ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–010–0001–ec, FRL–6336–2]

Classification of the San Francisco Bay Area Ozone Nonattainment Area for Congestion Mitigation and Air Quality (CMAQ) Improvement Program Purposes; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published March 18, 1999 (64 FR 13383). On March 18, 1999, EPA proposed to classify the San Francisco Bay Area pursuant to section 172(a) of the Clean Air Act as moderate for CMAQ purposes only, and the classification is intended only in relation to the area's treatment under CMAQ.

At the request of the Santa Barbara County Association of Governments, EPA is extending the comment period for 30 days.

DATES: Comments must be received in writing on or before May 19, 1999.

ADDRESSES: Comments should be submitted to: Celia Bloomfield, Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield, U.S. EPA Region IX, at (415) 744–1249.

Dated: April 27, 1999.

David P. Howekamp,

Acting, Regional Administrator, Region IX.

[FR Doc. 99–11272 Filed 5–4–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 360 and 387

[FHWA Docket No. FHWA–97–2923; MC–97–11]

RIN 2125–AE06

Qualifications of Motor Carriers to Self-Insure Their Operations and Fees to Support the Approval and Compliance Process

AGENCY: Federal Highway Administration (FHWA), DOT.

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

SUMMARY: This document proposes to identify circumstances in which the public is subjected to an unacceptable level of risk of uncompensated losses generated from bodily injury and property damage (BI&PD) claims arising from the actions of for-hire motor carriers conducting self-insured operations in interstate or foreign commerce. More specifically, the FHWA seeks public comment on a proposal to reevaluate the security and collateral requirements of any self-insured carrier that fails to generate from operations, after payment of all expenses except annual self-insurance claims expenses, twice the level of cash needed to pay the self-insurance claims. The FHWA also proposes to assess an additional application fee to cover carrier requests for modifications and alterations to self-insurance authorizations which require a reevaluation of the carrier's financial condition. The FHWA can now do the basic first-time self-insurance application for $3,000. This amount is $1,200 less than the $4,200 fee the FHWA currently charges. Thus, the agency is also proposing to reduce the fee for processing the initial application to $3,000 for an economic cost savings. The proposed actions will not apply to carriers authorized to self-insure cargo-only claims. The requirements for cargo-only self-insurance are not substantial because the required cargo coverage is relatively small. Consequently, the expenses for reviewing cargo-only applications are not significant. Further, the risk of an unacceptable level of uncompensated self-insurance cargo claims is low.

Finally, this NPRM would also propose implementing additional procedures necessary for motor carriers to establish billing accounts to pay all insurance-related fees required by the Federal Highway Administration. A schedule of filing fees and general instructions regarding payment are provided.

DATES: Comments must be received on or before July 6, 1999.

ADDRESSES: Your signed, written comments must refer to the docket number appearing at the top of this document and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Grimm, (202) 366–4039, or Mr. Stanley M. Braverman, (202) 358–7035, Office of Motor Carriers, FHWA, 400 Virginia Avenue, SW., Suite 600, Washington, DC 20024; or Mr. Michael J. Falk, Office of the Chief Counsel, HCC–20, (202) 366–1384, FHWA, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

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I. Background

On September 23, 1997, the FHWA published an advance notice of proposed rulemaking (ANPRM) to examine the sufficiency of existing self-insurance requirements, the need for assessing additional fees for processing and monitoring functions, and the propriety of seeking congressional authorization to terminate the self-insurance program altogether (62 FR 49654, FHWA Docket No. MC–97–11). On September 29, 1997, the FHWA corrected the assigned FHWA docket number and address for submission of comments (62 FR 50892, FHWA Docket No. FHWA–97–2923; MC–97–11).

The ANPRM was published primarily to obtain comments from motor carriers, insurance companies, and other interested parties to determine whether the existing self-insurance requirements and conditions were sufficiently stringent to ensure that the public is protected against uncompensated losses. The FHWA requested public comment on the sufficiency of the back-up collateral required for the authorizations both in form and amount, the reporting requirements, and on proposed fees to cover application modification and monitoring functions. The former

Interstate Commerce Commission (ICC) always charged application fees; however, charges for monitoring carrier compliance with agency requirements were not assessed. A series of questions raising issues concerning the merits of retaining the self-insurance program were also proposed.

The Transportation Equity Act for the 21st Century (Pub. Law 105–178, 112 Stat. 107) (June 9, 1998) makes no changes in the authorization to provide a self-insurance program and does not impact on the recommendations contained herein.

II. Responses to Public Comments

Twenty-seven (27) comments were received from motor carriers and their associations, insurance associations, a single insurance company, and a law firm. No comments were received from parties with bankruptcy claims pending against carriers that were previously authorized to self-insure.

A. The Propriety of Retaining the Self-Insurance Program

The carriers, their associations, and the sole commenting insurance company argue that self-insurance should be retained. Apart from illustrating the carrier benefits derived from the program, several commenters contend that as long as the Federal requirement for mandatory insurance remains in place, the self-insurance option should remain available to qualified applicants. The National Association of Independent Insurers and the commenting law firm urge repeal of the self-insurance program, and the Advocates for Highway and Auto Safety call into question the entire mandatory insurance requirement for motor carriers. The issue concerning mandatory insurance is clearly beyond the scope of this proceeding and, accordingly, the FHWA makes no comment on the proposal offered by the Advocates for Highway and Auto Safety. Nevertheless, the mandatory insurance requirement is a relevant consideration in attempting to determine the propriety of retaining the self-insurance authorization. The FHWA is persuaded by the equity of the carriers' contention that the continued existence of the mandatory requirement justifies the self-insurance option for qualified applicants.

B. Proposed Changes in Security Requirements and Fee Proposals

For the most part, the carriers and carrier associations dispute that any problems with the self-insurance program exist and object to the alteration of security and reporting requirements, and the imposition of additional fees. In support of this proposition, commenters argue that the ICC Termination Act of 1995 (ICCTA) (Pub. L. No. 104–88, 109 Stat. 803) prohibits the imposition of additional requirements on carriers already granted authorization to self-insure. Several carriers also contend that the monitoring fees are discriminatory since the FHWA does not assess a fee for insurance filings. Some carriers indicated that reasonable charges reflecting the actual expenses incurred in dealing with special modifications should be recovered.

The provision of the ICCTA which applies to the issue raised by the complaining carriers, 49 U.S.C. 13906(d), provides: ''Motor carriers which have been granted authority to self-insure as of the effective date of this section shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary [of Transportation] finds that the authority must be revoked.'' This section merely provides that challenges to a self-insurance grant must be made on a case-by-case basis. Further, each self-insurance authorization contains a condition which provides that the FHWA retains the authority to terminate the authorization when it appears that the carrier's financial arrangements fail to provide satisfactory protection to the public. Another condition authorizes the FHWA to require the carrier to submit any additional information the FHWA deems necessary. Clearly, the FHWA retains the authority to impose additional requirements where circumstances justify such action.

The FHWA does not agree with the contention that the imposition of monitoring fees on carriers holding self-insurance authorizations is prohibited. The carriers seek to equate the monitoring fees with a new qualification that would be imposed on all self-insured carriers. The imposition of a fee has nothing to do with a carrier's qualifications to self-insure. Certainly, the carriers could not seriously contend that the monitoring fee presents a barrier to self-insured operations, given the required showing of financial fitness.

Several commenters have questioned the ability of the FHWA to conduct the necessary oversight. The FHWA has hired an investment banking firm (the firm) to conduct the yearly monitoring and application analysis in an effort to upgrade the quality of the financial reviews. Decisions regarding authorizations and continued compliance will still be made by the FHWA staff based on the information provided by the contractor. The decision to employ a contractor was designed to accomplish two purposes: (1) to upgrade the quality of the financial analysis and oversight; and (2) to provide the resources to ensure that the necessary tasks were accomplished in a timely manner.3

The firm's charges for the quarterly and annual compliance review amount to $2,600 per carrier. The charges can be broken down as follows:

Fees To Monitor Existing Self-Insured Carrier

Annual monitoring fee-existing carrier	Hours	Hourly rate	Total
Clerical	2.5	$34.40	$86.00
Financial and claims analysis	10.0	91.40	914.00
Report preparation	12.0	91.40	1,096.80
Principal consultant	1.0	177.39	177.39
Director	1.0	249.47	249.47
Total	26.5		2,523.66

The contractor conducts a complete carrier review regardless of the number of carriers conducting operations under a parent. Each carrier retains its own authorization and must comply with various conditions. Currently, the self-insurance monitoring costs are subsidized by the fees generated from new carrier applicants. Despite carrier claims to the contrary, the FHWA assesses a fee to cover the cost of each insurance filing made on behalf of carriers operating with commercial insurance to ensure accuracy. The FHWA finds nothing in the ICCTA that would bar the imposition of reasonable fees to recover costs associated with monitoring the self-insurance conditions. Failure to recover the annual monitoring costs would continue the unfair cross subsidization of the self-insurance program by carriers that do not enjoy its benefits. The proposed monitoring fee would be due on the filing date of the carrier's annual report [90 days after the end of the reporting year].

The recent financial failures of three self-insured carriers have caused the FHWA to reevaluate its ability to properly monitor the financial condition of carriers and insure that continued operations will generate sufficient funds to pay self-insurance claims. Since proration and disbursement of trust funds is still pending in two cases, the FHWA deems comment on the impact

of the proceedings to be inappropriate at this time, especially since none of the affected parties have filed comments in this proceeding. The FHWA considers any self-insured carrier's financial failure to be a breach of the integrity of the program, as well as imposing an unanticipated and unjustifiable risk on the public. In this regard, the FHWA considers carrier comments that all business activities generate risks to be unpersuasive. Since the FHWA is charged with administering the self-insurance program, it must insure that the public is adequately protected from uncompensated losses generated by carriers authorized by the FHWA to continue to conduct self-insured operations.

C. The Proposal To Extend the Automatic Revocation Provision to 45 Days for Carriers That Lose Their Satisfactory Safety Rating

No commenters objected to extending the 30-day automatic expiration provision for carriers with less than satisfactory safety ratings to 45 days. Two carriers suggested that the FHWA regional staff be authorized to waive the automatic expiration provision if no connection is found between the safety rating and self-insured operations. The FHWA believes that the 45 day period will provide the field staff with sufficient opportunity to upgrade a carrier's rating if necessary corrective action has been undertaken. Accordingly, further discretion to waive the expiration provision would not be necessary.

III. The FHWA Proposals

The FHWA does not propose in this proceeding any additional requirements which self-insured carriers must meet regardless of their current financial condition. Instead, the FHWA seeks public comment on a ''minimum financial fitness standard'' that should be satisfied by all carriers authorized to self-insure their motor carrier operations. Failure to meet this measure of financial fitness would establish that the carrier does not have in place sufficient financial arrangements to protect the public against uncompensated losses as required in each self-insurance authorization. The standard would require each carrier to generate from operations, after payment of all expenses except annual self-insurance claims expenses, sufficient cash flow to pay twice the amount of the self-insured claims. Carriers that failed to meet this standard would be required to provide adequate collateral to cover their outstanding claims liability. Unfunded letters of credit would no longer be accepted. At the very least, the FHWA would require the execution of a letter of credit with a ''hard draw'' (mandatory drawdown) provision which would automatically fund a standby trust if self-insured operations ceased, or if bankruptcy proceedings were initiated. The time provided for the funding of such collateral would be determined on a case-by-case basis.

In addition, such carriers would be required to submit an independent annual certified claims reports. The FHWA plans to issue an order at a later date that would require carriers authorized to self-insure to file the independent annual certified claims report. That order would also contain the filing date and any related conditions that must be met. The FHWA believes that failure to retain sufficient cash to comfortably cover current claims payments is sufficient justification for concluding that the carrier's financial arrangements fail to provide satisfactory protection to the public as required by each self-insurance authorization. This is especially true since virtually none of the carriers authorized to self-insure maintain sufficient collateral to cover existing reserves for outstanding self-insurance claims. While the FHWA has the authority to reconsider any self-insurance authorization on a case-by-case basis, public comment on the proposed financial fitness standard is nevertheless solicited.

With respect to fees for modification of self-insurance authorizations, the FHWA proposes to assess a fee of $2,500 based upon the following contractor's cost analysis:

Fees To Modify Existing Carrier's Authorization

Changes/modifications-existing carrier	Hours	Hourly rate	Total
Clerical	2	$34.40	$68.80
Financial and claims analysis	10	91.40	914.00
Report preparation	10	91.40	914.00
Principal consultant	2	177.39	354.78
Director	1	249.47	249.47
Total	25		2,501.05

In addition, the FHWA proposes to reduce the application fee for BI&PD self-insurance to $3,000 based upon the following cost analysis:

FEES FOR NEW SELF-INSURED CARRIER APPLICATION

New carrier application	Hours	Hourly rate	Total
Clerical	1.5	$34.40	$51.60
Financial and claims analysis	15	91.40	1,371.00
Report preparation	10	91.40	914.00
Principal consultant	2	177.39	354.78
Director	1	249.47	249.47
Total	29		2,940.85

All proposed fees are based on recovery of contractor costs. The FHWA does not propose to recover its own labor costs because the amount will likely vary depending on the amount of time needed for review and decisionmaking.

Section 387.309 of title 49, CFR, provides that ''any self-insurance authority granted by the Commission [now the FHWA] will automatically expire 30 days after a carrier receives a less than satisfactory rating from DOT.'' No objections to FHWA's proposal to extend the period to 45 days were lodged by the commenters. Accordingly, the FHWA reiterates this proposal.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date shown above will be considered and will be available for examination in the FHWA Docket at the above address. Comments received after the comment closing date will be filed in the FHWA Docket identified above and will be considered to the extent practicable, but the FHWA may issue a final rule any time after the close of the comment closing period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

The FHWA has initially determined that this document contains a significant regulatory action under Executive Order 12866 and under the Department of Transportation's policies and procedures because this NPRM may raise novel legal or policy issues arising out of legal mandates. The NPRM is also significant because it has substantial public interest. The public has no reasonable means of challenging a self-

insured authorization and is not likely to know which motor carriers are self-insured. As discussed above, this NPRM would adopt a financial fitness standard for carriers authorized to self insure their operations and would enable the FHWA to take timely remedial action to prevent carrier defaults on self-insurance claims. In addition, this rule would institute additional nominal fees to recoup expenses associated with the contractor's participation in the self-insurance program.

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of intended regulations, and propose regulations on the basis that the benefits justify the costs. The proposed regulation is designed to provide notice and guidance to a group of approximately 55 motor carriers authorized to self-insure their operations, 9 of which have authorizations which cover cargo-only liability. This proposed rule merely codifies the authority the FHWA already possesses to administer the self-insurance program. The recommended ''yearly'' monitoring fee of $2,600 is simply designed to recoup costs associated with the analysis performed by a contractor. The FHWA estimates the annual cost for the contractor to monitor existing self-insured carriers at $143,000 (55 carriers × $2,600). While we do not expect all 55 carriers that self-insure to request modifications or alterations to their existing authorizations, the FHWA estimates the costs for such analyses at $137,500 if all carriers were to do so. Thus, for purposes of Executive Order 12866, this rulemaking does not impose an economic burden greater than $100 million on motor carriers that self-insure.

It is also important to note that carriers authorized to self-insure obtain a substantial economic benefit by not having to maintain commercial insurance coverage in the federally mandated amounts. The vast majority of these carriers self-insure at the $1,000,000 level which corresponds to the required level of coverage. These carriers, as well as the public, benefit from the existence of a comprehensive monitoring program designed to insure that all carriers authorized to self-insure comply with the terms of their authorizations. Only carriers maintaining an outstanding financial condition should be authorized to self-insure their operations. The gross revenues generated by carriers holding the BI&PD authorizations range from $8,396,000 to $1,207,601,000, or an average of $174,345,468. These carriers are exposed to an average claims balance of $3,412,882. The proposed yearly monitoring fee, therefore, would have little impact on these carriers given their financial strength. Thirteen entities include from two to seven self-insured carriers and each carrier would be required to pay the yearly monitoring fee. Nevertheless, the payment of multiple fees by these carrier groups would have little or no impact on their financial conditions. To argue otherwise would call into question their qualifications to self-insure. Requests for modifications of self-insurance authorizations are infrequent and the proposed fees should add little or no burden to the carriers since the requested modification would likely create a new financial benefit. For example, the benefits created by a reduction in the back-up collateral amount, the increase of the authorization amount, and the addition of additional carriers to the authorization, would all provide financial benefits far in excess of the one-time modification fee. Lastly, the reduced application fee from $4,200 to $3,000 would provide a modest benefit and cost savings to all future applicants. Overall, the FHWA has designed the thrust of its recommended proposals to provide the general public with greater protection from the likelihood of sustaining uncompensated losses resulting from an accident involving a self-insured carrier.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. The proposed regulatory changes would have little or no effect on small entities since they do not participate in the bodily injury and property damage self-insurance program. The small entities that self-insure their operations only seek cargo coverage and would not be affected by any of the proposals, because the financial requirements for obtaining a cargo-only authorization are far less stringent than for BI&PD applicants. Further, the FHWA is unaware of any default by a cargo-only self-insurer. Accordingly, the FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

The FHWA has initially determined that this proposed rule does not impose any unfunded mandates on State, local, or tribal governments in the aggregate, or by the private sector, of $100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This proposal amends an existing collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. The proposed rule would add additional requirements to the Office of Management and Budget's (OMB) approved budget for OMB Control Number FHWA 2125–0570, in the form of a certified claims report. The Form BMC–40, Application to Self-Insure under 49 U.S.C. 13906, is the application form used by carriers to apply for self-insurance authority. The proposed rule would not add additional requirements to the application.

The proposed independent certified annual claims report would amount to a limited additional collection of information requirement because it would only be imposed in remedial situations involving no more than four or five carriers at any one time. Further, it will only be imposed when circumstances warrant. The estimate of four or five carriers is based upon a maximum eight percent of carriers evidencing financial difficulties. The FHWA further estimates that 50 percent of these carriers authorized to self-insure would eventually leave the self-insurance program altogether. Carriers in the remedial program that failed to improve their financial condition would eventually lose the self-insurance authorization. Consequently, even if new carriers entered the remedial program, the total number of participants would remain fairly constant. The FHWA estimates that 40 hours would be required to complete the certified claims report. Thus, 40 hours multiplied by the anticipated 5 carriers would result in total burden hours of no more than 200.

Organizations and individuals desiring to submit comments on the information collection requirements concerning the additional certified claims report must direct them to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, D.C. 20590–0001.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 360

Administrative practice and procedure, Fees, Insurance, Motor carriers.

49 CFR Part 387

Commercial motor vehicles, Freight forwarders, Hazardous materials transportation, Insurance, Motor carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

Issued on: April 27, 1999.

Gloria J. Jeff,

Federal Highway Deputy Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, Code of Federal Regulations, Chapter III, part 360 and §387.309, as set forth below:

PART 360—[AMENDED]

1. Revise the authority citation for part 360 to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; 49 U.S.C. 13908(c) and 14504(c)(2); and 49 CFR 1.48.

2. Amend §360.3(f) by revising item number (50) under part II, Insurance, to read as follows:

§ 360.3 Filing fees.

* * * * *

(f) *Schedule of filing fees.*

* * * * *

Type of Proceeding:	Fee
* * * * *	
Part II: Insurance:	
* * * * *	
(50)	
(i) An application for original qualification as self-insurer for bodily injury and property damage insurance (BI&PD)	3,000
(ii) An application for original qualification as self-insurer for cargo insurance	420
(iii) Modification of self-insurance authorization	2,500
(iv) Self-insurance compliance monitoring fee	2,600

* * * * *

3. Add §360.7 to read as follows:

§ 360.7 Insurance service fee account.

(a)(1) *Manner of payment.* The service fee for insurance, surety or self-insurer accepted certificate of insurance, surety bond or other instrument submitted in lieu of a broker surety bond must be charged to an insurance service account established by the Federal Highway Administration in accordance with paragraph (a)(2) of this section.

(2) *Billing account procedure.* A written request must be submitted to the Office of Motor Carrier Information Analysis, Licensing and Insurance Division, to establish an insurance service fee account.

(i) Each account will have a specific billing date within each month and a billing cycle. The billing date is the date that the bill is prepared and printed. The billing cycle is the period between the billing date in one month and the billing date in the next month. A bill for each account which has activity or an unpaid balance during the billing cycle will be sent on the billing date each month. Payment will be due 20 days from the billing date. Payments received before the next billing date are applied to the account. Interest will accrue in accordance with 4 CFR 102.13.

(ii) The Debt Collection Act of 1982, including disclosure to the consumer reporting agencies and the use of collection agencies, as set forth in 4 CFR 102.5–102.6 will be utilized to encourage payment where appropriate.

(iii) An account holder who files a petition in bankruptcy or who is the subject of a bankruptcy proceeding must provide the following information to the Office of Motor Carrier Information Analysis, Licensing and Insurance Division:

(A) The filing date of the bankruptcy petition;

(B) The court in which the bankruptcy petition was filed;

(C) The type of bankruptcy proceeding;

(D) The name, address, and telephone number of its representative in the bankruptcy proceeding; and

(E) The name, address, and telephone number of the bankruptcy trustee, if one has been appointed.

(3) *Payment of fees by check, money order, or credit card.* Fees will by payable to the Federal Highway Administration by a check payable in United States currency drawn upon funds deposited in a United States or foreign bank or other financial institution, money order payable in United States currency, or credit card (VISA or MASTERCARD).

(b) *Deferred payment of filing fee.* Any filing that is not accompanied by the appropriate filing fee is deficient except for filings that satisfy the deferred payment procedures in paragraph (a) of this section.

(c) *Fees not refundable.* Fees will be assessed for every filing in the type of proceeding listed in the schedule of fees contained in part II of the table in § 360.3(b). Fees are generally not refundable.

PART 387—[AMENDED]

4. The authority citation for part 387 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 49 U. S.C. 31139; and 49 CFR 1.48.

5. Amend paragraphs (a) and (b) of §387.309 by revising the word ''Commission'' to read ''Federal Highway Administration'; amend paragraph (a)(3) by revising the words ''30 days'' to read ''45 days'; and add paragraph (c) to read as follows:

§ 387.309 Qualification as a self-insurer and other securities or agreements.

* * * * *

(c) *Continued financial fitness.* Carriers authorized to self-insure their bodily injury and property damage liability that fail to generate from operations at least twice the cash flow of the amount of self-insured claims paid in the most recent 12 month period as reported to the FHWA, will be required to increase the collateral required by the self-insurance authorization to a level equaling the outstanding self-insured claims liability in order to provide the necessary financial arrangements to protect the public from exposure to uncompensated losses. Unfunded letters of credit will not be accepted from carriers in this financial condition. The time provided for the increased collateral funding will be established on a case-by-case basis. These carriers will be required to submit annual certified reports confirming the

accuracy of the outstanding self-insurance claims liability.

[FR Doc. 99–11212 Filed 5–4–99; 8:45 pm]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390 and 396

[FHWA Docket No. FHWA–98–3656]

RIN 2125–AE40

General Requirements; Inspection, Repair, and Maintenance; Intermodal Container Chassis and Trailers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: The FHWA is extending the comment period for its February 17, 1999, advance notice of proposed rulemaking (ANPRM) in which the agency announced that it was considering revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety Regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining intermodal container chassis and trailers. The rulemaking was initiated in response to a petition filed by the American Trucking Associations, Inc. (ATA) and the ATA Intermodal Conference (the petitioners). In the petition, the petitioners contend that motor carriers have no opportunity to maintain this equipment and parties who do have the opportunity often fail to do so. The petitioners now request that the FHWA extend the comment period to allow them additional time to collect and analyze certain data needed to respond to the specific questions asked in the ANPRM. In response to the petitioners' request for an extended comment period, the National Association of Waterfront Employers (NAWE) and the National Maritime Safety Association (NMSA) also requested an extension of time to file their comments, but 30 days beyond anytime the FHWA may grant to the petitioners. The FHWA has determined that granting an extension is appropriate given the types of questions asked in the ANPRM and the need for informed responses from potential commenters. The FHWA also has determined that granting the NAWE and the NMSA a further 30-day extension beyond that afforded to petitioners is not appropriate.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, D.C. 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Singer, Office of Motor Carrier Research and Standards, HMCS–10, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. [TDD number for the hearing impaired: 1–800–699–7828] Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

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Background

The American Trucking Associations, Inc. and the ATA Intermodal Conference filed a petition for rulemaking on March 17, 1997, to amend 49 CFR parts 390 and 396 of the FMCSRs. The petitioners asked the FHWA to require parties that tender intermodal equipment to motor carriers to ensure the ''roadworthiness'' of that equipment. The petitioners argue that poor maintenance of intermodal equipment is a serious safety problem and request the FHWA to make the owner or operator of such equipment responsible for the roadworthiness of the vehicles it tenders to motor carriers.

On February 17, 1999, the FHWA published an ANPRM (64 FR 7849) seeking information on the extent of the problem identified by the petitioners, and public comments on the solution proposed by the petitioners, i.e., to mandate joint responsibility between the equipment provider and the motor carrier for maintaining this type of intermodal equipment. The closing date for comments was April 19, 1999.

On April 2, 1999, the FHWA received a request from the petitioners to extend the comment period. The petitioners indicated that they have been trying to develop current and accurate information to respond to the specific questions the FHWA asked in the ANPRM. The petitioners have submitted a request for roadside inspection data from the FHWA's Office of Data Analysis and Information Systems. The petitioners will analyze inspection data for 100 motor carriers that operate exclusively in the intermodal segment of the trucking industry. The petitioners believe that because of the nature of these motor carrier operations, and the diversity of their geographic locations, the information could be useful in responding to certain questions in the ANPRM. A copy of the petitioners' request for an extension of the comment period is included in Docket No. FHWA–98–3656.

On April 13, 1999, the FHWA received a request on behalf of the NAWE and the NMSA for an extension of time for ''opponents'' of the rulemaking requested by ATA to file comments. The NAWE and the NMSA believe that the Carriers Container Council, Inc. and the United States Maritime Alliance, Ltd. will also submit a similar request, but it has not yet been received by the FHWA. Furthermore, the NAWE and the NMSA would like ''an extension to 30 days beyond any enlarged date which the Agency may grant to the Petitioners.'' They believe ''only under this procedure will opponents of Petitioners'' proposed rule be able to examine Petitioners' evidence in any meaningful manner, and be in a position to respond.'' The NAWE and the NMSA further state ''We recognize that the Agency bears the ultimate burden of persuasion should the Agency decide to further pursue a rulemaking. However, under the circumstances, we submit that only an adversarial type proceeding strictly adhering to APA [Administrative Procedures Act] requirements will produce a reliable and factual record.'' A copy of the NAWE and NMSA request for an extension of the comment period is also included in Docket No. FHWA–98–3656.