



[4910-EX-P]

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2020-0190]

Property Carrier Broker Listening Session; Public Meeting

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

ACTION: Notice of public listening session.

SUMMARY: FMCSA announces that it will host a listening session pertaining to property carrier brokers. FMCSA would like to hear from members of the public on their views on the regulation of property carrier brokers in general, and on three pending petitions concerning specific property carrier broker regulation issues. This meeting does not pertain to broker or freight forwarder minimum financial responsibility matters. The session will be held via videoconference and will be accessible to the public for its entirety. Individuals with diverse experience and perspectives are encouraged to attend.

DATES: The session will be held on Wednesday, October 28, 2020, from 1:00 PM to 2:30 PM, Eastern Time (ET). The session will be held via videoconference only, with registration required at www.fmcsa.dot.gov in advance of the meeting. FMCSA encourages early registration.

Public Comment: The virtual session will allow members of the public to make brief statements to the panel. If all interested participants have had an opportunity to comment, the session may conclude early.

FOR FURTHER INFORMATION CONTACT: Ms. Janettarose L. Greene, (202) 366-5694, FMCSA-PIO@dot.gov, Federal Motor Carrier Safety Administration, U.S.

Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Services for Individuals with Disabilities. FMCSA is committed to providing equal access to the listening session. For accommodations for persons with disabilities, please email FMCSA-PIO@dot.gov at least 1 week in advance of the meeting to allow time to make appropriate arrangements. FMCSA will provide closed captioning of the session.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages participation in the session and the submission of comments and related materials. Members of the public may submit written comments to the public docket referenced at the beginning of this notice. Please submit documents recommended for discussion to the docket at least 7 business days in advance of the session using any of the following methods:

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2020-0190). You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these methods. FMCSA recommends that you include your name, email address, or a phone number in the body of your document.

To submit your comment online, go to <http://www.regulations.gov>, enter the docket number, “FMCSA-2020-0190” in the “Keyword” box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment

into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party, then submit.

B. Viewing Comments and Documents

To view comments, go to <http://www.regulations.gov> and insert the docket number, “FMCSA-2020-0190” in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document listed to review. If you have questions on viewing or submitting materials to the docket, contact Docket Operations at (202) 366-9826. Business hours are from 8:00 AM to 4:30 PM ET, Monday through Friday, except Federal holidays. For hand delivery of materials, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

II. Background

FMCSA has received petitions for rulemaking from the Owner-Operator Independent Drivers Association (OOIDA) and the Small Business in Transportation Coalition (SBTC) to amend certain requirements for property carrier brokers. FMCSA published a notice in the Federal Register on August 19, 2020 (85 FR 51145), requesting public comment on the petitions.

OOIDA requests that FMCSA require property carrier brokers to 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 requests that FMCSA prohibit brokers from coercing or otherwise requiring parties to brokers’ transactions to waive their right to review the record of the transaction as a condition for doing business. SBTC also requests that

FMCSA adopt regulatory language indicating that brokers' contracts may not include a stipulation or clause exempting the broker from having to comply with the transparency requirement. The comment period for the notice is open through October 19, 2020.

On August 5, 2020, FMCSA received a petition for rulemaking from the Transportation Intermediaries Association (TIA), asking FMCSA to eliminate the requirements of 49 CFR §371.3(c) and to develop guidance on what legally constitutes a "dispatch service." TIA's petition asserts that its proposed modifications and clarifications would eliminate an outdated regulation that no longer applies to the current marketplace. TIA's request includes the promulgation of guidance to the public on what constitutes a legitimate "dispatch service" to remove, in its words, "unethical and unscrupulous actors from the marketplace" and eliminate an administrative burden on FMCSA to enforce outdated and unnecessary regulations. FMCSA is currently reviewing the petition before determining an appropriate course of action. A copy of the TIA petition has been placed in the docket referenced at the beginning of this notice.

Given that the TIA petition expresses a different perspective than those expressed in the OOIDA and SBTC petitions, FMCSA would like to hear from members of the public on their views on the regulation of property carrier brokers in general, and on the three petitions, specifically.

James W. Deck,

Deputy Administrator.

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