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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

#### **49 CFR Part 387**

**[Docket No. FMCSA-2014-0211]**

**RIN 2126-AB74**

### **Financial Responsibility for Motor Carriers, Freight Forwarders, and Brokers**

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

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** FMCSA announces that it is considering a rulemaking that would increase the minimum levels of financial responsibility for motor carriers, including liability coverage for bodily injury or property damage; establish financial responsibility requirements for passenger carrier brokers; implement financial responsibility requirements for brokers and freight forwarders, and revise existing rules concerning self-insurance and trip insurance. FMCSA seeks public comments on these topics.

**DATES:** You must submit comments on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA-2014-0211 using any of the following methods:

- Federal eRulemaking Portal: <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., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 202-493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Sean P. Gallagher, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001 or by telephone at 202-366-3740.

#### **SUPPLEMENTARY INFORMATION:**

### **I. PUBLIC PARTICIPATION AND REQUEST FOR COMMENTS**

#### **A. Submitting Comments**

If you submit a comment, please include the docket number for this ANPRM (FMCSA-2014-0211), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA-2014-0211, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the

following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may draft a notice of proposed rulemaking based on your comments and other information and analysis.

#### **B. Viewing Comments and Documents**

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA-2014-0211, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

#### **C. Privacy Act**

In accordance with 5 USC 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

## **II. BACKGROUND AND LEGAL BASIS FOR THE RULEMAKING**

### **Minimum Levels of Financial Responsibility**

Under 49 U.S.C. 31138 and 31139, FMCSA is authorized to establish minimum levels of financial responsibility at or above the minimum levels set by Congress. FMCSA's regulations (49 CFR part 387 subparts A and B) currently require for-hire property and passenger motor carriers and all motor carriers transporting hazardous materials to maintain financial responsibility at the statutory minimums set forth in 49 U.S.C. 31138 and 31139. Part 387, Subpart C, requires for-hire motor carriers subject to the Agency's jurisdiction under 49 U.S.C. 13501 to file evidence of financial responsibility with FMCSA.<sup>1</sup> FMCSA seeks public comment on whether to exercise its discretion to increase the minimum levels of financial responsibility, and, if so, to what levels. Through a separate rulemaking initiative,<sup>2</sup> FMCSA intends to propose extending those minimum financial responsibility requirements to all private motor carriers of property and passengers.

The Federal Government has long required motor carriers, brokers, and freight forwarders to maintain certain levels of financial responsibility, either through insurance, a bond, or other financial security, as a means to protect the public in the event of a crash and to protect carriers and shippers against dishonest and financially unstable brokers. The Motor Carrier Act of 1935 first directed the establishment of Federal rules and regulations for interstate motor carrier operations that govern "security for the protection of the public." Congress provided the Interstate Commerce Commission (ICC), one of FMCSA's predecessor agencies, the authority to

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<sup>1</sup> 49 CFR 387.303(b)(1)(i) requires \$300,000 in financial responsibility as opposed to \$750,000 where the entire fleet consists of vehicles under 10,001 pounds Gross Vehicle Weight Rating (GVWR).

<sup>2</sup>MAP-21 Enhancements and Other Updates to the Unified Registration System.

issue these regulations. Over time, both Congress and the agencies have taken numerous actions to address the levels of financial responsibility.

### **Motor Carrier Act of 1935**

The first major legislative directive regarding financial responsibility levels for the motor carrier industry was the Motor Carrier Act of 1935, Pub. L. 74-255. In section 215, Congress directed that “no [common carrier] certificate or [contract carrier] permit shall be issued to a motor carrier or remain in force, unless such carrier complies with such reasonable rules and regulations as the [Interstate Commerce] Commission shall prescribe governing security for the protection of the public.” The ICC also decided that a person seeking authority to operate as a broker must furnish “a bond or other security approved by the Commission, in an amount of not less than \$5,000, and in such form as will ensure the financial responsibility of such broker and the supplying of authorized transportation in accordance with the contracts, agreements, or arrangements therefore.”<sup>3</sup>

### **Motor Carrier Act of 1980**

The next significant legislation regarding financial responsibility was the Motor Carrier Act of 1980 (MCA), Pub. L. 96-296, which largely deregulated the motor carrier industry. Section 30 of the MCA set minimum levels of financial responsibility for property-carrying motor carriers. The MCA also gave the Secretary of Transportation (Secretary) the authority to reduce those levels, by regulation, for a “phase-in period” of up to 2 years, provided the reduced levels would not adversely affect public safety and would prevent a serious disruption in transportation service.

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<sup>3</sup> 1 FR 1156 at 1161 (1936).

The MCA set the minimum financial responsibility level at \$750,000 for the transportation of property, \$5 million for the transportation of certain hazardous materials, and \$1 million for the transportation of hazardous materials consisting of “any material, oil, substance or waste” that is not subject to the \$5 million limit.<sup>4</sup> Pursuant to the MCA, DOT opted to phase in implementation of the new minimum financial responsibility levels. DOT set those levels at \$500,000 for property (non-hazardous), \$1,000,000 for certain hazardous materials, and \$500,000 for other hazardous materials not subject to the \$1,000,000 limit.<sup>5</sup> Pursuant to Section 406(a) of the Surface Transportation Assistance Act of 1982, Pub. L. 97-424, DOT extended the phase-in period through the end of 1984. 49 FR 27288. As of January 1, 1985, DOT set the levels at the lowest levels authorized by the MCA, and the levels have remained unchanged since.

Setting minimum levels of financial responsibility was intended to address two concerns, first, to protect the ability of the public to recover damages in the event of crashes and, second, to ease concerns that competition in the largely deregulated industry could result in cost-cutting at the expense of minimum safety standards.<sup>6</sup>

### **Bus Regulatory Reform Act of 1982**

The Bus Regulatory Reform Act of 1982 (the Bus Act), Pub. L. 97-261, was signed September 20, 1982. Section 18 established minimum levels of financial responsibility covering public liability and property damage for the transportation of passengers by for-hire motor vehicles in interstate or foreign commerce.

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<sup>4</sup> These amounts are codified at 49 U.S.C. 31139(b),(d).

<sup>5</sup> 46 FR 30974, 30983 (June 11, 1981).

<sup>6</sup> H.R. Rep. No. 96-1069, at 43 (1980).

Like the MCA, the Bus Act provided the Secretary with the authority to temporarily lower the required financial responsibility amount below the statutory minimum for up to a 2-year “phase-in period,” provided the reduced levels would not adversely affect public safety and would prevent a serious disruption in transportation service.

The Bus Act set minimum financial responsibility levels at \$5 million for carriers operating vehicles with a seating capacity of 16 or more passengers and \$1,500,000 for carriers operating vehicles with a seating capacity of 15 or fewer.<sup>7</sup> In 1983 the Secretary opted to phase in the new insurance requirements. The “phase-in” levels were \$2,500,000 for carriers operating vehicles with a seating capacity of 16 or more passengers and \$750,000 for carriers operating vehicles with a seating capacity of 15 or fewer. Those levels were in place for 2 years before being raised to \$5 million and \$1,500,000, respectively. These were the lowest limits the statute authorized DOT to require.<sup>8</sup> The statutory minimums went into effect on November 19, 1985 (48 FR 52684) and have remained unchanged.

The current minimum levels of financial responsibility are summarized below in Table 1.

**Table 1 – Current Minimum Levels of Financial Responsibility for Bodily Injury/Property Damage by Type of Regulated Carrier**

<b>Regulated Carrier Category</b>	<b>Minimum Level</b>
For Hire Interstate General Freight Carriers <10,001 pounds GVWR	\$300,000
For-Hire Interstate General Freight Carriers	\$750,000

<sup>7</sup> These amounts are codified at 49 U.S.C. 31138(b).

<sup>8</sup> Section 18 of the Bus Act; see also 48 FR 52679, 52682 (quoting DOT conclusion that “the lowest levels allowed in the Act are sufficient.”).

<b>Regulated Carrier Category</b>	<b>Minimum Level</b>
For-Hire and Private Carriers of Oil and Certain Other Types of Hazardous Materials	\$1,000,000
For-Hire and Private Carriers of Other Hazardous Materials	\$5,000,000
For-Hire Passenger Carriers (Seating Capacity ≤15)	\$1,500,000
For-Hire Passenger Carriers (Seating Capacity >15)	\$5,000,000

### **Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21)**

On July 6, 2012, the President signed MAP-21<sup>9</sup> into law. Section 32104 of MAP-21 directed the Secretary to issue a report on the appropriateness of (1) the current minimum financial responsibility requirements for the transportation of passengers and property; and (2) the current bond and insurance requirements for freight forwarders and brokers, including for brokers for motor carriers of passengers. FMCSA issued this report in April 2014.<sup>10</sup> Section 32104 also directed the Secretary to determine the appropriateness of these requirements every 4 years and to issue similar reports to Congress. In its April 2014 report, FMCSA concluded that the current financial responsibility minimums are inadequate to cover the costs of some crashes.

### **Research on Minimum Levels of Financial Responsibility**

FMCSA's report to Congress included findings from a study, Financial Responsibility Requirements for Commercial Motor Vehicles,<sup>11</sup> conducted by DOT's John A. Volpe Transportation Systems Center (Volpe), assessing the adequacy and effectiveness of those levels

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<sup>9</sup> Pub. L. 112-141.

<sup>10</sup> <http://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Financial-Responsibility-Requirements-Report-Enclosure-FINAL-April%202014.pdf>

<sup>11</sup> <http://www.fmcsa.dot.gov/research-and-analysis/research/study-financial-responsibility-requirements-commercial-motor-vehicles>

in meeting carrier liabilities. The Volpe study examined the following in connection with potentially increasing FMCSA's financial responsibility requirements:

- higher compensation for crash victims,
- transferring more of the costs of crashes back to motor carriers,
- reductions in truck- and bus-involved crashes,
- costs imposed on CMV operators and the insurance industry, and
- other relevant considerations.

While the study's findings provided preliminary support for increasing the current levels of financial responsibility, the Agency is seeking additional information. Highlights from the study include:

- *Catastrophic motor carrier-related crashes are relatively rare.* Based on limited available claims data, it was estimated that catastrophic crashes, which are defined as crashes resulting in claims for injury, death, and/or property damages that exceed the current minimum levels of financial responsibility, comprised less than one percent of all CMV crashes (about 3,300 of 330,000 total crashes per year).
- *Costs for severe and critical injury crashes can easily exceed \$1 million.* The analysis reveals that two categories of injury crash (severe and critical) yield damages of more than \$1 million.
- *Insurance premiums have declined in real terms since the 1980s.* The analysis revealed the stability of insurance rates over the last three decades. Insurance rates for the same level of coverage (e.g., \$750,000 or \$1 million) have declined slightly on average in nominal terms, hovering around \$5,000 per power unit (truck or bus).

Additionally, inflation-adjusted premium rates have also declined over the same period.

- *Current insurance limits do not adequately cover catastrophic crashes, mainly because of increased medical costs.* Since 1985, when the current minimum levels were established, the real value of insurance coverage has decreased. Because medical costs have increased significantly, insurance coverage at the statutory minimum levels does not cover as much of the cost of a catastrophic crash as it once did. From 1985 to 2013, the medical consumer price index (CPI) increased at a significantly higher rate than the core CPI (4.9 percent annually for medical care, compared to 2.8 percent for core). Thus, had minimum financial responsibility levels kept pace with core CPI or medical CPI, by 2013, these minimum levels would have been higher.
- *Comprehensive data on premiums that motor carriers would incur to meet higher coverage limits were not readily available.* The insurance underwriting process is specific to individual motor carriers and there are no uniform pricing practices (other than limits that might be imposed by State regulations). The insurance industry is protective of its pricing data and underwriting processes for competitive reasons. Accordingly, available information was largely generic and limited. Motor carrier risk managers were also reluctant to disclose their insurance premium expenses. The study, therefore, did not assess the regulatory cost of potential insurance premium increases.

FMCSA's report to Congress also included research findings from other organizations which have studied the appropriateness of the current minimum insurance levels, such as the

Pacific Institute for Research and Evaluation (PIRE), the Alliance for Driver Safety and Security, Inc. (Trucking Alliance), and the American Trucking Associations (ATA).

PIRE published a report<sup>12</sup> that examined the adequacy of the current \$750,000 minimum for large trucks by examining the costs and damages associated with serious large truck crashes. PIRE concluded that the current minimum levels are an order of magnitude too low. The report found that the estimated upper decile/quartile range for liability awards in large truck crashes involving death or catastrophic injury is \$9-10 million (in 2012 dollars). The report recommended that DOT set a minimum of at least \$10 million per crash and index for inflation and productivity growth in the same manner that DOT indexes its value of a statistical life for regulatory purposes.<sup>13</sup>

The Trucking Alliance reviewed crash settlement data that it compiled from its membership. Its March 2013 analysis showed that the current \$750,000 of insurance required of many motor carriers is inadequate to cover the costs of many crashes. Member companies of the Trucking Alliance voluntarily tracked 8,692 accident settlements between 2005 and 2011. The data shows that 42 percent of the trucking companies' monetary exposure from these settlements would have exceeded their insurance coverage had all companies in the study maintained the minimum \$750,000 insurance requirement. According to the Trucking Alliance, 42 percent of the injury claims could have had no avenue for offsetting all medical costs. The Trucking Alliance favors increasing the Federal minimum requirements for trucking companies.

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<sup>12</sup> Pacific Institute for Research and Evaluation, "Potential Damages in Heavy Truck Crashes," March 2013.

<sup>13</sup> The DOT applies the Bureau of Labor Statistics' annual estimates of inflation and productivity growth rates.

By contrast, in its 1983 comments to the DOT rulemaking, the American Insurance Association asserted that less than one one-hundredth of one percent (.01%) of all commercial vehicle accidents result in damages in excess of \$500,000.<sup>14</sup>

The ATA also conducted a review<sup>15</sup> of the appropriateness of the current minimum insurance requirements with data from the Insurance Services Office (ISO), an insurance advisory company. The ATA's analysis is based on ISO data, obtained under nondisclosure agreements, from two of the 10 largest trucking insurers. The data covered all the large truck (over 26,000 pounds) policies of these two insurers. According to the ATA, ISO's data show that only 6.5 percent of insurance policies for trucks over 26,000 pounds are written at limits under \$1 million (not taking into account umbrella or excess coverage), while 83 percent are written at \$1 million, and the remaining 10.5 percent are written over \$1 million. In its analysis of the ISO data, ATA found that there is a 1.40 percent chance of a claim exceeding \$500,000, a 0.73 percent chance of a claim exceeding \$1 million, and a 0.31 percent chance of a claim exceeding \$2 million. From 2006 to 2011, there were 85,632 reported crashes in this data set with a total of \$961,591,721 in claims incurred, making the average cost per occurrence \$11,229. FMCSA seeks comments on the data and material presented in this section.

### **Broker/Freight Forwarder Financial Responsibility, Trip Insurance, Bus Brokers and Self-Insurance**

FMCSA seeks comments on four issues besides the minimum levels of financial responsibility for motor carriers.

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<sup>14</sup> 48 FR 5268.

<sup>15</sup><http://www.trucking.org/ATA%20Docs/What%20We%20Do/Trucking%20Issues/Documents/Insurance%20Study%20Group%20Findings.pdf>

First, pursuant to Section 32918 of MAP-21, Congress directed FMCSA to undertake a rulemaking to implement certain broker and freight forwarder financial responsibility requirements. On October 1, 2013, FMCSA raised the financial responsibility requirements for brokers to \$75,000, the minimum allowed under statute, and extended that financial responsibility requirement to freight forwarders for the first time.<sup>16</sup> Questions 18 and 19 below continue the statutory implementation process.

Second, pursuant to 49 CFR 387.7(b)(3), Mexican motor carriers, operating solely in commercial zones along the U.S.-Mexico border, can meet their financial responsibility requirements by having so-called “trip insurance,” which allows them to obtain insurance coverage in at least 24 hour increments. However, FMCSA has faced challenges in verifying in a timely manner the validity of coverage, and Questions 23 and 24 below address that concern.

Third, pursuant to 49 U.S.C. 13904(f), FMCSA can impose bond or insurance requirements on “brokers for motor carriers of passengers” that the Agency “determines are needed to protect passengers and carriers dealing with such brokers.” FMCSA is considering implementing this statutory authorization and is seeking comment in question 25 below.

Fourth, pursuant to the congressional mandate at 49 U.S.C. 13906(d), FMCSA maintains a self-insurance program for eligible motor carriers (see 49 CFR 387.309). In considering applications to self-insure, carriers “should submit evidence” that will allow FMCSA to determine “[t]he existence of an adequate safety program.” 49 CFR 387.309(a)(3). Currently, pursuant to that regulation, carriers must either submit evidence of a “Satisfactory” FMCSA safety rating or certify that they are not rated, if that is the case. Question 26 seeks comment on whether different or additional evidence of an “adequate safety program” should be required.

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<sup>16</sup> 78 FR 60226; see also 49 U.S.C. 13906(b), (c).

## **Motor Carrier Safety Advisory Committee (MCSAC)**

In May 2014, the Agency tasked its MCSAC with examining the financial responsibility requirements. The MCSAC will conclude its deliberations at its October 2014 meeting and submit a report to the Administrator.

### **III. QUESTIONS**

FMCSA is considering a rulemaking to increase the minimum levels of financial responsibility for motor carriers, including liability coverage for bodily injury or property damage in the case of general freight, hazardous materials, and passenger motor carriers. As noted above, the Agency is also considering a rulemaking pertaining to broker and freight forwarder financial security, trip insurance, bus brokers and self-insurance. FMCSA requests responses to the following issues and questions. Whenever possible, commenters should provide data in support of their responses. FMCSA recognizes that an individual commenter may choose to respond to all of the issues or only a subset, based on his or her interest or area of expertise.

#### **Premium rates**

1. What are the current insurance premium rates (baseline) for each category of carriers (property, hazardous materials, and passenger) covered under the current financial responsibility regulations? To what extent do the premiums vary based on carriers' safety performance information from FMCSA?
2. For each 10% increase in insurance requirements, how much would the premium rates increase? How much additional capital would insurers have to raise to cover the new exposure associated with each 10% increase?
3. What percentage of fleets, based on size and the type of operation of the carrier (passenger, property, hazmat), already have liability coverage that exceed the minimum

financial responsibility requirement and by how much? What are the premiums for the policies that exceed the Federal minimums?

4. How are insurance premium rates determined? Is it by driver? Is it by credit or safety history? Is there a discount for a certain number of vehicles in a fleet? Is there a discount for bundling? Are there any other unique methods of determining rates? In the event of a crash, are carriers responsible for paying a deductible? If so, what are the most common deductible amounts? What are some of the major thresholds that result in changes in premium costs?

#### **Current minimum levels of financial responsibility**

5. How often is the minimum level of financial responsibility insufficient to meet the actual costs associated with a crash, specifically for lifelong medical support? How often are carriers liable for crash costs in excess of the financial responsibility requirements unable to pay damages? How often do carriers go bankrupt following a crash with damages in excess of the minimum requirements? How often do carriers attempt to reincarnate in order to avoid paying damages? How would increasing the insurance requirements change the behavior of such carriers?
6. How often is the minimum level of financial responsibility exceeded by damages caused by the unintentional release of hazardous materials from a carrier required to have \$5 million in coverage?

#### **Impacts of increasing the minimum level of financial responsibility**

7. Would an increase in financial responsibility requirements affect small and large motor carriers differently? If so, how?

8. How would increasing the minimum financial responsibility requirements affect the ability of a carrier to obtain insurance?
9. How would increasing minimum levels of financial responsibility affect safety, e.g. , would carriers put off “optional costs” such as safety programs, preventive maintenance and investments in new technology, to cover the high cost of premiums? Would higher minimum levels drive unsafe carriers out of business? Is there any evidence that CMV carriers take more risks because they know they are insured? How could these effects be measured?
10. What are the current State insurance requirements and how do they vary from the Federal requirements?
11. How many carriers currently participate in Risk Retention Groups (RRG)? If FMCSA raised the minimum level of financial responsibility requirements, how would that affect RRGs? What are the current RRG rates, and how would they change if the minimum level of financial responsibility is raised?
12. What percentage of insurance-related cases settles before trial at the current minimum levels of financial responsibility? If the minimum levels are increased, would the same percentage of cases settle before trial?

### **Compensation**

13. What minimum levels of financial responsibility are needed to adequately protect against uncompensated losses associated with crashes?
14. What other mechanisms, besides increased minimum levels of financial responsibility, are available to more fully compensate persons who suffer catastrophic loss? Should FMCSA consider creating a compensation fund for such purposes? If so, how would

such a fund be administered? Who would be eligible to receive compensation from the fund? What claims would be covered? Would a compensation fund create a disincentive for self-insured or less well insured motor carriers to make safety improvements? Are there other potential administrators of such a fund?

15. How would increasing the minimum financial responsibility requirements affect out-of-court crash damage settlement agreements?

### **Information sources**

16. As noted in its report to Congress, FMCSA has had difficulty obtaining information on insurance company underwriting procedures and motor carrier premiums. The insurance industry understandably regards such information as trade secrets, and motor carriers are likewise reluctant to disclose what they pay to competitors or other insurance companies. What procedures might FMCSA follow to obtain such underwriting and pricing data?
17. In addition to the information discussed above, what other sources of information should FMCSA evaluate in connection with potential changes to minimum required financial responsibility levels?

### **Timelines**

18. If the required amount of financial responsibility is increased, what is a reasonable phase-in period for insurance companies and motor carriers to adjust to the new requirements?
19. Should there be a standard process for updating the minimum levels of financial responsibility (e.g., using core CPI, medical CPI, etc.)? How often should the update occur, and to what data source should the minimum be linked (a risk-based or inflation-based measure)?

### **BMC 84 and 85 filers**

20. What information regarding claims should FMCSA require trust fund providers (BMC-85 filers) to make publicly available on their websites?
21. If a broker or freight forwarder fails financially, how should BMC-85 trust providers make public notification?
22. Should the BMC-84 and BMC-85 forms be adjusted to provide claims handling instructions to the surety or trustee? If so, how?

**Trip Insurance, Bus Brokers, and Self-Insurance**

23. Does the trip insurance authorized for Mexican commercial zone carriers in § 387.7(b)(3) provide compensation comparable to the insurance that FMCSA requires for domestic carriers, and what are suggested methods for verifying the validity of a carrier's trip insurance in a timely manner?
24. In regards to trip insurance, as an aid to verification and to reduce fraud, should policy coverage periods be no less than seven days as opposed to the current 24 hour minimum?
25. Should bus brokers be required to file evidence of financial responsibility pursuant to 49 U.S.C. 13904(f)? What benefits would accrue from such a requirement?
26. Should the requirement in 49 CFR 387.309(a)(3) that carriers in the self-insurance program have "an adequate safety program" be enhanced? If so, how?

Issued under the authority of delegation in 49 CFR 1.87.

Dated: November 21, 2014.

**T.F. Scott Darling III,**  
*Acting Administrator.*

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