

NEW MEXICO PUBLIC REGULATION COMMISSION



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John H. Hill, Administrator
Federal Motor Carrier Safety Administration
United States Department of Transportation
400 Seventh St. S.W.
Washington, D.C. 20590

SENT VIA FACSIMILE,
(202) 366-3224, AND
REGULAR, FIRST CLASS,
POSTAGE PREPAID MAIL

Dear Mr. Hill:

Thank you for your continuing participation in the Uniform Carrier Registration process. The Unified Carrier Registration Agreement ("UCRA") Board of Directors ("Board") has asked me to submit the following questions to the Federal Motor Carrier Safety Administration ("FMCSA") for its consideration. While some of these issues may be of a legal or technical nature, we feel that it is necessary to obtain your guidance at this time to proceed with implementation of the UCRA:

1. Is the UCRA Plan submitted by each individual state to the Secretary of the United States Department of Transportation ("US DOT") as required under 49 USC § 14504a(e) subject to the notice and comment requirements of the federal Administrative Procedures Act?;
2. Given that the Board is required to issue rules and regulations governing the UCR Agreement, *see*, 49 USC § 14504a(d)(2), and the Secretary of US DOT is required, generally, to issue regulations to establish the UCR System, *see*, 49 USC § 13908, to what extent do *ex parte* prohibitions apply as between the Board and the US DOT and as between the Board and other parties?;
3. Will FMCSA provide the Board with the start-up funding necessary for the development of the initial, interim UCRA systems?;

4. Please confirm our understanding based on previous oral representations of your Staff that, at least at this time, FMCSA will not operate a Unified Carrier Registration System ("UCRS"), combining the DOT identification number system, the registration system meant to replace SSRS, the financial responsibility information system, and the service of process agent systems, *see*, 49 USC § 13908, and is instead deferring operation of the registration system meant to replace SSRS to the Board and the states. As such, the Board is focusing on creating a system that primarily tracks the UCR registration process and the funds acquired as a result of registration. As FMCSA plans, designs, develops, and implements the UCRS, there will be a need for the Board and FMCSA to coordinate closely, to insure that UCRS both accommodates and assists UCRA appropriately, and that the two systems do not conflict;

5. Since UCRA will presumably be implemented while current US DOT systems are still in existence, it may be extremely helpful if US DOT could make various accommodations in those existing systems for the needs of UCRA. In particular, it would be most helpful if US DOT would promptly add to the Motor Carrier Management System (commonly referred to as "MCMIS") a feature that would allow roadside and other enforcement personnel to easily determine whether a US DOT registrant has also registered under UCRA. Indeed, it may prove nearly impossible to enforce the UCRA without such a mechanism. Would US DOT be willing to add such a feature?;

6. Would FMCSA consider making the filing of an MCS-150 an annual requirement?;

7. Since the UCR Act specifically provides that a carrier's MCS-150 filing determines the number of commercial motor vehicles it operates for purposes of the fees the carriers are required to pay under UCRA, can the Board rely on the continuation the MCS-150 filing requirement as UCRS is implemented?;

8. What laws apply to the Board's procurement of goods and services?;

9. Will FMCSA provide the Board with drafting, filing and other assistance in adopting rules the Board is required to promulgate under the UCRA?;

10. The Board understands that Congressional Staff has asked FMCSA for a full legal opinion supporting FMCSA's decision that the Board is subject to the federal Administrative Procedures Act and related regulatory requirements. Would FMCSA furnish the Board with a copy of that opinion?;

11. Would FMCSA add a UCRA page to its own website?; and

12. From reading the guidelines that your Staff circulated regarding the timeframes required to implement UCR, it appears that the Board does not have enough time to implement UCR for registration year 2007 or even for registration year 2008. Is this assumption correct or do you believe that there are alternatives that would allow

timely implementation of the UCR program for registration year 2007 and subsequent registration years?

Thank you for your attention to these matters.

Sincerely,



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