

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 371

[Docket No. FMCSA-2023-0257]

RIN 2126-AC63

Transparency in Property Broker Transactions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: FMCSA reopens the comment period for its November 20, 2024, NPRM.

FMCSA received a request for a reopening of the comment period from the Small Business in Transportation Coalition (SBTC). The Agency finds it is appropriate to reopen the comment period to provide interested parties additional time to submit their responses to the NPRM. Therefore, the Agency reopens the comment period for 30 days.

DATES: The comment period for the NPRM published November 20, 2024, at 89 FR 91648, is reopened. Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2023-0257 using any of the following methods:

- Federal eRulemaking Portal: Go to

<https://www.regulations.gov/document/FMCSA-2023-0257-0001>. Follow the online instructions for submitting comments.

- Mail: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.
- Fax: (202) 493-2251.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Evans, Transportation Specialist, Commercial Enforcement Division, Office of Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 568-0530; michael.evans@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for the NPRM (FMCSA-2023-0257), indicate the specific section of the document to which your 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 FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/document/FMCSA-2023-0257-0001>, click “Comment,” and type your comment into the text box on the following screen.

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.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2023-0257/document> and choose the document to review. To view comments, click on the NPRM, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

C. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>. The comments are posted without edits and are searchable by the name of the submitter.

II. Background

The November 20, 2024, NPRM (89 FR 91648) requested public comment on FMCSA’s proposed amendments to its property broker rules in response to petitions for rulemaking from the Owner-Operator Independent Drivers Association (OOIDA) and SBTC. Under current regulations, the parties to a brokered freight transaction have a right to review the broker’s record of the transaction, which stakeholders often refer to as “broker transparency.” Contracts between brokers and motor carriers frequently contain

waivers of this right. OOIDA requested that FMCSA promulgate a requirement that property brokers provide an electronic copy of each transaction record automatically within 48 hours after the contractual service has been completed, and explicitly prohibit brokers from including any provision in their contracts that requires a motor carrier to waive its rights to access the transaction records. SBTC requested that FMCSA prohibit brokers of property from coercing or requiring parties to brokered transactions to waive their right to review the record of the transaction as a condition for doing business and prohibit the use of clause(s) exempting the broker from having to comply with this transparency requirement.

The comment period for the NPRM expired on January 21, 2025. FMCSA received a request to extend the comment period from SBTC on January 19, 2025. A copy of the request may be found at https://downloads.regulations.gov/FMCSA-2023-0257-4107/attachment_1.pdf. SBTC requested a 14- to 30-day extension of the comment period, citing the level of public interest in the topic of broker transparency. Other potential commenters to the NPRM may benefit from an extension as well. Accordingly, FMCSA reopens the comment period for all comments on the NPRM and

its related documents for 30 days, ending [Insert date 30 days after date of publication in the FEDERAL REGISTER]. The Agency will also consider all comments received between the comment period close date of January 21, 2025, and the reopening of the comment period on [Insert date of publication in the FEDERAL REGISTER].

Issued under authority delegated in 49 CFR 1.87.

Larry W. Minor,
Associate Administrator for Policy.