required to notify the Commission of substantive changes in their state TRS program within 60 days of the effective date of the change and to file documentation demonstrating that the state TRS program remains in compliance with the Commission's mandatory minimum standards. The information collection generally would be performed by a state official familiar with the state's telecommunications relay program; it would have no impact on large or small entities. The Commission estimates that the costs of compliance with this information collection will be minimal.

E. Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives

The proposals in the NPRM, and the comments the Commission seeks regarding them, are part of the Commission's analysis of its role with respect to the implementation and operation of nationwide TRS for persons with hearing and speech disabilities. The guiding principal shaping these proposals is Congress' direction to the Commission to ensure that TRS keeps pace with advancing technology and that the Commission's rules do not discourage the implementation of technological advances or improvements. The majority of TRS service is provided by large interexchange carriers and incumbent local exchange carriers, and we believe that the number of small entities impacted by these proposals would be potentially very small. With respect to proposed amendments to the Commission's rules governing TRS, by statute, common carriers providing voice transmission services who are subject to the TRS rules, including small entities, may comply with their obligations individually, through designees, through a competitively selected vendor, or in concert with other carriers. 47 U.S.C. 225(c). For this reason, the Commission expects that the proposed rule amendments will have a minimal impact on small entities. Moreover, the NPRM does not propose any reporting requirements applicable to small entities. We tentatively conclude that our proposals in the NPRM would impose minimum burdens on small entities. We encourage comment on this tentative conclusion.

F. Federal Rules That Duplicate, Overlap, or Conflict With Proposed Rules

None.

List of Subjects in 47 CFR Part 64

Communications common carriers, disabilities, telephone, telecommunications relay service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–15719 Filed 6–15–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 385 and 390

[FHWA Docket No. FHWA–98–3947]

RIN 2125–AD49

Federal Motor Carrier Safety Regulations; General; Commercial Motor Vehicle Marking

AGENCY: Federal Highway Administration (FHWA), DOT.

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

SUMMARY: The FHWA is proposing to amend its regulations concerning the marking of commercial motor vehicles (CMVs) and the submission of the Motor Carrier Identification Report (Form MCS–150) that new motor carriers must submit to the FHWA. The FHWA is proposing to eliminate the marking regulations of the former Interstate Commerce Commission (ICC), and require that motor carriers replace the vehicle markings specified by those requirements with markings that conform to the requirements of 49 CFR 390.21. The agency is proposing to amend its current marking requirements to require that CMVs be marked with the legal name of the business entity that owns or controls the motor carrier operation, or the ''doing business as'' (DBA) name, and the city and State for the principal place of business as they appear on the Form MCS–150. Motor carriers would be allowed two years to comply with the proposed marking requirement to affix the USDOT number to both sides of their CMVs and five years to comply with the additional requirements to add the address of the principal place of business, and the legal name or DBA name to their CMVs. The FHWA is also proposing to move the regulations that require motor carriers to submit the Form MCS–150 from 49 CFR part 385 to part 390, and to amend the regulations to require that all new interstate motor carriers submit a Form MCS–150 to the FHWA before (rather than within 90 days after) commencing operations. The FHWA solicits public comment from interested persons on this action, including responses to the information collection requirements set forth in this document.

DATES: Written comments must be received on or before August 17, 1998.

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, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 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. Phil Forjan, Office of Motor Carrier Research and Standards, (202) 366–4001, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 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:

Background

On January 28, 1992, the FHWA published a final rule (57 FR 3142) which required interstate motor carriers to mark their interstate CMVs with specific information, including the USDOT number (see 49 CFR 390.21) . The final rule, however, provided an exception for ICC authorized for-hire motor carriers that complied with the marking requirements formerly in 49 CFR part 1058, now redesignated as 49 CFR 390.401, 390.403, 390.405, and 390.407 (61 FR 54706, 54710, October 21, 1996). The ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803) was enacted on December 29, 1995, and became effective on January 1, 1996. The ICCTA abolished the ICC, amended subtitle IV of title 49, United States Code, reformed the economic regulation of transportation, and transferred the assets, personnel, and many of the duties and functions of the ICC to the Secretary of Transportation (Secretary). In response to this action, the FHWA is proposing to: (1) eliminate the marking requirements at 49 CFR 390.401, 390.403, 390.405, and 390.407, Identification of Vehicles; and (2) require all motor carriers operating CMVs in interstate commerce, including those motor carriers formerly authorized by the ICC, to meet the vehicle marking requirements at 49 CFR 390.21. The

FHWA believes it is important that CMVs be properly marked so that the public has an effective means to identify motor carriers operating in an unsafe manner. Such markings will assist State officials conducting roadside inspections and accident investigations in attributing important safety data to the correct motor carrier.

Use of the Motor Carrier Identification Number

The FHWA regulates the safety aspects of interstate motor carrier operations. All motor carriers must file a motor carrier identification report (Form MCS–150) with the FHWA within 90 days after beginning interstate operations. Shortly after the receipt of a completed Form MCS–150, the FHWA assigns a USDOT number to the motor carrier and notifies it of the number assigned.

The Motor Carrier Management Information System (MCMIS) is a computerized information system containing comprehensive safety performance data on individual interstate motor carriers. These data are supplied by State and Federal motor carrier safety personnel and the motor carriers themselves. The data are maintained on a central mainframe computer and are available for use by States, Federal agencies, the motor carrier industry, insurance companies, and others.

All safety performance data on each motor carrier are linked to the USDOT number. This includes roadside inspection data, accident data, including safety and compliance review information. The USDOT number is used to link data together to produce summaries or reports on specific motor carriers. These data are often used to establish priorities for motor carrier educational and enforcement activities by both Federal and State agencies. Thus, one of the ultimate goals of the MCMIS is to receive adequate and reliable safety performance data on each individual carrier to support overall trends and evaluate program effectiveness.

It is extremely difficult, however, to produce an accurate report of a motor carrier's safety performance without the use of a unique identifying data element for that motor carrier. The identity of the motor carrier cannot always be determined from the data recorded on the roadside inspection report. For example, many motor carriers in the United States and Canada have the same or similar names. In addition, many motor carriers have regional and terminal offices separate from their principal place of business. Yet, any of these addresses is currently acceptable under § 390.21(b)(2). Likewise, use of multiple names and addresses by motor carriers makes it difficult for the FHWA to match roadside inspection data with a specific motor carrier in the MCMIS. During calendar year 1996, 212,712 of the 1,479,259 roadside inspections could not be matched to the correct motor carrier. Excessive resources are expended in an attempt to resolve this continuing ''non-match'' problem. Accordingly, the FHWA is proposing this action to better identify and match safety performance data with the correct motor carrier.

Legal Name or Trade Name

The FHWA proposes to require a motor carrier to mark both sides of each self-propelled CMV it operates with the legal name or the name under which the carrier does business (DBA name), as that name is shown on the Form MCS–150. The current marking requirement in § 390.21(b)(1) allows the motor carrier to use its ''name or trade name,'' but does not require that name to be the same name as the motor carrier listed on its Form MCS–150. The MCMIS only contains the legal name and a single trade (DBA) name and, therefore, is limited in its ability to correctly match inspection reports with motor carriers. This proposed change is intended to improve identification methods so that States can assign performance data to the correct motor carrier. This action will help alleviate the ''non-match'' problem that currently exists.

A reliable means of correctly identifying motor carriers is critical, given: (1) the trend toward ''automated roadside inspections''; (2) ''electronic clearance'' technologies being explored through the Intelligent Transportation System (ITS) program (formerly known as the Intelligent Vehicle-Highway Systems program), under authority granted by the Intelligent Vehicle-Highway Systems Act of 1991 (IVHS) (secs. 6051–6059 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, 105 Stat. 1914, 2189–2195); (3) the increasing costs of conducting roadside inspections; (4) the FHWA's growing reliance on ''performance data''; and (5) the need for more efficient methods of evaluating the safety fitness of motor carriers.

The FHWA believes that the number of motor carriers affected by this change will be relatively small. The precise number cannot, however, be determined from existing databases. Motor carriers with multiple trade names would be permitted to decide upon a DBA name with which to mark their CMVs and to notify the FHWA by submitting a revised Form MCS–150. The FHWA does not want to impose additional financial hardship upon the motor carriers. Therefore, the USDOT number would not need to be marked on existing CMVs until two years after the publication of the rule and the motor carrier would have five years from the publication of the rule to affix the legal name or DBA name on both sides of their CMVs.

Principal Place of Business Address Required on CMVs

The FHWA also proposes to remove the language in § 390.21(b)(2) that allows a motor carrier to mark its CMVs by displaying the address where the vehicle is customarily based. The FHWA would require a motor carrier to mark its CMVs only with the address of its principal place of business. A single address, like the single name discussed in the previous section, would significantly increase the ability of enforcement personnel at an accident scene, or a roadside inspection, to properly identify the motor carrier and ensure that data collected is assigned to the proper motor carrier. This new requirement would apply to the entire fleet, including those CMVs located at a terminal office. The motor carrier would have five years from the effective date of the rule to affix the address of the principal place of business on both sides of their CMVs.

New Carriers Required to File MCS–150 Before Commencing Operations

The FHWA is proposing to amend the requirement under which new motor carriers must file the Form MCS–150. The current requirement allows a new motor carrier to file Form MCS–150 within 90 days after beginning operations. The proposed change would require all new motor carriers to file Form MCS–150 before commencing operations. The FHWA has streamlined the process for filing the Form MCS–150 by making it available on the Internet. Motor carriers calling for the Form MCS–150 may access the Internet through the DOT WEB page at: ''HTTP://WWW.FHWA.DOT.GOV/OMC/OMCHOME.HTML''. Motor carriers can download the Form MCS–150, complete it, and submit it by mail. Carriers may also obtain copies of the form from the FHWA Regional Offices listed in § 390.27.

Proposed Implementation Plan

The FHWA recognizes that the time it would take a motor carrier to bring a large fleet into compliance with a new vehicle marking rule may be significant.

Under this proposal, all CMVs that are part of a motor carrier's existing fleet on the effective date of this rule, and which are marked currently with an ICC MC number, would have two years to come into compliance with the proposed marking requirements as they apply to the USDOT number. When the ICC was terminated, most for-hire carriers removed the ICC acronym from their CMVs. The FHWA now issues only the MC number to the for-hire carriers. Thus, the former ICC MC number will be referred to only as the ''MC'' number in this document. A motor carrier would not be required to remove the MC number when it affixes the USDOT number, but may do so if it wishes. All CMVs added to a motor carrier fleet after the effective date of a final rule would be required to meet all of the marking requirements, including marking CMVs with the legal name or the name under which it does business (DBA name), as that name is shown on the Form MCS–150, and marking CMVs only with the address of its principal place of business.

The FHWA believes that two years would be a sufficient period of time for the motor carrier to meet the proposed marking requirements for adding the USDOT number, and five years to affix the address of the principal place of business, and the legal name or DBA name on both sides of their CMVs, without creating either an administrative or economic hardship for motor carriers.

Motor Carrier Identification Report (Section 385.21), Failure to Report (Section 385.23), and Form MCS–150, Motor Carrier Identification Report (Appendix to Part 385)

The FHWA proposes to remove §§ 385.21 and 385.23 and combine the requirements of those two sections into a new § 390.19, Motor Carrier Identification Report. Form MCS–150, which is now an appendix to part 385, would be redesignated as an appendix to part 390. This proposed change would place the Form MCS–150 and the CMV marking requirements in the same part of the Federal Motor Carrier Safety Regulations (FMCSRs). The items proposed in this NPRM may change the information required to be on the MCS–150 (e.g., references to the ICC). The FHWA will make the appropriate changes after a review of the docket comments and the existing supply of MCS–150s in stock is depleted.

States Encouraged To Require USDOT Numbers for Intrastate Motor Carriers

The FHWA intends to allow and encourage the States to issue USDOT numbers to intrastate motor carriers. Currently, USDOT numbers are issued only by the FHWA to motor carriers engaged in interstate commerce. In the interest of uniformity and positive identification of all motor carriers engaged in commerce, the FHWA encourages the States to require their intrastate motor carriers to file Form MCS–150, or a similar form, with an appropriate State office. Upon receipt of the completed document, the States would record the information, assign the motor carrier a USDOT number from the FHWA database, and notify the motor carrier of its new number. If the States are willing to accept this responsibility, they would also need to require intrastate motor carriers to mark their CMVs with the USDOT number, and company name and address, in the same manner as proposed in this document.

The FHWA program initiatives have been directed toward uniform safety regulations for the motor carrier industry. The desire for uniformity was also expressed by much of the motor carrier industry via docket submissions, public hearings, and nominal group process meetings conducted as part of the public outreach portion of the FHWA's Zero Base Review of the FMCSRs. Having the various States and other government agencies use the USDOT number nationwide as the single motor carrier identifier would be a major step in achieving uniformity. The USDOT number could also serve as a motor carrier's designated identifier for the base-State programs mandated by the ISTEA. Since September 30, 1996, States may collect motor carrier fuel tax and registration fees only through base-State agreements, such as the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA).

The Motor Carrier Safety Assistance Program (MCSAP) has increased its emphasis on traffic enforcement for CMVs over the last several years. These enforcement activities are performed by State enforcement officials and local officers who may not be familiar with motor carrier operations. Having the USDOT number as the single identifier for all motor carriers would ensure that the information collected at the roadside would be maintained in the correct motor carrier file.

The Commercial Vehicle Operations (CVO) component of the ITS program is another area where adoption of the USDOT number by States would enhance uniformity. The following are specific examples of ITS/CVO technology:

(1) electronic clearance of State and international borders by drivers and CMVs which are both legal and safe; (2) faster and more effective automated roadside inspections of commercial motor vehicles; (3) on-board safety devices to monitor driver alertness, vehicle defects, or other problems while the vehicle is in motion, and if necessary to notify the driver, carrier, and possibly enforcement personnel; (4) electronic purchase of credentials, and automated mileage and fuel reporting and auditing; (5) real-time communications between drivers, dispatchers, and intermodal transportation providers with information on congestion and routing options; and (6) hazardous materials (HM) incident notification which would provide HM response teams with timely and accurate information on cargo compartment contents, enabling them to react properly in emergency situations. An integrated information system capable of handling functions such as these is critically dependent upon a unique identifying number. The FHWA believes that the USDOT number can meet these needs.

Mexican and Canadian Carriers Also Subject to CMV Marking Requirements

Mexico-based motor carriers who are presently operating under an MX number, and Canadian motor carriers operating under an MC number will also be required to meet all the CMV marking requirements proposed in this rule when operating in the United States.

Transportation Lawyers Association Petitions for Rulemaking

The Transportation Lawyers Association (TLA) filed a petition on March 2, 1994, requesting that the FHWA initiate a rulemaking to require motor carriers to file a Form MCS–150 biennially and within 20 days following a change of its name, control, ownership, or its principal place of business. The TLA also recommended that the FHWA amend its Form MCS–150 to include blocks for motor carrier revenue, mileage, and accident data.

On August 26, 1996, the FHWA published an advance notice of proposed rulemaking (ANPRM), Motor Carrier Replacement Information/Registration System [61 FR 43816] . That notice was published in response to 49 U.S.C. 13908, enacted by section 103 of the ICCTA, which requires the Secretary to initiate a rulemaking proceeding to replace the current Department of Transportation identification number system, the single State registration system (49 U.S.C.

14504), the registration and licensing system (49 U.S.C. 13901–13905), and the financial responsibility information system with a single, on-line Federal system. The review and improvement of these information systems (49 U.S.C. 13906) will benefit the motor carrier industry, the States, the Federal government, and the public. In that ANPRM, the FHWA requested public comment from interested persons and responses to specific questions, several of which address issues raised by the TLA petition: Should the FHWA retain the USDOT identification number system as is? Who should be included as contributors to and users of this system? How could the system be improved? Should Forms MCS–150, MCS–90 and MCS–82 be retained, modified or eliminated? Do they capture only the necessary information? Should the information on Form MCS–150 be updated periodically? If so, at what intervals? Because the rulemaking to implement 49 U.S.C.13908 is much broader than the TLA request, the FHWA has decided neither to grant nor deny the petition, but rather to file it as a docket comment to the August 26, 1996, ANPRM. The FHWA encourages the TLA to participate actively in the future course of that rulemaking proceeding.

Commercial Vehicle Safety Alliance Petitions for Regulatory Changes

The Commercial Vehicle Safety Alliance (CVSA) and the Steering Committee of the Commercial Vehicle Information System (CVIS) jointly petitioned the FHWA, on July 13, 1994, for a number of regulatory changes pertaining to marking requirements. The petitioners asked the FHWA to require all motor carriers to mark their vehicles with the USDOT number. As already discussed, the FHWA is proposing to eliminate the current rule which allows for-hire motor carriers operating under authority formerly issued by the ICC to mark their vehicles in accordance with 49 CFR 390.401, 390.403, 390.405, and 390.407 (Identification of Vehicles) in lieu of obtaining a USDOT number.

When drivers, vehicles, and even motor carriers are operating under lease to other motor carriers, it is sometimes difficult for enforcement personnel to decide who is responsible for regulatory compliance. The CVSA and the CVIS Steering Committee, therefore, asked the FHWA to require the USDOT number of the party responsible for safety be listed on appropriate documents carried in each vehicle. The motor carrier (lessee) is always responsible for its employees under § 390.11. Petitioners suggested that the lease itself could be marked with the USDOT number, but marking the driver's record of duty status would give the same information with minimal changes in current procedures. Petitioners also recommended that the FHWA ask the ICC (which has been abolished pursuant to the ICCTA) to amend: (1) 49 CFR part 1058 (now 49 CFR part 390, subpart D) to require all motor carriers regulated by the ICC to obtain and display a USDOT number; and (2) part 1057 (now 49 CFR part 376, Lease and Interchange of Vehicles), to require the inclusion of the USDOT number on all lease documents.

Finally, the CVSA and the CVIS Steering Committee asked the FHWA to make the requirements of § 390.21 applicable in some way to all intrastate motor carriers.

The FHWA replied by letter on September 7, 1994, that it would not rule on the petition, but would simply allow the Office of Motor Carriers to proceed with this rulemaking, which began some months before the CVSA and the CVIS Steering Committee approached the agency. The FHWA believes this NPRM addresses the concerns expressed by the petitioners. The proposed rule would require all motor carriers subject to the FMCSRs, including those motor carriers formerly regulated by the ICC, to comply with the CMV marking requirements set forth in § 390.21. However, the FHWA has no direct authority to impose marking requirements on intrastate motor carriers. As stated previously, the agency will actively encourage the States to issue all intrastate motor carriers USDOT numbers which will serve as the single national identifier. The petitioners' request that the FHWA require the USDOT number of the party responsible for safety be listed on appropriate documents is not addressed in this rulemaking, because that issue will be the subject of a subsequent rulemaking.

Rulemaking Analyses and Notices

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

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

This document proposes to amend part 390 to require that all CMVs that are part of a motor carrier's existing fleet on the effective date of this rule and which are marked currently with MC numbers, also mark those vehicles with their assigned USDOT number and correct name and address (city and state) if necessary. Motor carriers would be given two years from the date this rule becomes effective to affix the USDOT number to the vehicles in their existing fleet. Motor carriers would have five years from the date this rule becomes effective to affix the address of the principal place of business, and the legal name or DBA name on both sides of their CMVs, as shown on the Motor Carrier Identification Report, Form MCS–150. Motor carriers would not be required to remove the MC numbers from vehicles in their existing fleet, but would be prohibited from displaying the MC numbers on new vehicles entering the fleet. All CMVs added to a motor carrier's fleet after the effective date of a final rule in this proceeding would be required to meet all the proposed marking requirements prior to the vehicles being put into service.

The FHWA has determined that this document is a significant regulatory action under Executive Order 12866 and is significant under the DOT's regulatory policies and procedures. A regulatory evaluation was prepared, and has been placed in the docket. This evaluation shows that this proposed rule would cost carriers approximately $10.7 million spread over a five-year phase-in period. The discounted cost, based on a 7 percent discounted rate, would be $9.2 million.

The benefits of this rule, although significant, are difficult to quantify. The primary benefit would be an improvement in the FHWA's ability to identify problem carriers and to take action to reduce the potential for harm from these carriers. The action taken would depend upon the severity of the problem. Dangerous or unsafe carriers, such as those with a consistently high out-of-service (OOS) rate or a greater than expected number of accidents, could be forced to discontinue operations. Carriers with less severe problems could be targeted for educational and other enforcement actions. While FHWA programs cannot entirely eliminate the threat from unsafe carriers, we believe that the combination of educational and

enforcement programs can reduce the negligent behavior that leads to many accidents. The extreme action of closing a carrier would eliminate the dangerous behavior of risky carriers entirely. Given the relatively modest cost of this proposal, only a small number of accidents would have to be deterred to make it cost beneficial. The DOT uses a threshold value per fatality deterred of approximately $2.7 million. Thus, the benefits of this proposal would exceed the costs if four fatalities were deterred over five years. Other combinations of crashes avoided (fatality, injury and property-damage-only) could also drive the benefits of this proposal above its costs, with the precise figures depending on the severity of the non-fatality accidents. The FHWA believes that this proposal could lead to the prevention of a small number of accidents, and thus could prove cost beneficial. The 1996 National Highway Traffic Safety Administration (NHTSA) data shows large truck crashes resulted in 130,000 injuries and 5,126 fatalities. The NHTSA statistics also show that 296,000 heavy trucks were involved in crashes resulting on property damage.

The FHWA programs not only improve the safety of carriers visited, they also serve as a deterrent to other companies. In order for this deterrent effect to work, other carriers must see that carriers which do not comply with the safety regulations are visited and, if necessary, subjected to enforcement actions. If unsafe carriers are not visited, there is little incentive for carriers to improve their safety standards. By enhancing the FHWA's ability to identify and visit unsafe carriers, this regulation will increase the deterrent effect of the FHWA's safety programs.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency has evaluated the effects of this rule on small entities. The economic impacts of this rule are discussed more fully in the regulatory flexibility analysis, a copy of which is in the docket. This rule would require all former ICC motor common and contract carriers to mark their CMVs with a ''USDOT Number'' and the city and State in which the motor carrier maintains its principal place of business.

The FHWA estimates that approximately 725,000 vehicles are operated by carriers regulated by the former ICC, and that 10% of these vehicles already display both ICC and DOT numbers and 50% have proper name and address identification. The cost to properly mark the remaining vehicles (those not yet in compliance) depends on the carrier's fleet size and what marking is required. A large carrier can apply a new DOT number for $4 per vehicle, while it would cost a small carrier $41 to change the DOT number, name, and address. This proposal would cost carriers approximately $10.7 million, which would be spread over the 5 year phase-in period. At a 7% discount rate, the discounted cost would be $9.2 million.

The benefits of this rule, while important, are difficult to quantify. The primary benefit will be that the FHWA will be better able to identify unsafe carriers and to take remedial action to make them safer. A secondary benefit is that the enhanced FHWA safety programs resulting from this rule will act as a deterrent to other carriers, by discouraging them from engaging in unsafe practices.

In order to minimize the cost of this rule, the FHWA is proposing a two-year phase-in period for marking of the USDOT number and a five-year phase-in period to meet all additional marking requirements. This should give carriers with small fleets (and others) ample time to comply without disrupting their operations.

The FHWA believes that the cost of marking each CMV will be modest. Therefore, under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The FHWA welcomes comments, information, and data on these potential impacts.

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 a final rule, if promulgated, would 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

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined at 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit records, or provide information to a third party. The FHWA has determined that this proposal contains new collection of information requirements for purposes of the PRA. The new information collection requirements in this proposal are a result of the enactment of the ICCTA which abolished the ICC, and transferred many of the duties and functions of the ICC to the Secretary. In response to this action, the FHWA is proposing to eliminate the marking requirements of the former ICC and require all motor carriers operating CMVs in interstate commerce, including those motor carriers formerly authorized by the ICC, to meet the vehicle marking requirements at 49 CFR 390.21. The FHWA believes it is important that CMVs be properly marked so that the public has an effective means to identify motor carriers operating in an unsafe manner. Such markings will assist State officials conducting roadside inspections and accident investigations in attributing important safety data to the correct motor carrier.

Prior to the ICC's elimination, carriers regulated by the former ICC had to display their MC number on both sides of their power units. The FHWA currently permits carriers regulated by the former ICC to display their MC number in lieu of the DOT number. This has led to difficulties in tracking carriers' performance, so that the FHWA is not able to identify problem carriers accurately and expeditiously.

This NPRM would require carriers regulated by the former ICC to display a USDOT number on all of their vehicles. Vehicles would also have to display the owner's legal name or DBA name and the city and State of their principal place of business as designated on their completed MCS–150. If a motor carrier is using a name for its business that is not one of the two names on its current MCS–150, the motor carrier would be required to submit an updated MCS–150, to the FHWA, within 90 days from the effective date of this rule indicating a change. Existing vehicles would be required to be marked with a USDOT number within 2 years of promulgation of the rule, and they would have 5 years to meet the name and address requirements. New vehicles would have to meet these requirements immediately after the effective date of a final rule.

The information collection requirements contained in Form MCS–150 have been approved by the OMB under the provisions of the PRA and assigned the control number of 2125–0544 which expires on January 31, 2000. Because this action contains new activities for motor carriers to file the MCS–150, the FHWA is required to resubmit this proposed collection of information, as revised, to OMB for review and approval. Accordingly, the FHWA seeks public comment on the proposed information collection requirement in this action.

Interested parties are invited to send comments regarding any aspect of these information collection requirements, including, but not limited to: (1) whether the collection of information is necessary for the performance of the functions of the FHWA, including whether the information has practical utility; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would 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 385

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

49 CFR Part 390

Highway safety, Highway and roads, Motor carriers, Motor vehicle identification and marking, Reporting and recordkeeping requirements.

Issued on: June 9, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, Code of Federal Regulations, chapter III, parts 385 and 390, as follows:

PART 385—SAFETY FITNESS PROCEDURES

1. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144 and 31502; 49 CFR 1.48.

§§ 385.21 and 385.23 [Removed]

2. Sections 385.21 and 385.23 are removed.

Appendix A to Part 385, Form MCS–150, Motor Carrier Identification Report [Redesignated]

3. In chapter III, appendix A to part 385, Form MCS–150, Motor Carrier Identification Report, is redesignated as appendix A to part 390, and appendix A to part 385 is reserved.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

General [Amended]

4. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, 31504; and sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); and 49 CFR 1.48.

§ 390.19 [Redesignated as § 390.17]

5. Section 390.19 is redesignated as § 390.17.

6. A new § 390.19 is added to subpart B to read as follows:

§ 390.19 Motor carrier identification report.

(a) All motor carriers conducting operations in interstate commerce shall file a Motor Carrier Identification Report, Form MCS–150, before commencing operations.

(b) The Motor Carrier Identification Report, Form MCS–150, is available from all FHWA region and division motor carrier offices nationwide and from the FHWA Office of Motor Carrier Information Analysis, 400 Seventh Street, SW., Washington, D.C. 20590.

(c) The completed Motor Carrier Identification Report, Form MCS–150, shall be filed with the FHWA, Office of Motor Carrier Information Analysis, 400 Seventh Street, SW., Washington, DC 20590.

(d) Only the legal name or a single trade name of the motor carrier operating the self-propelled commercial motor vehicle, as listed on the motor carrier identification report (Form MCS–150) and submitted in accordance with this section, may be used. If the business name currently being used by the motor carrier is not the legal name or a single trade name, a revised Form MCS–150 must be submitted within 90 days from the effective date of this rule to the FHWA indicating a change.

(e) A motor carrier that fails to file a Motor Carrier Identification Report, Form MCS–150, or furnishes misleading information or makes false statements upon Form MCS–150, is subject to the penalties prescribed in 49 U.S.C. 522(b).

(f) Upon receipt and processing of the Motor Carrier Identification Report, Form MCS–150, the FHWA will issue the motor carrier an identification number (USDOT number). The motor carrier must display the number on every self-propelled Commercial motor vehicle, as defined in § 390.5 of this part, along with the additional information required by § 390.21.

(Approved by the Office of Management and Budget under control number 2125–0544)

7. Section 390.21 is revised, to read as follows:

§ 390.21 Marking of commercial motor vehicles.

(a) *General.* Every self-propelled commercial motor vehicle, as defined in § 390.5 of this part, subject to subchapter B of this chapter must be marked as specified in paragraphs (b), (c), and (d) of this section.

(b) *Nature of marking.* The marking must display the following information:

(1) The legal name or a single trade name of the motor carrier operating the self-propelled commercial motor vehicle, as listed on the motor carrier identification report (Form MCS–150) and submitted in accordance with § 390.19.

(2) The city or community and State [name abbreviated], in which the carrier maintains its principal place of business.

(3) The motor carrier identification number issued by the FHWA, preceded by the letters ''USDOT'.

(4) If the name of any person other than the operating carrier appears on the commercial motor vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required by paragraphs (b)(1), (2), and (3) of this section, and be preceded by the words ''operated by.''

(5) Other identifying information may be displayed on the vehicle if it is not inconsistent with the information required by this paragraph.

(6) Each motor carrier shall meet the following requirements pertaining to its operation:

(i) All commercial motor vehicles that are part of a motor carrier's existing fleet on (*the effective date of the final rule*) and which are marked with an ICC MC number shall come into compliance with paragraph (b)(3) of this section within two years.

(ii) All commercial motor vehicles that are part of a motor carrier's existing fleet on (*the effective date of the final rule*) and which are not marked with the address of the principal place of business, and the legal name or DBA name on both sides of their CMVs, as shown on the Motor Carrier Identification Report, Form MCS–150, shall come into compliance with paragraphs (b)(1) and (2) of this section within five years.

(iii) All commercial motor vehicles added to a motor carrier's fleet on or after (*the effective date of the final rule*) shall meet the requirements of this section before being put into service.

(c) *Size, shape, location, and color of marking.* The marking must—

(1) Appear on both sides of the self-propelled commercial motor vehicle;

(2) Be in letters that contrast sharply in color with the background on which the letters are placed;

(3) Be readily legible, during daylight hours, from a distance of 50 feet while the commercial motor vehicle is stationary; and

(4) Be kept and maintained in a manner that retains the legibility required by paragraph (c)(3) of this section.

(d) *Construction and durability.* The marking may be painted on the commercial motor vehicle or may consist of a removable device, if that device meets the identification and legibility requirements of paragraph (c) of this section, and such marking shall be maintained as required by paragraph (c)(4) of this section.

(e) *Rented commercial motor vehicles.* A motor carrier operating a self-propelled commercial motor vehicle under a rental agreement having a term not in excess of 30 calendar days meets the requirements of this section if:

(1) The commercial motor vehicle is marked in accordance with the provisions of paragraphs (b) through (d) of this section; or

(2) The commercial motor vehicle is marked as set forth below:

(i) The name or trade name of the lessor is displayed in accordance with paragraphs (c) and (d) of this section;

(ii) The city or community and State (name abbreviated) in which the lessor maintains its principal place of business or in which the commercial motor vehicle is customarily based is displayed in accordance with paragraphs (c) and (d) of this section;

(iii) The lessor's identification number preceded by the letters ''USDOT'' is displayed in accordance with paragraphs (c) and (d) of this section; and

(iv) The rental agreement entered into by the lessor and the renting motor carrier conspicuously contains the following information:

(A) The name and complete physical address of the principal place of business of the renting motor carrier;

(B) The identification number issued the renting motor carrier by the Federal Highway Administration, preceded by the letters ''USDOT,'' if the motor carrier has been issued such a number. In lieu of the identification number required in this paragraph, the following may be shown in the rental agreement:

(*1*) Information which indicates whether the motor carrier is engaged in ''interstate'' or ''intrastate'' commerce; and

(*2*) Information which indicates whether the renting motor carrier is transporting hazardous materials in the rented commercial motor vehicle;

(C) The sentence: ''This lessor cooperates with all Federal, State, and local law enforcement officials nationwide to provide the identity of customers who operate this rental commercial motor vehicle''; and

(v) The rental agreement entered into by the lessor and the renting motor carrier is carried on the rental commercial motor vehicle during the full term of the rental agreement. See the leasing regulations at 49 CFR 376 (formerly 49 CFR 1057) for information that should be included in all leasing documents.

§§ 390.401, 390.403, 390.405, and 390.407 [Removed]

8. Part 390, subpart D, consisting of §§ 390.401, 390.403, 390.405, and 390.407, is removed in its entirety.

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