

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:

I am writing you on behalf of the Board of Directors of the Unified Carrier Registration Agreement ("UCRA") to convey to the Federal Motor Carrier Safety Administration the Board's understanding of the circumstances surrounding the development of the systems and functions to support the UCRA.

Section 4304 of the Unified Carrier Registration Act of 2005 (Subtitle C of Title IV of P.L. 109-59 – the Act) requires the United States Department of Transportation ("US DOT") to establish a Unified Carrier Registration System ("UCRS"). Section 4305 of the Act provides for the creation of the UCRA, and for the appointment by the U.S. Secretary of Transportation of a UCRA Board of Directors, charged with issuing rules and regulations to govern the UCRA.

It is clear from the Act that Congress intended that the UCRA and UCRS be related functionally and envisioned the two programs being developed at the same time. Section 4304 of the Act provided amended language for 49 U.S.C. §13908, which reads in part (*italics supplied*):

§13908. Registration and other reforms

(a) Establishment of Unified Carrier Registration System. – The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder, and broker industries and after notice and opportunity for public comment, *shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 regulations to establish an online, Federal registration system, to be named the 'Unified Carrier Registration System', to replace—*

(1) the current Department of Transportation identification number system, *the single State registration system under section 14504; ...*

(b) Role and Clearinghouse and Depository of Information. – The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, freight forwarders, and others required to register with the Department of Transportation, *including information with respect to ... compliance with the provisions of section 14504.* The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the system....

(d) Fee System. –

(3) Access and Retrieval Fees. –

(A) In General. – ... [T]he fee system shall include a nominal fee for the access to or retrieval of information and data from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department *and the costs of administration of the unified carrier registration agreement.*

The Act's provisions concerning the UCRA are in a new section of federal law, 49 U.S.C. §14504a, enacted by Section 4305 of the Act. This section reads, in part (italics supplied):

§14504a. Unified Carrier Registration System plan and agreement

....

(d) Unified Carrier Registration Plan. –

....

(2) Rules and regulations governing the UCR agreement.—The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall –

(A) prescribe uniform forms and formats, for –

...
(ii) *the transmission of information by a participating State to the Unified Carrier Registration System;*

It is the Board's understanding that Congress intended the UCRS to have been established by US DOT by August 10, 2006, and that UCRS would include (1) a system for the registration of carriers and others subject to the UCRA (the successor for this purpose to the Single State Registration System ("SSRS") mentioned in the Act), (2) information accessible to States and others on the compliance of carriers and other entities with the requirements of the UCRA, and (3) provision for user fees that would, among other things, fund all or some portion of the administration of the UCRA. Moreover, it is clear that Congress intended that the UCRA be designed in such a way as to permit the regular transmission of information from the UCRA systems to the UCRS, presumably for these enumerated purposes.

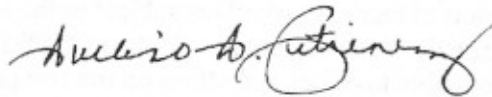
It is the understanding of the Board, however, that the UCRS will neither be operational in calendar year 2007, nor in all likelihood for at least several more years. With the repeal of SSRS, currently effective January 1, 2007, states will lose significant revenues unless the UCRA, which was designed specifically to replace those revenues, is established. The Board believes it cannot wait for the establishment of the UCRS in order to develop the UCRA. Rather, the Board believes it must proceed as quickly as it reasonably can with the development of the UCRA, including the systems necessary to administer and enforce it. These functions include (1) the registration for purposes of the UCRA of motor carriers and other entities subject to the UCRA fees, (2) a system for the payment of these fees, (3) a system for sharing registration and fee-payment information among the states participating in the UCRA, (4) a system to account for the fees paid and to distribute them appropriately among the participating states, and (5) a method of allowing roadside and other enforcement to determine if a given motor carrier or other entity has complied with UCRA requirements.

The Board recognizes that it is in the interests of all concerned to avoid the development of systems by both the Board and the US DOT that will duplicate one another. It may be that through close cooperation of both bodies, some accommodation of UCRA functions into the existing systems of the US DOT may be achieved. Under separate cover, the Board will provide some specific suggestions to US DOT in this regard. In particular, the Board feels it is in the highest degree desirable for US DOT to make, as early as possible, an adjustment in its Motor Carrier Information Management System (commonly referred to as "MCMIS"), to add a function that reliably indicates whether an entity subject to payment of the UCRA fees has in fact complied. This

information should be capable of being readily accessed by at least roadside and other enforcement personnel.

In conclusion, although the Board believes that Congress intended for the UCRS to perform some of the functions necessary to the UCRA program, the Board believes that its duty to the states lies in the implementation – on its own, if necessary – of those systems and functions it deems necessary to the successful operation of the UCRA. Given current federal law, this must be accomplished, at least in preliminary form, within the next year. The Board asks US DOT for whatever assistance it may be able to provide in this effort.

Sincerely,



Avelino A. Gutierrez
Chair, UCRA Board of Directors

September 29, 2006
Letter to Mr. Hill
Administrator, FMCSA