

rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 31, 2008.

Wayne Nastri,

Regional Administrator, Region IX.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 375

[Docket No. FMCSA-2008-0019]

RIN 2126-AB01

#### Transportation of Household Goods; Consumer Complaint Information Quarterly Report

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

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

**SUMMARY:** FMCSA proposes to amend the Federal Motor Carrier Safety Regulations to implement reporting requirements for household goods motor carriers operating in interstate commerce under section 4214 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA-LU directs FMCSA to issue regulations requiring that each household goods motor carrier operating in interstate commerce submit a quarterly report summarizing specific information. These reports must include the number of shipments originating with, and delivered by, the carrier; the number and general category of complaints lodged by consumers with the carrier; the number of claims for loss and damage in excess of \$500 filed with the carrier; and the number of such claims resolved, declined, and pending during the reporting period.

**DATES:** Submit comments concerning this NPRM on or before April 21, 2008.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System Number in the heading of this document by any of the following methods. Do not submit the

same comments by more than one method. However, to allow effective public participation in this rulemaking before the comment period deadline, the Agency encourages use of the Web site that is listed first. It will provide the most efficient and timely method of receiving and processing your comments.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Fax:** 1-202-493-2251.

- **Mail:** Docket Management Facility; U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

- **Hand Delivery:** Ground floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

**Instructions:** All submissions must include the Agency name and docket number or Regulatory Identification Number for this regulatory action. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Refer to the Privacy Act heading on <http://www.regulations.gov> for further information. If addressing a specific request for comments in this NPRM, please provide detailed information (including examples) and clearly identify the related section heading or question number for each topic addressed in your comments.

**Public Participation:** The [www.regulations.gov](http://www.regulations.gov) system is generally available 24 hours each day, 365 days each year. You can find electronic submission and retrieval help and guidelines under the "help" section of the Web site. For notification that FMCSA received the comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments on line.

Copies or abstracts of all documents referenced in this notice are in the docket for this rulemaking: FMCSA-2008-0019. For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above

address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after the close of the comment period.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorothea Grymes, (202) 385-2400. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Legal Basis for the Rulemaking

Under the Household Goods Mover Oversight Enforcement and Reform Act of 2005 (Title IV Subtitle B of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)), the Secretary of Transportation (Secretary) must issue regulations requiring each motor carrier of household goods operating in interstate commerce to submit a quarterly report. [See section 4214(a)(2) of Pub. L. 109-59.] The quarterly report must summarize: (1) The number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier; (2) the number and general category of complaints lodged by consumers with the carrier; (3) the number of claims for loss and damage exceeding \$500 filed with the carrier; and (4) the number of such claims resolved, declined, and pending during the reporting period. The regulatory changes in this proposed rule would implement that reporting requirement. Under 49 CFR 1.73(a), the Secretary has delegated the various authorities described in this section to the FMCSA Administrator.

##### Background

The Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, December 9, 1999, 113 Stat. 1749) established FMCSA as a separate agency within the U.S. Department of Transportation (DOT). Through that statute, Congress also authorized the Agency to regulate motor carriers transporting household goods in interstate commerce for individual shippers. We codified and published regulations setting forth Federal consumer protection requirements for interstate household goods motor carriers in 49 CFR part 375.

In testimony before the U.S. House Subcommittee on Highways and

Transportation (Hearing: Oversight of the Household Goods Moving Industry. July 12, 2001. No. 107–32),<sup>1</sup> the Government Accountability Office urged DOT to collect and analyze nationwide complaint information that would help the Department understand and oversee the household goods moving industry. Consumer groups also expressed the need for DOT to aggregate complaints nationwide to help direct enforcement activities.

On June 11, 2003, FMCSA published an interim final rule (68 FR 35064) that required household goods motor carriers to have an arbitration program for individual shippers and to provide prospective shippers with a description of the household goods motor carrier's customer complaint and inquiry handling procedure.

Subsequently, Congress enacted section 4214(a)(2) of SAFETEA–LU, which directed the Secretary to issue regulations requiring each motor carrier of household goods to submit a quarterly report summarizing the following:

- The number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;
- The number and general category of complaints lodged by consumers with the carrier;
- The number of claims for loss and damage exceeding \$500 filed with the carrier; and
- The number of such claims resolved, declined, and pending during the reporting period.

Although FMCSA maintains both online access for filing consumer complaints and a consumer complaint hotline, the Agency does not require household goods motor carriers to report carrier shipments, complaints received, and claims resolution. This proposed rule would implement the statutory mandate that each household goods motor carrier submit quarterly reports addressing these subjects.

Because an individual shipper has the option of filing a claim or complaint against any carrier involved in handling his or her household goods, the Agency interprets the statute as requiring household goods motor carriers to report all interstate shipments handled by the carrier, including those in which other carriers may have provided all or part of the line-haul transportation.

#### *Section 4214 Consumer Complaint Information*

Section 4214(a)(1) requires FMCSA to establish a system, database, and procedures for filing and logging consumer complaints relating to household goods motor carriers for the purpose of compiling or linking complaint information gathered by FMCSA and the States with regard to such carriers. Section 4214(a)(1) also requires FMCSA to establish procedures to allow the public to have access, subject to 5 U.S.C. 552(a),<sup>2</sup> to aggregated complaint information and a process for carriers to challenge duplicate or fraudulent information in the database. FMCSA was also directed, under section 4214(a)(3), to develop a procedure to forward complaints to the motor carrier named in the complaint and to the appropriate State authority in the State in which the complainant resides. Section 4214(b) requires FMCSA to consider the information gathered in the database as a part of the Agency's household goods compliance and enforcement program. FMCSA has implemented the requirements of subsections 4214(a)(1), (a)(3), and (b) of SAFETEA–LU by establishing a system, database, and procedures for filing and logging consumer complaints relating to household goods motor carriers.<sup>3</sup> The only requirement left to implement is section 4214(a)(2). This section requires FMCSA to promulgate regulations requiring household goods motor carriers to file quarterly reports about the consumer complaints they receive and their disposition of loss and damage claims in excess of \$500. FMCSA plans to link the quarterly complaint information reports with the system of complaints previously established and currently in operation.

#### *Section 4214(a)(2) Household Goods Carrier Quarterly Reports: Proposed Reporting Requirements*

Under section 4214(a)(2)(B), the quarterly report must group complaints into general categories. In today's NPRM, FMCSA proposes that household goods carriers be required to submit quarterly reports on a standard form that prescribes general complaint categories. We propose to use four general complaint categories and a fifth category for all other complaints that do

not fit within one of the four specific categories. FMCSA also proposes that household goods motor carrier quarterly reports be submitted to the Agency either through a web-based system or in hard copy form.

In prescribing four specific complaint categories, we seek to ensure consistency regarding the types and number of complaints—important factors when we use the data to identify trends, problems and potential future program changes. This approach helps ensure we collect data that FMCSA, regulated entities, and the public can compare and measure meaningfully. If we allow household goods motor carriers to decide what categories of complaints to report, we may get data that users cannot measure or compare objectively. Prescribing general categories of complaints will allow users to compare and assess data quality by cross-referencing complaint categories in the consumer database with the quarterly reports from motor carriers.

Our proposed requirement that carriers record quarterly data on a standard form would help ensure the collection of data in a way that is easy to process and disseminate. A standard form avoids the burden of comparing disparate elements and sorting them into meaningful data.

The Agency proposes to use the following five complaint categories: Loss and damage; service<sup>4</sup>; rates or charges; how claims are handled; and other complaints that do not fall within these four categories. The four specific complaint categories are the four most often reported to, or filed with, FMCSA on its household goods complaint hotline or on its household goods complaint Web page.<sup>5</sup>

We also propose making this required form web-based so that household goods motor carriers can submit it electronically. We believe that most household goods motor carriers have Internet access. With online filing, we expect fewer data entry mistakes because the household goods motor carrier directly inputs the information. Online filing will also reduce processing time and be more cost efficient. However, we recognize that all carriers may not have convenient Internet access. If a carrier lacks Internet access,

<sup>2</sup> The Privacy Act of 1974, Public Law 93–579, 88 Stat. 1897 (December 31, 1974), as amended.

<sup>3</sup> Individual shippers may either fill out the Household Goods Consumer Complaint form found at <http://nccdb.fmcsa.dot.gov/HomePage.asp> or telephone the FMCSA Household Goods Consumer Complaint Hotline at 1–888–DOT–SAFT (1–888–368–7238) Monday–Friday between the hours of 9 a.m. and 9 p.m. e.t.

<sup>4</sup> Service complaints by individual shippers usually involve (1) a delay in providing service; or (2) refusal or failure to provide services as agreed. Two examples are refusing to weigh shipments upon requests by an individual shipper and failing to pick up or deliver household goods at agreed upon times or in an agreed upon manner.

<sup>5</sup> See footnote 3 above.

<sup>1</sup> An electronic copy of the Hearing: Oversight of the Household Goods Moving Industry. July 12, 2001. No. 107–32 may be found at: [http://committees.house.gov/committees/Trans/hpw107-32.000/hpw107-32\\_of.htm](http://committees.house.gov/committees/Trans/hpw107-32.000/hpw107-32_of.htm).

it may file a paper version of FMCSA's report form.

The Agency plans to incorporate the quarterly report system into its COMPASS program. The COMPASS program is an FMCSA-wide initiative that is consolidating all of FMCSA's separate databases and information technology systems into one coordinated system that should improve the Agency's ability to accomplish its mission and serve the public. More information on COMPASS is available at <http://www.fmcsa.dot.gov> FMCSA plans to require motor carriers using the quarterly reporting system to access the COMPASS system with a secure sign-on procedure. FMCSA plans to display summaries of all reported data on the Agency's Web site, as it does with other information in FMCSA's systems.

As we stated previously, FMCSA also plans to link the quarterly reports with the other complaints the Agency receives directly from individual shippers to monitor the household goods industry as required by subsections 4214(a)(1) and (a)(3) of SAFETEA-LU. This information will assist FMCSA with its household goods compliance and enforcement program.

#### *Proposed Penalties for Failing To File a Quarterly Report or for Filing an Incomplete or Inaccurate Quarterly Report*

Household goods motor carriers or their officers, agents, or employees who fail to: (1) File a report with FMCSA; (2) specifically, completely and truthfully answer a question on the report; or (3) make, prepare, or preserve the report in the form and manner prescribed are subject to a minimum civil penalty of \$650 for each violation and for each additional day the violation continues under 49 U.S.C. 14901(a). Under 49 U.S.C. 14907, a maximum civil penalty of \$6,500 can be assessed for: (1) Failing to file a required report; (2) failing to answer a question on the report within 30 days from the date FMCSA requires the question to be answered; (3) failing to make, prepare, or preserve the report in the form and manner prescribed; (4) falsifying, destroying, or changing the report; (5) filing a false report; (6) making a false or incomplete entry in the report about a business related fact; or (7) preparing or preserving the report in violation of FMCSA regulations.<sup>6</sup>

#### *Other Approaches We Considered*

In 49 CFR 375.209(b)(4), FMCSA already requires household goods motor

carriers to maintain a record of all inquiries and complaints received from an individual shipper by any means of communication. Therefore, household goods motor carriers must already collect complaint data, presumably on an existing company form or through an electronic company system organized into general categories useful to the household goods motor carrier. We considered allowing carriers to use their existing forms to satisfy section 4214(a)(2) reporting requirements.

This approach would permit carriers to report information captured in their company databases using their own general categories without prescribing uniform categories of complaints or requiring a standard form. If a company summarizes its complaint data on its own form using its own categories, then requiring the company to change to a standard form and standard categories would impose a burden to weigh against any possible benefit—especially if the company system already brings in the numerical data required for the quarterly report under SAFETEA-LU section 4214(a)(2).

Although this approach may be less burdensome and less costly for household goods carriers, it likely would result in a lack of uniformity in the data received from the industry, severely limiting the usefulness of the quarterly report.

We also considered an approach that would be identical to our proposal, except that web-based reporting would be required in all circumstances. Required web-based data collection would facilitate Agency data sorting and processing. On the other hand, for a carrier without Internet access, requiring web-based reporting would result in additional cost associated with procuring access through other locations. Nevertheless, the incremental cost to household goods carriers of a fully web-based reporting system would be relatively small, and the Agency is considering a final rule that would not allow the filing of reports by mail. FMCSA solicits comments on the costs and feasibility of an all-electronic method of reporting the information required by section 4214.

We also considered whether to propose a similar quarterly reporting requirement for household goods brokers, although SAFETEA-LU does not mandate such a requirement. We concluded it was premature to propose such a requirement at this time because we have recently proposed new regulatory requirements for household goods brokers. Our experience with the quarterly reporting requirement for household goods carriers mandated by

SAFETEA-LU and proposed in this rulemaking will help the Agency evaluate whether such a requirement would be useful in connection with household goods brokers, in light of the new requirements.

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

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

FMCSA has made a determination that this action is a significant regulatory action within the meaning of Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979) because of public interest in household goods transportation issues. The purpose of this analysis is to present the likely costs and benefits to the motor carrier industry of complying with these proposed regulations.

A preliminary estimate of the costs of the proposed complaint reporting system was made based on certain assumptions. This analysis assumes that only active household goods motor carriers involved in interstate commerce will be required to assemble quarterly reports on complaints received, shipments moved, and loss or damage claims filed. We estimate that the quarterly reports will take 2 hours per quarter for household goods motor carriers to assemble. The regulations will require household goods motor carriers to report the "number and general category" of complaints received, but household goods motor carriers will not have to provide full details of the complaints, as a result of this regulation.

Under the Agency's proposal, we anticipate that most reports will be compiled and filed via an online report filing system. Regardless of which method of transmission is chosen, the costs for compiling the reports are expected to be the same. We assume that the reports will be compiled and filed by clerical staff working for the motor carrier. The hourly wage for a general office worker is \$11.82 per hour, according to the Bureau of Labor Statistics. Inflating this number by 30 percent to account for fringe benefits, the total cost of time for a general office clerk would be \$15.37 per hour.

There are about 5,400 active household goods motor carriers operating in interstate commerce in the United States as of April 2006. Assuming 2 hours per report filed, the reports would cost each active household goods carrier just under \$31 to file. Since reports are to be filed

<sup>6</sup> For more information, see paragraphs (g)(1) and (g)(16) in Appendix B to 49 CFR part 386—*Penalty Schedule; Violations and Maximum Civil Penalties*.

quarterly, this amounts to an annual per-carrier cost of about \$123. Multiplying this figure by the 5,400 current active household goods motor carriers yields a total annual cost to the industry of about \$664,000.

While we anticipate that most motor carriers will file online reports, some household goods motor carriers would file reports by mail. Carriers would bear the costs of mailing forms. Although the number of motor carriers who would choose to file by mail is unknown, it is unlikely to be very large. For the purposes of the Agency's regulatory analysis, FMCSA assumed that 25 percent of carriers would choose to file by mail. Assuming 25 percent of motor carriers opt to mail forms, FMCSA would expect to receive 5,400 forms by mail a year; and mailing costs would amount to \$5,400 annually.

Regarding benefits, this rule is intended to improve the Agency's oversight of the nation's household goods motor carriers and make complaint data more accessible to the public. FMCSA has experienced an increase in the number of complaints it receives against household goods motor carriers in recent years, which could be an indication that customer service in this industry may be declining. We anticipate that this requirement will enable the Agency to better detect household goods motor carriers that are potentially not complying with Federal regulations governing the movement of household goods, including those governing the payment of loss and damage claims. Improved monitoring should reduce the number of complaints against this segment of the motor carrier industry by assisting the Agency in identifying companies that may be out of compliance with consumer protection regulations. Once identified, the Agency can monitor these carriers to ensure compliance with consumer protection guidelines or take action to remove them from the household goods moving segment of the industry, if appropriate. Although the Agency cannot quantify

these benefits at this time, we believe that the rule will result in fewer damaged goods, better customer satisfaction, and fewer instances in which carriers attempt to extort inflated payments from individuals by refusing to deliver their goods. These benefits would result from providing customers with improved information on past carrier performance. This information would enable customers to select carriers which do not have poor customer service, which would result in more business for carriers that protect customer goods and honor pricing and damaged goods reimbursement agreements. A copy of the full regulatory evaluation is in the docket. The Office of Management and Budget (OMB) has reviewed this document.

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must determine whether requirements contained in rulemakings are subject to information collection provisions of the PRA and, if they are, obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. This rulemaking is subject to those provisions because it requires motor carriers of household goods to submit quarterly reports. FMCSA will seek approval of the information collection requirements proposed in this NPRM and the proposed Household Goods Motor Carrier Quarterly Report form in the revised information collection for "Transportation of Household Goods; Consumer Protection," OMB No. 2126-0025, which covers all information collections included under 49 CFR part 375.

The Agency expects the information proposed to be collected will assist individual shippers of household goods in their commercial dealings with household goods motor carriers engaged in interstate commerce, thereby providing a desirable consumer

protection service. The collection of information would be used by prospective household goods shippers to make informed decisions about contracts and services to be ordered, executed, and settled within the interstate household goods carrier industry. The Agency also believes the information will help consumer advocacy groups to assist household goods shippers to make informed decisions.

Assumptions used for calculation of the additional information collection burdens included in this proposal are the following: (1) There are currently approximately 5,400 interstate household goods motor carriers; (2) 75 percent of the quarterly reports of consumer complaints will be collected electronically; and (3) it will take motor carriers approximately 2 hours to compile and file the quarterly reports.

Household goods motor carriers may file reports online or via regular mail. For online submission, carriers would use an Internet portal created by the Agency to fill out an online form that would require the carrier to submit specific information. The Agency would therefore specify exactly what data carriers must report. A paper version of this online form would also be created for carriers that prefer to file the required information by mail. It is anticipated that most reports will be compiled and filed via the online report filing system, by administrative staff in motor carrier offices. Regardless of which method of transmission is chosen, FMCSA expects the burden for compiling the reports will be the same. The Agency assumes that, on average, it will take carriers approximately 2 hours to compile reports. Since carriers must file quarterly reports, this amounts to an annual per-carrier burden of 8 hours. Multiplying this figure by the 5,400 current active household goods motor carriers, we estimate a total annual additional burden of 43,200 hours. See Table 1.

TABLE 1.—CURRENT AND PROPOSED INFORMATION COLLECTION BURDENS

OMB approval No.	Burden hours currently approved	Additional burden hours proposed	Proposed total
2126-0025	4,552,737	43,200	*4,595,937

\*Rounded up to 4,600,000 for the 2126-0025 estimate.

FMCSA will round the number up to 4,600,000 and ask OMB to approve this rounded number as the annual burden hour estimate. The Agency invites comment on this information collection analysis.

#### *Regulatory Flexibility Act*

FMCSA has completed a preliminary analysis of the burdens on small businesses as required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) and the Small Business

Regulatory Enforcement Fairness Act (5 U.S.C. 601 note), and found that this rulemaking will increase reporting requirements for businesses in the household goods moving industry. FMCSA expects that compiling and

submitting quarterly reports on complaints received will impose a modest cost on household goods motor carriers.

FMCSA's Motor Carrier Management Information System (MCMIS) had 5,400 active interstate household goods carriers in the United States as of April 2006.<sup>7</sup> Household goods carriers in both interstate and intrastate commerce brought in a total of approximately \$12.7 billion in revenue in 2002. They employed more than 111,000 people, with a total payroll of over \$3.1 billion.<sup>8</sup>

The MCMIS data indicate that the household goods segment employed more than 165,000 drivers as of April 2006. These numbers are somewhat higher than those included in the 2002 Census report. The largest 20 household goods carriers employ 110,541 of these drivers, or roughly 67 percent of the drivers employed by this segment. Some 4,926 household goods carriers employ 20 or fewer drivers, and 4,489 employ 10 or fewer drivers. This industry is made up of a few very large carriers and many small-to-medium sized businesses.

The Small Business Administration's revenue threshold for small businesses in the used household and office goods moving sector (NAICS code 484210) is \$23.5 million in annual revenue.<sup>9</sup> The Agency believes that the vast majority of motor carriers in this sector would fall under this threshold. Census Bureau data provide evidence that a large majority of household goods carriers are small businesses.

The Economic Census collects data on the size of establishments in various sectors of the economy. According to the 2002 data, 125 of the 7,225 establishments in the Used Household and Office Goods Moving segment of the economy had revenues that exceeded \$10 million per year.<sup>10</sup> These data imply

that as many as 98 percent of household goods carriers would qualify as small businesses. However, given that some firms have more than one establishment, the Census figures may underestimate the size of firms in the industry.

This rule would require interstate household goods carriers to submit quarterly reports containing the following data: (1) The number of shipments by the carrier; (2) the number and general category of complaints lodged by consumers with the carrier; (3) the number of claims for loss and damage exceeding \$500 filed with the carrier; and (4) the number of such claims resolved, declined, and pending during the reporting period. The information requested is not specialized in nature, and would not require specialized personnel to compile or submit. A general office worker should be capable of compiling and submitting the required information. FMCSA estimates that compiling the information will cost household goods carriers approximately 2 hours per quarter worth of time, which has an economic value, when aggregated across the industry, of \$664,000 per year. This would be about \$123 per carrier annually. While some carriers may incur additional costs by opting to submit the information by mail rather than electronically, these costs will be negligible.

Accordingly, the Administrator of the FMCSA hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Imposed Upon State, Local, and Tribal Governmental Entities*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. Any agency promulgating a final rule likely to result in a Federal mandate requiring expenditures by a State, local or tribal government or by the private sector of \$128.1 million or more in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. FMCSA has determined that the quarterly report proposed in this rulemaking would not have an impact of \$128.1 million or more in any one year.

#### *Environmental Impacts*

FMCSA analyzed this rule under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA), the Council on Environmental Quality

Regulations Implementing NEPA (40 CFR 1500–1508), and FMCSA's NEPA Implementation Order (69 FR 6980, March 1, 2004). This rule would be categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under paragraphs 6.m.(6) and 6.q of Appendix 2 to FMCSA's Order as regulations implementing data collection activities. This rule would merely amend the information collection requirements for household goods carriers to include a quarterly report of the number of shipments, complaints, and claims.

We have also analyzed this proposed rule under the Clean Air Act, as amended (CAA) section 176(c), (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 rulemaking and policy development and issuance. See 40 CFR 93.153(c)(2). It would not result in any emissions increase nor would 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 would not increase total CMV mileage, change the routing of CMVs, how CMVs operate, or the CMV fleet-mix of motor carriers. This action merely establishes a quarterly reporting regulation applicable to the business practices of household goods motor carriers.

#### *Privacy Impact Assessment*

FMCSA conducted a privacy impact assessment of this proposed rule as required by section 522(a)(5) of the FY 2005 Omnibus Appropriations Act, Public Law 108–447, 118 Stat. 3268 (December 8, 2004) [set out as a note to 5 U.S.C. 552a]. FMCSA has determined that the changes proposed in this rulemaking would not have privacy impacts. The quarterly reports FMCSA proposes that household goods motor carriers would submit under this proposal would not include personally identifiable information about individual shippers or motor carriers.

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

FMCSA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. FMCSA certifies that this proposed action would not cause any environmental risk to health or safety that may disproportionately affect children.

<sup>7</sup> FMCSA Analysis Division. MCMIS Data Query on Active Household Goods Carriers. April 4, 2006.

<sup>8</sup> U.S. Census Bureau. Truck Transportation: 2002. U.S. Department of Commerce, Economics and Statistics Administration. October, 2004.

<sup>9</sup> Small Business Administration. "Table of Small Business Size Standards Matched to North American Industry Classification System Codes" Effective October 1, 2007. Available online at [http://www.sba.gov/idc/groups/public/documents/sba\\_homepage/serv\\_sstd\\_tablepdf.pdf](http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf).

<sup>10</sup> The Economic Census counts each storefront or business location of a firm as a separate establishment, which is why there are more establishments than firms in the household goods moving industry. Also, the Census Bureau found a total of 8,642 firms in the household goods moving industry, but only 7,225 were in business for the entire year, which is the number cited above. The Census Bureau also does not collect data on whether the firm is engaged in interstate commerce or exclusively in intrastate commerce. Thus, wholly intrastate firms not regulated by FMCSA are shown in the Economic Census data.

*Executive Order 12630 (Taking of Private Property)*

FMCSA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. FMCSA does not anticipate that this proposed action would effect a taking of private property or otherwise have taking implications under Executive Order 12630.

*Executive Order 13132 (Federalism)*

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and FMCSA has preliminarily determined that this proposed action would not warrant the preparation of a Federalism assessment. FMCSA has determined that this proposed action would not affect the States' ability to discharge traditional State government functions.

*Executive Order 12988 (Civil Justice Reform)*

This proposed 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.

*Executive Order 12372 (Intergovernmental Review)*

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

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

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action within the meaning of section 4(b) of the Executive Order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

*Executive Order 13175 (Tribal Consultation)*

The FMCSA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

**List of Subjects in 49 CFR Part 375**

Advertising, Arbitration, Consumer protection, Freight, Highways and roads, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

In consideration of the foregoing, FMCSA proposes to amend title 49, Code of Federal Regulations, by revising part 375 as set forth below.

**PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE; CONSUMER PROTECTION REGULATIONS**

1. Revise the authority citation for part 375 to read as follows:

**Authority:** 5 U.S.C. 553; 49 U.S.C. 13301, 13704, 13707, 14104, 14706; sec. 4214 of Pub. L. 109–59, 119 Stat. 1144; and 49 CFR 1.73.

2. Amend 49 CFR 375.105 by revising paragraph (b) to read as follows:

**§ 375.105 What are the information collection requirements of this part?**

\* \* \* \* \*

(b) The information collection requirements are found in the following sections: Section 375.107, Section 375.205, Section 375.207, Section 375.209, Section 375.211, Section 375.213, Section 375.215, Section 375.217, Section 375.303, Section 375.401, Section 375.403, Section 375.405, Section 375.409, Section 375.501, Section 375.503, Section 375.505, Section 375.507, Section 375.515, Section 375.519, Section 375.521, Section 375.605, Section 375.607, Section 375.609, Section

375.803, Section 375.805, and Section 375.807.

3. Add § 375.107 to read as follows:

**§ 375.107 What information must I provide in a quarterly report to FMCSA?**

(a) You must submit on a quarterly basis a report summarizing all of the following:

(1) The number of shipments that originate, and are delivered for individual shippers during the reporting period by your company.

(2) The total number of complaints (representing both oral and written complaints) lodged by consumers with your company in each of the following general categories:

(i) Rates or charges;

(ii) Service (including, but not limited to, failure to timely pick up or deliver household goods or refusal to weigh a shipment upon a request by an individual shipper);

(iii) Loss and damage;

(iv) How claims are handled; and

(v) Other.

(3) The number of claims filed against your company for loss and damage in excess of \$500.

(4) The number of claims for loss and damage in excess of \$500 settled during the reporting period.

(5) The number of claims for loss and damage in excess of \$500 declined in the reporting period.

(6) The number of claims for loss and damage in excess of \$500 that are pending at the close of the reporting period.

(b) You must submit the quarterly report on Form MCSA—(form number will be issued in the final rule), Household Goods Motor Carrier Quarterly Report. You may submit the quarterly report electronically by completing the form on our Web site at (the address will be provided in the final rule). If you do not have access to Internet service for online filing, you may submit the quarterly report by mail to (the address will be provided in the final rule).

(c) Quarterly reports are due as follows:

TABLE TO 49 CFR 375.107(c)

Quarter	Due
1st Quarter January 1–March 31 .....	April 30.
2nd Quarter April 1–June 30 .....	July 31.
3rd Quarter July 1–September 30 .....	October 31.
4th Quarter October 1–December 31 .....	January 31.

(d) You must always submit a quarterly report, even when the quarterly count for all categories is zero.

**Form MCSA-XX Household Goods Motor Carrier Quarterly Report**

Submission Date: \_\_\_\_\_

Check here if this is an amended report: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip: \_\_\_\_\_

Individual Point of Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

USDOT#: \_\_\_\_\_

MC#: \_\_\_\_\_

Reporting Period: Year: \_\_\_\_\_

Quarter: 1st ☐ 2nd ☐ 3rd ☐ 4th ☐

Summary of Complaint and Claim

Information for the Reporting Period:

1. Number of shipments that originate and are delivered for individual shippers during the reporting period: \_\_\_\_\_

2. Number of oral and written complaints in these general categories that consumers lodged against the company:

A. Rates or Charges \_\_\_\_\_

B. Service \_\_\_\_\_

C. Loss and Damage \_\_\_\_\_

D. How Claims are Handled \_\_\_\_\_

E. Other \_\_\_\_\_

3. Number of claims filed with you for loss and damage in excess of \$500: \_\_\_\_\_

4. Number of claims for loss and damage in excess of \$500 settled during the reporting period: \_\_\_\_\_

5. Number of claims for loss and damage in excess of \$500 declined in the reporting period: \_\_\_\_\_

6. Number of claims for loss and damage in excess of \$500 pending at the close of the reporting period: \_\_\_\_\_

Issued on: February 6, 2008

**John H. Hill,**

*Administrator.*

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