For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona is amended by removing Channel 286C2 and by adding Channel 228C2 at Ehrenberg, and by removing Channel 247C and by adding Channel 281C at First Mesa.

3. Section 73.202(b), the Table of FM Allotments under California is amended by adding Needles, Channel 287B1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division Media Bureau.

[FR Doc. E8–18212 Filed 8–6–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 356, 365, and 374

[Docket No. FMCSA–2008–0235]

RIN 2126–AB16

Elimination of Route Designation Requirement for Motor Carriers Transporting Passengers Over Regular Routes

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

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

SUMMARY: FMCSA proposes to discontinue its current requirement that applicants seeking authority to transport passengers over regular routes submit a detailed description and a map of the route(s) over which they propose to operate. The Agency would register such carriers as regular-route carriers without requiring designation of specific regular routes and fixed end-points. Once these regular-route motor carriers have obtained operating authority from FMCSA, they would no longer need to seek additional FMCSA approval in order to change or add routes. By eliminating the need to file and process multiple requests concerning routes, the Agency believes this action will decrease the paperwork burden on regular-route motor carriers seeking to expand or change their routes without compromising safety. It will also decrease the Agency's own paperwork burden. Each registered regular-route motor carrier of passengers would continue to be subject to the full safety oversight and enforcement program of FMCSA and its State and local partners.

DATES: FMCSA must receive your comments by September 22, 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. The Federal eRulemaking portal is the preferred method for submitting comments, and we urge you to use it.

Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments. In the *Comment or Submission* section, type Docket ID Number ''FMCSA–2008–0235'', select ''Go'', and then click on ''Send a Comment or Submission.'' You will receive a tracking number when you submit a comment.

Telefax: 1–202–493–2251.

Mail, Courier, or Hand-Deliver: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Privacy Act: Regardless of the method used for submitting comments, all comments will be posted without change to the Federal Docket Management System (FDMS) at *http://www.regulations.gov*. Anyone can search the electronic form of all our dockets in FDMS, by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19476), and can be viewed at the URL *http://docketsinfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, Regulatory Development Division, (202) 366–5370 or by e-mail at: *FMCSAregs@dot.gov*.

SUPPLEMENTARY INFORMATION: This section is organized as follows:

I. Description of the Rulemaking

FMCSA is discontinuing the administrative requirement that motor carriers must describe specific routes when seeking authority to provide regular-route transportation of passengers in interstate commerce. Except for carriers who are public recipients of governmental assistance, regular-route passenger carriers will be registered as such without any specific route designations. Carriers currently holding route-specific operating authority will be issued motor carrier certificates of registration that are not route-specific which will supersede their existing authority.

Designation of regular routes is no longer required by statute and discontinuing this requirement will streamline the registration process by eliminating the need for motor carriers to file new applications when seeking to change or expand their routes. It will also benefit new entrants by simplifying the application for operating authority. Designation of regular routes is an administrative requirement based on economic regulation which is considered to have limited safety benefits to the public or the transportation community.

However, the Agency will continue to require public recipients of governmental assistance to designate specific routes when applying for regular-route authority because its governing statute permits persons to challenge specific regular-route transportation service provided by public entities on the ground that authorizing such service is not consistent with the public interest. Eliminating the route designation requirement would prevent the Agency from evaluating proposed transportation services under the public interest standard, in violation of its statutory mandate.

This rulemaking amends several FMCSA regulations that reference authorized routes or points of service in order to make them consistent with the

Agency's discontinuation of the route designation requirement. The OP–1(P) application form would also be changed to eliminate the current route-designation and mapping requirements.

II. Legal Basis for the Rulemaking

Regular-route passenger service predates the Motor Carrier Act of 1935 (MCA) (Pub. L. 74–255, 49 Stat. 543, Aug. 9, 1935). The MCA, which placed interstate motor carriers under Federal regulation for the first time, authorized the Interstate Commerce Commission (ICC) to regulate motor carriers by, among other things, issuing certificates of operating authority to motor carriers of property and passengers operating in interstate commerce. Many motor carriers providing regular-route service before 1935 received ''grandfathered'' operating authority in the MCA. Section 207(a) of the MCA stated that ''no certificate shall be issued to any common carrier of passengers for operations over other than a regular route or regular routes, and between fixed termini [end-points], except as such carriers may be authorized to engage in special or charter operations.'' Section 208(a) required that certificates issued to regular-route passenger carriers specify the routes, end-points, and intermediate points to be served under the certificate. Section 208(b) permitted occasional deviations from authorized routes, if permitted by ICC regulations. The ICC did not issue regulations codifying sections 207(a) and 208(a) of the MCA, although it did permit minor deviations from authorized routes in rules now codified at 49 CFR 356.3.

The above MCA provisions were recodified without substantive change as 49 U.S.C. 10922(f)(1)–(3); however, the provisions were then repealed by the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 888, Dec. 29, 1995). As discussed later in this preamble, section 103 of the ICCTA amended subtitle IV of title 49, United States Code, including section 10922 of title 49. In particular, the ICCTA retained some of the former registration requirements of section 10922 applicable to regular-route passenger carriers but eliminated many others, including sections 10922(f)(1)–(3). Consequently, the Agency is no longer required to issue operating authority to regular-route passenger carriers specifying routes and fixed end-points. However, the Agency has continued to require applicants seeking regular-route authority to submit maps and a detailed description of proposed operating route(s) as attachments to the Form OP–1(P) application.

The Agency is proposing to discontinue this requirement and amend its regulations and Form OP–1(P) to reflect the change in statute, i.e., it would no longer require carriers to specify, in applications for regular-route operating authority, the routes, end-points, and intermediate points to be served. Under 49 U.S.C. 13301(a), the Secretary of Transportation (Secretary) may prescribe regulations to carry out title 49, subtitle IV, part B, which includes registration requirements for motor carriers transporting passengers in interstate commerce for compensation. The Secretary has delegated this authority to the Administrator of FMCSA under 49 CFR 1.73(a).

III. Background

A. Introduction

FMCSA currently registers for-hire passenger carriers in two distinct operational categories: (1) Carriers providing service over regular routes, and (2) carriers providing charter and special transportation. Regular-route carriers perform regularly scheduled service over named roads or highways. Applicants seeking regular-route authority must currently submit a ''detailed narrative description of the route(s) and a corresponding map that graphically displays the path of the route'' over which they propose to operate. If a carrier proposes to add routes to its operating system, it must file a new application in order to do so. A carrier is not limited in the number of routes it may include in any particular application.

The route descriptions submitted by an applicant are published in the *FMCSA Register* (see *http://li-public.fmcsa.dot.gov/LIVIEW/pkg_menu.prc_ menu*). Interested parties may file protests to an application within 10 days of publication. The Agency must deny the application if a protest or information independently developed by the Agency demonstrates that the applicant is not willing and able to comply with the Agency's safety fitness requirements or with the applicable commercial, safety, or financial responsibility regulations (49 CFR parts 356 through 396). As discussed later, a protesting party may object to a regular-route application filed by a public recipient of governmental assistance on the additional ground that the transportation proposed is not in the public interest.

As of July 2008, there were 272 active regular-route carriers in FMCSA's Licensing and Insurance database. In 2007, FMCSA received 94 applications for regular-route authority from new entrants and 34 applications from registered motor carriers of passengers with existing regular-route authority. The number of protests received is generally very small; they averaged one per year between 2003 and 2007.

FMCSA believes its current requirement for route designation no longer serves a useful purpose. Congress enacted the statutory requirement in the MCA primarily to protect existing carriers, serving a particular route, from competition. Subsequent legislative changes, including those in the ICCTA, have limited the ability of existing carriers to protest applications based on economic grounds. If Congress believed the requirement for route designation served a useful purpose, it presumably would have retained the requirement in the ICCTA, as it did with numerous other provisions of the former Interstate Commerce Act.

The requirement that regular-route carriers file new applications when seeking to expand or change routes is not based on motor carrier safety considerations—it is grounded in economic regulation. Eliminating the multiple application requirement would not have an adverse impact on safety because the motor carriers will still be required to comply with all applicable safety rules. New entrants would still be subject to the ''fitness standard,'' and existing regular-route passenger carriers would be treated the same as property carriers and passenger carriers that provide charter and special transportation. These latter carriers normally receive nationwide operating authority and generally need file only a single application in order to provide interstate transportation. Potential safety problems are generally determined through new entrant safety audits, compliance reviews, or roadside inspections, and are addressed through the Agency's enforcement program. The Agency believes there is no reason for regular-route passenger carriers to be treated differently from other carriers to ensure their compliance with the Federal Motor Carrier Safety Regulations.

Each new entrant regular-route motor carrier of passengers is subject to the full safety oversight and enforcement programs of the FMCSA and its State and local partners. As required by 49 U.S.C. 31144, FMCSA determines whether each owner and operator is fit to operate safely. This section requires each owner and operator granted operating authority to undergo a new entrant safety audit within 18 months of starting operations. These new entrant

safety audits identify new motor carriers that are operating in violation of FMCSA regulations and, therefore, may have a high risk of causing crashes that could result in fatalities, injuries, and property damage. The safety audit process in 49 CFR part 385, subpart D (§§ 385.301 through 385.337) allows the Agency to evaluate new motor carriers before granting them permanent registration.

In addition to the new entrant safety audit, FMCSA conducts continual oversight of regular-route motor carriers of passengers under its general, pre-existing legal authority provided by section 206 of the Motor Carrier Safety Act of 1984 (codified at 49 U.S.C. 31136) (the 1984 Act). The 1984 Act requires regulations that prescribe minimum safety standards for commercial motor vehicles (CMVs) that ensure: (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators (49 U.S.C. 31136(a)).

FMCSA would continue to monitor and enforce its commercial, safety, and financial responsibility regulations on all regular-route motor carriers of passengers. It would also require and ensure its State motor carrier safety enforcement partners continue their monitoring and enforcement activities as required in their grant funding agreements under the Motor Carrier Safety Assistance Program. Therefore, regular-route motor carriers of passengers would continue to be subject to the full requirements of the Federal Motor Carrier Safety Regulations that require CMVs to be maintained and operated safely.

The Agency concludes that the current route designation requirement, and its related requirement that registered carriers file new applications when adding or changing routes, has no discernible safety benefit. It does, however, continue to burden the industry and the Agency with unnecessary paperwork.

B. Impact on State Regulation of Intrastate Regular-Route Transportation by Interstate Carriers

Although the ICCTA repealed 49 U.S.C. 10922(f)(1)–(3), Congress carried forward other preexisting statutory requirements applicable to regular-route passenger carriers. The most significant of these provisions is now codified in 49 U.S.C. 13902(b)(3) and provides:

Intrastate transportation by interstate carriers.—A motor carrier of passengers that is registered by the Secretary under subsection [13902] (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

Section 13902(b)(3) codifies section 6 of the Bus Regulatory Reform Act of 1982 (Bus Act) (Pub. L. 97–261, 96 Stat. 1102, Sept. 20, 1982), which amended former section 10922 in numerous respects. Section 6 preempted States from regulating intrastate service provided by interstate regular-route passenger carriers over interstate routes.

Congress concluded that burdensome State regulation was one of several significant factors contributing to the declining financial health of the interstate regular-route bus industry. This conclusion was based largely on: (1) The inability of interstate carriers to discontinue unprofitable intrastate routes due to State regulatory restrictions on entry, exit, or service frequency over these routes; and (2) the inability of interstate carriers to maximize operational efficiency due to State ''closed door'' policies prohibiting them from picking up and dropping off intrastate passengers along interstate routes.

If a regular-route passenger carrier obtains operating authority from FMCSA, a State is prohibited from requiring the carrier to obtain operating authority to provide intrastate service on that route. In H.R. Conf. Rep. 100–27 accompanying the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (Pub. L. 100–17, 101 Stat. 132, Apr. 2, 1987), Congress noted that the preemption is limited; that is, grants of intrastate authority must have a nexus to legitimate interstate service provided along interstate routes. The STURAA amended the Bus Act by clarifying that interstate service provided along the route must be a substantial, bona fide service involving actual service in more than one State. Because the preemption is route-specific, FMCSA requests comment on whether elimination of route designations in FMCSA operating certificates would make this preemption provision more difficult to enforce and perhaps result in increased State regulation of intrastate regular-route transportation.

Under 49 U.S.C. 14501(a)(1)(A), States are also preempted from regulating the scheduling of interstate or intrastate transportation (including discontinuance of or reduction in the level of service) on an interstate route. FMCSA specifically requests comment on whether elimination of route designations will affect this preemption provision.

A related statutory provision, 49 U.S.C. 13902(b)(4), concerns the ability of States to regulate express packages, newspapers, or mail carried on buses. Section 13902(b)(4) provides:

Preemption of State regulation regarding certain service.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

This provision, which was enacted by the Bus Act, essentially extends the preemption of State regulation of intrastate passenger transportation in section 13902(b)(3) to express packages, newspapers, or mail carried in the buses. As with section 13902(b)(3), FMCSA requests comment on whether elimination of route designations in FMCSA operating certificates would make this preemption provision more difficult to enforce and perhaps result in increased State regulation of the transportation of express packages, newspapers, or mail in a commercial zone.

C. Registration of Governmental Entities Providing Interstate Regular-Route Transportation

Additional statutory provisions applicable to interstate regular-route transportation include 49 U.S.C. 13902(b)(2)(B), which provides:

Regular-route transportation.—The Secretary shall register under subsection [13902] (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

This subsection mandates registration of governmental entities providing regular-route transportation if they meet Agency fitness standards, unless the

Agency finds the transportation is not in the public interest (but only if someone objects to the application and submits the necessary evidence).

Title 49 U.S.C. 13902(b)(8) defines ''public recipient of governmental assistance'' as:

> (i) any State, (ii) any municipality or other political subdivision of a State, (iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State, (iv) any Indian tribe, and (v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), which before, on, or after January 1, 1996, received governmental assistance for the purchase or operation of any bus.

This subsection essentially recodifies a requirement enacted by the STURAA. According to H.R. Conf. Rep. 100–27, this provision was intended to permit the Secretary to deny applications for regular-route authority filed by public entities if they propose specific operations that will not be in the public interest because of the potential adverse financial impact on existing private operations.

Consequently, applications filed by public entities seeking to provide regular-route transportation are subject to more registration criteria than those applicable to private entities. Removing the route-designation requirement for applications for regular route authority filed by public entities would prevent persons from protesting the specific transportation to be provided. Accordingly, the Agency is retaining the existing route-designation requirements for public recipients of governmental assistance filing applications subject to section 13902(b)(2)(B).

IV. The Proposed Rule

FMCSA is proposing to register passenger carriers as regular-route carriers without designating specific regular routes or fixed end-points. Thus, registered regular-route passenger carriers would no longer be required to submit a new application to add new or change existing routes. By eliminating the need to file and process multiple applications containing detailed routes, this change would decrease the paperwork burden on regular-route carriers seeking to expand or change their routes. It would also reduce the Agency's own administrative and paperwork burden.

FMCSA would modify existing certificates of regular-route authority upon issuance of a final rule. Carriers holding existing certificates would not be required to file new OP–1(P) applications in order to seek the broader regular-route authority proposed by the Agency. The broader authority would automatically supersede any route-specific authority issued by FMCSA or its predecessor agencies. FMCSA would issue and mail to all active motor carriers of passengers registered as having regular-route authority new certificates showing the broader authority. Such certificates would become effective on the effective date of a final rule in this proceeding.

In order to implement this proposal, FMCSA proposes to amend various sections of Title 49 of the Code of Federal Regulations (CFR) to make them consistent with the Agency's proposed registration procedures. First, 49 CFR 356.3 prescribes the extent to which passenger carriers may serve points not located on their ''authorized routes.'' Except for motor carriers authorized to operate in designated parts of the New York City metropolitan area, passenger carriers are allowed to serve municipalities, unincorporated areas, military posts, airports, schools, and ''similar establishments'' located within 1 airline mile of the authorized route. The Agency proposes to eliminate this section, as authorization for specific regular routes would no longer be required.

Section 365.101 identifies the types of operating authority applications filed with the Agency. Under § 365.101(e), these applications include ''[a]pplications for certificates under 49 U.S.C. 13902(b)(3) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant holds interstate authority as of November 19, 1982.'' Similarly, current § 365.101(f) includes: ''[a]pplications for certificates under 49 U.S.C. 13902(b)(3) to operate as a motor common carrier of passengers in intrastate commerce on a route over which applicant has been granted or will be granted interstate authority after November 19, 1982.'' The regulations implicitly tie authority to operate in intrastate commerce to authority to operate over specific interstate routes granted by FMCSA. The Agency proposes to consolidate these paragraphs to reflect that the Agency would no longer be granting authority to passenger carriers to operate over specific routes.

Subpart C to 49 CFR part 374 contains regulations governing the adequacy of intercity regular-route passenger service. Three sections contain language referencing the Agency's authority over ''points'' or ''routes.'' Current § 374.303(f) defines ''service'' as passenger transportation by bus between ''authorized points'' or over ''authorized routes.'' Current § 374.311(a) requires carriers to establish schedules that can be reasonably met to adequately serve ''all authorized points.'' Current § 374.311(b) requires carriers to report all schedule changes on routes to FMCSA and to post notices for the convenience of their passengers. These regulations indicate that passenger carriers must receive authority from FMCSA to operate over specific routes. We propose to amend §§ 374.303(f) and 374.311(a) by removing the specific language indicating that the Agency grants authority to operate over specific routes. We propose to amend § 374.311(b) by removing the requirement that carriers must file with FMCSA notices of schedule and route changes.

FMCSA would continue to require regular-route motor passenger carriers to post notices of schedule changes in each affected bus and carrier facility for the convenience of their passengers.

V. Other Approaches Considered

FMCSA considered alternatives to eliminating the existing route designation requirement, including: (1) Registering all passenger carriers in the same manner, not distinguishing between regular-route, charter, and special operations passenger carriers; and (2) registering passenger carriers as regular-route carriers between fixed end-points without requiring designation of specific regular routes.

If passenger carriers were registered in the same manner, they would only be required to file a single application with a single filing fee to provide any type of passenger service. If passenger carriers were only required to designate fixed end-points, they would not be required to file a new application to add or change routes between end-points. This would also decrease the burden on Agency staff in transcribing routes and processing applications.

Registering all passenger carriers in the same manner would require statutory changes to sections 13902 and 14501 to maintain preemption of State regulation of intrastate regular-route service, which is expressly based on interstate regular-route operations. It would also require revisions to, or the elimination of, regulations linked to the regular-route operational designation, particularly in 49 CFR part 374, subpart C, regarding adequacy of service.

Although requiring carriers to file new applications only when adding end-points would be less burdensome than the current practice, carriers would still be required to file multiple applications under this option in order to expand existing routes. Thus, it

would be more burdensome than the Agency's proposal.

The Agency invites comment on this proposal, as well as other possible alternatives to the current route-designation requirement.

VI. Regulatory Analyses and Notices

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

FMCSA determined that this action is not significant under Executive Order 12866. This proposal does not have an annual effect on the economy of $100 million or more and does not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The proposal does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients, and does not raise novel legal or policy issues arising out of legal mandates or the Administration's priorities. FMCSA prepared a regulatory impact assessment for this NPRM as required by Executive Order 12866, but the NPRM and the regulatory impact assessment have not been reviewed by the Office of Management and Budget (OMB) because it was determined to be not significant under the Executive Order.

The Agency's regulatory impact assessment in the docket, identified in the heading of this NPRM, notes that the intercity passenger industry may be experiencing structural changes in terms of the number of new firms and market share of carriers. Therefore, the Agency evaluated the route deregulation options under three industry growth/change scenarios. FMCSA based each scenario on the number of regular-route authority applications filed over the past 3 to 5 years.

Based on these scenarios, FMCSA estimates annual net benefits to the industry of $36,000 to $44,000 from avoided costs related to the elimination of the route designation application requirement. Evaluated over a 10-year period, the estimated net present value of the industry cost savings is in a range from $222,000 to $341,000 based on discount rates of 3 to 7 percent depending on whether one uses a 3-year average, 5-year average, or 5-year median.

Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies, as a part of each rulemaking, to consider regulatory alternatives that minimize the impact on small entities while achieving the objectives of the rulemaking. FMCSA has evaluated the effects of this proposed rule on small entities as required by the RFA.

All new entrant regular-route carriers are affected by the proposed rulemaking action because all such carriers must file an OP–1(P) application to obtain regular-route authority. Existing regular-route carriers are affected only if they seek to expand their routes. New entrants and existing carriers submitted an average of 92 regular-route authority applications each year between 2003 and 2005. Currently, there are 272 active regular route authority carriers in total. The Small Business Administration (SBA) Small Business Size Standard for Interurban and Rural Bus Transportation is no more than $6.5 million in gross annual revenue. Based on U.S. industry statistics for 2002 provided by the SBA Office of Advocacy, 279 out of 323 firms in the interurban and rural bus transportation industry (roughly 86 percent) reported annual receipts of less than $5 million. Additionally, carriers with annual gross revenues between $5 million and $6.5 million would also be classified as small businesses, though FMCSA is unable to quantify the number of carriers within this range. Absent more current detailed data, the Initial Regulatory Flexibility Analysis assumes that approximately 86 percent of regular route authority carriers are small entities.

The proposed rulemaking is a deregulatory action implementing a policy change intended to provide relief to industry. There are no additional costs specific to these entities as a result of this rulemaking, and the underlying policy change provides applicants with a cost saving of approximately $300 for each application.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) 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 State, local, or tribal governments, in the aggregate, or by the private sector, of $136.1 million or more in any 1 year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. FMCSA determined that this proposal would not have an impact of $136.1 million or more in any 1 year.

Environmental Impacts

The Agency analyzed this proposed rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality regulations implementing NEPA (40 CFR 1500–1508), and FMCSA's NEPA Implementation Order 5610.1 published March 1, 2004 (69 FR 9680). This action is categorically excluded under Appendix 2, paragraph 6.d of the Order (regulations governing applications for operating authority) from further environmental documentation. The Agency believes that the action includes no extraordinary circumstances that would have any effect on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement.

FMCSA 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, how CMVs operate, or the CMV fleet-mix of motor carriers. This action merely allows passenger carriers to make changes to their regular routes without FMCSA approval. Such alterations are routinely approved under current Agency procedures.

Environmental Justice

The FMCSA evaluated the environmental effects of this NPRM in accordance with Executive Order 12898 and determined that there are no environmental justice issues associated with its provisions nor any collective environmental impact resulting from its promulgation. Environmental justice issues would be raised if there were ''disproportionate'' and ''high and

adverse impact'' on minority or low-income populations. None of the alternatives analyzed in the Agency's categorical exclusion determination, discussed under National Environmental Policy Act, would result in high and adverse environmental impacts.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal agency must obtain approval from OMB for each collection of information it conducts, sponsors, or requires. This rulemaking would affect a currently-approved information collection request (ICR) covered by OMB Control Number 2126–0016, entitled ''Licensing Applications for Motor Carrier Operating Authority.'' This ICR has an annual burden of 55,738 burden hours, and will expire on August 31, 2008.

FMCSA is authorized to register for-hire motor passenger carriers under the provisions of 49 U.S.C. 13902. The form used to apply for operating authority with FMCSA is Form OP–1(P) for motor passenger carriers. This form requests information on the applicant's identity, location, familiarity with safety requirements, and type of proposed operations.

The Agency proposes to discontinue its current requirement that motor carriers seeking authority to transport passengers over regular routes submit to FMCSA a detailed description and map of the proposed route(s) for approval. The proposal would reduce the currently approved ICR annual burden by 180 hours [2 hours to provide description and map of regular routes in Form OP–1(P) × 90 regular route applications per year = 180 hours]. The estimated annual burden for this ICR would decrease to 55,558 hours [55,738 currently approved annual burden hours − 180 hours less time to complete Form OP–1(P) regular route applications = 55,558].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the Agency to perform its mission, (2) the accuracy of the estimated burden, (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information, and (4) ways that the burden could be minimized without reducing the quality of the collected information. The Agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Executive Order 12988 (Civil Justice Reform)

This rulemaking meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, entitled ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 12630 (Taking of Private Property)

FMCSA has analyzed this proposed rule under Executive Order 12630, entitled ''Governmental Actions and Interference with Constitutionally Protected Property Rights.'' We do 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 rulemaking would not warrant the preparation of a Federalism assessment. We have determined that this proposed action would not affect the States' ability to discharge traditional State government functions.

Executive Order 13211 (Energy Effects)

FMCSA has analyzed this proposed action under Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' The Agency has 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 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 13175 (Tribal Consultation)

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 would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

List of Subjects

49 CFR Part 356

Administrative practice and procedure, Routing, Motor carriers.

49 CFR Part 365

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 374

Aged, Blind, Buses, Civil rights, Freight, Individuals with disabilities, Motor carriers, Smoking.

For the reasons discussed above, FMCSA proposes to amend title 49, Code of Federal Regulations, chapter III, subchapter B, as set forth below:

PART 356—MOTOR CARRIER ROUTING REGULATIONS

1. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 13902; and 49 CFR 1.73.

§ 356.3 [Removed and Reserved].

2. Remove and reserve § 356.3.

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

3. The authority citation for part 365 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.73.

4. Amend § 365.101 by removing paragraph (f), redesignating paragraphs (g) and (h) as paragraphs (f) and (g), and revising paragraph (e) to read as follows:

§ 365.101 Applications governed by these rules.

* * * * *

(e) Applications for certificates under 49 U.S.C. 13902(b)(3) to operate as a motor carrier of passengers in intrastate commerce over regular routes if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

* * * * *

PART 374—PASSENGER CARRIER REGULATIONS

5. The authority citation for part 374 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14101; and 49 CFR 1.73.

6. Amend § 374.303 by revising paragraph (f) to read as follows:

§ 374.303 Definitions.

* * * * *

(f) *Service* means passenger transportation by bus over regular routes.

* * * * *

7. Amend § 374.311 by revising paragraphs (a) and (b) to read as follows:

§ 374.311 Service responsibility.

(a) *Schedules.* Carriers shall establish schedules that can be reasonably met, including connections at junction points, to serve adequately all points.

(b) *Continuity of service.* No carrier shall change an existing regular-route schedule without first displaying conspicuously a notice in each facility and on each bus affected. Such notice shall be displayed for a reasonable time before it becomes effective and shall contain the carrier's name, a description of the proposed schedule change, the effective date thereof, the reasons for the change, the availability of alternate service, and the name and address of the carrier representative passengers may contact.

* * * * *

Issued on: July 31, 2008.

John H. Hill,

Administrator.

[FR Doc. E8–18173 Filed 8–6–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R3–ES–2008–0030; 1111 FY07 MO–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the U.S. Population of Coaster Brook Trout (Salvelinus fontinalis) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction and reopening of comment period for 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), correct and reopen the comment period for the March 20, 2008, 90-day finding on a petition to list the U.S. population of coaster brook trout.

DATES: We will consider information received or postmarked on or before September 8, 2008.

ADDRESSES: You may submit information by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: [FWS–R3–ES–2008–0030]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information received at *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

FOR FURTHER INFORMATION CONTACT: Ms. Jessica Hogrefe, East Lansing Field Office, U.S. Fish and Wildlife Service, 2651 Coolidge Road—Suite 101, East Lansing, MI 48823–6316; telephone 517–351–5467; facsimile 517–351–1443. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: On March 20, 2008, the Service published in the **Federal Register** a notice of 90-day petition finding and initiation of status review concerning the petition to list as endangered a population of brook trout (*Salvelinus fontinalis*) known as coaster brook trout throughout its known historical range in the conterminous United States (73 FR 14950). In the **DATES** section of that document, we solicited requests for public hearings and established a date by which we would receive such requests.

This part of the notice was printed in error and we will not hold public hearings for this 90-day finding. Section 4(b)(5) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), states, ''With respect to any regulation proposed by the Secretary to implement a determination, designation, or revision referred to in subsection (a)(1) or (3) [proposed or final rule to list a species as endangered or threatened, or proposed or final rule to designate any habitat of such species to be critical habitat], the Secretary shall * * * promptly hold one public hearing on the proposed regulation if any person files a request for such a hearing within 45 days after the date of publication of general notice.'' Notices of 90-day findings on petitions to list species are not proposed regulations. The Service does not generally hold public hearings for nonrulemaking findings, and will not hold any public hearings regarding the coaster brook trout 90-day finding. For a 90-day finding, we request information from the public that improves our understanding of the status of the species. This information typically includes agency reports and other collections of empirical data that is best gathered in the form of written comments. If, in the future, we publish a proposed rule for this species (e.g., a proposed listing), we will allow the public an opportunity to request a public hearing at that time.

Information Solicited

We are, however, providing a new comment period with respect to the 90-day finding to afford the public an additional opportunity to provide us information for our status review or submit any remarks that would otherwise have been presented at a public hearing. We have also contacted directly the persons who requested a hearing to advise them of this additional opportunity to submit information.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, because section 4(b)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*) directs that determinations as to whether any species is a threatened or endangered species shall be made ''solely on the basis of the best scientific and commercial data available.'' At the conclusion of the status review, we will determine whether listing is warranted, not warranted, or warranted but precluded.

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. We will not consider submissions sent by e-mail or fax or to an address not listed in the **ADDRESSES** section.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, East Lansing Field Office (see **FOR FURTHER INFORMATION CONTACT**).