

Submarine cable systems (capacity as of Dec. 31, 2012)	Fee amount	Address
< 2.5 Gbps	\$13,600	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000.
2.5 Gbps or greater, but less than 5 Gbps	27,200	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000.
5 Gbps or greater, but less than 10 Gbps	54,425	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000.
10 Gbps or greater, but less than 20 Gbps	108,850	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000.
20 Gbps or greater	217,675	FCC, International, P.O. Box 979084, St. Louis, MO 63197-9000.

[FR Doc. 2013-20516 Filed 8-22-13; 8:45 am]
BILLING CODE 6712-01-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Chapter 2

Defense Federal Acquisition Regulation Supplement; Appendix A, Armed Services Board of Contract Appeals, Part 1—Charter

CFR Correction

■ In Title 48 of the Code of Federal Regulations, Chapter 2 (Parts 201 to 299), revised as of October 1, 2012, on page 573, in Appendix A to Chapter 2, add two lines to the list immediately preceding Part 1—Charter to read as follows:

Appendix A to Chapter 2—Armed Services Board of Contract Appeals

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Armed Services Board of Contract Appeals

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Revised 27 June 2000.

Revised 14 May 2007.

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[FR Doc. 2013-20699 Filed 8-22-13; 8:45 am]
BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 365

Transfers of Operating Authority Registration

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

ACTION: Interpretation.

SUMMARY: FMCSA provides notice concerning the Agency’s new process and legal interpretation for recording transfers of operating authority

registration by non-exempt for-hire motor carriers, property brokers and freight forwarders.

DATES: The process and interpretation are effective October 22, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Secrist, Office of Registration and Safety Information, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Telephone (202) 385-2367 or *FMCSAOATransfers@dot.gov*. Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

As part of an ongoing assessment of Agency processes and its retrospective review of regulations, *see* E.O. 13563, 76 FR 3221 (Jan. 21, 2011); 5 U.S.C. 610, FMCSA reexamined its legal authority for continued enforcement of 49 CFR part 365, subpart D, “Transfer of Operating Rights under 49 U.S.C. 10926.” As discussed in the Supplemental Notice of Proposed Rulemaking for the Unified Registration System (URS), 76 FR 66506, 66511 (October 26, 2011), and in the URS Final Rule, published elsewhere in today’s **Federal Register**, Congress repealed former 49 U.S.C. 10926 as part of the ICC Termination Act of 1995, Public Law 104-88, 109 Stat. 803 (Dec. 29, 1995) (ICCTA), and with it the express authority previously granted to FMCSA’s predecessor agency (in this case, the former Interstate Commerce Commission (ICC)) to review and approve transfers of operating authority.

However, Congress did not prohibit the practice—long recognized under the ICC regulation—of transferring operating authority rights, nor did it rescind subpart D or otherwise prohibit the Agency from continuing to review and approve such transfers. The ICCTA and its legislative history were silent regarding the continued effect of the regulatory provisions then in place for transfers of operating rights, and the

provisions have remained substantially unchanged since 1996, in 49 CFR part 365, subpart D. Moreover, the Agency continues to have a duty under 49 U.S.C. 13902 to register motor carriers that are fit, willing, and able to comply with applicable statutory and regulatory requirements. And transfer approvals historically have been a reasonable and effective part of that program.

As a result of the highly specific and more limited nature of operating authority, which historically was defined by such factors as restricted commodity and territorial scope, specified regular route designations for passenger carriers, and types of service such as contract and common carrier operations, the regulated community came to treat operating authority as an asset of commercial value. Essentially operating authority was recognized as a property right that could be bought and sold, and thus transferred among disparate controlling interests, without disrupting the continuity of regulatory oversight or even warranting a change in registration number to reflect an ownership change. Indeed, when FMCSA’s predecessor Agency, the Federal Highway Administration, proposed removing the 49 CFR part 365, subpart D, transfer regulations in response to the ICCTA’s repeal of 49 U.S.C. 10926 (63 FR 7362, February 13, 1998), a number of industry commenters objected, noting that transfers were an institutionalized part of the regulatory environment that minimized registration costs and contributed to oversight and tracking of the carrier population. *See* 70 FR 28990, 28995-28996 (May 19, 2005). FMCSA subsequently withdrew the proposal to remove the transfer regulations in 49 CFR part 365, subpart D (66 FR 27059, May 16, 2001). But when the Agency again proposed in the URS rulemaking to eliminate the part 365 transfer approval process (70 FR 28990, 28996, May 19, 2005), the public comment record again acknowledged that operating authority transfers were an established industry practice and