

#### IV. Down From 51 TDD Approach

11. In addition, we seek further comment on using a Down from 51 band plan framework with unpaired TDD blocks ("Down from 51 TDD"). Under a Down from 51 TDD band plan, the band would begin after a guard band at channel 51 (698 MHz) and expand downward, followed by a guard band between wireless operations and broadcast television operations at the lower edge of the 600 MHz wireless band. As in the other Down from 51 band plan proposals, the band could extend past channel 37, either nationwide or in certain markets, depending on the amount of repurposed spectrum, which may also require the Commission to protect existing channel 37 operations.

12. Although the Down from 51 TDD band plan would require guard bands at both ends of the 600 MHz wireless band, no duplex gap is necessary. Further, the Down from 51 TDD band plan would allow for market variation without placing television stations in the duplex gap. Although a TDD band plan could not support market variation through variable uplink, it could support market variation through an alternative approach that aligns the amount of repurposed spectrum in constrained markets with the expected filter configurations.

13. We seek additional comment on this Down from 51 TDD band plan. Specifically, we seek comment on the tradeoffs associated with implementing the Down from 51 TDD band plan as compared to the other Down from 51 band plan variations that also accommodate market variation. Which band plan provides the most flexibility while maintaining the best certainty about the operating environment?

#### V. Procedural Matters

14. *Ex Parte Presentations—Permit-But-Disclose Proceeding:* This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the ex parte rules. Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the rules.

15. *Initial Regulatory Flexibility Analysis:* The NPRM in this proceeding included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to

5 U.S.C. 603, exploring the potential impact of the Commission's proposal on small entities. The matters discussed in this notice do not modify in any way the IRFA we previously issued.

Federal Communications Commission.

**Ruth Milkman,**

*Chief, Wireless Telecommunications Bureau.*

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**BILLING CODE 6712-01-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 369

[Docket No. FMCSA-2012-0020]

RIN-2126-AB48

### Rescission of Quarterly Financial Reporting Requirements

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

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** FMCSA proposes to eliminate the quarterly financial reporting requirements for certain for-hire motor carriers of property (Form QFR) and for-hire motor carriers of passengers (Form MP-1). This paperwork burden can be removed without an adverse impact on safety or the Agency's ability to maintain effective commercial regulatory oversight over the for-hire trucking and passenger-carrying industries.

**DATES:** You may submit comments by July 23, 2013.

**ADDRESSES:** You may submit comments identified by docket number FMCSA-2012-0020 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposal, email or call Ms. Vivian Oliver, Office of Research and Information Technology, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590; Telephone 202-366-2974; email [Vivian.Oliver@dot.gov](mailto:Vivian.Oliver@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Comments

If you would like to participate in this rulemaking, you may submit comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA-2012-0020), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and insert "FMCSA-2012-0020" in the "Search" box, and then click the "Search" button to the right of the white box. Click on the top "Comment Now" box which appears next to the notice. Fill in your contact information, as desired and your comment, uploading documents if appropriate. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and insert "FMCSA-2012-0020" in the "Search" box and then click on "Search." Click on the "Open Docket Folder" link and all the information for the notice, and

the list of comments will appear with a link to each one. Click on the comment you would like to read.

*Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

**Executive Summary**

*Purpose of the Proposal*

This action is in response to a recommendation received by the public in response to Executive Order 13563, “Improving Regulation and Regulatory Review,” which required FMCSA, among other things, to prepare plans for reviewing existing rules. One person argued that the financial reporting requirements transferred from the Interstate Commerce Commission (ICC) to FMCSA provide no discernible benefits to the government or motor carrier industry.

*Summary of the Major Provision*

The proposal would eliminate the quarterly financial reporting requirements for certain for-hire motor carriers of property and for-hire motor carriers of passengers. This paperwork burden can be removed without an adverse impact on safety or the Agency’s ability to maintain effective commercial regulatory oversight over the for-hire trucking and passenger-carrying industries.

*Costs and Benefits*

FMCSA estimates that eliminating these reporting requirements would reduce the burden to industry by about 200 hours and \$9,900 annually. Table ES–1 displays the average annual net costs and benefits that we are proposing.

**TABLE ES—1 ESTIMATED ANNUAL COSTS AND BENEFITS FOR IMPLEMENTING THE PROPOSAL**  
[2013 Dollars rounded]

	Annual Impact
Benefits .....	\$9,900
Costs .....	0
Net Benefits .....	9,900

*Background*

**Annual Financial Reporting Requirements**

Section 14123 of title 49 of the United States Code (U.S.C.) requires certain for-hire motor carriers of property and household goods to file annual financial reports. The annual reporting program was implemented on December 24, 1938 (3 FR 3158), and it was subsequently transferred from the Interstate Commerce Commission (ICC) to the U.S. Department of Transportation’s (DOT) Bureau of Transportation Statistics (BTS) on January 1, 1996. The Secretary of DOT delegated to BTS the responsibility for the program on December 17, 1996 (61 FR 68162). Annual financial reports are filed on Form M (for-hire property carriers, including household goods carriers) and Form MP–1 (for-hire passenger carriers). Responsibility for collection of the reports was transferred from BTS to FMCSA on August 17, 2004 (69 FR 51009), and the regulations were redesignated as 49 CFR part 369 on August 10, 2006 (71 FR 45740). FMCSA has continued to collect carriers’ annual reports and to furnish copies of the reports requested under the Freedom of Information Act.

**Quarterly Financial Reporting**

Section 14123(a)(2) of 49 U.S.C. allows, but does not require, the Agency to require for-hire property and passenger carriers to file quarterly financial reports. These requirements are included in 49 CFR part 369 and apply to Class I (average annual gross transportation operating revenues of \$10 million or more) and Class II (average annual gross transportation operating revenues of \$3 million dollars or more, but less than \$10 million) for-hire motor carriers of property. The requirements also apply to Class I (average annual gross transportation operating revenues of \$5 million or more) for-hire motor carriers of passengers.

**E.O. 13563 Improving Regulation and Regulatory Review**

On January 18, 2011, the President issued Executive Order (E.O.) 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), which required agencies, among other things, to prepare plans for reviewing existing rules. On February 16, 2011, DOT published a notice requesting comments on its regulatory review plan (76 FR 8940). A public meeting on this issue was held on March 14, 2011. DOT placed all of the comments it received in docket DOT–OST–2011–0025, along with a transcript of the March 14

meeting. DOT received 102 comments, many offering multiple suggestions. One person argued that the financial reporting requirements transferred from the ICC to FMCSA provide no discernible benefits to the government or motor carrier industry.

**Direct Final Rule**

On June 27, 2012, FMCSA published a direct final rule that would have eliminated the quarterly financial reporting requirements for certain for-hire motor carriers of property (Form QFR) and for-hire motor carriers of passengers (Form MP–1 Quarterly) if no adverse comments were received by July 27, 2012 (77 FR 38211). One entity, SJ Consulting Group, submitted adverse comments and stated that it uses the quarterly financial information to advise motor carriers, shippers, and persons interested in buying motor carriers. It argued that the quarterly reports provide useful insight into the U.S. trucking industry, such as operating statistics that are not available from other public sources, particularly for private carriers. Although SJ Consulting conceded that some data on general demand and pricing trends are available from other sources, it argued that quarterly data on the profitability of carriers are essential in providing safe and timely service to shippers, estimating future growth rates, and assessing opportunities for profitable investment in the trucking industry. SJ Consulting has used Form QFR reports for these purposes for many years. FMCSA considered this an adverse comment which caused the Agency to therefore withdraw the direct final rule on August 27, 2012 (77 FR 51705).

Although FMCSA considered SJ Consulting’s comment adverse for the direct final rule, it continues to believe the quarterly financial reporting requirements for certain for-hire motor carriers of property (Form QFR) and for-hire motor carriers of passengers (Form MP–1 Quarterly) can be eliminated without an adverse impact on safety. SJ Consulting and others that have used the quarterly report will still be able to use the annual Form M and Form MP–1 reports which are not being rescinded in this proposed rule. SJ Consulting can still advise motor carriers, shippers, and persons interested in buying for-hire motor carriers of freight using 112 annual reports through Form M’s and Form MP–1’s operating statistics and data on general demand, pricing, and profitability to estimate future growth rates, and to assess opportunities for profitable investment in the for-hire truck and motorcoach industries. The Agency also continues to believe

removal of the quarterly financial reporting requirements will have no impact on the Agency's ability to maintain effective commercial regulatory oversight over the for-hire trucking and passenger-carrying industries.

The information submitted to FMCSA does not help the Agency with any decisions the Agency needs to make with regard to raising the safety bar to enter the motor carrier industry, maintaining high standards to remain in the industry, and removing unsafe operators. The implementation of these three core principles is not contingent upon financial reporting data. The information collected does not currently support any Agency regulatory function, nor does it have practical utility for the Agency or for those carriers who must comply with the reporting requirement.

#### *Discussion of the Proposal*

For the reasons discussed in the Background section, above, FMCSA proposes to amend 49 CFR part 369 by eliminating the quarterly reporting requirement under 49 CFR 369.1 and 369.4. In addition, FMCSA would make other conforming technical amendments to 49 CFR 369.8, 369.9, and 369.11. This proposal does not affect the annual reporting requirements, which still must be prepared and filed as required by statute (49 U.S.C. 14123(a)(1)).

#### *Regulatory Analyses*

When developing this NPRM, FMCSA considered numerous statutes and executive orders related to rulemaking. The Agency's analyses are summarized below.

#### *Regulatory Planning and Review*

Under E.O. 12866 (58 FR 51735, Oct. 4, 1993) as supplemented by E.O. 13563 (76 FR 3821, Jan. 18, 2011), FMCSA must determine whether a regulatory action is "significant" and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the E.O. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) Materially alter the budgetary impact of entitlements, grants, user fees,

or loan programs or the rights and obligations of recipients thereof.

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

This rulemaking is not a significant regulatory action under section 3(f) of E.O. 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. This rulemaking will not have a significant economic impact. In fact, elimination of the reporting requirement will, if anything, have a beneficial economic impact on the motor carrier industry through reduced reporting costs. Consequently, the OMB has not reviewed it under that Order.

#### *Small Entities*

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121, Title II, 110 Stat. 857), when an agency issues a rulemaking proposal, the RFA requires the agency to "prepare and make available for public comment an initial regulatory flexibility analysis" that will "describe the impact of the proposed rule on small entities" (5 U.S.C. sec. 603(a)).

FMCSA has determined that the impact on entities affected by the proposed rule will not be significant. In fact, the existing burden from quarterly reporting will be eliminated. FMCSA expects the impact of the proposed rule will be a reduction in the paperwork burden for for-hire motor carriers. FMCSA asserts that the economic impact of the reduction in paperwork, if any, will be minimal and entirely beneficial to small for-hire motor carriers. As can be seen below under section C., Paperwork Reduction Act, FMCSA estimates eliminating these reporting requirements reduces the burden to the for-hire motor carrier industry by about 200 hours and \$9,900 annually.

The courts have held that "a regulatory flexibility analysis is required when an agency determines that the rule will have a significant economic impact on a substantial number of small entities that are subject to the requirements of the rule."<sup>1</sup> The RFA does not require FMCSA to consider the effect of this proposal on entities that are not subject to the rule.<sup>2</sup> Although SJ Consulting

<sup>1</sup> *Mid-Tex Electric Cooperative, Inc. v. Federal Energy Regulatory Commission (FERC)*, 773 F.2d 327, 342 (D.C. Cir. 1985).

<sup>2</sup> *Id.* See also "A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act," Small Business Administration (2010),

Group filed an adverse comment to the FMCSA's June 27, 2012, direct final rule, it is not a for-hire motor carrier and, therefore, not subject to the current financial reporting rule. Consequently, FMCSA has determined that this proposed rule will not have an impact on a substantial number of small entities that are subject to the requirements of the rule.

Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities regulated by FMCSA. This proposed rule directly affects 112 for-hire motor carriers that prepare and file quarterly financial reports under per 49 CFR part 369. FMCSA estimates that approximately 10 percent of these 112 for-hire motor carriers are small entities with average annual gross transportation operating revenues of no more than \$23.5 million. The current requirement to file quarterly financial reports applies only to for-hire motor carriers of property with average annual gross transportation operating revenues of \$3 million dollars or more, and \$5 million or more for passenger carriers.

Accordingly, the Administrator of the FMCSA hereby certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. FMCSA invites comment from members of the public who believe there will be a significant impact on a substantial number of small for-hire motor carriers.

#### *Paperwork Reduction Act*

This rulemaking eliminates two quarterly reporting requirements that are currently reported to OMB under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520).

#### *Quarterly Report for 110 Property Carriers*

Form QFR Quarterly for property carriers, authorized by OMB under information collection 2126-0033, is two pages long and takes approximately 27 minutes for each of the approximately 110 carriers to complete. This report is filed 4 times per year, so the total burden-hour impact per filer per year is  $4 \times 27/60 = 1.8$  hours. Multiplying this figure by the 110 carriers that file quarterly reports yields a total burden estimate of 198 hours.

FMCSA assumes that completion and submission of Form QFR is performed by an accountant designated by the

business entity. The median salary of an accountant in the truck transportation industry is \$25.90 per hour (BLS, May 2010).<sup>3</sup> Two adjustments are made to this hourly compensation estimate. First, employee benefits are estimated at 50.0 percent of the employee wage.<sup>4</sup> Second, employee wage and benefits are increased by 27 percent to include relevant firm overhead.<sup>5</sup> Applying the estimated 50.0 percent factor for employee benefits and 27 percent for overhead results in \$49.34 in hourly compensation for the accountant ( $\$25.90 \times (1 + 0.50) \times (1 + 0.27) = \$49.34$ ). The total annual salary cost burden associated with the filings is \$9,770 rounded up ( $\$49.34 \times 198 \text{ hours} = \$9,769.32$ ).

#### Quarterly Report for 2 Passenger Carriers

The Class I passenger carrier financial quarterly survey (Form MP-1 Quarterly), which is two pages long and takes about 18 minutes to complete for the estimated 2 participating carriers, is authorized by OMB under information collection 2126-0031. Since this report is also filed 4 times per year, the total burden hours associated with the requirement are  $4 \times 18/60 \times 2 = 2.4$  hours.

FMCSA believes the completion and submission of Form MP-1 Quarterly is typically performed by a business and financial operations expert designated by the business entity because of the level of detail in the financial reports. The median salary of a business and financial operations expert in the interurban and rural bus transportation industry is \$26.41 per hour (BLS, May 2010).<sup>6</sup> Two adjustments are made to

this hourly estimate. First, employee benefits are estimated at 50.0 percent of the employee wage.<sup>7</sup> Second, employee wage and benefits are increased by 27 percent to include relevant firm overhead.<sup>8</sup> Applying the estimated 50.0 percent factor for employee benefits and 27 percent for overhead results in \$50.31 in hourly compensation for the business and financial operations expert ( $\$26.41 \times (1 + 0.50) \times (1 + 0.27) = \$50.31$ ). The total annual salary cost burden associated with the filings is \$121 ( $\$50.31 \times 2.4 \text{ hours} = \$120.74$ , rounded to the nearest dollar).

Collectively, eliminating these reporting requirements reduces the burden to industry by 200.4 hours and \$9,891 annually, rounded to 200 hours and \$9,900, respectively.

The PRA requires that each agency “shall certify . . . that each collection of information . . . is necessary for the proper performance of the functions of the agency, including that the information has practical utility” (44 U.S.C. 3506(c)(3)(A); 5 CFR 1320.5(d)(1)(iii)). FMCSA can no longer certify that the quarterly requirements are “necessary for the proper performance of the functions of the agency.” Therefore, FMCSA is proposing to discontinue the quarterly reporting requirements.

#### Federalism

A rule has federalism implications under E.O. 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on the States. FMCSA has analyzed this rulemaking under that Order and has determined that it does not have federalism implications.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$143.1 million (which is the value of \$100,000,000 in 2010 after adjusting for inflation) or more in any 1 year. This

Occupational Classification (SOC) 13–2000, Business and Financial Operations Occupations.

<sup>7</sup> FMCSA estimates this 50 percent employee benefit rate by using the private industry average wage (\$16.03 per hour) and benefit information (\$8.01 per hour) for production, transportation, and moving material workers. See footnote 5, above.

<sup>8</sup> Berwick “Truck Costing Model for Transportation Managers.”

rulemaking would not result in such an expenditure.

#### Taking of Private Property

This rulemaking will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

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

#### Protection of Children

FMCSA analyzed this NPRM under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This NPRM is not economically significant and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Energy Effects

FMCSA analyzed this NPRM under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and will not have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

#### Environment

The Agency analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*) and determined under our environmental procedures Order 5610.1, published March 1, 2004 (69 FR 9680), that this action is excluded from further environmental documentation under two categorical exclusions (CEs). These are found in Appendix 2, paragraph 4, which covers data and information gathering, and Appendix 2, paragraph 6(y)(2) concerning reports provided by motor carriers. The action involves no extraordinary circumstances that would have any effect on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement. The Categorical Exclusion Determination is available for inspection or copying in

<sup>3</sup> Bureau of Labor Statistics, “Occupational Employment Survey,” May 2010, retrieved December 15, 2011, from [http://www.bls.gov/oes/current/naics3\\_484000.htm](http://www.bls.gov/oes/current/naics3_484000.htm). North American Industry Classification System (NAICS) 484000, Truck Transportation, Standard Occupational Classification (SOC) 13–2011, Accountants and Auditors.

<sup>4</sup> FMCSA estimates this 50 percent employee benefit rate by using the private industry average wage (\$16.03 per hour) and benefit information (\$8.01 per hour) for production, transportation, and moving material workers. Benefits thus amount to 50.0 percent of wages (0.500 =  $\$8.01/\$16.03$ ). From “Employer Costs for Employee Compensation—September 2010,” retrieved August 23, 2011, from <http://www.bls.gov/news.release/pdf/ecec.pdf>.

<sup>5</sup> Berwick, Farooq. “Truck Costing Model for Transportation Managers.” Upper Great Plains Transportation Institute, North Dakota State University (2003), retrieved January 9, 2013, from <http://ntl.bts.gov/lib/24000/24200/24223/24223.pdf>.

<sup>6</sup> Bureau of Labor Statistics, “Occupational Employment Survey,” May 2010, retrieved December 15, 2011, from [http://www.bls.gov/oes/current/naics4\\_485200.htm](http://www.bls.gov/oes/current/naics4_485200.htm). North American Industry Classification System (NAICS) 485200, Interurban and Rural Bus Transportation, Standard

the regulations.gov Web site listed under **ADDRESSES**.

FMCSA also analyzed this NPRM under the Clean Air Act, as amended (CAA), section 176(c), 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 does not result in any potential increase in emissions that are above the general conformity rule's *de minimis* emission threshold levels (40 CFR 93.153(c)(2)). This action merely eliminates a reporting requirement.

Additionally, FMCSA evaluated the effects of this rule in accordance with Executive Order 12898 and determined that there are no environmental justice issues associated with its provisions nor any collective environmental impacts resulting from its promulgation. Environmental justice issues would be raised if there were "disproportionate" and "high and adverse impact" on minority or low-income populations. This NPRM is exempt from analysis under the National Environmental Policy Act due to a categorical exclusion. This proposal simply eliminates a paperwork requirement and would not result in high and adverse environmental impacts.

#### List of Subjects in 49 CFR Part 369

Motor carriers, Reporting and recordkeeping requirements.

In consideration of the foregoing, FMCSA proposes to amend part 369 in 49 CFR chapter III, subchapter B, as follows:

#### PART 369 [AMENDED]

■ 1. The authority citation for part 369 continues to read as follows.

**Authority:** 49 U.S.C. 14123; 49 CFR 1.87.

■ 2. Amend § 369.1, by removing paragraph (b) and redesignating paragraph (c) as paragraph (b) and revising it to read as follows.

#### § 369.1 Annual reports of motor carriers of property, motor carriers of household goods, and dual property carriers.

(b) *Where to file report.* Carriers must file the annual report with the Federal Motor Carrier Safety Administration at the address in § 369.6. You can obtain blank copies of the report form from the Federal Motor Carrier Safety Administration Web site [http://www.fmcsa.dot.gov/forms/reporting/mcs\\_info.htm#fos](http://www.fmcsa.dot.gov/forms/reporting/mcs_info.htm#fos).

■ 3. Revise § 369.4 to read as follows.

#### § 369.4 Annual reports of Class I carriers of passengers.

(a) All Class I motor carriers of passengers shall complete and file Motor Carrier Annual Report Form MP-1 for Motor Carriers of Passengers (Form MP-1).

(b) *Accounting period.* (1) Motor Carrier Annual Report Form MP-1 shall be used to file annual selected motor carrier data.

(2) The annual accounting period shall be based either (i) on the 31st day of December in each year, or (ii) an accounting year of thirteen 4-week periods ending at the close of the last 7 days of each calendar year.

(3) A carrier electing to adopt an accounting year of thirteen 4-week periods shall file with the FMCSA a statement showing the day on which its accounting year will close. A subsequent change in the accounting period may not be made except by authority of the FMCSA.

(c) The annual report shall be filed on or before March 31 of the year following the year to which it relates. The annual report shall be filed in duplicate with the Federal Motor Carrier Safety Administration at the address in § 369.6. Copies of Form MP-1 may be obtained from the FMCSA.

■ 4. Amend § 369.8 by revising paragraphs (a) and (d) to read as follows.

#### § 369.8 Requests for exemptions from filing.

(a) *General.* This section governs requests for exemptions from filing of the report required under § 369.1 of this part.

\* \* \* \* \*

(d) *When requests are due.* The timing of a request for an exemption from filing is the same as the timing for a request for an exemption from public release contained in § 369.9(d). For Annual Form M, both the report and the request are due by March 31.

\* \* \* \* \*

■ 5. Amend § 369.9 by removing paragraph (d)(4) and revising paragraphs (a) and (e)(4) to read as follows.

#### § 369.9 Requests for exemptions from public release.

(a) *General.* This section governs requests for exemptions from filing of the report required under § 369.1 of this part.

\* \* \* \* \*

(e) \* \* \*

(4) FMCSA will grant or deny each request no later than 90 days after the request's due date as defined in paragraph (d) of this section. The decision by FMCSA shall be administratively final. For Annual Form

M, both the report and the request are due by March 31, and the decision is due by June 30.

\* \* \* \* \*

#### § 369.11 [Removed]

■ 6. Remove § 369.11.

Issued under the authority delegated in 49 CFR 1.87 on: May 13, 2013.

Anne S. Ferro,  
Administrator.

[FR Doc. 2013-12339 Filed 5-23-13; 8:45 am]

BILLING CODE 4910-EX-P

#### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R4-ES-2013-0015; 4500030113]

RIN 1018-AZ47

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Leavenworthia exigua* var. *laciniata* (Kentucky Glade Cress)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose to designate critical habitat for *Leavenworthia exigua* var. *laciniata* (Kentucky glade cress). The effect of these regulations, if finalized, would be to protect *Leavenworthia exigua* var. *laciniata*'s critical habitat under the Act.

**DATES:** We will accept comments received or postmarked on or before July 23, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by July 8, 2013.

**ADDRESSES:** You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-R4-ES-2013-0015, which is the docket number for this rulemaking. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS-R4-ES-2013-0015; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042-PDM; Arlington, VA 22203.