

(d) If the FMCSA determines that the application and certifications demonstrate that the application is consistent with the FMCSA's safety fitness policy, it will issue a provisional Certificate of Registration, including a distinctive USDOT Number that identifies the motor carrier as permitted to provide interstate transportation of property solely in municipalities in the United States on the U.S.-Mexico international border or within the commercial zones of such municipalities.

(e) The FMCSA may issue a permanent Certificate of Registration to the holder of a provisional Certificate of Registration no earlier than 18 months after the date of issuance of the Certificate and only after completion to the satisfaction of the FMCSA of the safety monitoring system for Mexico-domiciled carriers set out in subpart B of part 385 of this subchapter.

(f) Notice of the authority sought will not be published in either the FEDERAL REGISTER or the FMCSA Register. Protests or comments will not be allowed. There will be no oral hearings.

**§ 368.7 Requirement to carry certificate of registration in the vehicle.**

A holder of a Certificate of Registration must maintain a copy of the Certificate of Registration in any vehicle providing transportation service within the scope of the Certificate, and make it available upon request to any State or Federal authorized inspector or enforcement officer.

**§ 368.8 Appeals.**

An applicant has the right to appeal denial of the application. The appeal must be in writing and specify in detail why the Agency's decision to deny the application was wrong. The appeal must be filed with FMCSA, ATTN: § 368.8 Appeal, 1200 New Jersey Avenue SE, Washington, DC 20590, within 20 days of the date of the letter denying the application.

[80 FR 63707, Oct. 21, 2015, as amended at 86 FR 57068, Oct. 14, 2021]

EFFECTIVE DATE NOTE: At 82 FR 5304, Jan. 17, 2017, § 368.8 was suspended, effective Jan. 14, 2017. At 86 FR 57068, Oct. 14, 2021, the suspension was lifted and amendments were

made to § 368.8. In that same document, § 368.8 was again suspended indefinitely.

**§ 368.8T Appeals.**

An applicant has the right to appeal denial of the application. The appeal must be in writing and specify in detail why the agency's decision to deny the application was wrong. The appeal must be filed with FMCSA, ATTN: § 368.8 Appeal, 1200 New Jersey Avenue SE, Washington, DC 20590, within 20 days of the date of the letter denying the application. The decision will be the final agency order.

[82 FR 5304, Jan. 17, 2017, as amended at 86 FR 57068, Oct. 14, 2021]

**PART 369—REPORTS OF MOTOR CARRIERS**

Sec.

- 369.1 Annual reports of for-hire, non-exempt motor carriers of property, motor carriers of household goods, and dual property carriers.
- 369.2 Classification of carriers—for-hire, non-exempt motor carriers of property, household goods carriers, and dual property carriers.
- 369.3 Classification of carriers—for-hire, non-exempt motor carriers of passengers.
- 369.4 Annual and quarterly reports of Class I carriers of passengers.
- 369.5 Records.
- 369.6 Address.
- 369.8 Requests for exemptions from filing.
- 369.9 Requests for exemptions from public release.
- 369.10 Public release of motor carrier of property data.

AUTHORITY: 49 U.S.C. 14123; 49 CFR 1.87.

**§ 369.1 Annual reports of for-hire, non-exempt motor carriers of property, motor carriers of household goods, and dual property carriers.**

(a) *Annual Report Form M.* All class I and class II for-hire, non-exempt motor carriers of property, including household goods and dual property motor carriers, must file Motor Carrier Annual Report Form M (Form M). Carriers must file the annual report on or before March 31 of the year following the year to which it relates. For classification criteria, see § 369.2.

(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

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blank copies of the report form from the Federal Motor Carrier Safety Administration website [https://www.fmcsa.dot.gov/forms/reporting/mcs\\_info.htm#fos](https://www.fmcsa.dot.gov/forms/reporting/mcs_info.htm#fos).

[64 FR 13921, Mar. 23, 1999. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006; 78 FR 76245, Dec. 17, 2013; 81 FR 68344, Oct. 4, 2016; 88 FR 80179, Nov. 17, 2023]

**§ 369.2 Classification of carriers—for-hire, non-exempt motor carriers of property, household goods carriers, and dual property carriers.**

(a) For-hire, non-exempt motor carriers of property are grouped into the following three classes:

*Class I.* Carriers having annual carrier operating revenues (including interstate and intrastate) of \$10 million or more after applying the revenue deflator formula in Note A.

*Class II.* Carriers having annual carrier operating revenues (including interstate and intrastate) of at least \$3 million but less than \$10 million after applying the revenue deflator formula in Note A.

*Class III.* Carriers having annual carrier operating revenues (including interstate and intrastate) of less than \$3 million after applying the revenue deflator formula in Note A.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues (excluding revenues from private carriage, compensated intercorporate hauling, and leasing vehicles with drivers to private carriers) after applying the revenue deflator formula in Note A. Upward and downward classification will be effective as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(2) Any carrier which begins new operations by obtaining operating au-

thority not previously held or extends its existing authority by obtaining additional operating rights shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues after applying the revenue deflator formula shown in Note A.

(3) When a business combination occurs such as a merger, reorganization, or consolidation, the surviving carrier shall be reclassified effective as of January 1 of the next calendar year on the basis of the combined revenues for the year when the combination occurred after applying the revenue deflator formula shown in Note A.

(4) Carriers must notify the Federal Motor Carrier Safety Administration (FMCSA) of any change in classification or any change in annual operating revenues that would cause a change in classification. The carrier may request a waiver or an exception from these regulations in unusual or extenuating circumstances, where the classification process will unduly burden the carrier, such as partial liquidation or curtailment or elimination of contracted services. The request must be in writing, specifying the conditions justifying the waiver or exception. FMCSA will notify the carriers of any change in classification.

(5) Carriers not required to file an Annual Report Form M may be required to file the Worksheet for Calculating Carrier Classification. All carriers will be notified of any classification changes.

NOTE TO § 369.2: Each carrier's operating revenues will be deflated annually using the Producer Price Index (PPI) of Finished Goods before comparing those revenues with the dollar revenue limits prescribed in paragraph (a) of this section. The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's annual operating revenues} \times \frac{1994 \text{ average PPI}}{\text{Current year's average PPI}} = \text{Adjusted annual operating revenues}$$

[52 FR 10383, Apr. 1, 1987, as amended at 59 FR 5111, Feb. 3, 1994; 59 FR 49848, Sept. 30, 1994. Redesignated at 63 FR 52193, Sept. 30, 1998, and amended at 64 FR 13921, 13922, Mar. 23, 1999; 68 FR 4719, Jan. 30, 2003. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006; 78 FR 58478, Sept. 24, 2013; 81 FR 68345, Oct. 4, 2016]

**§ 369.3 Classification of carriers—for-hire, non-exempt motor carriers of passengers.**

(a) For-hire, non-exempt motor carriers of passengers are grouped into the following two classes:

Class I—Carriers having average annual gross transportation operating revenues (including interstate and intrastate) of \$5 million or more from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

Class II—Carriers having average annual gross transportation operating revenues (including interstate or intrastate) of less than \$5 million from passenger motor carrier operations after applying the revenue deflator formula as shown in the Note.

(b)(1) The class to which any carrier belongs shall be determined by annual carrier operating revenues after applying the revenue deflator formula as shown in the Note. Upward and downward reclassification will be effective as of January 1 of the year immediately following the third consecutive year of revenue qualification.

(2) Any carrier which begins new operations (obtains operating authority not previously held) or extends its existing authority (obtains additional operating rights) shall be classified in accordance with a reasonable estimate of its annual carrier operating revenues after applying the revenue deflator formula shown in the Note.

(3) When a business combination occurs, such as a merger, reorganization, or consolidation, the surviving carrier

shall be reclassified effective as of January 1 of the next calendar year on the basis of the combined revenues for the year when the combination occurred after applying the revenue deflator formula shown in the Note.

(4) Carriers shall notify the FMCSA of any change in classification or when their annual operating revenues exceed the Class II limit by writing to the Federal Motor Carrier Safety Administration at the address in §369.6. In unusual circumstances where the classification regulations and reporting requirements will unduly burden the carrier, the carrier may request from the FMCSA a waiver from these regulations. This request shall be in writing specifying the conditions justifying the waiver. The FMCSA then shall notify carriers of any change in classification or reporting requirements.

(c) For classification purposes, the FMCSA shall publish in the FEDERAL REGISTER annually an index number which shall be used for adjusting gross annual operating revenues. The index number (deflator) is based on the Producer Price Index of Finished Goods and is used to eliminate the effects of inflation from the classification process.

NOTE TO §369.3: Each carrier's operating revenues will be deflated annually using the Producer Price Index (PPI) of Finished Goods before comparing them with the dollar revenue limits prescribed in paragraph (a) of this section. The PPI is published monthly by the Bureau of Labor Statistics. The formula to be applied is as follows:

$$\text{Current year's annual operating revenues} \times \frac{1986 \text{ average PPI}}{\text{Current year's average PPI}} = \text{Adjusted annual operating revenues}$$

[53 FR 4029, Feb. 11, 1988. Redesignated at 63 FR 52193, Sept. 30, 1998, and amended at 68 FR 4719, Jan. 30, 2003. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006; 78 FR 58478, Sept. 24, 2013; 81 FR 68345, Oct. 4, 2016]

**§ 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:

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(i) On the 31st day of December in each year, or

(ii) An accounting year of 13 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 13 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 with the Federal Motor Carrier Safety Administration at the address in §369.6. Copies of Form MP-1 may be obtained from the FMCSA.

[78 FR 76245, Dec. 17, 2013]

### § 369.5 Records.

Books, records and carrier operating documents shall be retained as prescribed in 49 CFR part 379, Preservation of Records.

[52 FR 10383, Apr. 1, 1987. Redesignated at 63 FR 52193, Sept. 30, 1998. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006]

### § 369.6 Address.

The following address must be used by motor carriers when submitting a report, requesting an exemption from filing a report, or requesting an exemption from public release of a report: Federal Motor Carrier Safety Administration, Office of Registration and Safety Information (MC-RS), 1200 New Jersey Ave., SE., Washington, DC 20590-0001. This address may also be used for general correspondence regarding the data collection program described in this section.

[64 FR 13923, Mar. 23, 1999, as amended at 68 FR 4719, Jan. 30, 2003. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006; 72 FR 55699, Oct. 1, 2007; 79 FR 59455, Oct. 2, 2014]

### § 369.8 Requests for exemptions from filing.

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

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(b) *Criteria.* The Federal Motor Carrier Safety Administration (FMCSA) may grant a request upon a proper showing that the exemption is necessary to preserve confidential business information that is not otherwise publicly available. Information is considered to be confidential when:

(1) Disclosure of the information in the carrier's report would be likely to cause substantial harm to the carrier's competitive position; or

(2) Disclosure of information in the report would be likely to impair protectable government interests.

(c) *Contents of a request.* The contents of a request for an exemption from filing must contain, at a minimum, the contents that are required for a request for an exemption from public release contained in §369.9(c). A carrier's request may include any other grounds as to why the request should be granted.

(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 of the year following the year to which it relates.

(e) *Decision to grant or deny a request.*  
(1) A request will be denied if it fails to provide all of the supporting information required in paragraph (c) of this section or if the supporting information is insufficient to establish that information in the carrier's report meets the criteria in paragraph (b) of this section.

(2) FMCSA will grant or deny each request within a reasonable period of time. FMCSA will notify the carrier of its decision. The decision by FMCSA shall be administratively final.

(f) *Pendency.* While a request is pending, the carrier is required to submit any reports required under §369.1.

(g) *Period of exemptions.* If a request for an exemption under this section is granted, the carrier will be exempt from the reporting requirements of §369.1 for a period of three reporting years.

(h) *Modification of a decision to grant a request.* If a request is granted it remains in effect in accordance with its

terms, unless modified by a later finding that the decision was clearly erroneous. If FMCSA believes such a finding should be made, FMCSA will notify the requesting carrier in writing of the reasons for the modification. The carrier may seek reconsideration of the modification.

[64 FR 13922, Mar. 23, 1999. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006; 78 FR 76245, Dec. 17, 2013]

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

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

(b) *Criteria.* The Federal Motor Carrier Safety Administration (FMCSA) will grant a request upon a proper showing that the carrier is not a publicly held corporation or that the carrier is not subject to financial reporting requirements of the Securities and Exchange Commission, and that the exemption is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as trade secret or privileged or confidential information under 5 U.S.C. 552(b)(4). Information is considered to be confidential when:

(1) Disclosure of the information in the carrier's report would be likely to cause substantial harm to the carrier's competitive position; or

(2) Disclosure of information in the report would be likely to impair protectable government interests.

(c) *Contents of a request.* A request for an exemption from public release must contain information supporting the claim. While the supporting information may contain opinions, the request must consist of objective data to the extent possible. General or nonspecific assertions or analysis will be insufficient to support a request if FMCSA is unable to find that the criteria are met. The supporting information must show:

(1) That the information claimed to be confidential is a trade secret, or commercial or financial information that is privileged or confidential.

(2) Measures taken by the carrier to ensure that the information has not been disclosed or otherwise made avail-

able to any person, company, or organization other than the carrier.

(3) Insofar as is known by the carrier, the extent to which the information has been disclosed, or otherwise become available, to persons other than the carrier, and why such disclosure or availability does not compromise the confidential nature of the information.

(4) If the carrier asserts that disclosure would be likely to result in substantial competitive harm, what the harmful effects of disclosure would be, why the effects should be viewed as substantial, and the causal relationship between the effects and disclosure.

(5) If the carrier asserts that disclosure would be likely to impair protectable government interests, what the effects of disclosure are likely to be and why disclosure is likely to impair such interests.

(d) *When requests are due.* (1) Requests for an exemption under this section may be made at any time during the year. However, a request will be deemed applicable to only those reports due on or after the date the request is received. Requests received after a report's due date will only be considered for the following year's report.

(2) A request will be deemed received on the date the request is physically received or, if it is sent by mail, on the date it is postmarked.

(3) FMCSA will only allow a late request if there are extenuating circumstances and the carrier gives adequate notice within a reasonable time of the extenuating circumstances.

(e) *Decision to grant or deny a request.*

(1) After each due date of each annual report specified in § 369.1, FMCSA will publish a notice in the FEDERAL REGISTER requesting comments on any requests received under this section that are valid and pending.

(2) A request will be granted only if it provides all of the supporting information required in paragraph (c) of this section and if the supporting information is sufficient to establish that information in the carrier's report meets the criteria in paragraph (b) of this section.

(3) If the carrier fails to comply with the timing requirements of paragraph

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(d) of this section, the claim for confidentiality will be waived unless FMCSA is notified of extenuating circumstances before the information is disclosed to the public and FMCSA finds that the extenuating circumstances warrant consideration of the claim.

(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.

(5) If a request is granted, FMCSA will notify carrier of that decision and of any appropriate limitations.

(6) If a request for confidentiality is denied, FMCSA will notify the carrier of that decision and that the information will be made available to the public not less than ten working days after the carrier has received notice of the denial. The notice will specify the reasons for denying the request.

(f) *Pendency.* A request is deemed pending from the date it is received by FMCSA until it is granted or denied by FMCSA. FMCSA will not release publicly, unless otherwise required by law, any report for which a valid request for an exemption from public release is pending.

(g) *Period of exemptions.* If a request for an exemption under this section is granted, FMCSA will not publicly release the reports covered by the granted exemption, unless otherwise required by law, for a period of three years from the report's due date.

(h) *Modification of a decision to grant a request.* If a request is granted it remains in effect in accordance with its terms, unless modified by a later finding that the decision was clearly erroneous. If FMCSA believes such a finding should be made, FMCSA will notify the requesting carrier in writing of the reasons for the modification and that the carrier's report will be made available to the public in not less than ten working days from the date of receipt of notice under this paragraph. The

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carrier may seek reconsideration of the modification.

[64 FR 13922, Mar. 23, 1999. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006; 78 FR 76245, Dec. 17, 2013]

### § 369.10 Public release of motor carrier of property data.

(a) *In general.* Unless otherwise provided in this section, the data contained in a report filed under § 369.1 shall be made publicly available, but no sooner than the due date for the report.

(b) *Exceptions relating to exemptions from public release.* (1) If a request for an exemption from public release is pending under § 369.9, FMCSA will not publicly release the reports covered by the request until at least the time that a decision to grant or deny the request is made.

(2) If a carrier is granted an exemption from public release under § 369.9, FMCSA will not publicly release the reports covered by the granted exemption for a period of three years from the report's due date.

(c) *Other exceptions.* Notwithstanding any other provision of this part, information may be released:

(1) If the data are included in aggregate industry statistics that do not identify the individual carrier;

(2) To other components of the Department of Transportation for their internal use only;

(3) If required by law;

(4) With the consent of the carrier filing the report; or

(5) To contractors, if necessary for the performance of a contract with FMCSA.

[64 FR 13923, Mar. 23, 1999, as amended at 68 FR 4719, Jan. 30, 2003. Redesignated at 71 FR 45742, Aug. 10, 2006, and amended at 71 FR 45743, Aug. 10, 2006]

## PART 370—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

- Sec.  
370.1 Applicability of regulations.  
370.3 Filing of claims.  
370.5 Acknowledgment of claims.  
370.7 Investigation of claims.