

The sixty-fifth (65th) Unified Carrier Registration (UCR) Plan Board of Directors (Board) meeting was called to order by Avelino Gutierrez, Chairman at 10:05 a.m. MDT.

Attendance - Board of Directors:

Present – Adam Anderson, Bill Bronrott, Sandy Bowling, Woody Chambers, Bob Voltman, Gene Eckhardt, Avelino Gutierrez, Dave Lazarides, Scott Morris, Neal Murphy, Angel Oliver and Robert Pritcher.

Absent – Jay Gingerich, Bill Leonard, Dale Murphy, Rick Schweitzer.

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

Adam Anderson moved to accept the **meeting agenda**, which was seconded by Sandy Bowling. There was no discussion and the agenda was approved. (Exhibit A)

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

Sandy Bowling moved to accept the **minutes of the August 11, 2011, Board meeting**. Woody Chambers seconded the motion. The minutes were approved with minor changes. Sandy was to verify that the number of carriers with undeliverable address included the registrants. (Exhibit B)

UCR Legislative Update – Dick Henderson – Nothing

FMCSA Update – Jose Rodriguez – Nothing

Procedures Subcommittee - Scott Morris –presented the definition for “intrastate transportation” (Exhibit C)

Motion: Avelino Gutierrez proposed the Board add to the Q & A the Definition of Intrastate Transportation – Seconded Bob Pritcher.

Rick Wood – Recent Federal Register, May 31st and Aug 15th, how the agency looks at the issue of interstate vs. intrastate. Would like the time to review the definition.

Discussion into how long it would take to get another Board meeting posted onto the Federal Register. At the earliest the next board meeting could be held would be after the Columbus Day Holiday.

Motion: Bill Bronrott – motion to table the pending motion by Scott Morris to add the proposed language to the Q & A for a definition on intrastate transportation, seconded by Sandy Bowling. Role call vote. Motion to table did not pass.

Gene Eckhardt – The language in the forms is not consistent with the language in the proposed Q & A. The definition talks about exclusive intrastate transportation. The registration form says “used only in intrastate transportation” and “also used solely in interstate commerce”. It doesn’t make sense to adopt language in a definition if it’s not going to be used in the forms.

Sandy Bowling – All the states might have their own definition of intrastate transportation and this definition might conflict with those definitions.

Scott Morris – It would depend on what level we adopt the definition. There is the possibility that it might preempt something. But we can't have 41 different definitions of intrastate transportation and it is the Boards responsibility to create that definition for this program.

Mike - A couple of issues you have. This is a definition of interstate commerce and the feds have a definition of interstate commerce and FMCSA wants more time to clarify this issue and it's not an issue that's going to be clarified anytime soon. FMCSA already has a definition of interstate commerce and this is simply a guide line for states to follow in regards to intrastate transportation and there should not be any conflict.

Rick Jacobsen (Fleet Legal) – Using the wording “used exclusively in the transportation”, you are talking about the movement of the vehicle. The UCR regulation refers to the movement of the load, which always dictates whether you are in interstate or intrastate commerce, not the movement of the vehicle. Having an IRP plate on a vehicle already infers that the vehicle is going to be used to cross state lines. But you have to make sure that the definition covers those vehicles that just pick up a load in their state and delivers it to another location within the same state.

Scott Morris - The reason we used intrastate transportation in our definition is because you can't find one anywhere in the Federal Statutes or any court cases that define it. You will find plenty that define interstate commerce.

Rick – There are plenty of cases that defined whether I am in interstate vs. intrastate commerce.

Scott – That's the problem. It's a mistake to define commerce as transportation. If congress was going to refer to commerce than they would have used commerce in the statute, but they didn't, they used transportation. Commerce does not use Transportation.

Rick – It's going to create a lot of confusion and it will put the carrier in the middle.

Gene – Will adding language to the definition to say that this definition is only for the purpose of administering the UCR program alleviate everyone's concerns.

Scott – We could add a preamble to the definition that states the definition only applies to the UCR regulations.

Amended Motion: Adopt the definition of Intrastate Transportation as presented with the preamble: For the purposes of 49 USC 14504a(f)(3), a commercial motor vehicle is used exclusively in intrastate transportation. Motion changed okayed by Scott Morris and seconded by Bob Pritcher. A roll call vote was called for by Avelino. Motion passed with no dissenting vote.

Scott Morris presented UCR registration form year 2012 final draft. (Exhibit D)

Changes to section 4 with the options to indicate where the vehicle information is coming from. They have been labeled as option A for MCS-150 filing and option B for the carriers operated in last 12 months ending June 30th. The registration systems in the past have not accommodated the collection of this data. There is no request for states to make a change to collect this for 2012, but there will be a request for the 2013 year to collect this information.

Line numbers 2- added a line and propose that in option 2b change the word "only" to "exclusively". Added the requirement for carriers to maintain a list of vehicles. At the bottom we added a part to see additional requirements.

Line number 3- added the hash line again to separate the information being collected. Again there is no request for states to change their registration systems this year. It is anticipated that for the 2013 registration year that the collection of this data be separated out during the registration process.

Gene Eckhardt – On line 3 option A are we going to change the operating solely to operating exclusively also?

Avelino recommended an amendment to the motion to approve the registration form with the allowance for Scott to review the statute to have the language match.

Review of the instruction's to the registration form. The only changes were in section 4 regarding maintaining a list of carriers for option B and a list of the vehicles that operate exclusively in intrastate transportation. Both lists are to be maintained by the carrier and provided to the state upon request. They do not have to be sent.

Motion: Scott Morris – Move to approve the registration form for 2012 and instructions with an allowance for Scott to review the registration form and instructions and coordinate the language between the two. Seconded by Gene Eckhardt.

The form and instruction pages are to be reviewed then forwarded to Adam Anderson to proof and distribute by Monday the September 26th.

Frank LaQua requested that the Board oppose the motion and come back with a decision to approve the previously used form and just change the date. Do not want to send out three separate forms to the carriers.

Companies are only required to send in the one form. The other forms do not have to be mailed out and sent back. Suggestion was made that language be put into the instructions as to where carriers can obtain forms 1 and 2.

Rick Wood – Section 4 line 3 needs to be changed to reflect the changes to the registration form.

Changes that have to be made on the registration form.

- 1- Review the statutes and make sure the language in section 4 line 2 & 3 is consistent between the statute and the registration form.

- 2- Review the Instruction form and make sure the language is consistent.
- 3- Add language were UCR forms 1 & 2 can be obtained.
- 4- Separate line 3 Section for to reflect the changes on the registration form.

There are several states that have already sent the form to the printers. Some may have already had theirs printed and are just waiting for this meeting to send them out. States that operate their own registration program are not being required to update their systems. Everybody will have to use the approved form in their mailing.

Avelino called for a vote on the motion to approve – roll call vote – 7 yes, 1 no, 1 abstention.

Discussion on UCR forms 1 and 2. Form 1 captures all vehicle data and Form 2 captures all the data of vehicles claimed to be used exclusively in intrastate transportation. The data is required to be maintained and submitted to the state upon request.

Motion: Scott Morris – The board approve UCR Form 1, UCR Form 2, and instructions with the allowance to make adjustment for definition issues on the forms and instructions with provisions to be added in a conspicuous place as to the acceptable form and format the forms may be submitted. They will all be sent to for proofing. Seconded by Avelino Gutierrez. (Exhibit E & F)

Sandy recommended that a name be added at the top to indicate what the form is for.

Sandy will provide the change in the name.

Bob Pritcher – Why is the form necessary, why does it have to be copied over, is their a violation for not doing it?

Scott – Suggested that it would be acceptable if the carrier can provide the required information and attach it to the form.

Angel – Agree that the carrier should make it available, but not make it mandatory to use the form to submit it.

Scott – Form needs to be used because it has the statement that the document filled out is true.

The statement for carriers to be able to submit the information in an alternative form needs to be done so that it stands out. The forms will be forwarded to Gene for proofing.

Avelino called for a roll call vote. 8 yes votes 1 no. Motion passes

Next Document: The proposed audit requirements for UCR registration

Carriers that choose option A – to use the MCS-150 data to determine the fee that must be paid, as allowed by regulation and do not subtract any vehicles. No audit. If there is

an issue with the data on the MCS-150 form, that would be an issue that FMCSA would have to deal with.

Carriers that choose option B – to use the number of vehicles operated in a twelve month period and the number of vehicles fee bracket they register in is different from the one they would have registered in if they had used their most recent MCS-150 filing. These carriers should be audited.

It is proposed that states should audit 100% those that retreat out of fee bracket 6 and 5. For the rest it is proposed that a total of 3% be audited. The reasoning behind the 3% percent is the same as IRP and IFTA.

Motion: To adopt the proposed audit requirements for UCR registrations. Woody Chambers Seconded. (Exhibit G)

Bob Pritcher – Has some issues with the proposed audit requirements and asked if it could be held over for the next meeting.

Motion: Scott Morris table the discussion and vote on the adoption of the proposed audit requirements for UCR registrations until next meeting. Avelino Gutierrez seconded. Motion passed.

A list of states that are willing to participate in sending out notices to the non-participating states. If you don't see your state listed e-mail Scott Morris as soon as possible. (Exhibit H)

Question regarding non-participating states to provide the vehicle information for an audit. No, we have no jurisdiction to require them to provide that information.

Proposed distribution method for 2013 to be held over till next months board meeting.

UCR System & Best Practices Best Subcommittee- Dave Lazarides – Nothing to report.

Audit Subcommittee –Gene Eckhardt – Nothing to report.

Industry Advisory Subcommittee – Bob Pritcher – Nothing to report.

Revenue and Fees Subcommittee - Dave Lazarides, Temporary Chair – going to make a recommendation on the 2013 registration fees, but will hold off till next month.

Registration System of the State of Indiana – Sandy Bowling – System will be ready for the registrations to begin October 1st. I received the info from FMCSA for mailing lists. It will exclude the undeliverable addresses, private passengers or Federal, State, Local Government and Indian Tribes. Two lists included in your lists one for carriers and brokers and another list for freight forwarders.

When the 2011 non-compliant list was sent out the non-participating states were divided evenly between those states that were sharing a particular state, such as Florida was

evenly divided up between the four states that are sending the notices to them.

The bad check report will be fixed by October 1st. The audit report will be done for states to pull a report to know what carriers they need to look at doing an audit on and the number of vehicles they registered vs. how many they should have.

In relation to the changes to the registration form proposed by Scott. When a carrier changes the number of vehicles they are registering, the system will inform them they will need to keep a record of those vehicles they are opting out. It will tell them how to get the form and that they will need to supply that to the state when asked.

If a carrier files a new MCS-150 form with FMCSA and changes the number of vehicles, does FMCSA keep a record of the previous filings? Jose indicated that FMCSA would have to look into that question. The system will keep a history of all the changes they make when you look in MCMIS.

States can pull the brokers off the combined list or if they want them separate from the carriers, send an e-mail to Sandy and she will send a separate list.

Depository Subcommittee - Scott Morris – States system report. The numbers are up to date. The collection for 2011 will surpass the 2010 registration year. Still working with Frank LaQua for the next distribution, he has been moving their office. The information has been submitted to Frank with the information for 2007, 2008 final distribution. Invoices for 2009, 2010 and 2011 will be going out to those states with their own system requesting payment. It depends on how soon the states can send in the money for a distribution. (Exhibit I)

Motion: Avelino Gutierrez - The UCR Board request and direct all participating states to send 2012 UCR application information by October 31st and recommend an enforcement date to the states of February 1st 2012.

Registration will begin October 1st and that the states have their mailings sent out by October 31st. The Enforcement recommendation date is for the delay in the mailings.

Old/New Matters:

Future Board Meetings:

October 27, 2011 12:00 pm – 3:00 EDT
December 8, 2011 12:00 pm – 3:00 pm EST
February 2, 2012 12:00 – 3:00 EST
Combined NCSTS in June in Chicago, IL

Proposed:
none

The Board adjourned at 2:29 EDT.

Minutes of the Sixty-Fifth Unified Carrier Registration Plan Board of Directors Meeting
Tele-Conference
September 22, 2011
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Minutes approved by the UCR Board on October 27, 2011.

Adam Anderson, UCR Board acting Secretary

Exhibit A – Meeting Agenda
Exhibit B – September Meeting Minutes
Exhibit C – Proposed Intrastate Transportation Definition
Exhibit D – UCR 2012 Registration Form and Instructions
Exhibit E – UCR Form 1 and Instructions
Exhibit F – UCR Form 2 and Instructions
Exhibit G – Proposed Audit Requirements
Exhibit H – Non- Participating Jurisdiction Mail Outs
Exhibit I - State Systems Reports