

NEW MEXICO PUBLIC REGULATION COMMISSION



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Dear Governor:

Federal highway reauthorization legislation enacted by Congress last year (the Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users, known as SAFETEA-LU and cited as Public Law 109-59) provides for the repeal of the Single State Registration System (SSRS) and its replacement by the Unified Carrier Registration Agreement (UCRA). I am writing you on behalf of the Board of Directors of the UCRA, the body designated by law to develop this new program, to inform you of what your state must do in order to participate in the UCRA and to collect UCRA fees in 2007.

SAFETEA-LU provides for the repeal of SSRS on January 1, 2007, and includes a prohibition against states reimposing similar fees in another form. The UCRA is designed to replace the revenues the states collected under SSRS (as well as similar fees a state may have imposed on private or exempt motor carriers and on interstate motor carriers for the annual renewal of these carriers' intrastate operating rights). Only a state that participates in the UCRA may continue to collect those revenues. However, the UCRA fees have a different basis and the program is in many respects quite distinct from SSRS. In particular, the UCRA fees are to be set for all states by the U.S. Secretary of Transportation, upon the recommendation by the UCRA Board, and not by the states individually, as was the case with SSRS fees.

The relevant part of SAFETEA-LU, the Act's sections 4301 through 4308, known collectively as the Uniform Carrier Registration Act of 2005, is attached to this letter for your reference. The statute sets out in detail how the UCRA will be developed and how it will operate, as well as what restrictions the new law imposes on the states. In addition, a set of Questions & Answers about UCRA, prepared by the UCRA Board, is attached to give you some guidance on the new program.

Your state may not have been participating in the SSRS program. However, it may still elect to participate in UCRA. The new federal law provides that any state may so elect, and states that have not participated in SSRS will receive up to \$500,000 annually in revenue from the UCRA program.

Among the most immediately critical provisions of the federal statute are those that set out how a state is to make the election to participate in the UCRA and those that set out how the UCRA fees are to be set. As to the first, a state that wishes to participate in the UCRA must within three years of the enactment of SAFETEA-LU – that is, by August 10, 2008 – file with the U.S. Secretary of Transportation (that is, with the Federal Motor Carrier Safety Administration, FMCSA) a plan explaining which of its agencies will administer the UCRA and including certain specified details of that administration. SAFETEA-LU bars a state that does not file such a plan, or does not do so before the deadline, from participating in the UCRA.

SAFETEA-LU implies that a state need not have enabling legislation actually in place at the time it files its plan of UCRA administration with the Secretary of Transportation. However, depending on a state's own constitution and statutes, such legislation may be either necessary or desirable before the state can collect the fees imposed under the UCRA. If your state will require enabling legislation for the UCRA, and does not already have it, you may wish to contact one of the states that enacted such laws during 2006.

Although the overall deadline for a state's election to participate in the UCRA is August 10, 2008, the UCRA Board has had to set an earlier deadline – November 1, 2006 -- for those states that wish to participate in the UCRA and collect UCRA fees in 2007. The Board has been forced to do this for the following reasons.

Under SAFETEA-LU, the UCRA fees are set annually by the U.S. Secretary of Transportation, following a recommendation from the UCRA Board as to what those fees should be. UCRA fees are set at a level calculated to raise the revenues the states participating in the UCRA have collected in the past from SSRS and from related regulatory programs, plus an allowance for the costs of administration of the UCRA program itself. Setting the UCRA fees is neither an easy nor a short process, and it is plain to the Board that the states participating in the program, most especially in its first year of operation, must be given adequate lead time in order to establish administrative mechanisms for collecting and enforcing the payment of those fees.

To calculate the level of the UCRA fees for any given year, the Board must know which states will be participating in the program for that year. In the future, after the UCRA has been in operation for a few years, this will presumably be a matter of course, but for this initial year, while the program is still under development, the Board believes it is absolutely essential to know by November 1, 2006, which states will be participating in the UCRA, in order that the Board may recommend to the Secretary and the Secretary then set the UCRA fees for 2007 by a date that will give participating states a reasonable time to complete their own administrative arrangements.

Therefore, it is the UCRA Board's decision that a state which does not file with the U.S. Secretary of Transportation its plan for administering the UCRA by November 1, 2006, may not participate in the UCRA or collect UCRA fees in 2007. However, a state that does not make an election by this year's deadline may at any time before August 10, 2008, elect to participate in future years.

Although SAFETEA-LU provides for the repeal of SSRS on January 1, 2007, states and other interested parties have lobbied Congress for a 12-month extension of SSRS repeal, to January 1, 2008. As of this date, Congress has not enacted the necessary legislation, and it is possible Congress will not do so. In addition, it is highly unlikely that there will be an extension on the repeal of parallel programs for exempt motor carriers, from which at least some states derive significant revenue. The UCRA Board believes it must continue its work toward calculating the first year's UCRA fees as if there were to be no extension of SSRS repeal.

Attached by way of example is a UCRA plan of administration which the Board believes could meet some states' needs in this regard. Whether a given state can employ this specific format for its filing will depend on the state's laws and procedures, and on its interpretation of the requirements of federal statute.

To effect an election to participate in the UCRA, a state must file its plan of administration with FMCSA. If your state decides to not participate in UCRA for 2007, it may be advantageous not to make any filing at this time. FMCSA has advised that filing information will be posted on its website and in the Federal Register and that States may mail or electronically submit their plans to the following address:

Mr. William Quade
Director, Office of Safety Enforcement
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
400 7th Street, SW, Room 8314 (MC-ES)
Washington, DC 20590
william.quade@fmcsa.dot.gov

Please send a copy of any election your state may make to me at:

Mr. Avelino Gutierrez
Chair, Board of Directors
Unified Carrier Registration Agreement
PERA Building, Room 516
P.O. Box 1269
Santa Fe, NM 87504

If you have questions about the UCRA program or what your state needs to do to participate in it, you may contact me by phone at 505-827-4565.

Sincerely,



Avelino A. Gutierrez
Chair, Board of Directors
Unified Carrier Registration Agreement

Attachments: Unified Carrier Registration Act (SAFETEA-LU §§4301-4308)
Questions & Answers on UCRA
Sample UCRA Plan of Administration