

§ 201.17 Statements of account covering compulsory licenses for secondary transmissions by cable systems.

\* \* \* \* \*

(i) Royalty fee payment. (1) All royalty fees must be paid by a single electronic funds transfer, and must be received in the designated bank by the filing deadline for the relevant accounting period. The following information must be provided as part of the EFT and/or as part of the remittance advice as provided for in circulars issued by the Copyright Office:

- (i) Remitter's name and address;
(ii) Name of a contact person, telephone number and extension, and e-mail address;
(iii) The actual or anticipated date that the EFT will be transmitted;
(iv) Type of royalty payment (i.e. cable);

(v) Total amount submitted via the EFT;

(vi) Total amount to be paid by year and period;

(vii) Number of Statements of Account that the EFT covers;

(viii) ID numbers assigned by the Licensing Division;

(ix) Legal name of the owner for each Statement of Account;

(x) Identification of the first community served (city and state).

(2) The remittance advice shall be attached to the Statement(s) of Account. In addition, a copy of the remittance advice shall be emailed or sent by facsimile to the Licensing Division.

(3) The Office may waive the requirement for payment by electronic funds transfer as set forth in paragraph (i)(1) of this section. To obtain a waiver, the remitter shall submit to the Licensing Division at least 60 days prior to the royalty fee due date a certified statement setting forth the reasons explaining why payment by an electronic funds transfer would be virtually impossible or, alternatively, why it would impose a financial or other hardship on the remitter. The certified statement must be signed by a duly authorized representative of the entity making the payment. A waiver shall cover only a single payment period. Failure to obtain a waiver may result in the remittance being returned to the remitter.

\* \* \* \* \*

■ 4. Amend § 201.28 as follows:

- a. By revising paragraph (e)(3)(ii);
■ b. By redesignating paragraphs (h) through (l) as paragraphs (i) through (m) respectively, and adding a new paragraph (h);

■ c. By amending newly redesignated paragraph (j)(1)(ii) to remove "(i)(2)" and add in its place "(j)(2)";

■ d. By amending newly redesignated paragraph (j)(3)(i) to remove "(i)(3)" and add in its place "(j)(3)";

■ e. By amending newly redesignated paragraph (j)(3)(vi) to remove "(i)" and add in its place "(j)".

§ 201.28 Statements of account for digital audio recording devices or media.

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(ii) The amount of the royalty payment shall be calculated in accordance with the instructions specified in the quarterly Statement of Account form. Payment shall be made as specified in § 201.28(h).

\* \* \* \* \*

(h) Royalty fee payment. (1) All royalty fees must be paid by a single electronic funds transfer, and must be received in the designated bank by the filing deadline for the relevant accounting period. The following information must be provided as part of the EFT and/or as part of the remittance advice as provided for in circulars issued by the Copyright Office:

- (i) Remitter's name and address;
(ii) Name of a contact person, telephone number and extension, and email address;
(iii) The actual or anticipated date that the EFT will be transmitted;
(iv) Type of royalty payment (i.e. DART);

(v) Total amount submitted via the EFT;

(vi) Total amount to be paid by year and period;

(vii) Number of Statements of Account that the EFT covers;

(viii) ID numbers assigned by the Licensing Division;

(ix) Legal name of the owner for each Statement of Account.

(2) The remittance advice shall be attached to the Statement(s) of Account. In addition, a copy of the remittance advice shall be emailed or sent by facsimile to the Licensing Division.

(3) The Office may waive the requirement for payment by electronic funds transfer as set forth in paragraph (1) of this section. To obtain a waiver, the remitter shall submit to the Licensing Division at least 60 days prior to the royalty fee due date a certified statement setting forth the reasons explaining why payment by an electronic funds transfer would be virtually impossible or, alternatively, why it would impose a financial or

other hardship on the remitter. The certified statement must be signed by a duly authorized representative of the entity making the payment. A waiver shall cover only a single payment period. Failure to obtain a waiver may result in the remittance being returned to the remitter.

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Dated: July 19, 2006.

Marybeth Peters,
Register of Copyrights.

Approved by:

James H. Billington,
Librarian of Congress.

[FR Doc. E6-13113 Filed 8-9-06; 8:45 am]

BILLING CODE 1410-30-S

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 369

Research and Innovative Technology Administration

49 CFR Part 1420

[Docket No. FMCSA-2005-21313]

RIN 2126-AA92

Motor Carrier Transportation; Redesignation of Regulations From the Research and Innovative Technology Administration

AGENCIES: Federal Motor Carrier Safety Administration (FMCSA) and Research and Innovative Technology Administration (RITA), DOT.

ACTION: Final rule; redesignation.

SUMMARY: This rule transfers and redesignates certain motor carrier reporting regulations currently found in 49 CFR Chapter XI to the Federal Motor Carrier Safety Administration (FMCSA) in 49 CFR Chapter III. On August 17, 2004, the Secretary of Transportation (Secretary) transferred responsibility for the Motor Carrier Financial and Operating Statistics Program from the Bureau of Transportation Statistics, now a part of the Research and Innovative Technology Administration, to FMCSA. Today's action transfers the applicable regulations to chapter III of title 49 CFR, establishes a new part 369 within that title, and makes conforming technical amendments to the redesignated regulations.

EFFECTIVE DATE: August 10, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Vivian Oliver, IT Operations Division,

Office of Information Technology, (202) 366-2974, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### **SUPPLEMENTARY INFORMATION:**

##### **Legal Basis for the Rulemaking**

Class I and Class II motor carriers are required by 49 U.S.C. 14123 to file annual financial reports with the Secretary. The Secretary has exercised his discretion under section 14123 to also require Class I property carriers (including dual-property carriers), Class I household goods carriers, and Class I passenger carriers to file quarterly reports. These requirements were previously delegated to the Bureau of Transportation Statistics (BTS), now a part of the Research and Innovative Technology Administration (RITA).<sup>1</sup> In an August 2004 final rule (69 FR 51009, Aug. 17, 2004), the Secretary transferred responsibility for the Motor Carrier Financial and Operating Statistics Program from BTS to FMCSA. This final rule implements the redesignation of the regulations concerning this program by transferring these regulations to the FMCSA portion of title 49 of the Code of Federal Regulations (CFR), adding a new part 369 to that title, and making conforming technical amendments consisting of nomenclature and address changes as well as corrections to the CFR cross-references.

##### **Background**

This final rule transfers and redesignates certain motor carrier financial and statistical reporting regulations currently found in 49 CFR Chapter XI, Part 1420 to FMCSA under 49 CFR Chapter III, and establishes a new part 369 to accommodate the redesignated regulations. In the August 17, 2004, final rule, the Secretary transferred responsibility for the Motor Carrier Financial and Operating Statistics Program from BTS, now a part of DOT's Research and Innovative Technology Administration, to FMCSA. The Secretarial delegation took effect on September 29, 2004, and today's final rule implements the redesignation of the applicable regulations.

The transfer and redesignation procedure entails moving 49 CFR Part 1420 from Chapter XI to new Part 369 of 49 CFR Chapter III. We are making no substantive changes to the regulations. However, certain technical revisions—concerning nomenclature, the agency address for submission of motor carrier reporting forms, and CFR cross-

references—were necessary to reflect the redelegation of the financial and statistical reporting program responsibilities to FMCSA. In the relevant sections of redesignated part 369, we are changing the words “Bureau of Transportation Statistics” to “Federal Motor Carrier Safety Administration” and the acronym “BTS” to “FMCSA”; providing an FMCSA address for submission of forms; and replacing BTS regulatory cross-references with cross-references to the corresponding FMCSA regulations.

The reporting requirement in new part 369 applies to motor carriers of property, household goods carriers, dual property carriers, and motor carriers of passengers.

##### **Rulemaking Analyses and Notices**

Because the amendments made by this document relate to departmental management, organization, procedure, and practice, prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(A). In addition, prior notice and opportunity for comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B) because the process of transferring and redesignating the sections is merely technical in nature and proposes no substantive changes to which public comment could be solicited.

This final rule is made effective upon publication in the **Federal Register**. FMCSA finds that good cause exists for this final rule to be exempt from the 30-day delayed effective date requirement of 5 U.S.C. 553(d) because a delay in effective date is unnecessary and would not be in the public interest.

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

FMCSA has determined this action does not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866 and within the meaning of Department of Transportation regulatory policies and procedures (44 FR 11034, Feb. 26, 1979). Therefore, this rule has not been reviewed by the Office of Management and Budget (OMB). We anticipate the economic impact of this rulemaking will be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

##### **Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement and Fairness

Act (Pub. L. 104–121), we have evaluated the effects of this rule on small entities. Based on this evaluation, the FMCSA Administrator hereby certifies this action will not have a significant economic impact on a substantial number of small entities. As noted above, this final rule simply provides notice to the public that the motor carrier regulations currently found in 49 CFR Chapter XI are transferred to 49 CFR Chapter III and redesignated there. No substantive changes are being made to the regulations that would affect small entities.

##### **Executive Order 12612 (Federalism Assessment)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. It has been determined this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

##### **Unfunded Mandates Reform Act of 1995**

FMCSA has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532) do not apply to this rulemaking.

##### **Executive Order 12372 (Intergovernmental Review)**

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

##### **Executive Order 13132 (Federalism Assessment)**

FMCSA has analyzed this action in accordance with the principles and criteria contained in Executive Order 13132 published at 64 FR 43255 (Aug. 10, 1999). The regulations redesignated and transferred to FMCSA herein do not preempt State authority or jurisdiction, or establish any conflicts with existing State roles in the regulation and enforcement of commercial motor vehicle safety. FMCSA has therefore determined this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

##### **Executive Order 12630 (Taking of Private Property)**

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

<sup>1</sup> The Research and Innovative Technology Administration was established effective February 20, 2005.

**Executive Order 12988 (Civil Justice Reform)**

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

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. OMB approved three information collections (ICs) developed by BTS in connection with the reporting forms motor carriers must use to submit financial and statistical information. The ICs are titled “Annual Report of Class I and Class II Motor Carriers of Property;” “Quarterly Report of Class I Motor Carriers of Property,” and “Annual and Quarterly Report of Class I Motor Carriers of Passengers,” and involve Form M, Form QFR, and Form MP-1, respectively. The Secretarial redelegation of August 17, 2004, made FMCSA responsible for these ICs.

On June 23, 2006, OMB approved a 3-year extension of the ICs for Class I and Class II property carriers. These ICs are as follows:

*OMB Control Number:* 2126-0032.

*Title:* Annual Report of Class I and Class II Motor Carriers of Property.

*Respondents:* 3,000.

*Estimated Annual Hour Burden for the Information Collection:* 27,000.

*Estimated Annual Cost to*

*Respondents:* \$979,000.

*Expiration Date of OMB Approval:* June 30, 2009.

*Form:* M.

*OMB Control Number:* 2126-0033.

*Title:* Quarterly Report of Class I Motor Carriers of Property.

*Respondents:* 1,000.

*Estimated Annual Hour Burden for the Information Collection:* 1,800.

*Estimated Annual Cost to*

*Respondents:* \$65,000.

*Expiration Date of OMB Approval:* June 30, 2009.

*Form:* QFR.

On April 10, 2006, FMCSA published at 71 FR 18136 a notice with a 60-day comment period soliciting the public’s views on the currently approved IC “Annual and Quarterly Report of Class I Motor Carriers of Passengers.” This IC is as follows:

*OMB Control Number:* 2126-0031.

*Title:* Annual and Quarterly Report of Class I Motor Carriers of Passengers.

*Respondents:* 26.  
*Estimated Annual Hour Burden for the Information Collection:* 195.

*Estimated Annual Cost to*

*Respondents:* \$00 (none).

*Expiration Date of OMB Approval:* August 31, 2006.

*Form:* MP-1.

The Agency received two comments in support of continuation of the Class I passenger carrier IC. Subsequently, FMCSA published in the **Federal Register** a notice requesting public comment within 30 days on its intent to request 3-year renewal of the IC (71 FR 40175, July 14, 2006). The Agency’s request for review and renewal was logged in at OMB on August 2, 2006.

**National Environmental Policy Act**

The agency has analyzed this rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under FMCSA environmental procedures Order 5610.1, published March 1, 2004 (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraph 6.b. of the Order from further environmental documentation. This CE relates to establishing regulations that are editorial or procedural in nature.

In addition, the agency believes this action includes no extraordinary circumstances that would have any effect on the quality of the environment. Thus the action does not require an environmental assessment or environmental impact statement. The **Federal Register** notice transmitting FMCSA’s environmental procedures Order can be accessed online through the Government Printing Office (<http://www.gpoaccess.gov>), and a copy of the Order is also available as document 6 in Docket number 14095, at <http://dms.dot.gov/search/searchFormSimple.cfm>.

We have also analyzed this action under section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA’s general conformity requirement since it involves an administrative action or organizational changes via the rulemaking process. See 49 CFR 93.153(c)(2). This action will not result in any emissions increase, nor does it have any potential to result in emissions that are above the general conformity rule’s *de minimis* emission threshold levels. Moreover, it is reasonably foreseeable that the rule will not increase total commercial motor vehicle mileage, change the routing of

commercial motor vehicles, change how commercial motor vehicles operate, or change the commercial motor vehicle fleet-mix of motor carriers.

**Executive Order 13045 (Protection of Children)**

FMCSA has analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not economically significant and does not create an environmental risk to health or safety that would disproportionately affect children. Therefore, we have determined the rule is not a “covered regulatory action” as defined under Executive Order 13045.

**Executive Order 13211 (Energy Supply, Distribution, or Use)**

FMCSA has analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because as a procedural action it is not economically significant and would not have a significant adverse effect on the supply, distribution, or use of energy.

**List of Subjects**

49 CFR Part 1420

Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 369

Motor carriers, Reporting and recordkeeping requirements.

■ In consideration of the foregoing and under the authority of 49 U.S.C. 104 and 721(a), FMCSA and RITA hereby amend 49 CFR chapters III and XI as set forth below:

**PART 1420—[REDESIGNATED AS PART 369]**

■ 1. Part 1420 in 49 CFR Chapter XI is transferred to 49 CFR Chapter III and redesignated as new part 369. The redesignated regulations are set forth in the following table:

REDESIGNATION TABLE

Old section	New section
1420 Part heading	369 Part heading
1420.1 .....	369.1
1420.2 .....	369.2
1420.3 .....	369.3
1420.4 .....	369.4
1420.5 .....	369.5
1420.6 .....	369.6

## REDESIGNATION TABLE—Continued

Old section	New section
1420 Part heading	369 Part heading
1420.7 [Reserved] .....	369.7 [Reserved]
1420.8 .....	369.8
1420.9 .....	369.9
1420.10 .....	369.10
1420.11 .....	369.11

■ 2. The authority citation for redesignated part 369 is added to read as follows:

**Authority:** 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 14123; 49 CFR 1.73.

**PART 369—[AMENDED]**

■ 3. In redesignated part 369, revise all references to “Bureau of Transportation Statistics” to read “Federal Motor Carrier Safety Administration”.

■ 4. Further amend redesignated part 369 by revising all references to “BTS” to read “FMCSA”.

■ 5. Further amend redesignated part 369 by revising all references to “§ 1420.1” to read “§ 369.1” and by

revising all references to “§ 1420.6” to read “§ 369.6”.

**§ 369.1 [Amended]**

■ 6. Amend redesignated § 369.1 by removing the words “§ 1420.2” in paragraph (a) and adding, in their place, the words “§ 369.2”.

**§ 369.5 [Amended]**

■ 7. Amend redesignated § 369.5 by removing the words “part 1220” and adding, in their place, the words “Part 379”.

**§ 369.6 [Amended]**

■ 8. Amend redesignated § 369.6 by removing the words “Bureau of Transportation Statistics, U.S. Department of Transportation, K-13” and adding, in their place, the words “Federal Motor Carrier Safety Administration, Office of Information Management.”

**§ 369.8 [Amended]**

■ 9. Amend redesignated § 369.8 by revising as follows:

■ a. In paragraph (c), remove the words “§ 1420.9(c)” and add, in their place, the words “§ 369.9(c)”.

■ b. In paragraph (d), remove the words “§ 1420.9(d)” and add, in their place, the words “§ 369.9(d)”.

**§ 369.10 [Amended]**

■ 10. Amend redesignated § 369.10 by removing the words “§ 1420.9” in paragraphs (b)(1) and (2) and adding, in their place, the words “§ 369.9”.

**§ 369.11 [Amended]**

■ 11. Amend redesignated § 369.11 by revising as follows:

■ a. Remove the words “§ 1420.3(a)” and add, in their place, the words “§ 369.3(a)”.

■ b. Remove the words “Office of the Bureau of Transportation Statistics” and add, in their place, the words “FMCSA Office of Information Management”.

Issued on: August 3, 2006.

**David H. Hugel,**

*Acting Administrator, Federal Motor Carrier Safety Administration.*

**Ashok G. Kaveeshwar,**

*Administrator, Research and Innovative Technology Administration.*

[FR Doc. E6-12962 Filed 8-9-06; 8:45 am]

**BILLING CODE 4910-EX-P**