

Authority: 5 U.S.C. 1009 and 22 U.S.C. 2651a.

Stuart Smith,

Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, Office of Specialized and Technical Agencies, Bureau of International Organization Affairs, Department of State.

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DEPARTMENT OF STATE

[Public Notice: 12117]

60-Day Notice of Proposed Information Collection: Three (3) Passport Services Information Collections: Birth Affidavit, Affidavit Regarding a Change of Name, and Statement of Non-Receipt of a U.S. Passport

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collections described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on these collections from all interested individuals and organizations. The purpose of this Notice is to allow 60 days for public comment.

DATES: The Department will accept comments from the public up to October 13, 2023.

ADDRESSES: You may submit comments by any of the following methods:

- **Web:** Persons with access to the internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering "Docket Number: DOS-2023-0021 in the Search field. Then click the "Comment Now" button and complete the comment form. Email and regular mail options have been suspended to centralize receiving and addressing all comments in a timely manner.

- **Email:** Passport-Form-Comments@State.gov. You must include the DS form number (if applicable), information collection title, and the OMB control number in the email subject line.

SUPPLEMENTARY INFORMATION:

- **Title of Information Collection:** Birth Affidavit
- **OMB Control Number:** 1405-0132
- **Type of Request:** Revision of a Currently Approved Collection
- **Originating Office:** Bureau of Consular Affairs, Passport Services (CA/PPT)
- **Form Number:** DS-10
- **Respondents:** Individuals

- **Estimated Number of Respondents:** 6,028
- **Estimated Number of Responses:** 6,028
- **Average Time per Response:** 40 minutes
- **Total Estimated Burden Time:** 4,018 hours
- **Frequency:** On occasion
- **Obligation to Respond:** Required to Obtain a Benefit
- **Title of Information Collection:** Affidavit Regarding a Change of Name
- **OMB Control Number:** 1405-0133
- **Type of Request:** Revision of a Currently Approved Collection
- **Originating Office:** Bureau of Consular Affairs, Passport Services (CA/PPT)
- **Form Number:** DS-60
- **Respondents:** Individuals
- **Estimated Number of Respondents:** 3,617
- **Estimated Number of Responses:** 3,617
- **Average Time per Response:** 40 minutes
- **Total Estimated Time Burden:** 2,411 hours
- **Frequency:** On occasion
- **Obligation to Respond:** Required to Obtain or Retain a Benefit
- **Title of Information Collection:** Statement of Non-Receipt of a U.S. Passport
- **OMB Control Number:** 1405-0146
- **Type of Request:** Revision of a Currently Approved Collection
- **Originating Office:** Bureau of Consular Affairs, Passport Services (CA/PPT)
- **Form Number:** DS-86
- **Respondents:** Individuals
- **Estimated Number of Respondents:** 18,260
- **Estimated Number of Responses:** 18,260
- **Average Time per Response:** 15 minutes
- **Total Estimated Time Burden:** 4,565 hours
- **Frequency:** On occasion
- **Obligation to Respond:** Required to Obtain or Retain a Benefit

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques

or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collections

- **1405-0132, DS-10, Birth Affidavit:** The form is submitted in conjunction with an application for a U.S. passport and is used by Passport Services to collect information for the purpose of establishing the U.S. nationality of a passport applicant who has not submitted an acceptable United States birth certificate with their passport application. The Secretary of State is authorized to issue U.S. passports under 22 U.S.C. 211a et seq, 8 U.S.C. 1104, and Executive Order 11295 (August 5, 1966). Pursuant to 22 U.S.C. 212 and 22 CFR 51.2, only U.S. nationals may be issued a U.S. passport. Most passport applicants establish U.S. nationality by providing a birth certificate that lists a place of birth within the United States or its outlying possessions (currently American Samoa and Swains Island). Some applicants, however, may have been born in the United States (and subject to its jurisdiction), but were never issued a birth certificate. Form DS-10 is a form affidavit for completion by a witness to the birth of such an applicant; it collects information relevant to establishing the identity of the affiant, and the birth circumstances of the passport applicant. If credible, the affidavit may permit the applicant to show U.S. nationality based on the applicant's birth in the United States, despite never having been issued a U.S. birth certificate. We use the information collected on the person completing the affidavit to confirm that individual's identity, which is relevant to confirming his or her relationship to the applicant and in assessing the likelihood that the affiant has personal knowledge of the facts of the applicant's birth.

In an ongoing effort to reduce public burden times, the "Sex" field (previously Item 2) has been removed from the DS-10, Birth Affidavit. Passport Services determined that this decision will not affect the procedural or policy aspects of DS-10 form adjudication or impact the determination of U.S. citizenship findings by passport adjudicators.

- **1405-0133, DS-60, Affidavit Regarding a Change of Name:** The form is submitted in conjunction with an application for a U.S. passport. It is used by Passport Services to collect

information for the purpose of establishing that a passport applicant has adopted a new name without formal court proceedings or by marriage and has publicly and exclusively used the adopted name over a period of time (at least five years).

- *1405–0146, DS–86, Statement of Non-Receipt of a U.S. Passport*: The form is used by the U.S. Department of State to collect information for the purpose of issuing a replacement passport to customers whose passports have been issued but who have not received their passport documents in the mail. The information collected on the Statement of Non-Receipt of a U.S. Passport is used by the Department of State to help ensure that no person bears more than one valid or potentially valid U.S. passport book of the same type and/or passport card at any one time, except as authorized by the Department. The information on the form is also used to address passport fraud and misuse.

All three forms have been amended to replace the term “sex” with “gender” and to be pronoun-inclusive of all genders.

Methodology

When needed, the Birth Affidavit is either provided by the Department or downloaded from the Department’s website and completed by the affiant. It must be signed in the presence of a passport agent, acceptance agent, or notary.

When needed, the Affidavit Regarding a Change of Name is either provided by the Department or downloaded from the Department’s website and completed by the affiant. It must be signed in the presence of a passport agent, passport acceptance agent, or notary.

When needed, the Statement of Non-Receipt of a U.S. Passport is either provided by the Department or downloaded from the Department’s website and completed by the passport applicant.

Rachel M. Arndt,

Deputy Assistant Secretary, Bureau of Consular Affairs, Passport Services
Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0304; FMCSA–2019–0048; FMCSA–2019–0128]

California and Washington Meal and Rest Break Rules; Notice of Waiver Provision

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

ACTION: Notice of waiver provision.

SUMMARY: FMCSA provides notice that the Agency will consider petitions for waiver of its December 21, 2018, and January 13, 2020, decisions preempting the State of California’s Meal and Rest Break (MRB) rules for certain drivers of property- and passenger-carrying commercial motor vehicles (CMVs) and its November 17, 2020, decision preempting the State of Washington’s MRB rules for certain drivers of property-carrying CMVs.

DATES: While petitions for waiver may be submitted at any time, FMCSA requests that any petitions for waiver of the above referenced preemption determinations be submitted by November 13, 2023. FMCSA will publish any petitions for waiver that it receives and will provide an opportunity for public comment with respect to the petitions.

ADDRESSES: You may submit a petition for waiver to the Federal Docket Management System Docket No. FMCSA–2018–0304, Docket No. FMCSA–2019–0048, or Docket FMCSA–2019–0128 using any of the following methods:

- *Federal eRulemaking Portal*: Go to www.regulations.gov, insert the docket number FMCSA–2018–0304, docket number FMCSA–2019–0048, or docket FMCSA–2019–0128 in the keyword box, and click “Search.” Follow the online instructions for submitting a petition for waiver.

- *Mail*: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Washington, DC 20590–0001.

- *Hand Delivery or Courier*: Dockets Operations, West Building, Ground Floor, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

- *Fax*: (202) 493–2251.

To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT:

Tracy M. White, Enforcement and Litigation Division; FMCSA Office of Chief Counsel; 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 493–0349; Tracy.White@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9317 or (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2018, FMCSA granted petitions filed by the American Trucking Associations and the Specialized Carriers and Rigging Association, and determined that California’s MRB rules, as applied to property-carrying CMV drivers subject to FMCSA’s hours of service (HOS) regulations, are preempted under 49 U.S.C. 31141. (Docket No. FMCSA–2018–0304; 83 FR 67470; Dec. 28, 2018). On January 13, 2020, FMCSA granted a petition filed by the American Bus Association and determined that California’s MRB rules, as applied to passenger-carrying CMV drivers subject to FMCSA’s HOS regulations, are also preempted under 49 U.S.C. 31141. (Docket No. FMCSA–2019–0048; 85 FR 3469; Jan. 21, 2020). On November 27, 2020, FMCSA granted a petition filed by the Washington Trucking Association and determined that Washington’s MRB rules, as applied to property-carrying CMV drivers subject to FMCSA’s HOS regulations, are preempted under 49 U.S.C. 31141. (Docket No. FMCSA–2019–0128, 85 FR 73335; Nov. 17, 2020). In each decision, FMCSA determined that the MRB rules are laws on CMV safety, that they are more stringent than the Federal regulations, and that they meet each of the three potential criteria for preemption under 49 U.S.C. 31141(c)(4)–(5). See 83 FR 67470, 85 FR 3469; 85 FR 7333. On January 15, 2021, the U.S. Court of Appeals for the Ninth Circuit denied petitions for review challenging the first preemption decision. *Int’l Bhd. of Teamsters, Local 2785 v. FMCSA*, 986 F.3d 841 (9th Cir. 2021), cert. denied sub nom. *Trescott v. Fed. Motor Carrier*, No. 20–1662, 2021 WL 4507755 (Oct. 4, 2021). The State of California filed a petition for review in the Ninth Circuit in March 2020 challenging the second preemption decision, and the court has held that case in abeyance. *People of the State of Cal. ex rel. Bonta v. FMCSA*, No. 20–70706 (9th Cir.). The State of Washington filed a petition for review in the Ninth Circuit challenging the