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Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

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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) or you may visit <http://dms.dot.gov>.

Background

On February 17, 1999 (64 FR 7849), the Federal Highway Administration (FHWA) published an ANPRM to consider whether 49 CFR parts 390 and 396 of the Federal Motor Carrier Safety Regulations (FMCSRs) should be amended to shift the responsibility for ensuring that intermodal container chassis and trailers comply with the applicable motor carrier safety regulations from motor carriers operating such vehicles, to entities (ocean carriers, rail carriers, intermodal terminal operators, ports) that offer these vehicles for transportation in interstate commerce. This action was in

response to a petition for rulemaking filed by the American Trucking Associations, Inc. (ATA) and the ATA Intermodal Conference (the Petitioners). The Petitioners argued motor carriers have no opportunity to maintain this equipment and that the parties who do have the opportunity often fail to do so. The Petitioners requested the FMCSRs be amended to require rail carriers, ocean carriers, and other entities that offer intermodal container chassis for transportation in interstate commerce to ensure chassis meet applicable Federal safety requirements.

Discussion of ANPRM and Listening Session Comments

The agency received 104 comments from 71 interested parties in response to the ANPRM and 102 individuals spoke at one or more of the three listening sessions. Most of the commenters to the docket and speakers during the listening session were motor carriers, ocean carriers, rail carriers or terminal operators. The following table identifies participants by industry sector.

Industry sector	Docket	Chicago	New York	Seattle
Motor Carriers/Motor Carrier Industry	39	15	16	6
Port/Marine Terminal/Ocean Carrier/Representatives	24	8	12	12
Railroad/Representatives	2	11	8	6
Shipper	1			
State Agency	1			
Intermodal Association of North America (IANA)/Consultant/Other	3	2	3	1
Maritime Union Members	1			2
Total	71	36	39	27

Stakeholder opinions about potential resolutions were largely polarized into one of two basic positions:

- Motor carriers agreed with Petitioners and expressed concerns about the lack of attention to chassis maintenance on the part of the equipment providers.
- Terminal operators and equipment providers were opposed to amending the FMCSRs to shift responsibility from motor carriers to equipment providers. The major issues raised and stakeholder perspectives are discussed below.

Lack of Data To Determine Safety Impacts Current Maintenance Practices

While the Petitioners and those in favor of the petition argued the lack of adequate maintenance by equipment providers is a safety issue, there appeared to be no data available to support this assertion. There was a lack of data presented in both the docket submissions and in the information offered at the listening sessions. The available data show a significant

number of chassis dispatched from intermodal terminals are later shown to have safety defects during roadside inspection, but the relationship between these defects and accidents has not been substantiated. Overall, most of the information presented during the public meetings was anecdotal.

The responses to the questions presented in the ANPRM and questions asked by U.S. Department of Transportation representatives (Office of the Secretary, Office of Motor Carrier Safety (prior to the establishment of FMCSA), FHWA, Federal Railroad Administration, Maritime Administration) during the listening sessions produced no meaningful data to either define the problem or evaluate potential solutions. Commenters to the docket and participants in the meetings appeared to be in agreement that better data should be developed before a decision is made by the agency to pursue this issue.

Adequacy of Chassis Maintenance and Inspection

The comments submitted to the docket and the remarks of participants in the public meetings suggest there is a need to clarify industry practices concerning the maintenance of intermodal container chassis. Commenters and participants indicated most ocean carriers, rail carriers, terminal operators, and motor carriers take seriously their responsibility to operate only roadworthy equipment. However, they acknowledge other members of the intermodal transportation industry are doing only the minimum necessary to "get by."

Commenters and participants fundamentally disagree on the adequacy of preventive maintenance and inspection practices at many terminals. Terminal operators indicated they have effective maintenance and inspection programs in place. Equipment Interchange Discussion Agreement (EIDA), an association of nine ocean common carriers, stated its members