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**SUPPLEMENTARY INFORMATION:** TCA is a national trade association with approximately 500 motor carrier members providing intercity truck transportation for a variety of commercial, industrial, and consumer products, primarily in full trailer-load quantities. (See TCA Petition, Page 2.) In its petition, which we have included in the docket, TCA requests that DOT use its general exemption authority (see 49 U.S.C. 13541) to exempt all motor carriers of property from the mandatory financial reporting requirements

contained in 49 U.S.C. 14123. (See also 49 CFR part 1420.) According to TCA, DOT should grant this regulatory relief because BTS "has made it abundantly clear that it will not exercise its own delegated authority to grant exemptions under subsection 14123(c) from either the filing or the public release of motor carrier reports." (See TCA Petition, Page 2.)

The Interstate Commerce Commission (ICC) collected financial data from regulated motor carriers from the 1930s until the end of 1995, when the ICC was abolished and data collection was transferred to DOT. (See 49 U.S.C. 11145 and implementing regulations at 49 CFR part 1420.) Between 1978 and 1994, the ICC reduced the reporting requirements by shortening report forms and easing record retention requirements. These changes followed the shift in the ICC's focus from close economic regulation of the motor carrier industry to broad industry oversight.

Upon transfer of the program and an additional program review, BTS further reduced the carriers' reporting burden (see 64 FR 13916, 13918; March 23, 1999). Currently, for common and contract motor carriers of property, the BTS regulations create three carrier classes based on revenue: Class I, with annual operating revenues of \$10 million or more, file the annual report (Form M) and quarterly reports (Form QFR); Class II, with annual operating revenues of between \$3 million and \$10 million, file only the annual report (Form M); and Class III, with annual operating revenues of less than \$3 million, are exempt from any filing requirements.

The reporting forms require the motor carriers to provide certain financial information (see 49 U.S.C. 14123(a)(1)): "at a minimum, such reports shall include balance sheets and income statements."

Unless a motor carrier requests an exemption from filing or from public release, the information is made publicly available. (See 49 U.S.C. 14123(c)(1) and (2) and the implementing regulations at 49 CFR 1420.8 and 1420.9.) BTS grants an exemption from filing to an individual carrier that shows that "an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available." (See 49 U.S.C. 14123(c)(1).) The carrier must submit a written request containing sufficient supporting documentation, before BTS will consider a proposed exemption.

BTS grants an exemption from public release upon a showing that the carrier is not a publicly-held corporation or not

subject to financial reporting requirements of the Securities and Exchange Commission, and that the exemption is necessary to avoid substantial competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under 5 U.S.C. 552(b)(4) (the fourth exemption of the Freedom of Information Act). Again, the carrier must submit a written request containing supporting information.

The statutory standards for issuing an "exemption from filing" and an "exemption from public release" are very similar. However, the TCA states "BTS disregarded the Congressional intent by making exemptions from reporting or public release available only in theory, while denying them in fact." (TCA Petition, Page 5.) In addition, the TCA argues, "any benefits of the reporting scheme are far outweighed by its burdens" (TCA Petition, Page 4), and it urges the Department to exempt all motor carriers of property from the requirement to file these financial reports.

#### Request for Public Comments

We are issuing this invitation for comments on the TCA petition and views on whether DOT's motor carrier financial reporting requirements should be retained, amended, supplemented, replaced, or removed, including the selected forms and reports involved with the requirement. We are posing a series of questions in the hope that public comments will address several issues in particular:

(1) Do you use DOT's motor carrier financial information and, if so, how do you use it?

(2) Should the criteria used to evaluate whether a carrier has demonstrated that it will suffer competitive harm by release of its financial information be changed? (The criteria used by BTS are those in Exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4): the information is commercial or financial and received from a source outside the Government, and its disclosure would likely lead to significant competitive harm to the supplier of the information or make it harder for the Government to obtain similar information in the future.)

(3) Should DOT change the reporting thresholds for Class I and II carriers of property and, if so, what level of annual operating revenues should be used? (Raising the reporting thresholds would reduce the number of carriers required to report, while lowering the thresholds would increase the number of carriers.)