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**BEFORE THE  
DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

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**49 C.F.R. PARTS 385, 386, 390, 392, 393 and  
APPENDIX G TO SUBCHAPTER B OF CHAPTER III**

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**REQUIREMENTS FOR INTERMODAL EQUIPMENT PROVIDERS AND MOTOR  
CARRIERS AND DRIVERS OPERATING INTERMODAL EQUIPMENT**

**DOCKET NO. FMCSA-2005-23315**

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**PETITION FOR RECONSIDERATION  
FROM THE  
ASSOCIATION OF AMERICAN RAILROADS;  
INSTITUTE OF INTERNATIONAL CONTAINER LESSORS;  
INTERMODAL ASSOCIATION OF NORTH AMERICA; and  
THE OCEAN CARRIER EQUIPMENT MANAGEMENT ASSOCIATION, INC.**

**January 16, 2009**

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**JANUARY 16, 2009**

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**Section 1. - Introduction**

The intermodal industry, as represented by the Association of American Railroads (AAR); the Institute of International Container Lessors (IICL); the Intermodal Association of North America (IANA); and the Ocean Carrier Equipment Management Association (OCEMA), hereby files this petition for reconsideration to 49 C.F.R PARTS 385, 386, 390, et.al. – Requirements for Intermodal Equipment Providers and for Motor Carriers and Drivers Operating intermodal Equipment; Final Rule, under Docket No. FMCSA-2005-23315, issued December 17, 2008. Specific reference is made to section 390.21 - Marking of self-propelled CMV's and intermodal equipment.

Petitioners request further consideration by the Administration of the virtual alternative proposed by the industry, a Global Intermodal Equipment Registry (GIER) that would identify the Intermodal Equipment Provider (IEP) with specific Intermodal Equipment (IME) for regulatory compliance. As the petitioners will show, this alternative represents the most operationally effective method and lowest cost option for both the public and private sectors.

SAFETEA-LU requires that intermodal equipment be matched to an intermodal equipment provider through a unique identifying number. There is no specification in the law that a particular provider number be marked on a chassis. FMCSA has ruled that all intermodal chassis and trailing equipment be stenciled, labeled, decalced or otherwise marked via interchange documentation or vehicle documentation with a USDOT number, as is done with other, self-propelled commercial motor vehicles.

Part IV of the regulations outlines a Summary of the Final Rule. In Part 390 Federal Motor Carrier Safety Regulations (pages 76809 and 76810 of the December 17, 2008, Federal Register), the FMCSA describes the four approved methods of recording

the DOT number assigned to an IEP with a specific IME unit. The FMCSA further offers its views on electronic matching of the IEP's DOT number with the IME stating, "Even though the FMCSA Administrator denied IANA's request to initiate a pilot program the Agency asked IANA to communicate with it in the future concerning its progress in developing the GIER. The Agency will consider allowing the GIER if it becomes apparent that its use could serve as an additional alternative method of complying with the provisions of 49 CFR 390.21."

In previous comments filed with FMCSA, numerous industry stakeholders stated that capturing and marking the hundreds of thousands of IMEs in the United States with another ID number would in all likelihood, cause confusion as to the controlling party of the equipment vs. achieving the desired results of the final rule. Moreover, because of the unique and dynamic operating characteristics of intermodal chassis, such chassis marking will have to be a perpetual, ongoing process which will further increase the delays and costs incurred. As an alternative, industry stakeholders had recommended an identification system that would use existing unique alpha-numeric control numbers currently appearing on chassis that would be matched to the appropriate equipment provider. A description of this alternative system vis-à-vis the marking options published in the final rule follows and is the basis for the industry's request for reconsideration.

## **Section 2. – FMCSA's Mission**

The FMCSA's Mission as stated is to "Promote safe commercial motor vehicle operation through education, regulation, enforcement, **and innovative research and technology to reduce truck and bus crashes resulting in fewer fatalities and injuries**" (emphasis added).

In the FMCSA's current Strategic Plan (2006-2011), the 4<sup>th</sup> Strategy, titled, "Improve Safety Information, Research, and Analysis to Advance Innovation and Technical Solutions," states:

"Each year, information technology (IT) evolves and the demand for reliable IT solutions increases, accompanied by more sophisticated IT security issues. The Agency will enhance its field inspections with tools such as handheld devices that instantly make available electronic driver, carrier, and equipment records. This dynamic operating environment challenges the information management program to provide accurate, complete, and timely data collected and stored in a secure environment. Accurate, complete, and timely data are necessary for us to develop short-term programmatic decisions or long-term planning and policy direction. The best quality data and adequate IT tools allows FMCSA and its safety enforcement partners the ability to focus on the highest risk motor carriers, drivers, and vehicles. The Agency is continuously looking for new technological solutions that include such applications as crash avoidance, rollover prevention, and lane departure warning systems. These will help improve CMV operations, limit technical and mechanical road failures, and reduce the probability of crashes involving CMVs."

Acceptance of the industry- recommended virtual alternative to “electronically” mark equipment by linking the IEP to the IME via an online database is consistent with the spirit of the FMCSA’s Mission and it’s Strategic Plan.

### **Section 3. – Description of Petitioners**

This request for reconsideration is a consensus from the following IEP stakeholder organizations:

**The Association of American Railroads (AAR)** – representing *the* major freight railroads in the United States, Canada and Mexico, as well as Amtrak and several short line holding companies. Based in Washington, DC, the AAR is committed to keeping the railroads of North America safe, fast, efficient, clean, technologically advanced, and secure. The AAR is also very much involved in programs to improve the efficiency, safety and service of the railroad industry.

**The Institute of International Container Lessors (IICL)** - organized in 1971, maintains its headquarters in Washington, DC. IICL’s membership engages in leasing marine cargo containers and chassis to ship operators and others on a broad international basis. Members own or manage approximately 90% of the leased container fleet, as well as own and lease a high percentage of the U.S. chassis fleet. IICL is active in government, regulatory, customs, tax, educational, technological and environmental fields.

**The Intermodal Association of North America (IANA)** - a not-for-profit corporation is the national trade association of the intermodal transportation business community. Its members consist of various freight transportation providers, shippers and receivers, their suppliers and interested members of government and academia. IANA provides aggregation, analysis and dissemination of intermodal freight data; forums on industry practices, significant events and evolutions; lobbying and information gathering in connection with advancing the interests of the intermodal community and neutral business services and products for the participants in the intermodal freight industry.

**The Ocean Carrier Equipment Management Association (OCEMA)** - an association of major U.S. and foreign flag international ocean common carriers that provides a forum for its members to discuss operational, safety, and related matters pertaining to the intermodal transportation of ocean freight within the U.S. Included in its scope are equipment-related operational, safety, and regulatory activities such as participation in industry forums, educational sessions, regulatory proceedings and legislative matters. OCEMA members operate worldwide and serve all major U.S. ports and inland locations, moving cargoes primarily in containers. An essential element of these operations involves the movement of containers on intermodal chassis and rail cars.

## **Section 4. - Overview of GIER**

The GIER virtual solution would provide a central database where all chassis in use throughout the United States are registered. This web-based portal with supporting applications will provide a comprehensive system to record ownership and operating control characteristics of intermodal equipment that can be used by government entities to determine regulatory compliance.

Petitioners believe that the development and maintenance of a centralized, online intermodal equipment database would fulfill the requirements under Section 390.21 of the final rule. GIER would ensure, with a high degree of accuracy, that the IEP is correctly identified with the equipment for which it has the primary responsibility for maintenance and repair. IEPs would regularly submit to the database, the alphanumeric ID numbers already marked on all IMEs operated in the United States for which they are responsible.

The GIER database is anticipated to interface with SAFETYNET using the existing IME alphanumeric ID number from the roadside inspection report to correctly identify the IEP that was responsible for the trailing unit on the date of the inspection. The GIER would correlate the identification information between the IME and the IEPs USDOT number and transmit that information through SAFETYNET.

A virtual, technology alternative such as GIER also has environmental benefits. These include the potential of reducing the additional diesel emissions that would result in requiring chassis to be taken to a mechanical facility to have the new DOT number marked, labeled or documented. In locations where mobile maintenance trucks are allowed to service the equipment, a technology-based solution would prevent the emissions generated by driving these vehicles to each chassis and any associated idling time. GIER would also reduce potential waste and byproducts that would be generated by installing plastic decals and paper documents, or stenciling/painting DOT numbers on the chassis.

The development of an intermodal equipment registry would be the lowest cost, most accurate and up to date way to approach the unique operating characteristics of the industry and provide substantial benefits to the public sector, enforcement agencies, IEPs and motor carriers.

### Estimated Costs and Development Timeframe

Industry stakeholders agree that there is an unequivocal cost benefit to developing the GIER to meet the regulatory requirements. The cost to IEPs is substantially less than the four options presented in the regulations. In the final rule (page 76799) FMCSA states that, "potential costs for IEPs to establish and participate in the database, and for FMCSA and its Motor Carrier Safety Assistance Program (MCSAP) partners to access it are unknown." Costs to develop, implement, operate and support the GIER system will be assumed by IANA. IANA will also assume the costs associated with GIER interface to the designated definitive FMCSA system.

Based on the estimated development, operating and support costs of the GIER application as well as assumptions regarding the number of chassis that would be registered each year, IANA has estimated the cost of GIER to be approximately \$.75 to \$1.00 per unit registered, per year. At this time, there are no contemplated access fees for FMCSA or its MCSAP partners.

The GIER alternative is projected to be fully operable within 27 weeks subsequent to FMCSA's approval. This consists of a 20 week application development cycle and 6 - 7 weeks to test and implement the system. Because the system is designed for regulatory compliance, it would have no immediate commercial application and thus would not be developed without assurances from the Administration that it would be accepted as an alternative to the current options that are set forth in the rule.

## **Section 5. - Regulatory Marking Options versus the GIER Alternative**

The final rule (pages 76799 and 76822) relating to the marking of intermodal equipment (§ 390.21(g)) provides four options for IEPs to mark or otherwise place USDOT numbers on the IME for which they are responsible. While petitioners appreciate such flexibility, including the delayed implementation of this portion of the regulations, the stated methods do not provide as much efficiency or accuracy as the GIER database. Moreover, we believe the cost estimates for all of the options to be significantly underestimated. The following discussion compares each of the regulatory options with the GIER alternative.

### **Option 1) Identification by permanently marking the USDOT number on the curb side of the IME. (Stenciling)**

This option will require all units to be captured, sequestered, prepared, marked and then repositioned. While initial marking can potentially be performed during the periodic (annual FHWA) inspection, mitigating much of the positioning and repositioning expense, this process will have to be repeated every time the unit migrates to a new IEP. Using FMCSA's own estimate, as much as 20 percent of the fleet or 170,000 chassis will need to be remarked each year. Various industry stakeholders believe the 20% figure to be understated and have assessed this cost to be between \$10.00 and \$80.00 per unit, depending on location. These costs are direct labor cost associated with the effort to capture and mark equipment, and does not include cost of materials or administrative labor assessments.

Intermodal operations and commercial relationships with maintenance and repair vendors, terminal operators' contracted labor, and lessors further compounds coordination efforts required to execute physical marking of IME.

The GIER solution eliminates the operational efforts and costs associated with the physical activity to accomplish this compliance option by enabling an IEP to electronically assign a USDOT number to a specific IME via data file

transmission. Data transmission can be accomplished during any time of day, year round.

**Option 2) Identification by a label or decal with the USDOT number affixed on the curbside of the chassis.**

Similar to Option 1, the unit will likewise need to be undergo the same capture, sequester, marking and repositioning exercise as stated above. Additionally, dependent upon the label or decal composition material, the useful and legible lifespan of the installed marking can be severely reduced to approximately 3 years. Again, due to the similarities in Option 1, industry stakeholders report this cost to be between \$10.00 and \$80.00 per unit, dependent upon location and are direct costs only.

As stated previously, GIER would eliminate the physical coordination and administrative effort associated with stenciling, labeling or decaling an IME.

**Option 3) Identification by the USDOT number appearing on the interchange agreement or documentation.**

Petitioners have evaluated this option from an operational and cost perspective and determined this effort would require gate operators at a marine or rail terminals to mark the equipment interchange receipt with the IEP's USDOT number, SCAC code, and VIN number each time an IME departed a facility. Gate personnel that complete the interchange receipt, who are most often hired by the terminal and have no relationship with the IEP, would be required to have the USDOT numbers of all IEPs using a particular terminal and match the proper number with the equipment being interchanged. Industry stakeholders report the cost of this option to be between \$ 4.00 and \$19.00 per unit.

A complicating factor is the increasing number of physical equipment interchanges that take place in ancillary locations such as inland depots, drop lots and container yards. These facilities are operated by entities outside the scope of traditional IEPs and who would have minimal and limited access to a IEPs USDOT and IME information.

The GIER database would function as the industry's comprehensive, virtual IME registry for all parties in the interchange process and easily accessible to any entity, online.

**Option 4) Identification by the USDOT number appearing on a document placed in a watertight compartment affixed to the frame of the chassis.**

Documentation must also include information identifying the IME with a SCAC and VIN number as well as the USDOT number, similar to Option 3 above. Various individuals consistently handling these types of documentation in varying operating and weather conditions would cause the designated paperwork to

deteriorate quickly. Documentation is often folded repeatedly which exacerbates the degradation and legibility of the paperwork. Additionally, physical efforts to capture sequester, and install documentation in the compartment will be required for each transaction. Stakeholders have estimated the cost for these efforts at \$8.00 to \$23.00 per unit, with each unit requiring 2 – 3 replacement documents per year. These costs are associated with the effort to acquire replacement documentation and associated labor to capture and place the documentation on equipment.

As stated under Option 1, the GIER alternative eliminates the operational efforts and costs associated with the physical activities necessary to accomplish this compliance option.

## Section 6. - Conclusion

One of the specific objectives of the final rule is to register intermodal equipment providers and match all intermodal equipment in service in the United States with a unique identification number that ties IME to these IEPs.

In order to achieve these objectives in an efficient, timely and cost effective manner, representatives of the intermodal industry, that own and/or control approximately ninety-five (95) percent of chassis that would fall under these requirements, propose that the GIER be included in the final rule as an alternative to the four options that have been published in the regulations.

Physical efforts, timeline and estimated costs for compliance with the final rule specifically section. 390.21 – Marking of self-propelled CMV's and intermodal equipment, are summarized in the table below.

**FMCSA – 390.21 – Compliance Cost Comparisons /1**

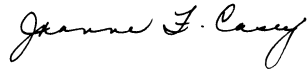
<b>Options</b>	<b>Description</b>	<b>Effort</b>	<b>Implementation Timeframe</b>	<b>Cost per unit</b>
<b>1</b>	Stenciling	Physical	1-2 years	\$10.00 to 80.00
<b>2</b>	Label/Decal	Physical	1-2 years	\$10.00 to 80.00
<b>3</b>	Interchange agreement	Physical	1 year	\$4.00 to 19.00
<b>4</b>	Vehicle paperwork	Physical	1 year	\$8.00 to 23.00
<b>GIER</b>	Database	Virtual / Online	7 months	\$1.00

/1 Implementation timeframes and cost estimates are based on information received from intermodal industry sources.

Petitioners would like to thank the FMCSA for the opportunity to submit this petition for reconsideration. It is the consensus of the submitting organizations that the GIER should be added to the final rules as a virtual alternative to the physical options that are currently set forth under the regulations.

As time is of the essence, we further request the Administration's consideration and decision on our petition within the next sixty (60) days. Expeditious handling will allow the industry stakeholders to make the necessary business decisions that will affect the required compliance within the allotted regulatory timeframes.

Respectfully submitted,



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