

Minutes of the Sixty-Ninth Unified Carrier Registration Plan Board of Directors Meeting -  
Tele-Conference  
March 8, 2012  
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The sixty-ninth (69th) Unified Carrier Registration (UCR) Plan Board of Directors (Board) meeting was called to order by Avelino Gutierrez, Chairman at 12:05 p.m. EDT.

Attendance - Board of Directors:

Present – Avelino Gutierrez, Adam Anderson, Bill Bronrott, Sandy Bowling, Woody Chambers, Gene Eckhardt, Dave Lazarides, Neal Murphy, Angel Oliver, Robert Pitcher, Robert Voltmann, Rick Schweitzer, Scott Morris

Absent – Jay Gingrich.

Avelino Gutierrez conducted a roll call of the States with **self-introductions** of government and industry representatives made by those in attendance.

Gene Eckhardt moved to accept the **meeting agenda**, which was seconded by Neal Murphy. Agenda approved (Exhibit A)

Avelino Gutierrez established the **teleconference ground rules**.

Woody Chambers moved to accept the **minutes of the February 2, 2012 Board meeting**. Neal Murphy seconded the motion. (Exhibit B)

**UCR Legislative Update** – None.

**FMCSA Update** – Bill Bronrott – In the process of reappointing the Board members whose terms are up. Notice was received for the replacement of Bill Leonard on the Board.

Avelino Gutierrez – A letter is forth coming regarding Bill Leonard's resignation and the appointment of Mike Haney from Kansas.

Sandy Bowling – Do we know who the people are who's time is up?

Bill Bronrott – It is the five (5) appointees who are nominated from industry.

Sandy Bowling – Will be sending an e-mail requesting the excel spreadsheet for the unregistered carrier data.

Jose Rodriguez - Just send over the request for all the data fields you need.

**UCR System Subcommittee & Best Practices Best Subcommittee**- Dave Lazarides – reviewing the proposal by Indiana, it seems to be a very robust proposal. As luck has it I will be in Indiana in a couple of weeks and would like to meet with them and round out the details on the proposal and hopefully have a report by the next Board meeting. (Exhibit C)

Avelino Gutierrez – With the direction of the Board, I would like to direct you to investigate Indiana's proposal further. Board Members, do you agree?

Board Members -Yes.

Sandy Bowling – First – regarding the proposal – it has been a great honor to serve the States and the Industry. If the proposal is approved by the Board for a new MOU, we (Indiana) will be willing to continue to improve the system. I would still like to know what type of reports the Board and the States would like to have that would be beneficial to them.

**Audit Subcommittee** –Gene Eckhardt – no report, regarding the Audit Subcommittee. Discussions regarding the request to have CVSA make no UCR registration an out of service violation. (Exhibit D)

Gene Eckhardt – reviewed the draft for the e-mail.

Motion – The Board direct the Chair to submit a request to CVSA to consider adding a UCR violation as a CVSA out-of service violation. Avelino Gutierrez seconded.

Bob Pitcher - Industry wants all carriers to pay their proper UCRA fees, and all reasonable enforcement measures should be used to ensure that.

But this proposal is not for a reasonable measure. A carrier o/o/s order is a drastic step that should be reserved for imminent safety hazards, as o/o/s violations have been (generally) to date.

Placing a carrier's whole operation out of service is likely to put the carrier out of business, through disruptions to its operations and the loss of its customers. That's a hard measure to take when the fees involved could well be as little as \$76.

Once a carrier is placed out of service, there's no telling when the order can be lifted; it will at least take some time. This will further damage the carrier – and whoever owns the cargos the carrier is hauling.

It hardly needs emphasizing that a carrier that is thrown out of business will not be paying its UCRA fees in that or in future years.

The systems on which the UCRA program relies to let enforcement know whether an entity has paid its fees are unfortunately far from perfect. Reliance on them would certainly mean that some carriers, who have in fact paid their fees, will be placed out of service.

There are many more effective ways that a state can enforce UCRA responsibilities on carriers. One of the most effective is the denial of IRP and IFTA credentials until fees have been paid. All states should give that a try.

I have before me CVSA's out-of-service criteria. This proposal doesn't fit well with what's there now. Vehicle and driver o/o/s orders, as I said, are for imminent safety hazards, a clear danger to the public, as is the hazmat o/o/s violation. While there are some "administrative" o/o/s violations, these are based on federal law. When enforcement stops a truck on the roadside and finds that the carrier hasn't paid its UCRA fees, if this proposal goes into effect, he'd be encouraged to put the carrier out of service. But under what law would he be doing that? Under the existing administrative out of service violations, based on federal law, it looks as though a carrier would at least have had the opportunity for a hearing. This proposal in fact involves some serious questions of due process.

Finally, I see on the latest list of the penalties the states impose for nonpayment of UCRA fees that WA doesn't have any penalty. Is that a measure of the importance the program has for that state?

Rick Schweitzer – National Truck Counsel – Echo Bob Pitchers comments and also oppose the use of placing a carrier out of service for failure to pay the UCR fees.

Woody Chambers – While we are in agreement with penalties for non-compliant carriers, and there are significant monetary penalties in effect, to impose an out of service condition effects far more than these carriers. Employee drivers and leased owner-operators would incur huge penalties, monetary and legal not to mention CSA scores, for violations far from their control or even knowledge.

The UCRA is actually so dysfunctional that it prohibits states from issuing proof of compliance. There is no cab card or decal a driver or owner can check to confirm their carrier's compliance. Further no one can reasonably expect drivers or leased owner-operators to continually question their carriers about, or even be aware of, compliance issues.

Not only would placing vehicles out of service effect drivers and owner-operators, it would also have a disastrous effect on shippers and receivers.

Adam Anderson – I think what Gene is looking at here is the option for inspectors to place a vehicle out-of-service not the carrier. Yes, placing a vehicle out of service will affect the carrier's safety rating. If a carrier comes into Utah the vehicle is not allowed to leave the Port of Entry until they have paid the UCR fees.

Gene Eckhardt – Thanks for the clarification and would accept the explanation as a friendly amendment to clarify we are asking for a vehicle out of service not the company. Of course it would have a far reaching effect, but any employees or customers who operate in violation of any regulations do suffer consequences when the business is taken to task. Regarding the purpose here yes I agree that every state should be working on changing and improving their enforcement, that's a separate matter. This is an issue brought to my attention as a possible tool to be used on a nationwide basis to help bring carriers into compliance.

When we go back to FMCSA to discuss fees and the activities that states have pursued to register companies it's important that we are in a position to say we have explored as many avenues as possible to reach compliance.

Avelino Gutierrez – second the motion to accept the friendly amendment to clarify it is a vehicle out of service and not the carrier.

Gene Eckhardt – Regarding the question if this is an appropriate action for CVSA to take that is for CVSA to determine. If CVSA thinks it would be inappropriate then they will tell us.

Angel Oliver – Just wanted to clarify that when a truck comes into Utah that is not UCR compliant that you hold them there and that is not considered an out-of-service. But I

think that that's what the majority of the people do is hold them and make them get registered and that does not count as an out-of service correct.

Adam Anderson – Correct, it cannot be considered to be an out of service on a CVSA inspection form.

Bob Voltman – It still does not get to brokers and freight forwarders, I don't see why it can't be tied to license plates and the FMCSA licensing page to check authority.

Rick Jacobsen – Strongly Agree that there is a correlation between the enforcement pages of states percent of compliance to a penalty involved. The top eight states have some type of fine associated and the denial to renew IRP and IFTA registration. Only one segment of the group is being targeted. If you talked to the registration and tax departments you would find that none of them would want to take this drastic action to shut the company down. States that don't have any tool to force compliance need to develop the needed tools to help with the enforcement.

Dave Pratt – The citation in the State of Washington is \$124.00. The enforcement paper needs to be updated.

Burma (Kansas) – When doing compliance reviews – we don't have access to the internet and therefore have no way of verifying the UCR payment. Some people don't have access to Aspen either. That may be something that CVSA may need to take into consideration.

Avelino Gutierrez – Take a roll call vote on the motion.

Adam Anderson – No, Sandy Bowling – No, Bill Bronrott – Abstained, Woody – No, Gene Eckhardt – Yes, Jay Gingrich – Absent, Dave Lazarides – Yes, Scott Morris – Yes, Neal Murphy – No, Angel Oliver – No, Rick Schweitzer – No, Bob Pitcher – No, Bob Voltman – No, Avelino Gutierrez – Yes. Motion fails.

**Industry Advisory Subcommittee** – Bob Pitcher – No report.

**Revenue and Fees Subcommittee** - Dave Lazarides, Acting Chair – Modified the registration percentages for the states. Down at the bottom of the report it show's the number of threshold carriers we have. We are averaging around 5-600 registrations per day. Calculations show that we could hit the threshold number this year. Don't think we will come close to the revenue threshold. The discussion could theoretically begin for 2015. (Exhibit F)

Avelino Gutierrez – The letter regarding the 2013 registration fees has been sent to FMCSA. Jose did FMCSA receive the letter. (Exhibit G)

Jose Rodriguez – We received the letter.

Scott Morris – A question for Angel Oliver – How close is Texas to presenting their case on revising their registration cap amount.

Angel Oliver – It has been turned over to the Budget and Forecasting Office and I'm not sure on a pin down date. I think we are still months away yet.

**Registration System of the State of Indiana** – Sandy Bowling – Going to be requesting the excel spread sheet from Jose Rodriguez, I would like to make sure I am requesting all the information everyone would like. Please e-mail me with your request so we can receive the correct information. It is time consuming to get this. If your state does not want to get it, please e-mail me that you do not need it.

Adam Anderson – The excel spreadsheet will have all the undeliverable addresses removed.

Sandy Bowling – Yes it will.

**Depository Subcommittee** - Scott Morris – Sent out the status report for the individual systems. Committee is working on the distributions for 2007 and 2008, the invoices have been sent out. Hope to have the invoices out soon for 2009, 10, and 11, then we can begin the process for those distributions. (Exhibit E)

Frank LaQua – Scott has been working hard and some of the hold up is on my end.

Sandy Bowling – Frank we will start sending North Dakota their check electronically and if you could let me know how it worked.

**Procedures Subcommittee** – Adam Anderson – Sent out a copy of the Q&A for everyone to look at for any changes to the Q&A.

#### **Old/New Matters:**

Adam Anderson – Jose, is there any response on the carriers based on the Indian reservations.

Jose Rodriguez – That is still being researched, I should have a report by the next Board meeting.

Woody Chambers – were did we end up on the ITERIS proposal.

Dave Lazarides - It is not before the Board right now. The Board was looking at possibly doing a RFP. ITERIS proposed to include advertising in the mailing to pay for it and there were many Board and state representatives that opposed this proposal. This was before Indiana's proposal, so essentially it has been tabled right now.

#### **Future Board Meetings:**

May 3, 2012 12:00 pm – 3:00 pm EDT

Combined NCSTS in June 9<sup>th</sup> – 13<sup>th</sup>, 2012 in Chicago, IL

- June 12<sup>th</sup> 1:30 pm – 4:45 pm for subcommittees
- June 13<sup>th</sup> 8:00 am – 12:00 Board meeting

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August 2<sup>nd</sup> 12:00 pm – 3:00 pm EDT

The Board adjourned at 1:32 pm EDT.

Minutes approved by the UCR Board on May 3, 2012.

Adam Anderson, UCR Board acting Secretary

Exhibit A – Meeting Agenda

Exhibit B – February 2, 2012 Board Meeting

Exhibit C – Proposed Enhancements to Indiana Reg. System

Exhibit D – Submission to CVSA

Exhibit E – State Systems Reports

Exhibit F – UCR Statistics Report

Exhibit G – Letter to USDOT for 2013 Fees