

Based on the information provided by DOE, we conclude that the Compliance Recertification Application is now complete. Again, this is the initial, administrative step that indicates DOE has provided information relevant to each applicable provision of the WIPP Compliance Criteria and in sufficient detail for us to proceed with a full technical evaluation of the adequacy of the application. In accordance with section 8(f)(2) of the amended Land Withdrawal Act, EPA will make its recertification decision within six months of this letter.

To the extent possible, the Agency began conducting a preliminary technical review of the application upon its submittal by DOE, and has provided the Department with relevant technical comments on an ongoing basis. EPA will continue to conduct its technical review of the Compliance Recertification Application as needed, and will convey further requests for additional information and analyses. The Agency will issue its compliance recertification decision, in accordance with 40 CFR part 194 and part 191, subparts B and C, after it has thoroughly evaluated the complete CRA and considered relevant public comments. The public comment period on our completeness determination will remain open for 45 days following the publication of this letter in the **Federal Register**.

Thank you for your cooperation during our review process. Should your staff have any questions regarding this request, they may contact Bonnie Gitlin at (202) 343-9290 or by e-mail at [gitlin.bonnie@epa.gov](mailto:gitlin.bonnie@epa.gov).

Sincerely,

Elizabeth A. Cotsworth,  
Director, Office of Radiation and Indoor Air.

Dated: October 13, 2005.

**William L. Wehrum,**

*Acting Assistant Administrator for Air and Radiation.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 387

[Docket No. FHWA-1997-2923]

RIN 2126-AA82 (Formerly RIN 2126-AA28)

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

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

**ACTION:** Notice of proposed rulemaking (NPRM); withdrawal.

**SUMMARY:** This notice is a withdrawal of a proposed rule under RIN 2126-AA28, which was inadvertently deleted from a prior agenda. The 1999 NPRM requested

comments on the financial security and collateral requirements of self-insured motor carriers and fees associated with self-insurance. Section 103 of the Interstate Commerce Commission Termination Act of 1995 (ICCTA) directed the Secretary to create a single, on-line Federal system to replace four existing DOT and former ICC systems—one of those being the financial responsibility information system. Because self-insurance is an aspect of carrier financial responsibility, the agency has decided to withdraw the 1999 NPRM and has proposed amendments to the self-insurance regulations within the context of the financial reporting requirements being proposed under a new Unified Registration System and announced in a separate NPRM.

**DATES:** The NPRM published on May 5, 1999, at 64 FR 24123 is withdrawn as of October 20, 2005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert F. Schultz, Jr., Driver and Carrier Operations Division, (202) 366-4001, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 104(h) of the Interstate Commerce Commission Termination Act of 1995 [Pub. L. 104-88, December 29, 1995, 109 Stat. 888] (ICCTA) directed the Secretary to continue to enforce the rules and regulations of the former ICC, which were in effect on July 1, 1995, governing qualifications for approval of a motor carrier as a self-insurer, until the Secretary deemed it in the public interest to revise those rules. Section 104(h) also specified that any revised rulemakings regarding self-insurance must provide for the continuing ability of motor carriers to obtain self-insurance authorizations, and the continued qualification of all carriers conducting self-insured operations pursuant to grants issued by the ICC or the Secretary. On September 23, 1997, the predecessor agency to the Federal Motor Carrier Safety Administration (FMCSA)—the Federal Highway Administration, Office of Motor Carriers—announced its intention to revise the self-insurance regulations in an advance notice of proposed rulemaking (ANPRM) (62 FR 49654). (The Federal Highway Administration, Office of Motor Carriers, became FMCSA on January 1, 2000, pursuant to

the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1748 (December 9, 1999).) The public was invited to comment on a proposal to examine the sufficiency of the existing requirements for self-insurance authorizations, as well as the need for additional fees for functions performed in addition to the processing of the initial application. More specifically, the agency announced that it was considering the need for fees to cover costs associated with processing multi-carrier applications and alterations to self-insurance authorizations, and for a monitoring fee to cover costs related to compliance responsibilities. The ANPRM solicited comments on the merits of continuing the self-insurance program and whether congressional action should be proposed to terminate the authorizations.

On May 5, 1999, the agency proposed procedural changes to the self-insurance process for for-hire motor carriers (66 FR 24123). Specifically, the agency would 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. An additional application fee would be assessed to cover carrier requests for modifications and alternations to self-insurance authorizations that require a reevaluation of the carrier's financial condition. Because the agency was able to process the basic first-time self-insurance applications for less than it was currently charging, the fee for processing the initial application would be reduced from \$4,200 to \$3,000 for an economic cost savings. Finally, the NPRM proposed implementing additional procedures necessary for motor carriers to establish billing accounts to pay all insurance-related fees required by the agency. The proposal included a schedule of filing fees and general instructions regarding payment.

Section 103 of ICCTA amended Section IV of title 49, United States Code by adding a new sec. 13908. Section 13908 directs the Secretary to issue regulations to replace four systems with a "single, on-line, Federal system." The financial responsibility information system under 49 U.S.C. 13906 is one of the four systems to be merged under the unified system. Because the issue of self-insurance falls under the umbrella of financial responsibility, the agency has decided to withdraw the 1999 NPRM and discuss its proposals within the context of the Unified Registration System (URS) NPRM (published in the

May 19, 2005, **Federal Register** at 70 FR 28989). Comments to the 1999 NPRM also are addressed in the URS NPRM.

The 1999 self-insurance NPRM published at 66 FR 24123 on May 5, 1999 is withdrawn, and DOT docket FMCSA-1997-2923 is closed. Members

of the public who are interested in the issues associated with motor carrier self-insurance are directed to the discussion and proposals relating to self-insurance published in the URS NPRM and DOT Docket Number FMCSA-1997-2349.

Issued on: October 11, 2005.

**Annette M. Sandberg,**  
*Administrator.*

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