418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Texas, is amended by adding DTV channel *9 and removing DTV channel *8 at Amarillo.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–13649 Filed 6–9–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 387

[Docket No. FMCSA–2006–26262]

RIN 2126–AB05

Minimum Levels of Financial Responsibility for Motor Carriers

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

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

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) proposes amendments to its regulations concerning minimum levels of financial responsibility for motor carriers to allow Canada-domiciled carriers to maintain, as acceptable evidence of financial responsibility, insurance policies issued by Canadian insurance companies legally authorized to issue such policies in the Canadian Province or Territory where the motor carrier has its principal place of business. Currently, Canada-domiciled motor carriers operating in the U.S. must maintain as evidence of financial responsibility, insurance policies issued by U.S. insurance companies. The proposed change would not affect the required minimum levels of financial responsibility that carriers must now maintain under the regulations. This action is in response to a petition for rulemaking filed by the Government of Canada.

DATES: Public comments are requested on all aspects of this proposed rule by August 10, 2009.

ADDRESSES: You may submit comments identified by Docket No. FMCSA–2006–26262 and/or RIN 2126–AB05, by any of the following methods—Internet, facsimile, regular mail, or hand-deliver.

- *Federal eRulemaking Portal:* Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov.* The FDMS is the preferred method for submitting comments, and we urge you to use it. In the *Comment or Submission* section, type Docket ID Number ''FMCSA–2006–26262'', select ''Go'', and then click on ''Send a Comment or Submission.'' You will receive a tracking number when you submit a comment.
- *Mail, Courier, or Hand-Deliver:* U.S. Department of Transportation, Docket Operations (M–30), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.
- *Docket:* Comments and material received from the public, as well as background information and documents mentioned in this preamble, are part of docket FMCSA–2006–26262, and are available for inspection and copying on the Internet at *http://www.regulations.gov.* You may also view and copy documents at the U.S. Department of Transportation's, Docket Operations Unit, West Building Ground Floor, Room W12–140, 1200 New Jersey Ave SE., Washington, DC.

Privacy Act: All comments will be posted without change including any personal information provided to the Federal Docket Management System (FDMS) at *http://www.regulations.gov.* Anyone can search the electronic form of all our dockets in FDMS, by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). The DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19476), and can be viewed at *http://docketsinfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations. Telephone (202) 366–4325 or e-mail *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Legal Basis for the Rulemaking

Section 30 of the Motor Carrier Act of 1980 (1980 Act) (Pub. L. 96–296, 94 Stat. 793, 820, July 1, 1980) authorized the Secretary of Transportation (Secretary) to prescribe regulations establishing minimum levels of financial responsibility covering public liability, property damage, and environmental restoration for the transportation of property for compensation by motor vehicles in interstate or foreign commerce. Section 30(c) of the 1980 Act provided that motor carrier financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary: (1) Insurance; (2) a guarantee; (3) a surety bond issued by a bonding company authorized to do business in the United States; and (4) qualification as a self-insurer (49 U.S.C. 31139(f)(1)). Section 30(c) required the Secretary to establish, by regulation, methods and procedures to assure compliance with these requirements.

In June 1981, the Secretary issued regulations implementing section 30, which are codified at 49 CFR part 387, subpart A. The Form MCS–90

endorsement for motor carriers transporting property is entitled ''Endorsement for Motor Carrier Policies of Insurance for Public Liability Under Sections 29 and 30 of the Motor Carrier Act of 1980.'' (See 49 CFR 387.15.)

Section 18 of the Bus Regulatory Reform Act of 1982 (Bus Act) (Pub. L. 97–261, 96 Stat. 1102, 1120, September 20, 1982) directed the Secretary to prescribe regulations establishing minimum levels of financial responsibility covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in interstate or foreign commerce. Section 18(d) of the Bus Act provided that such motor carrier financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary: (1) Insurance, including high self-retention; (2) a guarantee; and (3) a surety bond issued by a bonding company authorized to do business in the United States (49 U.S.C. 31138(c)(1)). Section 18(d) required the Secretary to establish, by regulation, methods and procedures to assure compliance with these requirements.

In November 1983, the Secretary issued regulations implementing section 18 of the Bus Act. The regulations implementing that law are found at 49 CFR part 387, subpart B. The Form MCS–90B endorsement for for-hire motor carriers of passengers is entitled ''Endorsement for Motor Carrier Policies of Insurance for Public Liability Under Section 18 of the Bus Regulatory Reform Act of 1982.'' (See 49 CFR 387.39.)

This notice of proposed rulemaking (NPRM) is based on the Secretary's authority to establish methods and procedures to ensure that certain motor carriers of property and passengers maintain the minimum financial responsibility liability coverage mandated by 49 U.S.C. 31138(c)(1) and 31139(f)(1). This authority was delegated to FMCSA by the Secretary pursuant to 49 CFR 1.73(f).

Background

The Government of Canada (Canada) Petition for Rulemaking

On September 29, 2005, Canada submitted a petition for rulemaking to amend 49 CFR part 387. Canada specifically requested that FMCSA amend § 387.11, which provides that a policy of insurance or surety bond does not satisfy FMCSA's financial responsibility requirements unless the insurer or surety furnishing the policy or bond is—

(a) Legally authorized to issue such policies or bonds in each State in which the motor carrier operates; or

(b) Legally authorized to issue such policies or bonds in the State in which the motor carrier has its principal place of business or domicile, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates; or

(c) Legally authorized to issue such policies or bonds in any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

Canada asked FMCSA to consider amending this provision to permit insurance companies, licensed either provincially or Federally in Canada, to write motor vehicle liability insurance policies for Canada-domiciled motor carriers of property operating in the U.S. and to issue the Form MCS–90 endorsement for public liability to meet FMCSA's financial responsibility requirements. Form MCS–90 is the endorsement for motor carrier policies of insurance for public liability, which for-hire motor carriers of property must maintain at their principal place of business. Motor carriers domiciled in Canada and Mexico must also carry a copy of the Form MCS–90 on board each vehicle operated in the United States.

At present, the combined effects of §§ 387.7 and 387.11 require Canada-domiciled motor carriers of property operating in the United States to either: (1) Obtain insurance through a Canada-licensed insurer, which enters into a ''fronting agreement'' with a U.S.-licensed insurer, whereby the U.S. insurer permits the Canadian insurer to sign the Form MCS–90 as its agent, and the entire risk is contractually ''reinsured'' back to the Canadian insurer by the U.S. insurer; or (2) obtain two separate insurance policies, one valid in Canada written by a Canadian insurer and one valid in the United States written by a U.S. insurer. Canada indicates that the first option is by far the most common. It suggests that the result of these requirements is an additional administrative burden, inconvenience, and cost not faced by U.S.-domiciled motor carriers operating into Canada. FMCSA estimates there are approximately 9,000 Canada-domiciled for-hire motor carriers of property and passengers and freight forwarders actively operating commercial motor vehicles (CMVs) in the United States that are subject to the current financial responsibility rules.

Canada requested that FMCSA amend 49 CFR part 387 so that an insurance policy issued by a Canadian insurance company satisfies the financial responsibility requirements. The insurance company must be legally authorized to issue such a policy in the Province or Territory of Canada in which the Canadian motor carrier has its principal place of business or domicile. The company must also be willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

Canada's proposal, if adopted through this rulemaking, would eliminate the need for Canadian insurance companies to link with a U.S. insurance company to legally insure Canadian motor carriers of property that operate in the United States. It should be noted that although Canada's petition only seeks to amend 49 CFR 387.11, its proposal necessarily implicates other sections of part 387, which would need to be changed for the sake of consistency. Section 387.35 applies the § 387.11 requirements to motor passenger carriers, which must obtain a Form MCS–90B endorsement. Furthermore, § 387.315 imposes the same requirements on motor carriers who must file evidence of insurance with FMCSA, and § 387.409 applies similar financial responsibility requirements on freight forwarders. Therefore, FMCSA proposes to amend those sections for consistency.

Canada explained that, for many years, it has recognized and accepted non-commercial motor vehicle liability policies issued in either country as acceptable proof of financial responsibility. All jurisdictions in Canada accept the signing and filing of a Power of Attorney and Undertaking (PAU) by U.S.-licensed insurers as valid proof of financial responsibility for U.S.-domiciled motor vehicles of all categories. In essence, the PAU provides that the U.S. insurer will comply with and meet the minimum coverage and policy limits required in any Canadian jurisdiction in which a crash involving its insured occurs. The PAU is similar to FMCSA's requirements under §§ 387.11 and 387.15 (MCS–90 Form).

The Security and Prosperity Partnership of North America

The Security and Prosperity Partnership of North America (SPP) is an effort to increase security and enhance prosperity among the Untied States, Canada, and Mexico through greater cooperation and information sharing. The President of the United States, the Prime Minister of Canada, and the President of Mexico (the Leaders) announced this initiative on March 23, 2005. Among other things, the initiative reflects the goal of improving the availability and affordability of insurance coverage for motor carriers engaged in cross-border commerce in North America.

On June 27, 2005, a Report to the Leaders was signed on behalf of the United States by the Secretaries of Homeland Security, Commerce, and State. See *http://www.spp.gov,* and click on link to ''2005 Report to Leaders.'' One of the Prosperity Priorities of the SPP is to ''Seek ways to improve the availability and affordability of insurance coverage for carriers engaged in cross-border commerce in North America.'' At *http://www.spp-psp.gc.ca/progress/prosperity_08_06-en.aspx,* the following key milestone is stated for this initiative:

> ''U.S. and Canada to work towards possible amendment of the U.S. Federal Motor Carrier Safety Administration Regulation to allow Canadian insurers to directly sign the MCS–90 form concerning endorsement for motor carrier policies of insurance for public liability: by June 2006.''

Canada advocates a change to part 387 to assist in meeting the stated goals of the SPP. Achieving a seamless motor vehicle liability insurance policy between Canada and the United States for motor carriers would contribute to enhancing the competitive and efficient position of North American businesses. FMCSA recognized the importance of considering these requests and granted the petition by initiating a rulemaking proceeding to solicit public comment on Canada's proposal.

Advance Notice of Proposed Rulemaking

On December 15, 2006 (71 FR 75433), FMCSA published an advance notice of proposed rulemaking (ANPRM) in response to Canada's petition for rulemaking to amend 49 CFR part 387. The ANPRM also requested public comment on a petition for rulemaking from the Property Casualty Insurers of America (PCI) which requested that FMCSA make revisions to the Forms MCS–90 and MCS–90B endorsements to clarify that language in the endorsements imposing liability for negligence ''on any route or in any territory authorized to be served by the insured or elsewhere'' does not include liability connected with transportation within Mexico.

The PCI petition was the result of a Federal District Court decision holding that the Form MCS–90B endorsement applied to a crash that occurred in Mexico. As a result, PCI requested that the endorsement be amended by inserting the phrase: ''Within the United States of America, its territories, possessions, Puerto Rico, and Canada'' following the words ''or elsewhere.''

However, in September 2007, the U.S. Court of Appeals for the Fifth Circuit issued a decision, *Lincoln General Ins. Co.* v. *De La Luz Garcia,* 501 F.3d 436 (5th Cir., 2007), effectively overturning the District Court decision that had prompted PCI to file its petition. Because the Court of Appeals decision essentially provided PCI with the relief requested in its petition, and because the issues raised in that petition are different from the issues raised in Canada's petition, FMCSA has decided that a regulatory change need not be considered at this time, and this issue will not be addressed further in this NPRM.

Discussion of the Comments Received on the ANPRM

FMCSA received comments on the ANPRM from the following parties: The American Insurance Association (AIA), the Insurance Bureau of Canada (IBC), the Canadian Trucking Alliance (CTA), the Holland America Line, Inc. (HAL), the National Association of Professional Surplus Lines Offices, Ltd. (NAPSLO), and the Public Utilities Commission of Ohio (PUCO). The Canadian Government and the Property Casualty Insurers of America submitted supplemental comments.

Generally, the commenters agree with the amendments requested by Canada. For example, AIA believes that ''* * * granting [Canada's] petition is in the public interest.'' HAL believes that whatever rules FMCSA adopts the Agency should apply the rules to both motor carriers of property and motor carriers of passengers.

One commenter opposed the granting of the petition. NAPSLO expressed concerns that changes to the regulations may expose U.S. carriers and motorists to ''a potential increase in risk in connection with foreign carriers.''

Specific Concerns Raised by Commenters

NAPSLO argues there is already a process for Canadian companies to do business in the U.S. NAPSLO states:

> The [National Association of Insurance Commissioners (NAIC)] has adopted a streamlined application process for foreign companies in its International Insurance Department [(IID)]. Through the application process, the Canadian companies would become approved surplus lines insurers, and thus, meet the existing criteria. By obtaining approval from the NAIC's IID, a Canadian carrier would become approved as a surplus lines writer in the vast majority of states. The reason for this process is to streamline the approval process. A Canadian insurer could become approved in the vast majority of states through a single application process. The other states have an established process for alien insurance companies desiring to operate in their states. Thus, there is a long established process for alien companies intending to operate in the U.S.

Although not opposed to the Canada petition for rulemaking, PUCO believes FMCSA should ensure that policies of insurance maintained by foreign motor carriers operating in the United States are as ''reliable and comprehensive'' as those currently required. PUCO emphasizes that the enforceability of the rules must be seamless and efficient.

FMCSA Response:

FMCSA acknowledges the commenters' concerns but does not, however, believe maintaining the status quo is appropriate or necessary to ensure financial protection for U.S. citizens in the event of a crash involving a Canada-domiciled motor carrier.

Currently, Canada-domiciled carriers have two options for satisfying the U.S. insurance requirements. The first is to obtain two separate insurance policies, one with a Canadian insurance company for its operations in Canada and the other with a U.S. insurance company for its operations in the U.S. The second option is to obtain insurance from a Canadian insurer under contract with a U.S. insurer through a fronting arrangement. Both options result in the imposition of costs on Canada-based motor carriers that are significantly greater than the costs for U.S.-based carriers operating in Canada. FMCSA estimates that this rulemaking would result in discounted net benefits of approximately $273 million over a 10-year period, or $30,000 for each Canada-based motor carrier that conducts operations in the U.S. during this period. As noted above, there are approximately 9,000 such carriers.

While the approach that NAPSLO supports may provide a solution, it would require each Canadian insurance

company to essentially seek authority from State insurance commissioners to issue policies in the U.S. Based on the information provided by NAPSLO it is not clear that this approach would necessarily provide the needed coverage for Canada-domiciled carriers in each State in which the insured Canadian carrier intends to operate in the U.S. if the NAIC's IID is not recognized in certain States.

FMCSA believes the proposed rulemaking is needed to provide reciprocity between the U.S. and Canada and that it is inappropriate to impose on Canada-based carriers and insurance companies requirements that Canada does not impose on U.S.-based motor carriers and insurance companies.

Under the current fronting arrangements between U.S. and Canadian insurance companies, Canadian insurance companies are under contract to pay claims against public liability policies that include the Form MCS–90/MCS–90B endorsement executed by a U.S. insurance company. The fact that the fronting arrangements exist is an indication that there are sufficient legal processes in place to assure U.S. insurance companies that their Canadian counterparts could be forced to honor their contractual obligations in the event that the Canadian insurance company attempted to avoid paying a claim for a crash that occurred in the U.S. The continued use of these fronting arrangements over the years also suggests that Canadian insurers typically honor their contractual obligations without the need for legal actions—it is unlikely that U.S. insurance companies would continue to sign such arrangements if the Canadian insurance companies they were dealing with exhibited a reluctance to honor their commitments. Therefore, FMCSA believes the experience U.S. insurance companies have had with Canadian insurance companies through fronting arrangements serves as proof Canadian insurers have the financial ability and the corporate values to honor their commitments without the need for legal action. The only apparent need for the current fronting arrangements is to fulfill FMCSA's insurance requirements, not because of problems obtaining payments from Canadian insurance companies.

With regard to PUCO's comments, FMCSA believes that the regulatory change sought by Canada would not compromise the financial protection provided under the current insurance regime. The legal processes between the U.S. and Canada that support the fronting arrangements, combined with the demonstrated willingness of Canadian insurance companies to honor their financial obligations, suggests there will continue to be financial protection for U.S. citizens who file claims following a crash involving a commercial motor vehicle operated by a Canada-domiciled motor carrier insured by a Canadian insurance company.

Discussion of Response to Specific Questions Included in the ANPRM

FMCSA specifically requested that comments provide responses to questions and issues raised in the ANPRM. The questions and the responsive comments are set out below.

Question 1:

- What has been the experience in collecting damage claims filed with Canadian insurance companies for incidents that occur in the United States, particularly as it relates to motorists or other claimants for crashes involving passenger cars driven in the United States but insured by Canadian firms?

Comments (IBC and Canada): Canada and IBC indicated that U.S. citizens and businesses that file claims against the drivers of passenger cars insured by Canadian insurers receive the same quality of claims service and settlement as from U.S. insurance companies. Both stated that they were not aware of any cases where legitimate damage claims involving passenger cars driven in the U.S. and insured by Canadian insurance companies were not paid to U.S. citizens or businesses.

FMCSA Response:

The comments suggest that claims involving Canada-domiciled carriers would be honored by Canadian insurers. Although the commenters discuss current experiences involving passenger cars operating under a substantially lower threshold of financial responsibility than motor carriers are required to maintain, the full cooperation of Canadian insurers in these matters is a good indicator that the insurers would provide comparable levels of cooperation in the event claims are filed by U.S. citizens.

In addition, the on-going practice of fronting arrangements between U.S. insurers and Canadian insurers provides a strong indicator that Canadian insurance companies are fully capable of providing the required levels of financial responsibility for Canada-domiciled motor carriers operating in the U.S. It is unlikely that U.S. insurers would take financial risks of entering into a fronting agreement with Canadian insurers without some assurances that the Canadian insurance companies are willing and able to pay claims.

Question 2:

- How does Canada's consumer protection system ensure that claims filed by U.S. citizens and businesses receive proper consideration?

Comments (IBC): The IBC stated that legal and regulatory insurance systems in Canada require that a Canadian insurance company that issues an automobile insurance policy respond to a claim arising from an incident in Canada or in the U.S. The Canadian provincial and territorial Superintendents of Insurance are responsible under their respective insurance laws for the market conduct of all insurers licensed in their jurisdictions. Market conduct includes the fair and prompt settlement of claims.

FMCSA Response:

FMCSA agrees with IBC that Canada's requirements for automobile insurance provide protection for U.S. citizens in the event of an automobile crash. Based on the information available to FMCSA and included in the docket referenced at the beginning of this notice, there is no indication that Canadian insurance companies would be non-responsive to claims filed by U.S. citizens or businesses against Canadian-domiciled carriers. As indicated above, Canadian insurance companies currently honor their commitments under their fronting agreements with U.S. insurance companies and there is no reason to conclude that these companies would be less likely to honor claims filed directly with them.

FMCSA is engaged in an on-going process with its Canadian counterparts to identify opportunities for establishing reciprocity arrangements, whenever practicable, concerning certain motor carrier requirements. Based upon the information currently available and the comments to the ANPRM, the Agency has preliminarily determined that the Canadian processes for providing consumer protection in the event of a crash between a commercial vehicle and a passenger car are comparable to what is provided in the U.S. We believe U.S. entities would have their claims processed in a timely manner in the event they obtain a final judgment against a Canadian-insured, Canada-domiciled motor carrier in a U.S. court.

Question 3:

- Would it be more difficult to execute a U.S. court judgment against a Canadian motor carrier insured by a Canadian insurance company, as compared to a Canadian motor carrier insured by a U.S. insurance company?

Comments (IBC): The IBC believes it would not be more difficult because Canadian insurers, as a normal business

practice, pay U.S. judgments against their policyholders. In insuring Canadian motor carriers which operate in the U.S., Canadian insurance companies know the insurance product they are selling to these motor carriers includes a promise to pay U.S. judgments. IBC is not aware of any instance where a Canadian-licensed insurer has refused or failed to pay a judgment against its Canadian policy holder to a U.S. citizen, to the full extent of its legal obligation.

FMCSA Response:

FMCSA agrees with IBC that Canadian insurers, as a normal business practice, pay U.S. judgments against their policy holders. The Agency is not aware of any instances in which a U.S. insurance company, operating in a fronting arrangement with a Canadian insurance company, has experienced problems with a Canadian partner fulfilling its financial obligations to satisfy judgments against a Canada-domiciled motor carrier. The extensive experience that U.S. insurers have had in working with Canadian insurers provides significant assurance that in the event of a judgment against a Canada-domiciled carrier, the Canadian insurer will pay, up to the applicable limits on the Form MCS–90 or MCS–90B, any legitimate claims filed by U.S. citizens or businesses.

Question 4:

- Under Canadian law, would Canadian insurance companies be legally bound to make payment to U.S. claimants based on a final judgment issued by a U.S. court?

Comments (IBC): The IBC stated that a Canadian insurance company would be legally bound to make payments to U.S. claimants based on a final judgment issued by a U.S. court. It points out that legislation pertaining to automobile insurance in each of Canada's provinces and territories provides that coverage under automobile insurance policies is provided when the vehicle is in Canada or the United States or while being transported between those countries. It is therefore clear from this wording of this legislation that it is intended that the liability coverage under a Canadian automobile insurance policy will cover crashes in the U.S.

FMCSA Response:

FMCSA believes that fronting arrangements between U.S. and Canadian insurance companies would not exist unless there were sufficient legal processes to ensure that U.S. insurance companies could take action to receive payment from any Canadian company that refused to honor its contractual obligations. While the specific legal processes to ensure that Canadian insurance companies honor their contractual obligations may differ from the legal processes that would be used by a U.S. entity filing a claim directly against a Canadian insurance policy, the track record of Canadian insurance companies does not suggest that U.S. entities would need to resort to legal actions to have their claims honored. Canadian insurance companies have been working cooperatively with U.S. insurance companies for years and there is no reason to believe that the Canadian companies would adopt new practices to avoid paying claims if this rulemaking proceeds.

Question 5:

- If Canadian insurance companies were allowed to write coverage for Canadian motor carriers operating in the United States, would there likely be economic impacts associated with a potential increase in unpaid claims?

Comments (IBC): The only change FMCSA is proposing would be the name of the insurance company that signs the endorsement for Form MCS–90 or Form MCS–90B. There would be no change in the payment of claims because there would be no change in which insurance company has the contractual obligation to pay claims. IBC does not foresee an increase in unpaid claims, and it does not anticipate adverse economic impacts on U.S. entities.

FMCSA Response:

FMCSA does not believe there would be an increased likelihood of unpaid claims if Canada-domiciled carriers operating in the U.S. are allowed to operate under insurance policies issued by Canadian companies. The Forms MCS–90 and MCS–90B require that the insurer pay any final judgment against the motor carrier. Therefore, if there is a court decision against a Canada-domiciled motor carrier concerning a commercial motor vehicle crash, the Canadian insurer must pay the claim. Canadian insurance companies, through fronting arrangements described above, are currently fulfilling the financial obligations associated with satisfying U.S. judgments against Canada-domiciled carriers. There is no reason to believe that they would be financially unable to, or refuse to fulfill their financial obligations if they execute the Forms MCS–90 or MCS–90B as the insurer rather than as an agent of a U.S. insurer.

Question 6:

- Although the petition proposes amending only § 387.11, is there any reason why the rulemaking should not be extended to include insurance policies issued to Canadian passenger carriers and freight forwarders?

Comments (CTA, HAL, AIA, and IBC): Generally, the commenters support including Canadian passenger carriers and freight forwarders in the proposed changes.

FMCSA Response:

FMCSA agrees with commenters that the rulemaking should not be limited to insurance for motor carriers of property. Accordingly, this proposal would permit Canada-domiciled motor carriers of passengers and freight forwarders to operate in the U.S. under insurance policies issued by Canadian insurance companies.

The Proposed Rule

FMCSA proposes amendments to 49 CFR 387.11 to allow Canadian insurance companies, licensed in the province or territory where the motor carrier has its principal place of business, to issue proof of financial responsibility for Canada-domiciled motor carriers by executing the Forms MCS–90 and MCS–90B directly rather than as the agent of a U.S. insurer. FMCSA also proposes amendments to other sections of part 387 to ensure consistency within part 387. These include § 387.35, which applies the requirements of § 387.11 to motor passenger carriers; § 387.315, which imposes the same requirements on motor carriers that must file evidence of insurance with FMCSA; and 49 CFR 387.409, which applies these requirements to freight forwarders.

In order to implement this proposal, FMCSA proposes to revise §§ 387.11 and 387.35 to add a new paragraph (d), that would allow an insurance policy to satisfy the financial responsibility requirements of the subpart if the insurer is:

- Legally authorized to issue a policy of insurance in the Province or Territory of Canada in which a motor carrier has its principal place of business or domicile, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law brought in any State in which the motor carrier operates.

The Agency would also revise § 387.315 to add a new paragraph (d) that would allow a certificate of insurance to be accepted by FMCSA if issued by an insurance company that is authorized to issue insurance policies:

- In the Province or Territory of Canada in which a motor carrier has its principal place of business or domicile, and will designate in writing upon request by FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law brought in any State in which the carrier operates.

The Agency would also revise § 387.409 to add a new paragraph (d) that would allow a certificate of insurance to be accepted by FMCSA if issued by an insurance company that is authorized to issue insurance policies:

(d) In the Province or Territory of Canada in which a freight forwarder has its principal place of business or domicile, and will designate in writing upon request by FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law brought in any State in which the freight forwarder operates.

The conforming amendments to part 387 would enable Canadian insurers to execute the Forms MCS–90 and MCS–90B endorsements, and allow Canadian insurers to file certificates of insurance required under part 387, to protect the public and to ensure that anyone injured or killed by a Canada-domiciled motor carrier is compensated after a claim is filed. In the event that the matter requires court action to determine fault in the crash, the payment would typically be made after a settlement agreement is reached, or a U.S. claimant receives a final judgment issued by a U.S. court against the Canada-domiciled motor carrier. Filing of the FMCSA insurance forms and endorsements by Canadian insurers would subject Canada-domiciled motor carriers to all applicable Federal laws and regulations that require minimum levels of financial responsibility to cover public liability and property damage for the transportation by commercial motor vehicle in the U.S.

Methods and Databases (Technologies) for Ensuring the Validity of Canadian Insurers

Before an insurance company can submit certificates of insurance or other evidence of financial security to the FMCSA, it must first be assigned a filer account number. The account number is also used to bill a service fee to the insurance companies ($10 fee for each filing).

For example, procedures for assigning a Canadian insurance company an account filer number would include the following:

- The Canadian insurance company must submit a request to FMCSA in writing to open a filer account. The letter must include the home office address of the insurance company. FMCSA will also need a billing address if the address is different from the home office address, the name of a contact person within that insurance company, their telephone number, e-mail address and fax number.
- The Canadian insurance company must provide a copy of its license to write insurance policies.
- FMCSA staff will verify with the Canadian Government point of contact whether the Canadian insurance company is licensed or admitted in Canada to write insurance policies for Canadian motor carriers.

After all the above information is received, FMCSA will then assign the Canadian insurance company a filer account number.

If the proposed rule is implemented, Canadian insurers would sign the Forms MCS–90 and MCS–90B, including any other form or documentation required under part 387 to be filed on behalf of motor carriers, thereby satisfying the minimum public liability requirements of FMCSA. Canada's Department of Finance has indicated that Canadian insurers are all monitored for financial solvency by Provincial or Federal insurance regulators, and the regulator can provide FMCSA with a short statement confirming that the Canadian insurer seeking to sign the MCS–90 form, or any other security authorized by part 387, is supervised for financial solvency. A Canadian agency would: (a) Respond to verification requests on demand when an insurer new to FMCSA seeks to sign the MCS–90 form and all other MCS and BMC insurance forms required by part 387; (b) on an annual basis, verify a list of Canadian insurers that have signed the MCS–90 form and all other MCS and BMC forms required by part 387 to ensure that the list is still accurate; and (c) respond to re-verification requests on demand if there were a specific concern (for example, a news article on the financial health of a particular company). Canadian insurers would also assume responsibility for insurance filings on behalf of their clients as a result of this rulemaking.

Approaches Considered

After reviewing the comments received in response to the ANPRM, FMCSA considered two options: (1) Issue a proposed rule to amend part 387 to allow Canadian insurance companies to issue insurance policies for Canada-domiciled carriers and freight forwarders, and (2) maintain the status quo which would entail withdrawal of the ANPRM. The Agency chose the option of publishing an NPRM amending part 387, including changes to §§ 387.11, 387.35, 387.315, and 387.409 to ensure consistency throughout part 387 for the insurance requirements for motor carriers of property and passengers and freight forwarders. Based on the comments received, there was no discernible adverse impact on U.S. entities that would likely result from proceeding with an NPRM, as requested by the Canadian government in its petition.

Costs and Benefits of the Proposed Rule

Regulatory Impact Analyses

In examining the economic impact of this rulemaking, FMCSA considered two options: (1) The Agency's proposed amendments to 49 CFR Part 387 that would permit Canadian insurance companies to issue insurance policies for Canada-domiciled carriers and freight forwarders operating CMVs in the U.S., and (2) the Agency's alternative of maintaining the status quo which would entail withdrawal of the ANPRM. Under the first option, FMCSA decided to include within the scope of the proposal active Canada-domiciled for-hire motor carriers of property and passengers and freight forwarders. It is assumed that a small proportion of Canada-domiciled motor carriers and freight forwarders may elect to continue with the status quo, at least in the short term, and choose not to seek direct insurance representation by a Canadian insurance company for their U.S. operations. Those carriers and freight forwarders are assumed to be a negligible percentage of the total affected entities and are thus not considered in the analysis.

The RIA examines the direct costs of implementing the proposed rule in terms of administrative costs incurred by the FMCSA and in forgone revenue by U.S. insurance companies (of which there are approximately five) currently representing Canadian motor carriers and freight forwarders. In addition, the RIA examines the functional impact of rule compliance under this option from the perspectives of the FMCSA's Enforcement and Compliance Division and the Canadian motor carriers.

Under the second option, the same population of Canadian motor carriers is considered. The RIA examines the direct costs of maintaining the status quo, which consist mainly of compliance costs currently incurred by Canadian motor carriers. The RIA specifically analyzes the comparative cost burden currently being borne by Canadian motor carriers versus that currently being borne by U.S. motor carriers. FMCSA will continue to seek information to refine its estimates of the cost burden. FMCSA specifically requests comments from U.S. insurers on these cost issues. Any additional information will be included in the docket referenced at the beginning of this notice.

FMCSA notes that cost information used in its analyses was obtained from the Agency's data base, Canada Finance, the American Insurance Association, the Property Casualty Insurers Association of America and publicly available information.

The RIA also examines the benefits of this rulemaking which are largely the relief of a disproportional cost and administrative burden and inconvenience currently being borne by Canada-domiciled motor carriers in comparison to their U.S. counterparts. Other benefits include the elimination of trade barriers (i.e., disproportionate cost burden) in accordance with the goals of the North American Free Trade Agreement (NAFTA), and increased cooperation among the U.S. and Canada pursuant to the Security and Prosperity Partnership (SPP) of North America.

This analysis is conducted under the assumption that there are approximately 9,000 [1] active Canada-domiciled motor carriers and freight forwarders conducting CMV operations in the U.S. The FMCSA Licensing and Insurance (L&I) system provides up-to-date information about authorized for-hire motor carriers who must register with FMCSA under 49 U.S.C. §§ 13901 and 13902. The L&I database was the primary database utilized in the analysis because it does not include overlapping carrier data. Under MCMIS, a motor carrier may have multiple carrier classifications and thus may be counted more than once. The Agency did, however, use MCMIS as a source to obtain the number of Canada-domiciled for-hire carriers exempt from registration under 49 U.S.C. 13901 and 13902 since they are not found in the L&I database.

The RIA finds that the proposed rulemaking yields a positive discounted net benefit of $273 million estimated over a 10-year period. This amounts to approximately $30,000 per carrier over that period. These quantified net benefits accrue to the Canada-domiciled for-hire motor carriers and freight forwarders which are impacted by this rulemaking, of which there are approximately 9,000 actively operating CMVs in the U.S. The essential impact of this rulemaking would be the relief of a disproportional cost burden which, in turn, is the expected net benefit of approximately $273 million over a 10-year period.

[1] Licensing and Insurance database, at *http://li-public.fmcsa.dot.gov*, and the Motor Carrier Management Information System (MCMIS) database, at *http://MCMIS.fmcsa.dot.gov*, as of February 20, 2009.

Rulemaking Analyses and Notices

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

For purposes of Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), FMCSA has made a preliminary determination that this action is not a significant regulatory action within the meaning of that Executive Order from an economic standpoint or otherwise. While the Agency estimates a positive discounted net benefit of approximately $273 million over a 10-year period, the net benefits are for Canada-domiciled motor carriers. Because the benefits pertain to foreign entities, they are not considered for the purposes of determining whether the rulemaking is significant under Executive Order 12866. Therefore, the Agency has determined this action is not an economically significant regulatory action under section 3(f), Regulatory Planning and Review, because it would not have an annual effect on the United States' economy of $100 million.

FMCSA acknowledges that U.S. insurance companies would experience a reduction in revenues because they would no longer receive payments for the fronting arrangements with Canadian insurance companies. However, the Agency believes that a significant portion of the payments they received from Canadian insurance companies were used to offset the legal and administrative costs the U.S. companies incurred to participate in the fronting arrangement. Although there may be some degree of financial loss to U.S. companies, the amount of the loss is expected to be small, as evidenced by the fact that, except for NAPSLO, the U.S. insurance industry has not expressed opposition to Canada's petition. FMCSA requests comments on this issue.

A full regulatory evaluation has been prepared in support of this rulemaking. The regulatory evaluation is included in the docket referenced at the beginning of this notice.

Regulatory Flexibility Act

FMCSA has considered whether this rulemaking action would have a significant impact under the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement and Fairness Act (RFA) (Pub. L. 104–121), and has preliminarily determined this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (64 FR 43255, August 10, 1999). E.O. 13132 does not require a Federalism assessment under any circumstances. We have determined that this proposed action would not affect the States' ability to discharge traditional State government functions.

International Trade and Investment

The Trade Agreement Act of 1979 (19 U.S.C. 2531–2533) prohibits Federal agencies from establishing standards that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives such as safety are not considered unnecessary obstacles. In developing rules, the Trade Act requires agencies to consider international standards and where appropriate, that they be the basis of U.S. standards. FMCSA has assessed the potential effect of the proposed rule and determined that that the expected economic impact of this rule is minimal and should not affect trade opportunities for U.S. firms doing business in Canada or for Canadian firms doing business in the United States.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4; 2 U.S.C. 1532) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. Any agency promulgating a final rule likely to result in a Federal mandate requiring expenditures by a State, local, or tribal government, or by the private sector of $136.1 million or more in any one year, must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. FMCSA has preliminarily determined that this proposal would not have an impact of $136.1 million or more in any one year.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), a Federal agency must obtain approval from the Office of Management and Budget for each collection of information it conducts, sponsors, or requires through regulations. FMCSA has determined this action would not have an impact on OMB Control Number 2126–0008, ''Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property,'' an information

collection burden which is currently approved at 4,529 annual burden hours per year through March 31, 2010.

National Environmental Policy Act

The Agency analyzed this proposed rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations Implementing NEPA (40 CFR parts 1500 to 1508), and FMCSA's NEPA Implementation Order 5610.1 (issued on March 1, 2004, 69 FR 9680). This action is categorically excluded (CE) from further environmental documentation under Appendix 2.6.v. of Order 5610.1, which contain categorical exclusions for regulations prescribing the minimum levels of financial responsibility required to be maintained by motor carriers operating in interstate, foreign, or intrastate commerce. In addition, FMCSA believes the proposed action would not involve extraordinary circumstances that would affect the quality of the environment. Thus, the proposed action does not require an environmental assessment or an environmental impact statement.

We have also analyzed this proposed rule under the Clean Air Act (CAA), as amended, section 176(c), (42 U.S.C. 7401 *et seq.*) and implementing regulations promulgated by the Environmental Protection Agency. Approval of this proposed action is exempt from the CAA's general conformity requirement since it involves policy development and civil enforcement activities, such as investigations, inspections, examinations, and the training of law enforcement personnel. See 40 CFR 93.153(c)(2). It would not result in any emissions increase or result in emissions that are above the general conformity rule's *de minimis* emission threshold levels, because the action merely relates to insurance coverage across international borders between the U.S. and Canada.

Environmental Justice

FMCSA has considered the environmental effects of this proposed rule in accordance with Executive Order 12898 and DOT Order 5610.2 on addressing Environmental Justice for Minority Populations and Low-Income Populations, published April 15, 1997 (62 FR 18377) and has preliminarily determined that there are no environmental justice issues associated with this proposed rule nor any collective environmental impact resulting from its promulgation. Environmental justice issues would be raised if there were ''disproportionate'' and ''high and adverse impact'' on minority or low-income populations. None of the regulatory alternatives considered in this proposed rulemaking would result in high and adverse environmental impacts.

Executive Order 12630 (Taking of Private Property)

The Agency has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. We do not anticipate that this proposed action would effect a taking of private property or otherwise have implications under Executive Order 12630.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this proposed rule.

Executive Order 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has preliminarily determined that it is not a significant energy action within the meaning of section 4(b) of the Executive Order and would not likely have a significant adverse effect on the supply, distribution, or use of energy. Therefore, the Agency would not anticipate that a Statement of Energy Effects would be required.

Executive Order 12988 (Civil Justice Reform)

FMCSA has preliminarily determined that this proposed rulemaking meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Privacy Impact Assessment

FMCSA conducted a privacy impact assessment of this proposed rule as required by section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005, Public Law 108–447, div. H, 118 Stat. 2809, 3268, (December 8, 2004) [set out as a note to 5 U.S.C. 552a]. The assessment considers any impacts of the proposed rule on the privacy of information in an identifiable form and related matters. FMCSA has preliminarily determined this proposal contains no privacy impacts.

Executive Order 13045 (Protection of Children)

FMCSA has analyzed this proposal under Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks.'' The Agency has preliminarily determined that this proposed rulemaking would not cause any environmental risk to health or safety that may disproportionately affect children.

Executive Order 13175 (Tribal Consultation)

FMCSA has analyzed this action under Executive Order 13175, dated November 6, 2000, and has preliminarily determined that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial compliance costs on Indian tribal governments; and would not preempt tribal law. Therefore, a tribal summary impact statement would not be required.

List of Subjects in 49 CFR Part 387

Buses, Freight, Freight forwarders, Hazardous materials transportation, Highway safety, Insurance, Intergovernmental relations, Motor carriers, Motor vehicle safety, Moving of household goods, Penalties, Reporting and recordkeeping requirements, Surety bonds.

For the reasons discussed above, FMCSA proposes to amend title 49, Code of Federal Regulations, chapter III, subchapter B, as set forth below:

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

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

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 31139; and 49 CFR 1.73.

2. In § 387.11:

a. In paragraph (c), in the last line, remove the period at the end of the sentence, and add in its place ''; or''; and

b. Add paragraph (d) to read as follows:

§ 387.11 State authority and designation of agent.

* * * * *

(d) A Canadian insurance company legally authorized to issue a policy of insurance in the Province or Territory of Canada in which a Canadian motor carrier has its principal place of

business or domicile, and that is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law brought in any State in which the motor carrier operates.

3. In § 387.35:

a. In paragraph (c), in the last line, remove the period at the end of the sentence, and add in its place ''; or''; and

b. Add paragraph (d) to read as follows:

§ 387.35 State authority and designation of agent.

* * * * *

(d) A Canadian insurance company legally authorized to issue a policy of insurance in the Province or Territory of Canada in which a Canadian motor carrier has its principal place of business or domicile, and that is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law brought in any State in which the motor carrier operates.

4. In § 387.315:

a. In paragraph (c), in the last line, remove the period at the end of the sentence, and add in its place ''; or''; and

b. Add paragraph (d) to read as follows:

§ 387.315 Insurance and surety companies.

* * * * *

(d) In the Province or Territory of Canada in which a Canadian motor carrier has its principal place of business or domicile, and will designate in writing upon request by FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law brought in any State in which the carrier operates.

5. In § 387.409:

a. In paragraph (c), in the last line, remove the period at the end of the sentence, and add in its place ''; or''; and

b. Add paragraph (d) to read as follows:

§ 387.409 Insurance and surety companies.

* * * * *

(d) In the Province or Territory of Canada in which a Canadian freight forwarder has its principal place of business or domicile, and will designate in writing upon request by FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law brought in any State in which the freight forwarder operates.

Issued on: June 4, 2009.

Rose A. McMurray,

Acting Deputy Administrator.

[FR Doc. E9–13581 Filed 6–9–09; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA 2009–0085]

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 2007 including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 2007. The preliminary theft data indicate that the vehicle theft rate for CY/MY 2007 vehicles (1.86 thefts per thousand vehicles) decreased by 10.6 percent from the theft rate for CY/MY 2006 vehicles (2.08 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before August 10, 2009.

ADDRESSES: You may submit comments identified by Docket No. NHTSA–2009–0085 by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 2007 the most recent calendar year for which data are available.

In calculating the 2007 theft rates, NHTSA followed the same procedures it has used since publication of the 1983/1984 theft rate data (50 FR 46669, November 12, 1985). The 2007 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2007 vehicles of that line stolen during calendar year 2007 by the total number of vehicles in that line manufactured for MY 2007, as reported to the Environmental Protection Agency