

§ 369.10

(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

49 CFR Ch. III (10–1–24 Edition)

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.

Federal Motor Carrier Safety Administration, DOT

§ 370.5

370.9 Disposition of claims.

370.11 Processing of salvage.

AUTHORITY: 49 U.S.C. 13301 and 14706; and 49 CFR 1.87.

SOURCE: 62 FR 32042, June 12, 1997, unless otherwise noted.

§ 370.1 Applicability of regulations.

The regulations set forth in this part shall govern the processing of claims for loss, damage, injury, or delay to property transported or accepted for transportation, in interstate or foreign commerce, by each motor carrier, water carrier, and freight forwarder (hereinafter called carrier), subject to 49 U.S.C. subtitle IV, part B.

§ 370.3 Filing of claims.

(a) *Compliance with regulations.* A claim for loss or damage to baggage or for loss, damage, injury, or delay to cargo, shall not be voluntarily paid by a carrier unless filed, as provided in paragraph (b) of this section, with the receiving or delivering carrier, or carrier issuing the bill of lading, receipt, ticket, or baggage check, or carrier on whose line the alleged loss, damage, injury, or delay occurred, within the specified time limits applicable thereto and as otherwise may be required by law, the terms of the bill of lading or other contract of carriage, and all tariff provisions applicable thereto.

(b) *Minimum filing requirements.* A written communication from a claimant, filed with a proper carrier within the time limits specified in the bill of lading or contract of carriage or transportation and:

(1) Containing facts sufficient to identify the baggage or shipment (or shipments) of property,

(2) Asserting liability for alleged loss, damage, injury, or delay, and

(3) Making claim for the payment of a specified or determinable amount of money, shall be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage; *Provided, however,* That procedures are established to ensure reasonable carrier access to supporting documents.

(c) *Documents not constituting claims.* Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, on freight bills, delivery

receipts, or other documents, or inspection reports issued by carriers or their inspection agencies, whether the extent of loss or damage is indicated in dollars and cents or otherwise, shall, standing alone, not be considered by carriers as sufficient to comply with the minimum claim filing requirements specified in paragraph (b) of this section.

(d) *Claims filed for uncertain amounts.* Whenever a claim is presented against a proper carrier for an uncertain amount, such as "\$100 more or less," the carrier against whom such claim is filed shall determine the condition of the baggage or shipment involved at the time of delivery by it, if it was delivered, and shall ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be responsible. It shall not, however, voluntarily pay a claim under such circumstances unless and until a formal claim in writing for a specified or determinable amount of money shall have been filed in accordance with the provisions of paragraph (b) of this section.

(e) *Other claims.* If investigation of a claim develops that one or more other carriers has been presented with a similar claim on the same shipment, the carrier investigating such claim shall communicate with each such other carrier and, prior to any agreement entered into between or among them as to the proper disposition of such claim or claims, shall notify all claimants of the receipt of conflicting or overlapping claims and shall require further substantiation, on the part of each claimant of his/her title to the property involved or his/her right with respect to such claim.

[62 FR 32042, June 12, 1997, as amended at 83 FR 16223, Apr. 16, 2018]

§ 370.5 Acknowledgment of claims.

(a) Each carrier shall, upon receipt in writing of a proper claim in the manner and form described in the regulations in the past, acknowledge the receipt of such claim in writing to the claimant within 30 days after the date of its receipt by the carrier unless the carrier shall have paid or declined such claim in writing within 30 days of the receipt thereof. The carrier shall indicate in its acknowledgment to the

§ 370.7

claimant what, if any, additional documentary evidence or other pertinent information may be required by it further to process the claim as its preliminary examination of the claim, as filed, may have revealed.

(b) The carrier shall at the time each claim is received create a separate file and assign thereto a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the acknowledgment of receipt. At the time such claim is received the carrier shall cause the date of receipt to be recorded on the face of the claim document, and the date of receipt shall also appear in the carrier's acknowledgment of receipt to the claimant. The carrier shall also cause the claim file number to be noted on the shipping order, if in its possession, and the delivery receipt, if any, covering such shipment, unless the carrier has established an orderly and consistent internal procedure for assuring:

(1) That all information contained in shipping orders, delivery receipts, tally sheets, and all other pertinent records made with respect to the transportation of the shipment on which claim is made, is available for examination upon receipt of a claim;

(2) That all such records and documents (or true and complete reproductions thereof) are in fact examined in the course of the investigation of the claim (and an appropriate record is made that such examination has in fact taken place); and

(3) That such procedures prevent the duplicate or otherwise unlawful payment of claims.

[62 FR 32042, June 12, 1997, as amended at 83 FR 16223, Apr. 16, 2018]

§ 370.7 Investigation of claims.

(a) *Prompt investigation required.* Each claim filed against a carrier in the manner prescribed in this part shall be promptly and thoroughly investigated if investigation has not already been made prior to receipt of the claim.

(b) *Supporting documents.* When a necessary part of an investigation, each claim shall be supported by the bill of lading, evidence of the freight charges, if any, and either the invoice, a copy of

49 CFR Ch. III (10–1–24 Edition)

the invoice, or an exact copy thereof or any extract made therefrom, certified by the claimant to be true and correct with respect to the property and value involved in the claim; or certification of prices or values, with trade or other discounts, allowance, or deductions, of any nature whatsoever and the terms thereof, or depreciation reflected thereon; *Provided, however,* That where property involved in a claim has not been invoiced to the consignee shown on the bill of lading or where an invoice does not show price or value, or where the property involved has been sold, or where the property has been transferred at bookkeeping values only, the carrier shall, before voluntarily paying a claim, require the claimant to establish the destination value in the quantity, shipped, transported, or involved; *Provided, further,* That when supporting documents are determined to be a necessary part of an investigation, the supporting documents are retained by the carriers for possible FMCSA inspection.

(c) *Verification of loss.* When an asserted claim for loss of an entire package or an entire shipment cannot be otherwise authenticated upon investigation, the carrier shall obtain from the consignee of the shipment involved a certified statement in writing that the property for which the claim is filed has not been received from any other source.

[62 FR 32042, June 12, 1997, as amended at 83 FR 16223, Apr. 16, 2018]

§ 370.9 Disposition of claims.

(a) Each carrier subject to 49 U.S.C. subtitle IV, part B which receives a written claim for loss or damage to baggage or for loss, damage, injury, or delay to property transported shall pay, decline, or make a firm compromise settlement offer in writing to the claimant within 120 days after receipt of the claim by the carrier; *Provided, however,* That, if the claim cannot be processed and disposed of within 120 days after the receipt thereof, the carrier shall at that time and at the expiration of each succeeding 60-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reason

for the delay in making final disposition thereof and it shall retain a copy of such advice to the claimant in its claim file thereon.

(b) When settling a claim for loss or damage, a household goods motor carrier as defined in §375.103 of this subchapter shall use the replacement costs of the lost or damaged item as a base to apply a depreciation factor to arrive at the current actual value of the lost or damaged item.

[62 FR 32042, June 12, 1997, as amended at 78 FR 58478, Sept. 24, 2013; 81 FR 68345, Oct. 4, 2016; 83 FR 16224, Apr. 16, 2018]

§370.11 Processing of salvage.

(a) Whenever baggage or material, goods, or other property transported by a carrier subject to the provisions in this part is damaged or alleged to be damaged and is, as a consequence thereof, not delivered or is rejected or refused upon tender thereof to the owner, consignee, or person entitled to receive such property, the carrier, after giving due notice, whenever practicable to do so, to the owner and other parties that may have an interest therein, and unless advised to the contrary after giving such notice, shall undertake to sell or dispose of such property directly or by the employment of a competent salvage agent. The carrier shall only dispose of the property in a manner that will fairly and equally protect the best interests of all persons having an interest therein. The carrier shall make an itemized record sufficient to identify the property involved so as to be able to correlate it to the shipment or transportation involved, and claim, if any, filed thereon. The carrier also shall assign to each lot of such property a successive lot number and note that lot number on its record of shipment and claim, if any claim is filed thereon.

(b) Whenever disposition of salvage material or goods shall be made directly to an agent or employee of a carrier or through a salvage agent or company in which the carrier or one or more of its directors, officers, or managers has any interest, financial or otherwise, that carrier's salvage records shall fully reflect the particulars of each such transaction or relationship, or both, as the case may be.

(c) Upon receipt of a claim on a shipment on which salvage has been processed in the manner prescribed in this section, the carrier shall record in its claim file thereon the lot number assigned, the amount of money recovered, if any, from the disposition of such property, and the date of transmittal of such money to the person or persons lawfully entitled to receive the same.

PART 371—BROKERS OF PROPERTY

Subpart A—General Requirements

Sec.

- 371.1 Applicability.
- 371.2 Definitions.
- 371.3 Records to be kept by brokers.
- 371.7 Misrepresentation.
- 371.9 Rebating and compensation.
- 371.10 Duties and obligations of brokers.
- 371.13 Accounting.

Subpart B—Special Rules for Household Goods Brokers

- 371.101 If I operate as a household goods broker in interstate or foreign commerce, must I comply with subpart B of this part?
- 371.103 What are the definitions of terms used in this subpart?
- 371.105 Must I use a motor carrier that has a valid U.S. DOT number and valid operating authority issued by FMCSA to transport household goods in interstate or foreign commerce?
- 371.107 What information must I display in my advertisements and Internet Web homepage?
- 371.109 Must I inform individual shippers which motor carriers I use?
- 371.111 Must I provide individual shippers with Federal consumer protection information?
- 371.113 May I provide individual shippers with a written estimate?
- 371.115 Must I maintain agreements with motor carriers before providing written estimates on behalf of these carriers?
- 371.117 Must I provide individual shippers with my policies concerning cancellation, deposits, and refunds?
- 371.121 What penalties may FMCSA impose for violations of this part?

AUTHORITY: 49 U.S.C. 13301, 13501, and 14122; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.87.

SOURCE: 45 FR 68942, Oct. 17, 1980, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.