in effect as long as the registrant maintains compliance with the requirements of this part and all applicable statutory and regulatory provisions, including those pertaining to insurance coverage for the protection of the public (49 CFR part 387); the designation of agents upon whom process may be served (49 CFR part 366); tariffs or schedules if applicable (49 CFR part 1312); and the Federal Motor Carrier Safety Regulations (49 CFR parts 350-399). Failure to maintain compliance will constitute sufficient grounds for revocation of registration authority by the Federal Highway Administration (FHWA).

§ 365.105 Modified procedure.

The FHWA will handle registration requests using the modified procedure, if possible. Under this procedure, registration applicants and complainants submit statements made under oath (verified statements) to each other and to the FHWA.

§ 365.107 Starting the registration process: the Form OP-1 Series.

(a) All registration applicants shall file the appropriate form in the OP-1 Series, as follows:

- (1) Form OP-1 for motor property common and contract carriers and property brokers;
- (2) Form OP-1(P) for motor passenger common and contract carriers;
- (3) Form OP-1(FF) for freight forwarders; and
- (4) Form OP-1(MX) for Mexican for-hire or private motor carriers of property (including otherwise exempt items), seeking to operate pursuant to provisions of the North American Free Trade Agreement (NAFTA).

(b) Registration applicants may obtain the OP-1 forms by contacting FHWA regional offices identified at 49 CFR 390.27 and FHWA field offices, or by calling the FHWA, Office of Motor Carriers, Licensing and Insurance Division, at (202) 358-7046.

(c) A separate registration filing fee is required for each registration application submitted in each transportation or service category.

§ 365.109 Types of registrations.

(a) *General compliance.* (1) Motor property carriers, freight forwarders, property brokers, and certain types of motor passenger carriers, are required to be registered upon a finding that the registrant is willing and able to comply with all applicable statutory and regulatory provisions, including any safety regulations imposed by the Secretary and safety fitness requirements established under 49 U.S.C. 31144 (49 CFR parts 350-399) and the minimum financial responsibility requirements established under 49 U.S.C. 13906, 31138, and 31139 (49 CFR part 387). These registration applications can be opposed only on the grounds that the registrant is not in compliance with applicable safety fitness and financial responsibility requirements.

(2) Registrants in this category are:

- (i) Motor common and contract carriers of property (except household goods);
- (ii) Mexican motor common and contract carriers of property (except household goods) that perform private carriage and transport exempt items;
- (iii) Motor carrier property brokers;
- (iv) Freight forwarders of general commodities (except household goods); and

(v) Privately funded motor common and contract passenger carriers (i.e., carriers that receive no governmental assistance), providing special and charter operations, international charter

and tour bus services across the U.S.-Mexico border (provided by Mexican owned or controlled carriers), regular route service, or scheduled international transportation between the U.S.-Mexico border and specified points in the United States (provided by Mexican owned or controlled carriers subject to implementation of Phase III of the North American Free Trade Agreement).

Note: Motor passenger carrier registrants in this category (that are not Mexican owned or controlled) are authorized to provide regular route motor passenger carrier transportation entirely in one State if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers. Registrants that intend to provide intrastate service of this nature should so indicate on Form OP-1(P).

(b) *Public interest.* (1) Certain types of motor passenger carrier registrants are required to be registered upon a finding of the general compliance factors specified in paragraph (a) of this section, unless, on the basis of evidence presented by any person objecting to the registration, there is a finding that the transportation to be provided pursuant to the registration is not in the public interest.

(2) Registrants in this category are:

(i) Private motor passenger carrier recipients of governmental assistance, providing special or charter transportation; and

(ii) Public motor passenger carrier recipients of governmental assistance, providing regular-route transportation.

(c) *Public special or charter.* (1) Certain types of motor passenger carriers are to be registered upon a finding of the general compliance factors specified in paragraph (a) of this section and upon the further findings that: No motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing or willing to provide the transportation; and the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

(2) Registrants in this category are public motor passenger carrier recipients of governmental assistance providing special or charter transportation.

(d) *Household goods.* (1) Certain types of motor property carriers and freight forwarders are to be registered upon a finding of the general compliance factors specified in paragraph (a) of this section and upon a further finding that the registrant agrees in accordance with 49 U.S.C. 14708 to offer its shippers of household goods arbitration as a means of settling disputes concerning damage

and loss to household goods transported and certifies in its application that the required arbitration system is in place.

(2) Registrants in this category are:

(i) Motor common and contract carriers of household goods (including Mexican carrier registrants); and

(ii) Household goods freight forwarders.

§ 365.111 Review of the registration application.

(a) Registration applications will be reviewed for correctness, completeness, and adequacy of the information provided.

(1) Minor errors will be corrected without notification to the registrant.

(2) Materially incomplete registration forms will be rejected as provided in § 365.119. Registration applications that are in substantial compliance with these rules may be accepted.

(b) Registration applications submitted by motor carriers with "Unsatisfactory" safety fitness ratings will be rejected.

(c) A summary of the information provided on the accepted registration application will be published in the "Federal Highway Administration Office of Motor Carriers Register [FHWA-OMC Register]" to give notice to the public.

(d) Registration applicants must establish financial responsibility by filing, within 90 days from the date a registration notice is published in the *FHWA-OMC Register*, as appropriate:

(1) Form BMC-91 or 91X (bodily injury and property damage liability coverage) or Form BMC-82 (surety bond)—Bodily injury and property damage—motor property and passenger carriers; freight forwarders that provide pickup or delivery service directly or by using a local delivery service under their control.

Note: Motor passenger transit operators identified under 49 U.S.C. 31138(e)(4) that receive grants under 49 U.S.C. 5307, 5310, or 5311 or that contract to provide transportation service funded in whole or in part by such grant funds, may file proof of minimum financial responsibility at the highest level of insurance required by any of the States in which they operate in lieu of observing otherwise applicable Federal limits.

(2) Form BMC-84 (surety bond) or Form BMC-85 (trust fund agreement)—property brokers.

(3) Form BMC-34 or BMC-83 (surety bond)—Cargo liability—motor property common carriers and freight forwarders.

(e) All motor carrier, property broker, and freight forwarder registration applicants also must submit Form BOC-3—Designation of legal process agents—

within 90 days from the date a registration notice is published in the "FHWA-OMC Register."

(f) Compliance with safety requirements by motor carrier and vehicle-operating freight forwarder registrants is established by:

(1) Completion of the safety fitness compliance certification on the registration application form;

(2) Submission of a completed Form MCS-150 with the registration application form or confirmation by providing a valid U.S. DOT number that the registrant currently has a Form MCS-150 on file; and

(3) Either of the following:

(i) Assignment of a DOT safety rating other than "Unsatisfactory"; or

(ii) For registration applicants that have not been assigned a DOT safety rating, immediate entry into the FHWA's Motor Carrier Management Information System (MCMIS) to permit continual monitoring of such registrants' operations, involving attention to vehicle inspections, accident reports, carrier size, commodities transported, and any performance-based operational data available through MCMIS.

(g) Registration applicants seeking to conduct operations for which tariffs are required to be filed or published may not commence operations until such tariffs are properly filed with the Surface Transportation Board under 49 CFR part 1312 or published and in effect.

(h) All registration application forms must be completed in English.

§ 365.113 Changing the registration application form or filing supplementary evidence after the registration form is filed.

(a) Once the registration application form is filed, the applicant may supplement evidence only with the approval of the FHWA, Office of Motor Carriers, Licensing and Insurance Division.

(b) Amendments to the registration application form generally are not permitted, but in exceptional circumstances may be entertained at the discretion of the FHWA, Office of Motor Carriers, Licensing and Insurance Division.

§ 365.115 Obtaining a copy of the registration application.

After publication of the registration notice, interested persons may request a copy of the registration application form submitted by contacting the office or official identified in the "FHWA-OMC Register."

§ 365.117 Registrant withdrawal.

If the registration applicant wishes to withdraw its application, it shall submit a dismissal request in writing to the Federal Highway Administration, Office of Motor Carriers, Licensing and Insurance Division, HIA-30, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024.

§ 365.119 Disposition of registration applications.

(a) Registration applications not in substantial compliance with this part will be rejected. Applicants will be informed in writing by the Director, Office of Motor Carrier Information and Analysis, of the reason for rejection. Filing fees for rejected applications are not refundable.

(b) If no complaints are received in response to registration applications published in the "FHWA-OMC Register" as provided under subpart B of this part, the registration will become effective by issuance of a certificate (motor common carriers), permit (motor contract carriers and forwarders), or license (property brokers). The registration will continue in effect only so long as the registrant remains in compliance with the requirements of this part and all applicable statutory provisions. The registrant is subject to suspension or revocation at any time for compliance failure.

(c) If a timely complaint is filed in response to a registration application as provided under subpart B of this part, the Director, Office of Motor Carrier Information and Analysis, will review the application record, including all complaint and reply evidence, and will issue a decision on the merits of the application.

Subpart B—Provisions Governing Opposed Registration Applications**§ 365.201 Definitions.**

Complainant means a person filing valid opposition.

Complaint means a pleading filed by a person who opposes a registration.

§ 365.203 Time periods for filing complaints.

A complaint must be filed (received at the FHWA) within 10 days after the registration notice is published in the "FHWA-OMC Register." A copy of the complaint shall be sent to the registration applicant's representative at the same time. Failure to file a complaint within the stated time period or to provide a copy of the complaint to the representative constitutes a waiver of further participation in this proceeding.

§ 365.205 Contents of the complaint.

(a) All information upon which the complainant plans to rely must be set forth in the complaint.

(b) A complaint must be verified, as follows:

I, _____
verify under penalty of perjury, under the laws of the United States of America, that the information above is true and correct. Further, I certify that I am qualified and authorized to file this complaint.
(See 18 U.S.C. 1001 and 18 U.S.C. 1621 for penalties.)

[Signature and Date]

(c) Complaints must respond directly to the statutory standards for review of registration requests as provided at 49 U.S.C. 13902-13904. As specifically concerns motor carrier registrations, complaints will be accepted only on the ground that the registrant fails or will fail to comply with applicable statutory and regulatory provisions, specifically the safety regulations of the Secretary of Transportation including the safety fitness requirements established under 49 U.S.C. 31144 (49 CFR parts 350-399) or minimum financial responsibility requirements established under 49 U.S.C. 13906, 31138, and 31139 (49 CFR part 387).

(d) A complaint not in substantial compliance with the rules in this part or applicable statutory standards may be rejected.

(e) A complainant wishing to withdraw from a proceeding shall inform the FHWA in writing.

§ 365.207 Filing a reply statement.

(a) If the registration application is opposed, the applicant may file a reply statement. The reply statement must be filed (received at the FHWA) within 20 days after "FHWA-OMC Register" publication.

(b) The reply statement may not contain new information. It shall only rebut or further explain matters previously raised.

(c) The reply statement need not be notarized or verified. The oath in the registration application applies to all information submitted in the registration process. Separate legal arguments, if presented, need not be notarized or verified.

Subpart C—Contesting Disposition of the Registration Application**§ 365.301 Procedures for requesting reconsideration of a rejected registration application.**

(a) A registration applicant has the right to request reconsideration of the rejection of a registration application.

(b) The reconsideration request must be filed (received at the FHWA) in writing within 10 days of the date of the letter of rejection at the location noted therein and must state why the rejection of the registration application is believed to be in error.

(c) The reconsideration request will be reviewed by the Director, Office of Motor Carrier Information and Analysis, and the registration applicant shall be notified in writing of the decision upon reconsideration.

(d) If the request for reconsideration is successful and the registration filing is found to be proper, the registration application shall be deemed to have been filed properly as of the reconsideration decision date.

(e) If the request for reconsideration is denied, the registration applicant has the right to file an administrative appeal as prescribed at § 365.303.

§ 365.303 Procedures for appealing disposition of a registration application.

(a) A registration applicant has the right to appeal denial of the registration application or denial of a request to reconsider rejection of the application. A complainant has the right to appeal issuance of a registration.

(b) The appeal must be filed (received at the FHWA) in writing with the Associate Administrator for Motor Carriers, FHWA, 400 Seventh Street, SW., Washington, DC 20590, within 10 days of the date of the decision denying the application or issuing the registration or the letter denying the reconsideration request and must list all factual and procedural issues in dispute.

(c) The Associate Administrator for Motor Carriers may request the parties to submit additional data or to attend a conference to discuss the application. Failure of a party filing the appeal to provide the information requested or to attend the conference may result in dismissal of the appeal.

(d) The parties shall be notified in writing of the decision on administrative review and this decision shall constitute final agency action.

Subpart D—Provisions Governing Transfers or Changes in the Control, Ownership, or Name of a Registrant**§ 365.401 Registration transfers and changes in ownership or control of registrants.**

(a) Transfers of registrations are not permitted. A person that purchases or otherwise acquires control of or the right to operate a previously registered entity must register anew to provide the operations in its own right by filing the appropriate form in the OP-1 Series and complying with the regulations set forth

in this part. A new registration number will be assigned to the acquiring entity.

(b) To ensure that commercial operations and service are not impeded or disrupted when registered entities engage in transactions involving the change of ownership or control, a registration will remain valid for a 60 day grace period irrespective of changes in ownership or control, so long as there is no lapse in compliance with applicable statutory and regulatory provisions, including required minimum levels of financial responsibility and safety requirements. This grace period runs from the date of change in ownership or control and is valid only so long as:

(1) The prior and new registrants jointly inform the FHWA's Office of Motor Carriers, Licensing and Insurance Division, in writing, of the circumstances giving rise to the change in ownership or control; and

(2) The acquiring entity has on file with the FHWA the appropriate registration application form in the OP-1 Series.

§ 365.403 Procedures for changing the name or business form of a registrant.

(a) *Scope.* The procedures set forth at this subpart apply to the following circumstances:

(1) A change in the form of a registrant's business, such as the incorporation of a sole proprietorship or partnership;

(2) A change in the legal name of a corporation or partnership or change in the trade name or assumed name of any entity;

(3) A transfer of a registration from a deceased or incapacitated spouse to the other spouse;

(4) A reincorporation and merger for the sole purpose of effecting a name change;

(5) An amalgamation or consolidation of a carrier and a non-carrier into a new carrier having a different name from either of the predecessor entities; and

(6) A change in the State of incorporation accomplished by dissolving the corporation in one State and reincorporating in another State.

(b) *Procedures.* To accomplish these changes, the registrant must send a letter to the Federal Highway Administration, Office of Motor Carriers, Licensing and Insurance Division, HIA-30, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024. The envelope should be marked "NAME CHANGE." The registrant must provide the following, to the extent applicable:

(1) The docket number(s) and name of the registrant requesting the change;

(2) A copy of the articles of incorporation and the State certificate reflecting the incorporation;

(3) The names of the owners of the stock and distribution of the shares;

(4) The names of the officers and directors of the corporation;

(5) A statement that there is no change in the ownership, management, or control of the business;

(6) When this procedure is being used to transfer a registration from a deceased or incapacitated spouse to the other spouse, documentation that the other spouse has the legal right to effect such change; and

(7) Payment of the fee for filing a name change request.

Subpart E—General Rules Governing the Registration Process

§ 365.501 Governing rules.

Except as provided in this part, all registration proceedings are governed by the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, and the Federal Rules of Civil Procedure, title 28, U.S.C.

§ 365.503 Contacting another party.

When a person wishes to contact another party or serve a pleading or letter on that party, it shall do so through the designated representative. The telephone and facsimile numbers of a registrant's representative shall be listed in the notice published in the "FHWA-OMC Register."

§ 365.505 Serving copies of pleadings.

(a) A registrant must serve all pleadings and letters on the FHWA and all known participants in the proceeding, except that a reply to a motion need only be served on the FHWA and the moving party.

(b) A complainant need serve only the FHWA and registrant with pleadings or letters.

§ 365.507 Replies to motions.

Replies to motions filed under this part must be filed (received at the FHWA) within 5 days of the date the motion is filed at the FHWA.

§ 365.509 Facsimile filings.

Facsimile filings of registration forms and supplemental information are not permitted. To assist parties in meeting the expedited time frames established for submitting complaints to a registration notice, however, the FHWA will accept facsimile filings of complaints and any reply or rebuttal evidence. (Facsimile number: (202) 358-7118.) Facsimile filings of these pleadings must be followed by submission of the original document

and one copy for verification and recordkeeping purposes.

§ 365.511 Voluntary registration revocation.

(a) Registrants that seek to discontinue operations and have their registrations voluntarily revoked may do so by submitting Form OCE-46, "Request for Revocation of Registration," to the FHWA's Office of Motor Carriers, Licensing and Insurance Division, HIA-30, Suite 600, 400 Virginia Avenue SW., Washington, DC 20024.

(b) Registrations that have been voluntarily revoked are subject to the reinstatement provisions of § 365.513 in the same manner and to the same extent as those registrations that have been revoked due to a lapse in maintaining minimum levels of financial responsibility or for other cause.

§ 365.513 Reinstatement of revoked registrations.

(a) Registrations that have been revoked may be reinstated, provided that the reinstatement request and evidence of required minimum financial responsibility is filed within one year of the date of revocation of the involved registration.

(b) Requests for reinstatement should be submitted to the FHWA's Office of Motor Carriers, Licensing and Insurance Division, HIA-30, Suite 600, 400 Virginia Avenue SW., Washington, DC 20024, and should be accompanied by the required reinstatement fee.

(c) Revoked registrations will be reinstated only upon a determination that the registrant is in compliance with this part and all applicable statutory provisions.

§ 365.515 Discontinued applications.

Registration applications that have been rejected, denied, dismissed for want of prosecution, or withdrawn cannot be reactivated. This provision also is applicable to applications filed with the former Interstate Commerce Commission, including those applications dismissed for want of prosecution prior to January 1, 1995, for which a \$400 reactivation fee formerly was assessed.

BILLING CODE 4910-22-P

Appendix A to Part 365—Form OP-1—Application to Register as a Motor Property Carrier or Broker

Instructions for Form OP-1—Application to Register as a Motor Property Carrier or Broker

These instructions will assist you in preparing accurate and complete registration filings. 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 typed or printed in ink. If additional space is needed to provide a response to any item, use a separate sheet of paper. Identify application on each supplemental page and refer to the section and item number in the application for each response.

Section I

FHWA Registration History. If you now have any authority issued by the former ICC or if you are registered with or have a registration application pending before the Federal Highway Administration, check the "YES" box and indicate the docket number (MC number) you have been assigned. Example: MC-987654.

Applicant's Legal Business Name and Doing Business as Name. The applicant 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 FHWA uses computers to retain information about registered 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. Examples: 756 Bounty Street; 15433 State Highway 23. 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 pertinent FHWA notices and to ensure that insurance documents filed on applicant's behalf are accepted; notify the FHWA in writing: Federal Highway Administration, Licensing and Insurance Division, HIA-30, Suite 6000, 400 Virginia Avenue, S.W., Washington, DC 20024, if the business or mailing address changes.

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

U.S. DOT Number. Registration applicants subject to the Federal Motor Carrier Safety Regulations also are required to register with U.S. Department of Transportation (U.S. DOT), for safety monitoring purposes. Motor carriers that already have been issued a U.S. DOT registration number should provide it; applicants that have not registered with U.S. DOT should do so by submitting a completed Form MCS-150, *Motor Carrier Identification Report*, with this application. [Note: Registrants claiming "EXEMPT" status under the Section IV—"SAFETY COMPLIANCE" portion of this form need not file Form MCS-150.]

Form of Business. A business is either a corporation, sole proprietorship, partnership, or limited liability company. 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 name of *each* partner.

Section II

Type of Operations. Check the appropriate box(es) for the type(s) of operations you are registering. A separate filing fee is required for *each* type of operations registered. See "Fee Policy" in the application form. (Note: A broker arranges for the transportation where the actual movement will be performed by registered motor carriers. Brokers assume no responsibility for the property being transported.)

Section III

Insurance Information. Check the appropriate box(es) to describe the type of business you will be conducting. If you operate vehicles with a gross vehicle rating of 10,001 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 insurance regulations at 49 CFR 387.303(b)(2)(c) require \$1 million minimum liability coverage; those at 49 CFR 387.303(b)(2)(b) require \$5 million minimum liability coverage.

If you operate only vehicles with a gross vehicle weight rating under 10,001 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 material), or highway route controlled quantity of radioactive materials, you must maintain \$5 million minimum liability coverage.

Property brokers must have on file with the FHWA a surety bond or trust fund agreement in the amount of \$10,000.

Minimum levels of cargo insurance must be maintained by all motor property common carriers: \$5,000 for loss of or damage to property carried on any one motor vehicle and \$10,000 for loss of or damage to property occurring at any one time and place.

Appropriate insurance forms must be filed within 90 days after the date of the application is published in the FHWA Office of Motor Carriers Register: Form BMC-91 or BMC-91X for bodily injury and property damage; Form BMC-34 for cargo liability; Form BMC-84 for broker surety bond; and Form BMC-85 for broker trust fund agreement.

The FHWA does not furnish copies of insurance forms. You must contact your insurance company to arrange for the filing of all required insurance forms.

Section IV

Safety Certification. Applicants for motor carrier authority must complete the safety certification. You should check the "Yes" response only if you can attest to the truth of the statements. The "Applicant's Oath" at

the end of the application form applies to all certifications, and false certifications are subject to the penalties described in that oath.

If you operate only vehicles with a gross weight rating under 10,000 pounds and will not transport hazardous materials, you are exempt from the U.S. DOT safety fitness regulations; however, 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.

You must check only *one* of the boxes in this section.

Section V

Affiliations. All applicants must disclose pertinent information concerning affiliations, if any with other former ICC licensed, now FHWA registered entities.

Sections VI

Household Goods Arbitration Certification. All motor carrier registrants that will transport household goods as defined at 49 U.S.C. 13102(10) must complete the required certification concerning arbitration as a condition of registration.

Section VII

Applicant's Oath. Applications may be prepared by the applicant or an authorized representative. In either case, *the oath must be signed by the applicant.* In the case of companies, an authorized employee in the ownership structure may sign. An individual with power of attorney to act on behalf of the applicant may sign, provided that proof of the power of attorney is submitted with the application.

Legal Process Agents

All motor carrier applicants must designate a process agent in each state where operations are authorized. All broker applicants must designate a process agent in each state in which offices are located and in which contracts will be written. Process agents who will accept legal filings on applicant's behalf are designated on FHWA Form BOC-3. Form BOC-3 must be filed within 90 days after the date notice of the application is published in the FHWA Register.

State Notification

Before beginning new or expanded interstate operations, all applicants must contact the appropriate regulatory agencies in every state in and through which the carrier will operate to obtain information regarding various state rules applicable to interstate authorities. It is the applicant's responsibility to comply with registration, fuel tax, and other state regulations and procedures. Begin this process by contacting the transportation regulatory agency for the state in which your business is located.

Mailing Instructions

To register, you must submit an *original and one copy* of this application with the appropriate filing fee.

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

Federal Highway 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

FHWA, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC. 20024

Additional Assistance

FHWA Information Sources

Additional information on registration or monitoring the status of your applications is available through the FHWA's Automated Response Capability (ARC) telephone system. After dialing (202) 358-7000, press 1, then request 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 No.
<ul style="list-style-type: none"> Status of your application (Note: Tracking the status of your application can be simplified and expedited if you refer to the assigned docket number when making inquiries. You will be informed of your docket number by letter sent on the date notice of your application appears in the FHWA Office of Motor Carriers Register.) Assistance in filing your application Status of insurance and process agent filings 	<p>1</p> <p>3</p> <p>2</p>

If you require information that is not available in the automated response system, the ARC will guide you to an appropriate staff member who will be able to assist you in other areas.

U.S. DOT Registration and Safety Ratings

To obtain information on completing Form MCS-150 or to request a safety fitness review, write to: Director, Information Analysis, Federal Highway Administration, 400-7th St., S.W.—HIA-10, Washington, DC 20590, or 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 to be hazardous materials:

Refer to the provisions governing hazardous materials in the Federal Motor Carrier Safety Regulations at Parts 170 through 189 of Title 49 of the Code of Federal Regulations (CFR), particularly the

Hazardous Materials Table at 49 CFR Part 172, or contact U.S. DOT at (202) 366-6121.

To obtain information about DOT hazardous materials transportation registration requirements: Contact U.S. DOT at (202) 366-4109.

Federal Highway Administration Form OP-1—Application To Register as a Motor Property Carrier or Broker

This application is for all individuals and business requesting authority to operate as motor property common or contract carriers or property brokers.

For FHWA Use Only

Docket No. MC- _____

Filed _____

Fee No. _____

CC Approval No. _____

Section I—Applicant Information

Do you now have authority from the former ICC or the FHWA or an application being processed by the FHWA?

Dec. 191 thru out No Yes

If yes, identify the lead docket number(s) _____

Does this application register revoked authority?

NO YES

Legal Business Name _____

Doing Business as Name _____

Business Address _____

Street Name and Number _____

City _____

State/Zip Code _____

Telephone Number _____

Mailing Address (if different from above) _____

Street Name and Number or P.O. Box _____

City _____

State/Zip Code _____

Representative (Person who can respond to inquiries) _____

Name and title, position, or relationship to applicant _____

Street Name and Number _____

Telephone Number _____

City/State/Zip Code _____

Fax Number _____

U.S. DOT Number _____

[Note: Motor carrier registrants that have not been assigned a U.S. DOT number must submit a completed Form MCS-150, *Motor Carrier Identification Report*, with this

application or must confirm their exempt status under the Section IV—SAFETY CERTIFICATION portion of this form.]

Form of Business (Check Only One)

Corporation

State of Incorporation _____

Sole Proprietorship

Name of Individual _____

Partnership

Identify Partners _____

Limited Liability Company

Section II—Type of Operations

You must submit a filing fee for each type of authority requested (for each box checked). Also, indicate within each authority category the type of commodities you will transport or broker.

Motor Common Carrier

General Freight

Household Goods

Motor Contract Carrier

General Freight

Household Goods

Broker

General Freight

Household Goods

Fax Number _____

Section III—Insurance Information

This section must be completed by ALL motor property registration applicants. The dollar amounts in parentheses represent the minimum amount of bodily injury and property damage (liability) insurance coverage you must maintain and have on file with the FHWA.

Note: Refer to the instructions for information on cargo insurance filing requirements for motor common carriers and surety bond/trust fund agreement filings for property brokers.

Will operate vehicles having Gross Vehicle Weight Ratings (GVWR) of 10,001 pounds or more to transport:
 Non-hazardous commodities (\$750,000).

Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 387.303(b)(2)(c) (\$1,000,000).

Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 387.303(b)(2)(b) (\$5,000,000).

Will operate only vehicles having Gross Vehicle Weight Ratings (GVWR) under 10,001 pounds to transport:

Any quantity of Division 1.1, 1.2, 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—Safety Compliance (Motor Carrier Applicants Only)

Applicants Subject to Federal Motor Carrier Safety Regulations—If you will operate vehicles of more than 10,000 pounds GVWR and are, thus, subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter

3, Subchapter B (Parts 350–399), you must certify as follows:

Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

(1) Has in place a system and an individual responsible for ensuring overall compliance with Federal Motor Carrier Safety Regulations;

(2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;

(3) Has in place a driver safety training/orientation program;

(4) Has prepared and maintains an accident register (49 CFR 390.15);

(5) Is familiar with DOT regulations governing driver qualifications and has in place a system for overseeing driver qualification requirements (49 CFR Part 391);

(6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396);

(7) Is familiar with and will have in place on the appropriate effective date, a system for complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 382 and 49 CFR Part 40).

YES

Exempt Applicants—If you will operate only small vehicles (GVWR under 10,000 pounds) and will not transport hazardous materials, you are exempt from Federal Motor Carrier Safety Regulations, and must certify as follows:

Applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

YES

Section V—Affiliations

Affiliation With Other Former ICC Licensed or FHWA Registered Entities. Disclose any relationship you have or have had with any other FHWA-regulated (or former ICC licensed) entity. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC number, U.S. DOT number, and that company's latest U.S. DOT safety rating. (If you require more space, attach the information to this application form.)

Section VI—Household Goods Certification

Household Goods Arbitration Certification. All motor carrier registrants that will transport household goods as defined at 49

U.S.C. 13102(10) must certify as follows by checking the "YES" box below:

As a condition of registrant, registration agrees to offer its collect-on-delivery shippers of household goods arbitration as a means of settling disputes concerning damage and loss of household goods transported in accordance with 49 U.S.C. 14708.

YES

Section VII—Applicant's Oath

This oath applies to this application and to all supplemental filings. *The signature must be that of applicant, not a legal representative.*

Name and title, _____

I, _____, verify under penalty of perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to 5 years for each offense.

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

Finally, I certify that applicant is not domiciled in Mexico or owned or controlled by persons of that country.

Signature _____

Date _____

Filing Fee Information

All applicants must submit a filing fee for each type of authority requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in Section II. [Note: Service on household goods and general freight within a single category does not require separate filing fees.] Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in Section II: _____ × filing fee \$ _____ = \$ _____

Indicate amount \$ _____ and method of payments.

Check or Money Order, payable to: Federal Highway Administration

VISA Mastercard

Credit Card Number _____

Expiration Date _____

Signature _____

Date _____

Fee Policy

- Filing fees must be payable to the Federal Highway 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 fee are required for each type of authority requested. If applicant requests multiple types of permanent authority on one application form (for example, common and contract carrier authority) or if applicant submits more than one form in OP-1 Series in a single filing, 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 original and one copy of the application, to FHWA Lockbox, P.O. Box 100147, Atlanta, GA 30384-0147.

- After an application is received, the filing fee is not refundable.

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

Paperwork Burden. It is estimated that an average of 2.5 burden hours per response are 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 both the Federal Highway Administration, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024, and to the Office of Management and Budget, Office of Information and Regulator Affairs (OMB No. 3120-0047), Washington, DC 20403.

Appendix B to Part 365—Form OP-1(P)—Application to Register as a Motor Passenger Carrier

Instructions for Form OP-1(P)—Application to Register as a Motor Passenger Carrier

These instructions will assist you in preparing accurate and complete registration filings. 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 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.

Section I

FHWA Registration History. If you now have any authority issued by the former ICC or if you are registered with or have a registration application pending before the Federal Highway Administration, check the "YES" box and indicate the docket number (MC number) you have been assigned. Example: MC-987654.

Applicant's Legal Business Name and Doing Business as Name. The applicant 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 Transit, enter "John Jones" under APPLICANT'S LEGAL BUSINESS NAME and "Quick Way Transit" under DOING BUSINESS AS NAME.

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

Business Address/Mailing Address. The business address is the physical location of the business. Example: 756 Bounty Street; 15433 State Highway 23. 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 pertinent FHWA notices and to ensure that insurance documents filed on applicant's behalf are accepted, notify the Federal Highway Administration, Licensing and Insurance Division, in writing [Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024] if the business or mailing address changes.

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

U.S. DOT Number. Registration applicants subject to the Federal Motor Carrier Safety Regulations also are required to register with the U.S. Department of Transportation (U.S. DOT) for safety monitoring purposes. Motor carriers that already have been issued a U.S. DOT registration number should provide it; applicants that have not registered with U.S. DOT should do so by submitting a completed Form MCS-150, *Motor Carrier Identification Report*, with this application. [Note: Registrants claiming "EXEMPT" status under the Section IV—"SAFETY COMPLIANCE" portion of this form need not file Form MCS-150.]

Form of Business. A business is either a corporation, sole proprietorship, partnership or limited liability company. If the business is a sole proprietorship, provide the name of the individual who is the owner. In this situation, the owner is the authority applicant. If the business is a partnership, provide the name of *each* partner.

SECTION II

Type of Operations. Check the appropriate box(es) for the type(s) of operations you are registering. A separate filing fee is required for *each type* of operations registered. See "Fee Policy" in the application form.

Section III

Insurance Information. Check the appropriate box that describes the seating capacity of your vehicles. If *all* the vehicles you operate have a seating capacity of 15

passengers or fewer, you are required to maintain \$1,500,000 minimum liability coverage. If *any* one of the vehicles you operate has a seating capacity of 16 passengers or more, you are required to maintain \$5,000,000 minimum liability coverage.

Appropriate insurance forms must be filed within 90 days after the date notice of your application is published in the FHWA Office of Motor Carriers Register: Form BMC-91 or BMC-91X for bodily injury and property damage.

The FHWA does not furnish copies of insurance forms. You must contact your insurance company to arrange for the filing of all required insurance forms.

Grantees Under 49 U.S.C. 5307, 5310, or 5311

The insurance limits referenced above do not pertain to motor passenger carriers providing transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under 49 U.S.C. 5307, 5310, or 5311. Such carriers that seek to register to provide for-hire operations between points in a transit service area located in more than one State are required to maintain the minimum level of financial responsibility for their motor vehicles that is at least the highest level required for any of the States in which the transit service area is located. If you qualify for this special financial responsibility provision, you must complete the portion of Section III that includes a certification of eligibility and State insurance requirement information relevant to your particular transit service area.

Section IV

Safety Certification. Applicants for motor passenger carrier authority must complete the safety certification. You must check the "YES" response only if you can attest to the truth of the statements. The "Applicant's Oath" at the end of the application form applies to all certifications, and false certifications are subject to the penalties described in that oath.

If you are exempt from the U.S. DOT safety fitness regulations, 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.

You must check only *one* of the boxes in this section.

Section V

Funding Status. All applicants must disclose their funding status. If you are a public recipient applicant, you must submit the additional evidence indicated. (This evidence should be provided on a separate sheet of paper attached to your application.)

Section VI

Scope of Operating Authority. When developing passenger service descriptions, the following guidelines may be useful:

Special and charter operations and contract carrier operations generally are conducted over *irregular routes* (i.e., authority that is not restricted to particular roads or highways), between points in the United States.

Other passenger carrier operations generally are performed over *regular routes*

(i.e., authority to perform regularly scheduled service between designated points and operating over named roads or highways).

Mexican owned or controlled passenger carriers seeking to perform operations authorized by the North American Free Trade Agreement must define their service as provided at Items (2) or (5) of this Section.

Section VII

Affiliations. All applicants must disclose pertinent information concerning their affiliations, if any, with other former ICC licensed, now FHWA registered entities.

Section VIII

Applicant's Oath. Applications may be prepared by the applicant or an authorized representative. In either case, *the oath must be signed by the applicant*. In the case of companies, an authorized employee in the ownership structure may sign. An individual with power of attorney to act on behalf of the applicant may sign, provided that proof of the power of attorney is submitted with the application.

Legal Process Agents

All applicants must designate a process agent in each state where operations are authorized. Process agents who will accept legal filings on applicant's behalf are designated on FHWA Form BOC-3. Form BOC-3 must be filed within 90 days after the date notice of the application is published in the FHWA Office of Motor Carriers Register.

State Notification

Before beginning new or expanded interstate operations, all applicants must contact the appropriate regulatory agencies in every state in and through which the carrier will operate to obtain information regarding various state rules applicable to interstate authorities. It is the applicant's responsibility to comply with registration, fuel tax, and other state regulations and procedures. Begin this process by contacting the transportation regulatory agency for the state in which your business is located.

Intrastate motor passenger applicants—If you are registering to provide *intrastate*, regular-route authority in conjunction with your interstate operations, you must send a description of the proposed service to the State transportation regulatory body of the State(s) in which the operations described in the application will be performed.

Mailing Instructions

To register, you must submit an original and one copy of this application with the appropriate filing fee.

Note: Retain a copy of the completed application form and any attachments for your own records.

Mailing address for applications:

All Documents with Fees Attached
Federal Highway 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

FHWA, Licensing and Insurance Division,
Suite 600, 400 Virginia Avenue, S.W.,
Washington, DC 20024

Additional Assistance

FHWA Information Sources

Additional information on registration or monitoring the status of your applications is available through the FHWA's Automated Response Capability (ARC) telephone system. After dialing (202) 358-7000, press 1, then request 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 No.
<ul style="list-style-type: none"> Status of your application (Note: Tracking the Status of your application can be simplified and expedited if you refer to the assigned docket number when making inquiries. You will be informed of your docket number by letter sent on the date notice of your application appears in the FHWA Office of Motor Carriers Register.) Assistance in filing your application Status of insurance and process agent filings 	<p>1</p> <p>3</p> <p>2</p>

If you require information that is not available in the automated response system, the ARC will guide you to an appropriate FHWA staff member who will be able to assist you in other areas.

U.S. DOT Registration and Safety Ratings

- To obtain information on completing Form MCS-150 or to request a safety fitness review, write to: Director, Information Analysis, Federal Highway Administration, 400-7th St., SW., -HIA-10, Washington, DC 20590, or call (800) 832-5660 (Automated Response System).

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

Federal Highway Administration Form OP-1(P)—Application to Register as a Motor Passenger Carrier

This application is for all individuals and businesses requesting to register as motor passenger common or contract carriers.

For FHWA Use Only

Docket No. MC- _____
Filed _____
Fee No. _____
CC Approval No. _____

Section I—Applicant Information

Do you now have authority from the former ICC or the FHWA or an application being processed by the FHWA?

NO YES

If yes, identify the lead docket number(s)

Does this application register revoked authority

NO YES

Legal Business Name _____

Doing Business as Name _____

Business Address _____

Street Name and Number or P.O. Box _____

City/State/Zip Code _____

Telephone Number _____

Mailing Address (if different from above) _____

Street Name and Number _____

City/State/Zip Code _____

Representative (Person who can respond to inquiries)

Name and title, position, or relationship to applicant _____

Street Name and Number _____

City/State/Zip Code _____

Telephone Number _____

FAX Number _____

U.S. DOT Number _____

[**Note:** Motor carrier registrants that have not been assigned a U.S. DOT number must submit a completed Form MCS-150, *Motor Carrier Identification Report*, with this application or must confirm their exempt status under the Section IV—SAFETY CERTIFICATION portion of this form.]

Form of Business (Check Only One)

Corporation

State of Incorporation _____

Sole Proprietorship

Name of Individual _____

Partnership

Identify Partners _____

Limited Liability Company

Section II—Type of Authority

You must submit a filing fee for each type of authority requested (for each box checked).

Motor Passenger Common Carrier

Motor Passenger Contract Carrier

Section III—Insurance Information

All motor passenger carrier applicants must maintain public liability insurance. The amounts in parentheses represent the minimum amount of coverage required.

Applicant will use vehicles with seating capacities of (check only one box):

16 passengers or more (\$5,000,000)

15 passengers or fewer only (\$1,500,000)

Grantees Under 49 U.S.C. 5307, 5310, or 5311

Certify, by checking the "YES" box below, that you provide passenger transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under 49 U.S.C. 5307, 5310 or 5311 and that you seek to register to provide for-

hire operations between points in that transit service area located in more than one State.

YES

Registrants in this category need not observe the minimum levels of financial responsibility indicated above, but are required to have filed and maintain evidence of financial responsibility at least at the highest level required for any of the States in which the transit service area is located.

Indicate States in your transit service area and the State prescribed financial responsibility limit you will observe:

States: _____

Note: Grantees under 49 U.S.C. 5307, 5310, or 5311 that file evidence of State-prescribed financial responsibility limits that are lower than otherwise applicable Federal limits will be registered to provide interstate service only within their designated transit service areas.

Financial responsibility limit

\$ _____
(Indicate amount)

as imposed by: _____
(Indicate State)

Section IV—Safety Compliance (Motor Carrier Applicants Only)

Applicants Subject to Federal Motor Carrier Safety Regulations—If you will operate vehicles of more than 10,000 pounds GVWR and are, thus, subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter 3, Subchapter B (Parts 350-399), you must certify as follows:

Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

(1) Has in place a system and an individual responsible for ensuring overall compliance with Federal Motor Carrier Safety Regulations;

(2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;

(3) Has in place a driver safety training/ orientation program;

(4) Has prepared and maintains an accident register (49 CFR 390.15);

(5) Is familiar with DOT regulations governing driver qualifications and has in place a system for overseeing driver qualification requirements (49 CFR Part 391);

(6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396);

(7) Is familiar with and will have in place on the appropriate effective date, a system for complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 382 and 49 CFR Part 40).

YES

Exempt Applicants—If you will operate only small vehicles (GVWR under 10,000 pounds) and will not transport hazardous materials, you are exempt from Federal Motor Carrier Safety Regulations, and must certify as follows:

Applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

YES

Section V—Government Funding Status

Specify the nature of governmental financial assistance you receive, if any, by checking the appropriate box below. (Check only one box.)

Public recipient—Applicant is any of the following: any state; any municipality, or other political subdivision of a state; any public agency or instrumentality of such entities of one or more state(s); an Indian tribe; and any corporation, board of other person owned or controlled by such entities or owned by, controlled by, or under common control with such a corporation, board, or person which is receiving or has ever received governmental financial assistance for the purchase or operation of any bus.

Private recipient—Applicant is not a public recipient but is receiving, or has received in the past, governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

Non-recipient—Applicant is not receiving, or using equipment acquired with, governmental financial assistance.

Public Interest Criteria: Regular route applicants and private recipient applicants may introduce supplemental evidence describing how the proposed service will respond to existing transportation needs or is otherwise consistent with the public interest. Filing this evidence with the application is optional, but it may be needed later, if the application is protested.

Public Recipient Applicants: All public recipient applicants for charter or special transportation must submit evidence to demonstrate either that:

(1) No motor common carrier of passengers (other than a motor common carrier of passengers that is a public recipient of governmental assistance) is providing, or is willing and able to provide, the transportation to be authorized by the certificate; or

(2) The transportation to be authorized by the certificate is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

Supplemental evidence should be provided on a separate sheet of paper attached to this application.

Fitness Only Criteria: No additional evidence is needed from non-recipient applicants for charter and special transportation and applicants for contract carrier operations.

Section VI—Scope of Operating Authority

(1) Charter and special transportation, in interstate or foreign commerce, between points in the United States.

(2) International charter and tour bus service across the U.S.—Mexico border provided by a Mexican owned or controlled carrier.

(3) Service as a common carrier over regular routes. (Regular route passenger carrier authority to perform regularly scheduled service only over named roads or highways.) Regular route passenger service includes authority to transport newspapers, baggage of passengers, express packages, and mail in the same motor vehicle with passengers, or baggage of passengers in a separate motor vehicle.

Applicants requesting authority to operate over regular routes—On a separate sheet of paper attached to the application, describe the specific routes over which you intend to provide regularly scheduled service. You must also furnish a map clearly identifying each regular route involved in your passenger carrier service description(s).

(4) Intrastate authority.

(a) Are you also requesting intrastate authority to provide the service described in item 3?

YES NO

(b) Do you already hold interstate authority to provide the service described above?

YES NO

Note: The FHWA has no jurisdiction to register intrastate authority independently of interstate authority on the same routes. Also, no carrier may conduct operations under a certificate authorizing intrastate regular route service unless it actually is conducting substantial operations in interstate commerce over the same route.

(5) Scheduled international transportation between the U.S.—Mexico border and specified points in the United States provided by a Mexican owned or controlled carrier. (Note: Applications for this authority will be accepted only after the relevant access provision of the North American Free Trade Agreement is implemented.)

(6) Service as a contract carrier between points in the United States, under continuing contract(s) with persons or organizations requiring passenger transportation service;

Service as a contract carrier between points in the United States, under continuing contract(s) with:

Contracting persons or organizations

Section VII—Affiliations

Affiliation With Other Former ICC Licensed or FHWA Registered Entities. Disclose any relationship you have or have had with any other FHWA regulated or former ICC licensed entity. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC number, U.S. DOT number, and that company's latest U.S. DOT safety rating. (If you require more space,

attach the information to this application form.)

Section VIII—Applicant's Oath

This oath applies to this application and to all supplemental filings. The signature must be that of applicant, not a legal representative.

I, _____
Name and title,

verify under penalty of perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to 5 years for each offense.

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

Finally, I certify that applicant is not domiciled in Mexico or owned or controlled by persons of that country. (Note: This portion of Applicant's Oath does not pertain to Mexican passenger carriers seeking to provide charter and tour bus service across the United States—Mexico international border or scheduled international transportation between the U.S.—Mexico border and specified points in the United States.)

Signature _____

Date _____

Filing Fee Information

All applicants must submit a filing fee for each type of registration requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in Section II Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in Section II _____ × filing fee \$ _____ = \$ _____

Indicate amount \$ _____ and method of payment

Check or Money Order, payable to: Federal Highway Administration

VISA Mastercard

Credit Card Number _____

Expiration Date _____

Signature _____

Date _____

Fee Policy

- Filing fees must be payable to the Federal Highway 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 multiple types of registrations on one application form (for example, registration as both a common and contract carrier) or if applicant submits more than one form in the OP-1 Series in a single filing, 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 FHWA Lockbox, P.O. Box 100147, Atlanta, GA 30384-0147.

- After an application is received, the filing fee is not refundable.

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

Paperwork Burden. It is estimated that an average of 2.5 burden hours per response are 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 both the Federal Highway Administration, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024, and to the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB No. 3120-0047), Washington, DC 20403.

Appendix C to Part 365—Form OP-1(FF)—Application to Register as a Freight Forwarder

Instructions for Form OP-1(FF)—Application for Freight Forwarder Authority

These instructions will assist you in preparing accurate and complete application filings. 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 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.

Section I

FHWA Authority. If you now have any former ICC or Federal Highway Administration authority or have an application for authority being processed now by FHWA, check the "YES" box and indicate the docket or the MC number you have been assigned. Example: MC-987654.

Applicant's Legal Business Name and Doing Business as Name. The applicant 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 Forwarding, enter "John Jones" under APPLICANT'S LEGAL BUSINESS NAME and "Quick Way Forwarding" under DOING BUSINESS AS NAME.

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

Business Address/Mailing Address. The business address is the physical location of the business. Example: 756 Bounty Street; 15433 State Highway 23. 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 pertinent FHWA notices and to ensure that insurance documents filed on applicant's behalf are accepted, notify the Licensing Section in writing (Federal Highway Administration, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024) if business or mailing address changes.

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

U.S. DOT Number. Vehicle operating freight forwarders (i.e., if you will provide a pickup or delivery service) subject to the Federal Motor Carrier Safety Regulations also are required to register with the U.S. Department of Transportation (U.S. DOT) for safety monitoring purposes. Vehicle operating freight forwarders that already have been issued a U.S. DOT number should provide it; those that have not registered with U.S. DOT should do so by submitting a completed Form MCS-150, *Motor Carrier Identification Report*, with this application. [Note: Vehicle operating freight forwarder registrants claiming "EXEMPT" status under the Section IV—"SAFETY COMPLIANCE" portion of this form need not file Form MCS-150.]

Form of Business. A business is either a corporation, sole proprietorship, partnership, or limited liability company. If the business is a sole proprietorship, provide the name of the individual who is the owner. In this situation, the owner is the authority applicant. If the business is a partnership, provide the name of *each* partner.

Section II

Type of Authority. Check the appropriate box to confirm that you are requesting to register as a freight forwarder; then indicate the commodities you will forward—household goods, general freight, or both.

Section III—Insurance Information

All freight forwarder applicants must have on file with the FHWA proof of adequate insurance as follows:

(a) **Public liability insurance—freight forwarders that perform transfer, collection, and delivery service must have on file evidence that you maintain appropriate levels of bodily injury and property damage (BI&PD) insurance and environmental restoration coverage—filed on Form BMC-91 or BMC-91X. Complete the "Insurance Information" in Section III.**

Note: Freight forwarders that:

(1) Do not own or operate any motor vehicles upon the highways in the transportation of property,

(2) Do not perform transfer, collection, or delivery services, and

(3) Do not have motor vehicles operated under their direction and control in the performance of transfer, collection, or delivery services may request a waiver of liability insurance requirements by checking the appropriate box in this Section. Operating authority issued to such forwarders will indicate that BI&PD requirements have been waived. The waiver is conditional and is valid only as long as the forwarder remains in compliance with the non-vehicle operating conditions noted on its operating permit.)

(b) **Cargo insurance—**all freight forwarders must have on file minimum levels of cargo insurance—filed on Form BMC-34:

1. \$5,000—for loss of or damage to property carried on any one motor vehicle; and

2. \$10,000—for loss of or damage to or aggregate of losses of or damages to property occurring at any one time and place.

Appropriate insurance forms must be filed within 90 days after the date notice of your application is published in the FHWA Register: Form BMC-91 or BMC-91X for bodily injury and property damage, Form BMC-34 for cargo liability, Form BMC-84 for broker surety bond, and Form BMC-85 for broker trust fund agreement.

The FHWA does not furnish copies of insurance forms. You must contact your insurance company to arrange for the filing of all required insurance forms.

Section IV

Safety Certification. Vehicle operating freight forwarder applicants must complete the safety certification. You should check the "YES" response only if you can attest to the truth of the statements. The "Applicant's Oath" at the end of the application form applies to all certifications, and false certifications are subject to the penalties described in that oath.

If you operate only vehicles with a gross vehicle weight rating under 10,000 pounds and will not transport hazardous materials, you are exempt from the U.S. DOT safety fitness regulations; however, 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.

You must check only *one* of the boxes in this section.

Section V

Household Goods Arbitration Certification. All registrants that will forward household goods as defined at 49 U.S.C. 13102(10) must complete the required certification concerning arbitration as a condition of registration.

Section VI

Affiliations. All applicants must disclose pertinent information concerning affiliations, if any, with other former ICC, now FHWA licensed entities.

Section VII

Applicant's Oath. Applications may be prepared by the applicant or an authorized representative. In either case, the oath must be signed by the applicant. In the case of companies, an authorized employee in the ownership structure may sign. An individual with power of attorney to act on behalf of the applicant may sign, provided that proof of the power of attorney is submitted with the application.

Legal Process Agents

All applicants must designate a process agent in each state where operations are authorized. Process agents who will accept legal filings on applicant's behalf are designated on Form BOC-3. Form BOC-3 must be filed within 90 days after the date notice of the application is published in the FHWA Office of Motor Carriers Register.

State Notification

Before beginning new or expanded interstate operations, you must contact the appropriate regulatory agencies in every state involved in your operations to obtain information regarding various state rules applicable to interstate authorities. It is the applicant's responsibility to comply with any pertinent state regulations and procedures. Begin this process by contacting the transportation regulatory agency for the state in which your business is located.

Mailing Instructions

To file for authority you must submit an original and one copy of this application with the appropriate filing fee to: FHWA Lockbox, 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

Note: Retain a copy of the completed application form and any attachments for your own Records.

Additional Assistance

FHWA Information Sources

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

Information requested	Menu No.
<ul style="list-style-type: none"> Status of your application (Note: Tracking the Status of your application can be simplified and expedited if you refer to the assigned docket number when making inquiries. You will be informed of your docket number by letter sent on the date notice of your application appears in the FHWA Office of Motor Carriers Register.) Assistance in filing your application Status of insurance and process agent filings 	<p>1</p> <p>3</p> <p>2</p>

If you require information that is not available in the automated response system, the ARC will guide you to an appropriate staff member who will be able to assist you in other areas.

U.S. DOT Registration and Safety Ratings

- To obtain information on completing Form MCS-150 or to request a safety fitness review, write to: Director, Information Analysis, Federal Highway Administration, 400 7th Street, S.W.—HIA-10, Washington, DC 20590, or call: (800) 832-5660 (Automated Response System).

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

U.S. DOT Hazardous Material Regulations

- If a vehicle operating forwarder, to obtain information on whether the commodities you intend to transport are considered to be hazardous materials: Refer to the provisions governing hazardous materials in the Federal Motor Carrier Safety Regulations at Parts 170 through 189 of Title 49 of the Code of Federal Regulations (CFR), particularly the Hazardous Materials Table at 49 CFR Part 172, or contact U.S. DOT at (202) 366-6121.

- To obtain information about DOT hazardous materials transportation registration requirements: Contact U.S. DOT at (202) 366-4109.

Federal Highway Administration Form OP-1(FF)—Application for Freight Forwarder Authority

This application is for all individuals and businesses requesting authority to operate as freight forwarders in interstate or foreign commerce. Freight forwarders are involved in the arrangement, assembly, and/or consolidation for transportation where the actual movement is performed by FHWA-licensed carriers. Forwarders arrange with the carriers for the actual line-haul transportation; they do not do it themselves. (Freight forwarders may provide local pickup and delivery services directly or by using a carrier under their control.) Freight forwarders issue bills of lading to shippers and are responsible for loss of or damage to the goods.

For FHWA Use Only

Docket No. FF- _____
Filed _____

Fee No. _____
CC Approval No. _____

Section I—Applicant Information

Do you now have authority from or an application being processed by the former ICC or FHWA?

NO YES

If Yes, identify the lead docket number(s)

Legal Business Name _____

Doing Business as Name _____

Business Address _____

Street Name and Number _____

City/State/Zip Code _____

Telephone Number _____

Mailing Address (if different from above) _____

Street Name and Number _____

City/State/Zip Code _____

Representative (Person who can respond to inquiries) _____

Name and title, position, or relationship to applicant _____

Street Name and Number _____

City/State/Zip Code _____

Telephone Number _____

FAX Number _____

U.S. DOT Number _____

Note: Vehicle operating freight forwarders that have not been assigned a U.S. DOT number must submit a completed Form MCS-150, *Motor Carrier Identification Report*, with this application or must confirm their exempt status under the Section IV—"SAFETY CERTIFICATION" portion of this form.

Form of Business (Check Only One.)

Corporation

State of Incorporation _____

Sole Proprietorship

Name of Individual _____

Partnership

Identify Partners _____

Limited Liability Company

Section II—Type of Authority

Freight Forwarder

General Freight

Household Goods

Section III—Insurance Information

Freight forwarders that perform transfer, collection, and delivery service must have on file evidence of appropriate levels of liability insurance for the protection of the public. The dollar amounts in parentheses represent

the minimum amount of bodily injury and property damage (liability) insurance coverage you must maintain and have on file with the FHWA.

Note: All freight forwarder applicants should refer to the instructions for information on cargo insurance filing requirements.

- Will operate vehicles having Gross Vehicle Weight Ratings (GVWR) of 10,001 pounds or more to transport:
 - Non-hazardous commodities (\$750,000).
 - Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 387.303(b)(2)(c) (\$1,000,000).
 - Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 387.303(b)(2)(b) (\$5,000,000).
- Will operate only vehicles having Gross Vehicle Weight Ratings (GVWR) under 10,001 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).
- Applicant seeks a waiver of liability (BI&PD) insurance requirements and certifies that in its forwarding operations it:
 - (1) Will not own or operate any motor vehicles upon the highways in the transportation of property;
 - (2) Will not perform transfer, collection, or delivery services; and
 - (3) Will not have motor vehicles under its direction and control in the performance of transfer, collection, or delivery services.

Section IV—Safety Compliance (Vehicle Operating Freight Forwarder Only)

Applicants Subject to Federal Motor Carrier Safety Regulations—If you will operate vehicles of more than 10,000 pounds GVWR and are, thus, subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter 3, Subchapter B (Parts 350–399), you must certify as follows:

Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

- (1) Has in place a system and an individual responsible for ensuring overall compliance with Federal motor carrier safety regulation;
- (2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;
- (3) Has in place a driver safety training/orientation program;
- (4) Has prepared and maintains an accident register (49 CFR 390.15);
- (5) Is familiar with DOT regulations governing driver qualifications and has in

place a system for overseeing driver qualification requirements (49 CFR Part 391);

(6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396);

(7) Is familiar with and will have in place on the appropriate effective date, a system for complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 382 and 49 CFR Part 40).

YES

Exempt Applicants—If you will operate only small vehicles (GVWR under 10,000 pounds), and will not transport hazardous materials, you are, exempt from Federal Motor Carrier Safety Regulations, and must certify as follows:

Applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

YES

Section V—Household Goods Arbitration

Household Goods Arbitration Certification. All freight forwarder registrants that will forward household goods as defined at 49 U.S.C. 13102(10) must certify as follows by checking the "YES" box below:

As a condition of registration, registrant agrees to offer its collect-on-delivery shippers of household goods arbitration as a means of settling disputes concerning damage and loss of household goods transported in accordance with 49 U.S.C. 14708.

YES

Section VI—Affiliations

Affiliation With Other Former ICC Licensed or FHWA Registered Entities. Disclose any relationship you have or have had with any other FHWA-licensed entity within the past 3 years. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC-number, DOT number, and that company's latest U.S. DOT safety rating. (If you require more space, attach the information to this application form.)

Section VII—Applicant's Oath

This oath applies to all supplemental filings to this application. *The signature must be that of applicant, not legal representative.*

I, _____
Name and title

verify under penalty of perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of

material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to 5 years for each offense.

I further certify under penalty of perjury, under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to section 5301 of the Anti-Drug Act of 1988 (21 U.S.C. 862).

Signature _____

Date _____

Filing Fee Information

All applicants must submit a filing fee for each type of authority requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in Section II. Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in Section II: _____ × filing fee \$ _____ = \$ _____

Indicate amount \$ _____ and amount of payment

Check or Money Order, payable to: Federal Highway Administration

VISA Mastercard

Credit Card Number _____

Expiration Date _____

Signature _____

Date _____

Fee Policy

- Filing fees must be payable to the Federal Highway 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 authority requested. If applicant requests multiple types of permanent authority on one application form (for example, common and contract carrier authority) or if applicant submits more than one form in the OP-1 Series in a single filing, 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 Federal Highway 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 only: FHWA, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, SW., Washington, DC, 20024.

- After an application is received, the filing fee is not refundable.

- The FHWA reserves the right to discontinue processing any application for which a check is returned because of

insufficient funds. The application will not be processed until the fee is paid in full.

Paperwork Burden. It is estimated that an average of 2.5 burden hours per response are 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 both the Federal Highway Administration, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024, and to the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB No. 3120-0047), Washington, DC 10403.

Appendix D to Part 365—Form OP-1(MX)—Application for Registration of Mexican Property Carriers Provided by the North American Free Trade Agreement

Instructions for Form OP-1(MX)—Application by Mexican Carriers to Register as Provided by the North American Free Trade Agreement

These instructions will assist you in preparing accurate and complete registration filings. 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.

Section I

FHWA Registration History. If you now have any authority issued by the former ICC or if you are registered with or have a registration application pending before the Federal Highway Administration, check the "YES" box and indicate the docket number (MC number) you have been assigned. Example: MX-987654.

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 FHWA 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. Example: 756 El Camino Real, Jalisco. 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 pertinent FHWA notices and to ensure that insurance documents filed on applicant's behalf are accepted, notify the Federal Highway Administration, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024, if the business of mailing address changes.

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

U.S. DOT Number. Registration applicants subject to the Federal Motor Carrier Safety Regulations also are required to register with U.S. Department of Transportation (U.S. DOT) for safety monitoring purposes. Motor Carriers that already have been issued a U.S. DOT registration number should provide it; applicants that have not registered with U.S. DOT should do so by submitting a completed Form MCS-150, *Motor Carrier Identification Report*, with this application. Note: Registrants claiming "EXEMPT" status under the Section IV—"SAFETY COMPLIANCE" portion of this form need not file Form MCS-150.

Form of Business. A business is either a corporation, sole proprietorship, partnership, or limited liability company. 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 name of each partner.

Section II

Type of Authority. Check the appropriate box(es) for the type(s) of operations you are registering. If you are desiring to establish a United States based enterprise, you may only check the last box in this section of the application form. Note: A separate filing fee is required for each type of operations registered. See "Fee Policy" in the application form.

Section III

Insurance Information. Check the appropriate box(es) to describe the type of business you will be conducting. If you operate vehicles with a gross vehicle weight rating exceeding 10,000 pounds 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 FHWA's insurance regulations at 49 CFR 1043.2(b)(2)(c) require \$1 million minimum liability coverage; those at 49 CFR 1043.2(b)(2)(b) 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.

Minimum levels of cargo insurance must be maintained by all motor property common carriers: \$5,000 for loss of or damage to property carried on any one motor vehicle and \$10,000 for loss of or damage to property occurring at any one time and place.

Appropriate insurance forms must be filed within 90 days after the date notice of your application is published in the FHWA Register: Form BMC-91 or BMC-91X for bodily injury and property damage, Form BMC-34 for cargo liability.

The FHWA does not furnish copies of insurance forms. You must contact your insurance company to arrange for the filing of all required insurance forms.

Section IV

Safety Certification. Applicants for motor carrier authority must complete the safety certification. You should check the "YES" response only if you can attest to the trust of the statements. The "Applicant's Oath" at the end of the application form applies to all certifications, and false certifications are subject to the penalties described in that oath.

If you operate only vehicles with a gross vehicle weight rating under 10,000 pounds and will not transport hazardous materials, you are exempt from the U.S. DOT safety fitness regulations; however, 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.

You must check only one of the boxes in this section.

Failure to comply with the safety fitness standards of the U.S. Department of Transportation will result in the revocation of the motor carrier authority.

Section V

Affiliations. All applicants must disclose pertinent information concerning affiliations, if any, with other former ICC or FHWA registered entities.

Section VI

Household Goods Arbitration Certification. All motor carrier registrants that will transport household goods as defined at 49 U.S.C. 13102(10) must complete the required certification concerning arbitration as a condition of registration.

Section VII

Applicant's Oath. Applications may be prepared by the applicant or an authorized representative. In either case, the oath must be signed by the applicant. In the case of companies, an authorized employee in the ownership structure may sign. An individual with power of attorney to act on behalf of the applicant may sign, provided that proof of the power of attorney is submitted with the application.

Legal Process Agents

All motor carrier applicants must designate a process agent in each state where operations are authorized. Process agents who will accept legal filings on applicant's behalf are designated on FHWA Form BOC-3. Form BOC-3 must be filed within 90 days after the date notice of the application is published in the FHWA Register.

State Notification

Before beginning operations, all applicants must contact the appropriate regulatory agencies in every state in and through which the carrier will operate to obtain information regarding various state rules applicable to interstate authorities. 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 registration fees. See 49 CFR Part 1023. You should select the state in 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. Failure to accomplish this state registration could subject you to substantial state penalties as well as the potential loss of your operating authority.

Mailing Instructions

To file for authority you must submit an original and one copy of this application with the appropriate filing fee to FHWA.

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

Federal Highway 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

FHWA, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024

Additional information on obtaining operating authority 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 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:

Additional Assistance

Information Sources

Information requested	Menu No.
• Status of your application	1

Information requested	Menu No.
(Note: Tracking the status of your application can be simplified and expedited if you refer to the assigned docket number when making inquiries. You will be informed of your docket number by letter sent on the date notice of your application appears in the FHWA Register.)	
• Assistance in filing your application	3
• Status of insurance and process agent filings	2

If you require information that is not available in the automated response system, the ARC will guide you to an appropriate FHWA Staff member who will be able to assist you in other areas.

U.S. Department of Transportation Information Sources

U.S. DOT Registration and Safety Ratings

- To obtain information on registering with U.S. DOT (filing Form MCS-150) or to request a safety fitness review, write to: Director, Information Analysis, Federal Highway Administration, 400 7th St., S.W. HIA-10, Washington, DC 20590, or 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 intent to transport are considered to be hazardous materials: Refer to the provisions governing hazardous materials in the Federal Motor Carrier Safety Regulations at Parts 170 through 189 of Title 49 of the Code of Federal Regulations (CFR), particularly the Hazardous Materials Table at 49 CFR Part 172, or contact U.S. DOT at (202) 366-6121.
- To obtain information about DOT hazardous materials transportation registration requirements: Contact U.S. DOT at (202) 366-4109.

This application is for all Mexican carriers requesting authority to transport property (including exempt items) in foreign commerce between the U.S.-Mexico Border and points in California, Arizona, New Mexico and Texas and for all Mexican owned or controlled enterprises established in the United States to transport international cargo in foreign commerce.

For FHWA Use Only

Docket No. MX- _____
 DOT No. _____
 Filed _____
 Fee No. _____
 CC Approval No. _____

Section—Applicant Information

Do you now have authority from or an application being processed by the former ICC or FHWA?

- NO YES

If yes, identify the lead docket _____

number(s) _____
 Legal Business Name _____
 Doing Business as Name _____
 Business Address _____
 Telephone Number _____
 Street Name and Number _____
 City/State/Zip Code _____
 Mailing Address (If different from above) _____
 Street Name and Number _____
 City/State/Zip Code _____
 Representative (Person who can respond to inquiries) _____
 Name and title, position, or relationship to applicant _____
 Street Name and Number _____
 City/State/Zip Code _____
 Telephone Number _____
 Fax Number _____
 U.S. DOT Number _____

[Note: Motor carrier registrants that have not been assigned a U.S. DOT number must submit a completed Form MCS-150, *Motor Carrier Identification Report*, with this application or must confirm their exempt status under the Section IV—SAFETY CERTIFICATION portion of this form.]

Form of Business (Check only one.)

Corporation
 Mexican or U.S. State of Incorporation _____
 Sole Proprietorship
 Name of Individual _____
 Partnership
 Identify Partners _____
 Limited Liability Company

Section II—Type of Authority

You must submit a filing fee for *each* type of authority requested (for each box checked). Also, indicate within each authority category the type of commodities you will transport.

Motor Common Carrier of Property
 General Freight
 Household Goods
 Motor Contract Carrier of Property
 General Freight
 Household Goods
 Private Carrier
 United States based enterprises providing truck services for the transportation of international cargo
 General Freight
 Household Goods

Section III—Insurance Information

This section must be completed by ALL motor property carrier applicants. The dollar

amounts in parentheses represent the minimum amount of bodily injury and property damage (liability) insurance coverage you must maintain and have on file with the FHWA.

Note: Refer to the instructions for information on cargo insurance filing requirements for motor common carriers.

- Will operate vehicles having Gross Vehicle Weight Ratings (GVWR) of 10,000 pounds or more to transport:
- Non-hazardous commodities (\$750,000).
- Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 387.303(b)(2)(c) (\$1,000,000).
- Hazardous materials referenced in the FHWA's insurance regulations at 49 CFR 387.303(b)(2)(b) (\$5,000,000).
Will operate only vehicles having Gross Vehicle Weight Ratings (GVWR) under 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—Safety Certification

Applicants Subject to Federal Motor Carrier Safety Regulations—If you will operate vehicles of more than 10,000 pounds GVWR and are, thus, subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter 3, Subchapter B (Parts 350–399), you must certify as follows:

Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

- (1) Has in place a system and an individual responsible for ensuring overall compliance with Federal Motor Carrier Safety Regulations;
(2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;
(3) Can produce on 48 hours notice records demonstrating compliance with the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;
(4) Has prepared and maintains an accident register (49 CFR 390.15);
(5) Is familiar with DOT regulations governing driver qualifications and has in place a system for overseeing driver qualification requirements (49 CFR Part 391);
(6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396); and
(7) Is familiar with and will have in place on the appropriate effective date, a system for

complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 382 and 49 CFR Part 40).

YES

Any authority sought pursuant to this application will remain in effect only as long as the carrier satisfies the safety fitness standards of the U.S. Department of Transportation. See Safety Fitness Policy, 8 I.C.C.2d 123 (1991).

Exempt Registrant—If you will operate only small vehicles (GVWR under 10,000 pounds) and will not transport hazardous materials of a type and/or amount required to be placarded, check here to indicate your exempt status and then complete the certification below:

Exempt Registrant

Applicant is familiar with and will observe general operation safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

YES

Section V—Affiliations

Affiliation With Other Former ICC or FHWA Registered Entities. Disclose any relationship you have or have had with any other former ICC or FHWA registered entity within the past 3 years. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC-number, DOT number, and that company's latest U.S. DOT safety rating. (If you require more space, attach the information to this application form.)

Section VI—Household Goods Certifications

Household Goods Arbitration Certification. All motor carrier registrants that will transport household goods as defined at 49 U.S.C. 13102(10) must certify as follows by checking the "YES" box below:

As a condition of registration, registrant agrees to offer its collect-on-delivery shippers of household goods arbitration as a means of settling disputes concerning damage and loss of household goods transported in accordance with 49 U.S.C. 14708.

YES

Section VII—Applicant's Oath

This oath applies to all supplemental filings to this application. The signature must be that of applicant, not legal representative.

I, _____, Name and title

verify under penalty of perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001

by imprisonment up to 5 years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to 5 years for each offense.

I further certify under penalty of perjury, under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to Section 5301 of the Anti-Drug Act of 1988 (21 U.S.C. 862).

Signature _____

Date _____

Fee Policy

- Filing fees must be payable to the Federal Highway 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 authority requested. If applicant requests multiple types of permanent authority for example, common and contract carrier authority, 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 FHWA, P.O. Box 100147, Atlanta, GA, 30384-0147.

- After an application is received, the filing fee is not refundable.
The FHWA reserves the right to discontinue processing any application for which a check is returned because of insufficient funds. The application will not be processed until the fee is paid in full.

Filing Fee Information

All applicants must submit a filing fee for each type of authority requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in Section II. Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in Section II: _____ x filing fee \$ _____ = \$ _____

Indicate amount \$ _____ and method of payment

- Check or Money Order, payable to: Federal Highway Administration
VISA Mastercard
Credit Card Number _____
Expiration Date _____
Signature _____
Date _____

Paperwork Burden. It is estimated that an average of 1.5 burden hours per response are 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 both the Federal Highway Administration, Licensing and Insurance Division, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024, and to the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB No. 3120-0047), Washington, DC 20403.

Appendix E to Part 365—Form OCE-46—Request for Revocation of Registration

Federal Highway Administration

Request for Revocation of Registration

Docket No. _____

Name of carrier, freight forwarder, or broker making request _____

Address, City, State, Zip Code of requesting carrier _____

For the reasons stated below, this carrier, freight forwarder, or broker, which is the holder of the above-identified permits(s), certificates(s), or license(s), hereby requests revocation of such registration to the extent specified, in accordance with the provisions of 49 U.S.C. 13905.

Reason for request for revocation: _____

It is clearly understood that upon revocation of this registration, operations which are revoked may not be resumed unless this authority is reinstated as provided at 49 CFR 365.96, or other registration shall have been issued.

Type/print name of person authorized to submit this request _____

Daytime Telephone Number _____

Signature of person authorized to submit this request _____

Date _____

Note: Signature must be notarized OR signed *in the presence* of a FHWA staff member.

Affix Notary Seal here
or _____

Signature of FHWA Staff Member _____

Date _____

Title _____

City/County: _____

State: _____

Subscribed and sworn to before me this _____ day of _____, 19____

My Commission Expires: _____

Paperwork Burden: it is estimated that an average of .5 burden hours per response are 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 both the Federal Highway Administration, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024, and to the Office of Management and budget, Office of Information and Regulatory Affairs (OMB No. 2125-0571), Washington, DC 20503.

BILLING CODE 4910-22-M

PART 385—SAFETY FITNESS PROCEDURES

2. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144, 31502; and 49 CFR 1.48.

3. In §385.21, paragraph (b) is revised to read as follows:

§385.21 Motor carrier identification report.

* * * * *

(b) Except as provided at 49 CFR 365.111(f)(2), all motor carriers beginning operation after the effective date of this rule shall file the Motor Carrier Identification Report, Form MCS-150, within 90 days after beginning operations.

Note: For-hire motor carriers and vehicle operating freight forwarders required to register their operations as provided under 49 U.S.C. 13901-13905 must submit Form MCS-150 concurrently with their registration application as required under 49 CFR 365.111 (f)(2).

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

4. The authority citation for part 387 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 31139; and 49 CFR 1.48.

5. Section 387.33 is amended by designating the unnumbered paragraph as paragraph (a), by adding the subheading "General limits" at the beginning of paragraph (a), and by adding paragraph (b) to read as follows:

§387.33 Financial responsibility, minimum levels.

(a) *General limits.* * * *

(b) *Limits applicable to transit service providers.* Notwithstanding the provisions of 49 CFR 387.33(a), the minimum level of financial responsibility for a motor vehicle used to provide transportation services within a transit service area located in more than one State under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under 49 U.S.C. 5307, 5310, or 5311, including transportation designed and carried out to meet the

special needs of elderly individuals and individuals with disabilities, will be at least the highest level required for any of such States. Transit service providers conducting such operations must register as for-hire passenger carriers under part 365 of this subchapter, identify the States in which they operate under the applicable grants, and certify on their registration documents that they have in effect financial responsibility levels in an amount equal to or greater than the highest level required by any of the States in which they are operating under a qualifying grant.

[FR Doc. 98-3560 Filed 2-12-98; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

Alaska Federal Subsistence Regional Advisory Council Meetings; Subsistence Management Regulations for Public Lands in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice informs the public of the Regional Council meetings identified above. The public is invited to attend and observe meeting proceedings. In addition, the public is invited to provide oral testimony before the Councils on proposals to change Subsistence Management Regulations for Public Lands in Alaska for the 1998-99 regulatory year as set forth in a proposed rule on July 25, 1997 (62 FR 39987-40029). A booklet of proposed regulation changes was distributed to the public by mail on November 26, 1997.

The following agenda items will be discussed at each Regional Council meeting: (1) Introduction of Regional Council members and guests; (2) Old business; (3) New business: Member recruitment, Review and development of recommendations on Proposed Regulations for implementing Federal Fisheries Management Program ("Katie John" litigation), and Review and development of recommendations on proposals to change Subsistence Management Regulations (1998-1999) for Public Lands in Alaska.

DATES: See SUPPLEMENTARY INFORMATION section for meeting dates.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o Thomas H. Boyd, Office of Subsistence