

window application filing process for Channel 245A at Hardinsburg, Indiana, should be addressed to the Audio Services Division, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 97-93, adopted June 25, 1997, and released July 11, 1997. 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 contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by adding Hardinsburg, Channel 245A. Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 97-18744 Filed 7-15-97; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 49 CFR Part 369

[FHWA Docket No. MC-96-37 and No. FHWA-97-2286]

RIN 2125-AE02

#### Compensated Intercompany Hauling

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FHWA is removing the regulation delineating the scope and notice filing requirements of the statutory exemption for compensated intercompany hauling. Section 103 of the ICC Termination Act of 1995 (ICCTA), Pub. L. 104-88, 109 Stat. 803,

removed the requirement that a notice be filed before initiation of exempt compensated intercompany hauling operations.

**EFFECTIVE DATE:** August 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas T. Vining or Ms. Patricia A. Burke, Office of Motor Carrier Information Analysis, HIA-30, (202) 358-7028, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On October 21, 1996, the FHWA published a proposed rule and a request for comments in the **Federal Register** (61 FR 54711) on the regulation governing the filing of a notice prior to initiation of operations under the statutory exemption for compensated intercompany hauling. The proposed rule would eliminate this regulation.

The former Interstate Commerce Act contained an exemption from ICC regulation at 49 U.S.C. 10524(b) for compensated transportation service by a member of a corporate family, for other members of the same family, if proper notice was given. To qualify for the exemption, the participants were required to be members of a corporate family in which the parent owned, either directly or indirectly, a 100 percent interest in the subsidiaries. Corporate entities availing themselves of the exemption were also required to file a notice, which was published in the **Federal Register**, listing the participating subsidiaries and certifying 100 percent ownership by the corporate parent.

The ICCTA reenacted the substantive exemption for compensated intercompany hauling, but removed the requirement for filing of a notice of operations under the exemption, 49 U.S.C. 13505(b). Although the ICCTA does not prohibit imposition of a notice requirement by the FHWA, which has assumed responsibility for these regulations pursuant to the ICCTA, the prior **Federal Register** notice questioned the continuing need for a notice requirement or for any regulations on this subject.

The public comment period for the proposed rule closed on December 20, 1996. The FHWA received one comment from the National Private Truck Council (NPTC). This comment is available for review at the U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001.

The NPTC supports elimination of the regulation and notice filing requirement. The regulation at 49 CFR part 369 merely restates the scope of the statutory compensated intercompany hauling exemption and provides the required form and content of the notice. The information that otherwise would be contained in the notice can be easily checked by the FHWA through other means if it ever appears that a corporation is conducting operations which exceed the scope of the exemption. Because the ICCTA essentially limits licensing requirements to compliance with safety and insurance requirements, there also appears to be no incentive for a corporation to use the exemption as a cover for unregistered transportation operations. The corporation could easily obtain operating authority for legitimate operations. Thus, the regulation at 49 CFR part 369 no longer serves any meaningful regulatory purpose, and it will be removed.

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely eliminates a notice filing requirement which applies to a small number of transportation entities. Neither the individual nor cumulative impact of this action will be significant.

#### 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 effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The filing requirement currently only involves the preparation of a relatively simple notice by less than twenty transportation entities annually. Its elimination, while beneficial, will not have a significant economic impact.

#### Executive Order 12612 (Federalism Assessment)

This action was analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it was determined that this action does not have sufficient

federalism implications to warrant the preparation of a federalism assessment.

**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**

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* It eliminates the requirement that parties taking advantage of the exemption at 49 U.S.C. 13505(b) prepare and file a notice of their operations. This action is thus consistent with the goals of the Paperwork Reduction Act.

**National Environmental Policy Act**

The agency has analyzed this 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 have any effect on 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 in 49 CFR Part 369**

Highways and roads.

In consideration of the foregoing and under the authority of section 103 of the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, and 49 CFR 1.48, the FHWA amends title 49, CFR, Chapter III, by removing part 369.

Issued on: July 7, 1997.

**Jane F. Garvey,**

*Acting Administrator for the Federal Highway Administration*

[FR Doc. 97-18697 Filed 7-15-97; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**49 CFR Part 372**

[FHWA Docket No. MC-96-38 and No. FHWA-97-2280]

RIN 2125-AE03

**Exemption of Notice Filing Requirements for Agricultural Cooperative Associations Which Conduct Compensated Transportation Operations for Nonmembers**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This document removes the regulation specifying the notice filing requirements for agricultural cooperative associations which conduct compensated transportation operations for nonmembers. These operations are exempt from regulation if certain statutory limitations on their scope are observed. Section 103 of the ICC Termination Act of 1995 (ICCTA), Pub. L. 104-88, 109 Stat. 803, removed the requirement that a notice be filed before initiation of operations under the exemption.

**EFFECTIVE DATE:** August 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas T. Vining or Ms. Patricia A. Burke, Office of Motor Carrier Information Analysis, HIA-30, (202) 358-7028, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On October 21, 1996, the FHWA published a proposed rule and a request for comments in the **Federal Register** (61 FR 54712) on the removal of the regulation specifying the notice filing requirement for agricultural cooperative associations which conduct compensated transportation operations for nonmembers. The former Interstate Commerce Act contained an exemption from ICC regulation at 49 U.S.C. 13506(a)(5) (formerly 49 U.S.C. 10526(a)(5)) for transportation provided by an agricultural cooperative association for nonmembers. To qualify for the exemption, the transportation services for nonmembers were required to be incidental to the cooperative's primary transportation operations, could not exceed annually 25 percent of the cooperative's total transportation between any two involved points, and,

as a whole, could not exceed the transportation provided for the cooperative association and its members. The cooperative was also required to file a notice with the ICC of its intent to provide transportation for nonmembers.

The ICCTA reenacted the substantive exemption for nonmember transportation services by agricultural cooperatives, but removed the notice filing requirement. 49 U.S.C. 13506(a)(5). Although the ICCTA does not prohibit imposition of a notice requirement by the FHWA, which has assumed responsibility for this regulation pursuant to the ICCTA, the notice of proposed rulemaking questioned the continuing need for any required notice.

The public comment period for the proposed rule closed on December 20, 1996. No comments were submitted, and the proposed rule is adopted.

The Secretary is granted authority at 49 U.S.C. 13508 to require agricultural cooperatives to maintain records of transportation provided for members and nonmembers. Section 13508 makes these records subject to inspection and imposes specific penalties for reporting and recordkeeping violations. Regulations at 49 CFR 372.111 delineate the scope of the required records. The information contained in these records can be inspected by the FHWA if it ever appears that a cooperative is performing transportation services for nonmembers which exceed the scope of the exemption. Moreover, it is unlikely that a cooperative would have any incentive to conduct unlawful transportation operations. Under the ICCTA, licensing requirements are now essentially limited to compliance with safety and insurance standards. A cooperative could easily obtain operating authority for legitimate operations.

In these circumstances, the notice requirement at 49 CFR 372.113 no longer serves any legitimate purpose. Removal of this regulation, and the adoption of conforming amendments to 49 CFR 372.111, will eliminate unnecessary regulatory requirements.

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The economic impact of this rulemaking is minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely