

DEPARTMENT OF
TRANSPORTATION
SAFETY OPERATIONS
2012 JUN 11 A 9:33

**Before The
U.S. Department of Transportation
Federal Motor Carrier Safety Administration**

Docket No. FMCSA-2012-0031

**Agency Information Collection Activities;
Extension of Two Currently-Approved
Information Collection Requests; Financial
and Operating Statistics for Motor Carriers
of Property**

**Comments of
National Motor Freight Traffic Association, Inc.
Supporting Elimination of the Quarterly Report
of Class I Motor Carriers of Property**

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Dated: June 11 , 2012

National Motor Freight Traffic Association, Inc., (NMFTA), files these comments on behalf of its member motor carriers in response to the Federal Motor Carrier Safety Administration's Notice which appeared in the April 20, 2012 issue of the Federal Register regarding (1) OMB Control Number 2126-0032 entitled "*Annual Report of Class I and Class II Motor Carriers of Property*, and (2) OMB Control Number 2126-0033 entitled "*Quarterly Report of Class I Motor Carriers of Property*." NMFTA requests that that the *Quarterly Report of Class I Motor Carriers of Property* no longer be required as the report is administratively burdensome, and is not an accurate indicator of the financial and operational condition of the Class I motor carriers. In support thereof NMFTA respectfully states as follows:

I.

Identity and Interest of NMFTA

NMFTA has its offices at 1001 North Fairfax Street, Suite 600, Alexandria, VA 22314. It is a non-profit Virginia corporation, principally having as its members motor carriers operating in interstate and foreign commerce under certificates of public convenience and necessity issued by the former Interstate Commerce Commission and/or the Federal Motor Carrier Safety Administration (FMCSA). Included among its 804 members are 491 less-than-truckload carriers, 27 truckload carriers, and 32 carriers handling government freight. Many of NMFTA's members are classified as Class I motor carriers of property, and are subject to the quarterly reporting requirements of FMCSA.

II.

Discretionary Requirement that Class I Carriers File Quarterly Reports

As noted by FMCSA, under Section 14123(a)(1) of 49 U.S.C., it is mandated, as pertinent, that the Secretary shall require Class I and Class II motor carriers to file annual financial reports with the Secretary. However, under Section 14123(a)(2) of 49 U.S.C., it is entirely permissive for the Secretary to require motor carriers to file quarterly and other reports. As also noted, under 49 CFR Section 369.1(b), the Secretary, exercising that discretionary authority, requires Class I motor carriers to file quarterly reports.

FMCSA states in the Federal Register Notice that it plans to initiate a regulatory proceeding in the near future that, as pertinent here, will result in the elimination of Form QFR Quarterly for motor carriers of property, which is authorized by OMB under information collection 2126-0033. NMFTA supports that proposed action as it is entirely consistent with

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the intent and purpose of the Paperwork Reduction Act of 1995, 44 U.S.C. Sections 3501, *et seq.*, and eliminates a paperwork burden for the Class I motor carriers that produces very limited statistical data of doubtful value in assessing the financial condition or the operations of the Class I motor carriers.

A comparison of Form M, OMB Control No.: 2126-0032, Annual Report of Class I & II Motor Carriers of Property and Household Goods, and Form QFR, OMB Control No.: 2126-0033, Quarterly Report of Class I Motor Carriers of Property and Household Goods, demonstrates that the latter is redundant regarding information provided in the annual report, and otherwise requests operating and financial data that is of little or no interest or benefit to the public. Indeed, FMCSA's website does not post any quarterly reports of the class I motor carriers of property, and provides only selected earnings data from the 1994 to 2002 annual reports of the top 100 class I motor carriers of property. While it is noted that the quarterly reports are publicly available as provided by 49 CFR Section 369.10(a), Section 369.10(c)(1) excludes from public release carrier data unless included in aggregate industry statistics that do not identify the individual carrier. Therefore, it would appear that such data would be of very limited value, if at all, to the public.

Unlike the quarterly report, the annual report provides FMCSA with comprehensive information regarding the carrier, its management, financial condition, insurance and miscellaneous expenses, operating statistics, the equipment owned or leased, and its drivers and other employees. Plainly, the annual reports provide FMCSA with the financial and operating statistics, and other information regarding the class I and class II motor carriers of property, essential in enabling FMCSA to fulfill its regulatory responsibilities.

There is precedent for the elimination of carrier report information when the data is not needed by the agency on a regular or frequent basis, and the deleted information is not of use to the general public. In *Patrick W. Simmons, Petitioner, v. Interstate Commerce Commission*, 757 F.2d 296 (D.C. Cir. 1985), the Court of Appeals for the District of Columbia Circuit upheld the former Interstate Commerce Commission's decision to eliminate from the railroads' annual reports certain schedules which it concluded were not necessary to be provided regularly or with frequency to the agency, and that the deleted information was not generally of interest to the public. The Court further concluded that whenever it is apparent that the periodically filed carrier information is not routinely used by the agency that the reporting requirements could be adjusted accordingly. Clearly, the quarterly reports do not appear to be regularly or frequently relied upon by FMCSA or serve any useful purpose for FMCSA that would justify their continued filing with the agency. Moreover, they do not contain information or data that has a recognizable value to the public. Therefore, elimination of the quarterly reports is warranted.

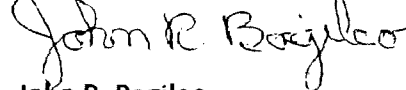
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III.

Conclusion

It is apparent that FMCSA has concluded that the filing of the quarterly reports by the class I motor carriers of property is not of use to it in the performance of its regulatory duties, and constitutes an unnecessary paperwork burden on the reporting carriers. Further, the utility of that information to the public is highly doubtful. These allegations are well supported by the fact that FMCSA has announced in its Federal Register Notice that it "plans to initiate a regulatory proceeding in the near future that will result in the elimination of two quarterly reporting requirements that are currently reported to OMB under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520). These include: (1) Form QFR Quarterly for property carriers, authorized by OMB under information collection 2126-0033...." (Fed. Reg., Vol. 77, at pp. 23792-23793.) NMFTA agrees with FMCSA that the continued filing of the quarterly reports is not justified by their usefulness, and that the requirement should be eliminated.

Respectfully submitted,



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Traffic Association, Inc.

Dated: June 11, 2012

Due: June 19, 2012