

FMCSA Unified Registration System (URS) Final Rule

**Denotes a TIA formal comment to the 2011 URS Supplemental Notice of Proposed Rulemaking (SNPRM), based on member feedback.*

Executive Summary

On Thursday, August 22, 2013, the Federal Motor Carrier Safety Administration (FMCSA) issued a Final Rule entitled the, "Unified Registration System". The Final Rule amends the FMCSA's regulations to require interstate motor carriers, freight forwarders, brokers, intermodal equipment providers (IEPs), hazardous materials safety permit (HMSP) applicants, and cargo tank facilities under FMCSA jurisdiction to submit required registration and biennial update information to the Agency via a new electronic on-line URS. FMCSA establishes fees for the registration system, discloses the cumulative information to be collected in the URS, and provides a centralized cross-reference to existing safety and commercial regulations necessary for compliance with the registration requirements. The final rule implements statutory provisions in the ICC Termination Act of 1995 and SAFETEA-LU of 2005. The URS will streamline the registration process and serve as a clearinghouse and depository of information on, and identification for, motor carriers, brokers, freight forwarders, IEPs, HMSP applicants, and cargo tank facilities required to register with FMCSA.

The implementation of the URS final rule will consolidate the following registration and information systems:

1. The U.S. Department of Transportation (USDOT) identification number system;
2. The 49 U.S.C. chapter 139 commercial registration system;
3. The 49 U.S.C. 13906 financial responsibility information system; and
4. The service of process agent designation system.

The Moving Ahead for Progress in the 21st Century Act of MAP-21 was enacted on July 6, 2012. The legislation includes several provisions that are germane to the implementation of the URS. However, many of these statutory provisions will require notice-and-comment rulemakings because they are not self-executing and provide discretion in establishing the details for the implementation of the regulations. Rather than delay this final rule, the Agency decided to address these provisions at a later date, through a separate rulemaking process.

The URS final rule applies to every entity under FMCSA's commercial and/or safety jurisdiction, except for Mexico-domiciled motor carrier seeking authority to operate beyond the border commercial zones (Mexico-domiciled long-haul carriers).

Effective Date

There are two effective dates for the final rule. On November 1, 2013, the new enforcement provisions for failing to file biennial updates for all entities currently require to file the update (motor carriers) and a prohibition on operating with an inactive USDOT number will take effect. ****Please note brokers are**

not required to file a biennial update until October 23, 2015, the November 1, 2013 deadline is only for motor carriers.

On October 23, 2015 the remaining provisions of the URS final rule will take effect, providing the Agency sufficient time to launch the new URS website.

Summary of Relevant Provisions

Application Process: The entities covered by the URS will be required to register with FMCSA and update registration information provided on the new Form MCSA-1 periodically as required. Entities that already have a US DOT number do not need to file the Form MCSA-1 until they need to update registration information. FMCSA is requiring that regulated entities fill out and update their registration information electronically using a web-based, on-line version of Form MCSA-1.

Under the URS application process, a new applicant will be issued an inactive USDOT number. The inactive USDOT number will be activated by the Agency only after the Agency has determined that the applicant is willing and able to comply with applicable regulatory requirements and the applicant has satisfied applicable administrative filing requirements, such as evidence of financial responsibility, if applicable, and a process agent designation.

Updating URS Information: This final rule requires all regulated entities to update registration information every 24 months. When there are changes to an entity's legal name, form of business, or address, registration information must be updated within 30 days. An entity may also update anytime during this 24 month period, however, such updates will not satisfy an entity's biennial update requirement. Beginning on November 1, 2013, the Agency will begin issuing warning letters 30 days in advance of the biennial update deadline, which will notify the entity that its USDOT number will be deactivated if it fails to comply with the biennial update requirement.

Identification Solely by USDOT Number: FMCSA will use the USDOT number as its sole unique identifier for motor carriers, brokers, and freight forwarders subject to its regulations. The URS will discontinue issuance of MC, MX, and FF numbers to those entities who register with FMCSA. *However, today's rule will not require motor carriers to remove obsolete numbers from their vehicles, and those numbers may be used for other purposes such as advertising or marketing. But the Agency encourages carriers to omit these obsolete numbers from new or repainted vehicles.

User Fees: The Agency will charge a \$300 registration fee for all entities filing new registration applications. Currently, only non-exempt for hire-motor carriers, property brokers, and freight forwarders must pay a one-time registration fee to FMCSA of \$300. FMCSA is reducing the fee currently charged for reinstating operating authority registration after such authority has been revoked from \$80 to \$10. The Agency is eliminating the existing \$10 process agent designation filing fee. The current \$10 fee for filings related to financial responsibility remains unchanged.

Evidence of Financial Responsibility: The final rule requires all for-hire motor carriers and private motor carriers that transport hazardous materials (HM) in interstate commerce, as well as property brokers

and freight forwarders, to electronically file evidence of financial responsibility to receive USDOT registration. The Agency is requiring filings of evidence of financial responsibility for new applicants to be completed within 90 days of the date that an application is submitted, or within 90 days of the date of the notice of applications is published in the Federal Register, if a carrier is seeking operating authority registration. FMCSA is requiring insurers, surety companies, and financial institutions to convert to a web-based format when electronically filing evidence of financial responsibility. FMCSA currently accepts insurance filings in three formats: paper filings, electronic (ASCII) filings, and web-based filings.

Process Agent Designations: FMCSA requires all for-hire and private motor carriers, brokers, and freight forwarders to designate process agents via electronic submission as a precondition for receiving USDOT registration, when applicable. The Agency requires changes to the designation be reported to FMCSA within 30 days of the change and the Agency has added a new requirement that a motor carrier, broker, or freight forwarder report changes in name, address, or contact information to its process agents and/or the company making a blanket designation on its behalf report the changes within 30 days of the change. Finally, the Agency has added a requirement that process agents and blanket agents who file process agent designations on behalf of licensed entities report the termination of their contracts to provide process agent service within 30 days of termination. The Agency is requiring that new filings of designation of process agents be completed with 90 days of the date the application is submitted.

****Transfer of Operating Authority:*** The Agency no longer accepts or reviews requests for transfer of operating authority. FMCSA believes, however, that it is necessary to require the reporting aspects of the regulations governing these transactions. These reporting requirements will enable the Agency to identify the parties responsible for the business operations of a for-hire motor carrier, broker, or freight forwarder. FMCSA states: "It has never allowed and will continue to disallow transfers of USDOT numbers which have been issued for safety-related registration and now will become the unique identifier for FMCSA-regulated entities." In response to concerns of reincarnated carriers, FMCSA has decided to require that a person who obtains operating authority through a transfer, that person must notify FMCSA of the transfer within 30 days of consummation of the transaction by filing either an updated MCSA-1 or a new Form MCSA-1, if the transferee did not have an existing USDOT number at the time of transfer.

****TIA's Proposal to Retire USDOT Numbers which have been Inactive for 12 months:*** The Agency believes this requirement would be too burdensome for carriers that have legitimate reasons for temporary deactivation, and therefore declined to adopt this provision.

****TIA's Proposal on Unlawful Re-Brokering:*** FMCSA states: "Prior to the enactment of MAP-21, separate broker authority was not necessarily required for motor carriers to lawfully tender freight to other motor carriers for transportation, provided the carrier arranged for the transportation of shipments which they authorized to transport and which they have accepted and legally bound themselves to transport." Section 32915 of MAP-21 amended 49 U.S.C. 13902 to prohibit a motor carrier from providing broker services without obtaining brokerage authority first. FMCSA will address these MAP-21 requirements in a separate rulemaking, at a later date.