Mode ITB contained in U.S. Coast Guard Navigation and Vessel Inspection Circular 2–18, change 1, enclosure (1), an additional five percent to account for weather conditions. An allowance of ten percent shall be added for all other tug/barge units.

(f) *Determination of cargo carried.* The amount of cargo tonnage used to calculate the rate shall be based on the charter party terms. However, in no case shall less than 70 percent of deadweight be used for rate calculation purposes. In instances when separate parcels of preference cargo are booked or considered for booking on the same vessel, whether under a single program or different programs, a guideline rate for each parcel shall be provided based on the combined voyage.

(g) *Total rate.* The fair and reasonable rate shall be the total of the operating cost component, the capital cost component, the port and cargo handling cost component, and the broker's commission and overhead component divided by the amount of cargo to be carried as determined by paragraph (f) of this section, expressed as cost per ton.

§ 382.4 Waiver.

In special circumstances and for good cause shown, the procedures prescribed in this part may be waived in keeping with the circumstances of the present, so long as the procedures adopted are consistent with the Act and with the intent of these regulations.

By order of the Maritime Administrator.

Dated: November 22, 1989.

James E. Saari,

Secretary.

[FR Doc. 89–27846 Filed 11–28–89; 8:45 am]

BILLING CODE 4910–81–M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 570

[Acquisition Circular AC–89–4]

General Services Administration Acquisition Regulation; Revision of Appraisal Requirements Related to Acquisition of Leasehold Interests in Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5 (APD 2800.12A), is temporarily amended to revise sections 570.208–3 and 570.501 to implement, in part, recommendations of a Public Buildings Service Task Force which recently reviewed the requirements for obtaining appraisals of the fair rental value for acquisitions of leasehold interests in real property.

EFFECTIVE DATE: December 1, 1989.

Expiration Date: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy (VP), (202) 566–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

The rule was not published in the **Federal Register** for public comment because it relates to internal operating procedures of the agency and has no impact on lessors.

B. Background

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. This rule amends the GSAR to provide internal operating procedures. The Regulatory Flexibility Act does not apply to this rule because the proposed policy was not required to be published in the **Federal Register**. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Part 570

Government procurement.

1. The authority citation for 48 CFR part 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR part 570 is amended by the following Acquisition Circular:

General Services Administration Acquisition Regulation Acquisition Circular (AC–89–4)

To: All GSA contracting activities.

Subject: Revision of appraisal requirements related to acquisitions of leasehold interests in real property.

1. *Purpose.* This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR) Chapter 5 (APD 2800.12A) to revise the appraisal requirements related to acquisitions of leasehold interests in real property.

2. *Background.* The regulation is being revised to implement, in part, recommendations of a Public Buildings Service Task Force which recently reviewed the requirements for obtaining appraisals of the fair rental value for acquisitions of leasehold interests in real property.

3. *Effective date.* December 1, 1989.

4. *Expiration date.* This Acquisition Circular expires November 30, 1990, unless canceled earlier.

5. *Reference to regulation.* Sections 570.208–3 and 570.501 of the General Services Administration Acquisition Regulation.

6. *Explanation of changes.*

a. Section 570.208–3 is revised to read as follows:

570.208–3 Appraisal.

(a) Except as provided in paragraphs (b) and (c) below, the contracting officer shall obtain an appraisal of the fair rental value for acquisitions of leasehold interests in real property.

(b) An appraisal of the fair rental value is not required for:

(1) A lease of 2,000 or less net usable square feet if the gross annual rent does not exceed $50,000 and the aggregate rent during the term, including options, does not exceed $1 million; or

(2) A lease of 2,001 to 10,000 net usable square feet if the gross annual rent does not exceed $50,000 and the aggregate rent during the term, including options, does not exceed $2 million; or

(3) A lease of 2,001 to 10,000 net usable square feet if (i) the gross annual rent exceeds $50,000; (ii) the aggregate rent during the term, including options, does not exceed $2 million; and (iii) three or more offers are received that are responsive to the Government's requirements as outlined in the solicitation.

(4) A lease entered into pursuant to FAR 6.302–2 under situations of unusual and compelling urgency.

(c) Notwithstanding the exceptions in paragraph (b) above, the contracting officer shall obtain an appraisal when:

(1) The Government's requirement for space generates or requires new construction or an addition to an existing building;

(2) The space to be leased is for a special purpose facility (e.g., border stations, laboratories, motor pools, etc.);

(3) A sole source leasing action (including extensions or expansions) that will exceed $100,000 in aggregate rent is involved; or

(4) Market information is not adequate to make a determination that the proposed rental rate is fair and reasonable.

b. Section 570.501 is amended to revise paragraph (d) to read as follows:

570.501 Renewal options.

* * * * *

(d) *Reappraisal.* The original appraisal must be updated by memorandum or a new appraisal performed unless one of the exceptions to the appraisal requirement outlined at 570.208–3 applies.

Richard H. Hopf, III,
Associate Administrator for Acquisition Policy.

[FR Doc. 89-27919 Filed 11-28-89; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

RIN 2125-AC46

Minimum Levels of Financial Responsibility for Motor Carriers; Coverage Requirements for Certain Foreign Carriers; Mexico

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending part 387, Minimum Levels of Financial Responsibility for Motor Carriers, to allow Mexican motor carriers to satisfy the coverage requirements only during periods these motor carriers are actually operating their commercial motor vehicles in the United States. This action will complement the legislative requirement that all Mexican motor carriers obtain a Certificate of Registration (CR) from the Interstate Commerce Commission (ICC) before entering the United States and the ICC rule implementing the legislation and will facilitate the flow of trade and traffic between the two countries.

EFFECTIVE DATE: December 29, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Office of Motor Carrier Standards, HCS-10, (202) 366-2983; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (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., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The Motor Carrier Safety Act of 1984, Public Law 98-554, title II, 98 Stat. 2832 (1984 Act), required Mexican motor carriers performing operations that had been exempt from regulation by the Interstate Commerce Commission (ICC) to obtain a special certificate of registration (CR) annually in order to continue those operations. To obtain the new CR, affected motor carriers were required, among other things, to demonstrate that they maintained specified levels of insurance coverage. The ICC implemented the law by adopting regulations at 49 CFR part 1171, and a new OP-2 application form. See Certificates of Registration for Certain Foreign Carriers, 133 M.C.C. 511 (1985) (Certificates of Registration). Since the financial responsibility requirements of both the FHWA and the ICC required continuous coverage, no change in the FHWA's rules were necessary at that time.

Congress enacted changes to these requirements in section 9111 of the Truck and Bus Safety and Regulatory Reform Act of 1988, Public Law 100-690, 102 Stat. 4527, at 4531, (1988 Act). The 1988 Act changed the scope and duration of certificates of registration and authorized changes in insurance requirements.

1988 Act

The 1988 Act generally requires all Mexican motor carriers who wish operating commercial motor vehicles in the United States commercial zones (see 49 U.S.C. 10922(1)(2)(B)) to obtain a CR prior to such operation. Further, those motor carriers must demonstrate that they maintain specified levels of insurance coverage.

Section 9112 of the 1988 Act amended section 30 of the Motor Carrier Act of 1980 by redesignating subsection (g) as subsection (h) and inserting a new subsection (g) which reads as follows:

> (g) *Insurance for Foreign Motor Carriers.*—The Secretary of Transportation may issue regulations which permit foreign motor carriers and foreign motor private carriers (as such terms are defined under section 10530 of title 49, United States Code) providing transportation of property under a certificate of registration issued under such section to meet the minimum levels of financial responsibility established by or under this section only during periods in which such carriers are providing transportation of property in the United States.

ICC Action

In the matter of "Applications For Certificates of Registration For Certain Foreign Carriers" (Ex Parte No. 55 (Sub-No. 74A)), the ICC issued a decision and a companion Notice of Proposed Rule Making (NPRM) on June 9, 1989. The NPRM was subsequently published in the **Federal Register** on June 12, 1989 at 54 FR 24919. The ICC proposed modifications to its regulations and CR application procedure to conform to the new statutory requirements.

In its decision, the ICC stated:

> *Insurance.* The insurance requirement for CRs has changed in two respects. The first change pertains to the insurance coverage that must be held by foreign motor *private* carriers of non-hazardous commodities. The 1984 Act required these carriers to maintain insurance only at the level prescribed by the States in which they would operate. In some cases, most notably Texas, that amount was considerably lower than the amount required of interstate carriers generally. Under the 1988 Act, all carriers needing a CR to operate into the United States must demonstrate, as proof of minimum financial responsibility, that they maintain insurance coverage at least at the levels prescribed under section 30 of the Motor Carrier Act of 1980 (MCA), and under the laws of the States in which the carrier is operating, to the extent applicable. Thus, motor foreign private carriers of non-hazardous commodities will have to maintain the same amount of insurance as the for-hire foreign motor carriers (the same amount required of all U.S. interstate carriers).
>
> The second area of change affects the period of time insurance coverage must be in effect. Section 9112 of the 1988 Act permits DOT to amend its regulations to allow a carrier subject to the CR requirement to meet the minimum financial responsibility requirements *only* during periods these carriers are actually operating in the United States. In other words, DOT may adopt regulations providing for "trip" insurance, rather than the continuous 365-days-a-year coverage now required that has been a problem for many Mexican carriers.
>
> Section 9111(h) amends 49 U.S.C. 10927(a) to require *all* applicants for a CR to file with the Commission evidence approved by the Commission that they meet minimum levels of responsibility not less than those prescribed by DOT under section 30 of the MCA, and the laws of the States in which they operate. The Commission now requires this coverage to be continuous (and at the same level as the DOT level), with the result that, when a carrier's insurance coverage lapses, the carrier's authority is revoked. Unless DOT adopts regulations providing for trip insurance, our continuous coverage requirement will remain in effect. Should DOT adopt the trip insurance alternative, we will amend our rules accordingly.

Discussion

The 1988 Act still requires a foreign motor carrier to demonstrate that it is fit, willing, and able to provide the transportation to be authorized by the CR and to comply with the statute and the regulations of the ICC and the DOT. The phrase "fit, willing, and able" is defined as safety fitness and proof of minimum financial responsibility (insurance). It is clear that Congress wanted all Mexican motor carriers to have a CR before operating a commercial motor vehicle into this country. To facilitate the flow of trade and traffic between the two countries, the FHWA believes it is necessary to provide a means by which the Mexican motor carriers may obtain the required minimum financial responsibility coverage more easily and without compromising safety in any way. The FHWA will, therefore, allow Mexican motor carriers to obtain insurance coverage, in the required amount, for periods of 24 hours or longer, from insurers that meet the requirements of 49 CFR 387.11 or 387.35.

The ICC in its decision in Ex Parte No. 55 (Sub-No. 74A), Application for Certificates of Registration for Certain Foreign Carriers, served October 18, 1989, commented on its willingness to amend its rules requiring continuous insurance coverage and to adopt the DOT's rules covering trip insurance. Since the DOT will now recognize trip insurance, we would expect that once the ICC adopts our regulations, applicants will not be required to include proof of insurance as a condition to the issuance of a Certificate of Registration by the Commission.

A Mexican motor carrier issued a Certificate of Registration (CR) must show proof of insurance upon entering the United States by having available for inspection, in each of its vehicles, a copy of the CR attached to the required insurance endorsement (either Form MCS-90 or MCS-90B). In addition the carrier must present an insurance identification card, binder or similar document that specifies both the effective date and the expiration date of the trip insurance authorized by this rulemaking.

Regulatory Impact

The ICC is in the process of amending its regulations to implement the statutory requirements of the 1988 Act. It is anticipated that the new CR regulations will be effective January 1, 1990. If the orderly flow of traffic and goods between the United States and Mexico is to continue, this amendment to Part 387 must be in place by that date. The amendment imposes no additional burden on industry or the general public; it simply codifies a limited exception to the Federal Motor Carrier Safety Regulations which has already been authorized by Congress. The FHWA therefore finds good cause to promulgate the amendment as a final rule without prior notice. Notice and opportunity to comment are not required under the regulatory policies and procedures of the DOT because it is not anticipated that such action could result in the receipt of useful information in view of the ministerial nature of this rulemaking action which is expressly authorized by section 9112 of the 1988 Act.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rulemaking, although expressly authorized by a statutory provision, will be minimal. Therefore, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, of FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

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

A regulatory information 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.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

List of Subjects in 49 CFR Part 387

Highways and roads, Financial responsibility, Insurance, Motor carriers.

Issued on: November 21, 1989.

T.D. Larson,

Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, subtitle B, chapter III, part 387 as set forth below:

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

1. The authority citation for 49 CFR part 387 continues to read as follows:

Authority: 49 U.S.C. 10927 note; and 49 CFR 1.48.

2. Section 387.7(b) is amended by adding a new paragraph (b)(3) to read as follows:

§ 387.7 Financial responsibility required.

* * * * *

(b) * * *

(3) *Exception.* Mexican motor carriers may meet the minimum financial responsibility requirements of this subpart by obtaining insurance coverage, in the required amounts, for periods of 24 hours or longer, from insurers that meet the requirements of § 387.11 of this subpart. A Mexican motor carrier so insured must have available for inspection in each of its vehicles copies of the following documents:

(i) The Certificate of Registration;

(ii) The required insurance endorsement (Form MCS-90); and

(iii) An insurance identification card, binder, or other document issued by an authorized insurer which specifies both the effective date and the expiration date of the temporary insurance coverage authorized by this exception. Mexican motor carriers insured under this exception are also exempt from the notice of cancellation requirements stated on Form MCS-90.

* * * * *

3. Section 387.15 is amended by revising the introductory text preceding Illustration I to read as follows:

§ 387.15 Forms.

Endorsements for policies of insurance (Illustration I) and surety bonds (Illustration II) must be in the form prescribed by the FHWA and approved by the OMB. Endorsements to policies of insurance and surety bonds shall specify that coverage thereunder will remain in effect continuously until terminated, as required in § 387.7 of this subpart. The continuous coverage requirement does not apply to Mexican motor carriers insured under § 387.7(b)(3) of this subpart. The endorsement and surety bond shall be issued in the exact name of the motor carrier.

* * * * *

4. Section 387.31(b) is amended by adding a new paragraph (b)(3) to read as follows:

§ 387.31 Financial responsibility required.

* * * * *

(b) * * *

(3) *Exception.* Mexican motor carriers may meet the minimum financial responsibility requirements of this subpart by obtaining insurance coverage, in the required amounts, for periods of 24 hours or longer, from insurers that meet the requirements of § 387.35 of this subpart. A Mexican motor carrier so insured must have available for inspection in each of its vehicles copies of the following documents:

(i) The Certificate of Registration;

(ii) The required insurance endorsement (Form MCS-90B); and

(iii) An insurance identification card, binder, or other document issued by an authorized insurer which specifies both the effective date and the expiration date of the temporary insurance coverage authorized by this exception. Mexican motor carriers insured under this exception are also exempt from the notice of cancellation requirements stated on Form MCS-90B.

* * * * *

3. Section 387.39 is amended by revising the introductory text preceding the endorsement to read as follows:

§ 387.39 Forms.

Endorsements for policies of insurance (Illustration I) and surety bonds (Illustration II) must be in the form prescribed by the FHWA and approved by the OMB. Endorsements to policies of insurance and surety bonds shall specify that coverage thereunder will remain in effect continuously until terminated, as required in § 387.31 of this subpart. The continuous coverage requirement does not apply to Mexican motor carriers insured under § 387.31(b)(3) of this subpart. The endorsement and surety bond shall be issued in the exact name of the motor carrier.

* * * * *

[FR Doc. 89-27884 Filed 11-28-89; 8:45 am]

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