

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Gilmer Bayou Tributary 2	Approximately 550 feet downstream of Waterwood Drive.	None	*234
			Approximately 3,000 feet upstream of Beebe Drive.	None	*270
		Gilmer Bayou Tributary 3	Approximately 1,750 feet downstream of Winburn Drive.	None	*244
			Approximately 2,250 feet upstream of Winburn Drive.	None	*272

Maps are available for inspection at 9381 Greenwood Road, Greenwood, Louisiana.

Send comments to The Honorable Owen D. Adams, Mayor, Town of Greenwood, P.O. Box 195, Greenwood, Louisiana 71033.

Oklahoma	Allen (Town) Pontotoc and Hughes Counties.	Town Branch	Approximately 500 feet downstream of Commerce Street.	None	*837
			Approximately 1,500 feet upstream of "B" Street.	None	*855

Maps are available for inspection at the Town of Allen Town Hall, Allen, Oklahoma.

Send comments to The Honorable Geneva Vinson, Mayor, Town of Allen, P.O. Box 402, Allen, Oklahoma 74825.

Oregon	Troutdale (City) Multnomah County.	Beaver Creek	At Jackson Park Road	*40	*40
			Just upstream of Troutdale Road	None	*183
			Approximately 200 feet downstream of Southeast Stark Street.	None	*242

Maps are available for inspection at the City of Troutdale Community Development Department, 104 Southeast Kibling Avenue, Troutdale, Oregon.

Send comments to The Honorable Paul Thalhofer, Mayor, City of Troutdale, 104 Southeast Kibling Avenue, Troutdale, Oregon 97060.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: December 18, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97-33931 Filed 12-29-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 376

[FHWA Docket No. FHWA-97-3050]

RIN 2125-AE26

Exemption of Commonly-Owned Motor Carriers From Equipment Identification and Receipt Requirements Applicable to Leased and Interchanged Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The FHWA is proposing to modify its regulations under 49 CFR part 376 governing the lease and interchange of motor vehicle equipment by exempting commonly-owned and controlled motor carriers from the vehicle identification and exchange of

receipt requirements of § 376.22 and the identification of equipment requirement of § 376.31. The FHWA routinely grants waivers from these requirements on an individual basis. This proposed action would eliminate the need for carriers to obtain individual waivers from the FHWA.

DATES: Comments to this NPRM should be received no later than March 2, 1998. Late comments will be considered to the extent practicable.

ADDRESSES: All signed, written comments should refer to the docket number appearing 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 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, Director, Office of Motor Carrier Information Analysis, (202) 366-4039, or Mr. Michael J. Falk, Motor Carrier Law Division, Office of the Chief Counsel, (202) 366-1384, Federal Highway Administration, Department of

Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The FHWA's regulations at 49 CFR part 376 govern motor carrier transportation provided in nonowned equipment. These regulations, originally promulgated by the Interstate Commerce Commission (ICC), were formerly codified at 49 CFR part 1057 until redesignated on October 21, 1996. The ICC Termination Act of 1995 (ICCTA), Public Law 104-88, 109 Stat. 803, transferred jurisdiction over motor carrier leasing and interchange of equipment practices to the Secretary of Transportation, who delegated this function to the FHWA under 49 CFR 1.48(h)(6).

Section 376.22 permits motor carriers of property, subject to registration under the ICCTA (authorized carriers), to trip lease equipment between themselves and private motor carriers under specified conditions. A trip lease is a contract for the use of nonowned vehicles for single point-to-point hauls. Section 376.22(a) requires that trip-leasing carriers comply with the identification of equipment

requirements of § 376.11(c). Under § 376.22(c)(2), the carriers must also have a written agreement placing control and responsibility for the equipment with the lessee during the lease period, as determined by an exchange of equipment receipts required under § 376.11(b). Section 376.22(c)(4) permits the use of a master lease under certain conditions to comply with the trip-leasing requirements.

Vehicle Identification Requirements

Under § 376.11(c)(1), an authorized carrier acquiring the use of nonowned equipment must identify the equipment in accordance with the marking of commercial vehicle regulations at 49 CFR part 390, subpart D (formerly 49 CFR part 1058). These regulations require that commercial vehicles display the name or trade name of the motor carrier operating the vehicle, as well as its principal place of business and motor carrier identification number.

Equipment Receipt Requirements

Under § 376.11(b), at the time the authorized carrier acquires the use of nonowned equipment, it must give the owner of the equipment a receipt specifically identifying the equipment and the date and time of day possession is transferred. A receipt must also be given when the authorized carrier returns possession of the equipment to the owner, if required by the lease agreement.

Purpose of These Requirements

The leasing regulations are intended to ensure that motor carriers providing transportation in vehicles owned and operated by others assume responsibility for, and control the transportation service in, equipment they do not own to the same extent as if they owned the vehicles themselves. This not only affixes carrier responsibility and liability for the protection of shippers and the general public, but also facilitates enforcement of applicable regulatory requirements. The equipment identification and exchange of receipt requirements in §§ 376.22(a) and (c) are designed to monitor control and responsibility for the operation of leased vehicles.

Waivers for Commonly-Owned Carriers

Over the years, motor carriers under joint ownership or control have requested individual waivers from the equipment identification and exchange of receipt requirements of §§ 376.22(a) and (c), when exchanging equipment among themselves, on the grounds that compliance is unnecessary and unduly

burdensome as long as the carriers remain under joint ownership and control. The FHWA, as did the ICC before it, has granted these waivers on the condition that the carriers continue to comply with other applicable provisions of § 376.22 and that contractual relationships between owner-operators and the individual carriers will be governed by §§ 376.11 and 376.12. The purpose of this notice of proposed rulemaking is to establish a blanket exemption from the vehicle identification and receipt requirements of § 376.22 for jointly-owned or controlled carriers, thus eliminating the need for individual waiver petitions. Such carriers would still be required to comply with the other applicable provisions of § 376.22, as well as §§ 376.11 and 376.12.

The FHWA has granted individual waivers from the § 376.22 identification of vehicles and exchange of receipt requirements because these requirements serve little public purpose when vehicles are being exchanged between commonly-controlled companies which are jointly operated with respect to safety program administration and equipment utilization. Vehicle ownership and assignment information can be readily made available from computerized dispatch records and operational logs, obviating the need for strict identification, placarding and receipt issuance requirements. Furthermore, commonly-controlled carriers seeking waivers claim that the elimination of these requirements would allow them to operate more efficiently and economically by fostering improved equipment use and eliminating a significant and unproductive paperwork and placarding burden.

The proposed action is consistent with the National Transportation Policy because it will promote efficiency in the motor carrier transportation system and encourage more productive use of equipment and energy resources. See 49 U.S.C. 13101(a)(2)(B) and (E). It would also allow FHWA to conserve its own resources by eliminating the need to grant waivers on an individual basis.

Interchange Identification Requirements

For purposes of consistency between the leasing regulations in subpart B of part 376 and the interchange regulations in subpart D of that part, we are also proposing to modify § 376.31(d) with respect to the interchange of equipment between commonly-controlled authorized carriers. Interchange of equipment occurs when one motor common carrier receives equipment

from another in order to continue a through movement. Section 376.31(d)(1) requires that the carrier giving up possession of the equipment remove all placarding identification showing it as the operating entity, and that the carrier receiving possession mark the equipment with its own name, place of business and identification number, in accordance with 49 CFR part 390, subpart D. New paragraph (d)(3) would eliminate this requirement for commonly-controlled carriers interchanging equipment among themselves. It would also eliminate, for these carriers, the § 376.31(d)(2) requirement that each vehicle carry a detailed interchange statement.

The FHWA solicits public comment on the proposed modifications of §§ 376.22 and 376.31(d), which are set forth below.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. 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 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 determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely proposes to exempt a small number of transportation entities from complying with identification and documentation requirements which FHWA has routinely waived upon request. Neither the individual nor cumulative impact of this action would be significant.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the

effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action would not have a significant economic impact on a substantial number of small entities. The FHWA receives less than ten petitions per year seeking waiver of vehicle identification and receipt issuance requirements. The proposed rule, while beneficial, would not have a significant economic impact.

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 action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* It is specifically designed to eliminate certain existing paperwork requirements for commonly-controlled motor carriers leasing or interchanging

vehicles among themselves. Thus, this action is consistent with goals of the Paperwork Reduction Act.

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 number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 376

Highways and roads, Motor carriers—equipment leasing, Reporting and recordkeeping requirements.

Issued: December 18, 1997.

Kenneth R. Wykle,

Federal Highway Administrator.

In consideration of the foregoing and under the authority of section 103 of the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803, and 49 CFR 1.48, the FHWA proposes to amend title 49, chapter III, as follows:

1. The authority citation for part 376 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14102; 49 CFR 1.48.

2. Section 376.22 is amended by adding new paragraph (d) to read as follows:

§ 376.22 Exemption for private carrier leasing and leasing between authorized carriers.

* * * * *

(d) Authorized and private carriers under common ownership and control may lease equipment to each other under this section without complying with the requirements of paragraph (a) of this section pertaining to identification of equipment, and the requirements of paragraphs (c)(2) and (c)(4) of this section pertaining to equipment receipts. The leasing of equipment between such carriers will be subject to all other requirements of this section.

3. Section 376.31 is amended by adding paragraph (d)(3) to read as follows:

§ 376.31 Interchange of equipment.

* * * * *

(d)(3) Authorized carriers under common ownership and control may interchange equipment with each other without complying with the requirements of paragraph (d)(1) of this section pertaining to removal of identification from equipment, and the requirements of paragraph (d)(2) of this section pertaining to the identification of equipment.

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