



**Blog by Tommy Ruke, The King Pin – Leading Expert in Truck Insurance**

## **URS – SECOND PHASE LESS THAN 90 DAYS**

The next phase of the Unified Registration System (URS) becomes a reality on 9/30/16 or at least this is the current information from FMCSA. Will they meet their published time line?

The 1995 (yes, 1995) ICC Termination Act included instructions to simplify the registration system for interstate motor carriers by 1/1/98. The simplification was so that an interstate motor carrier did not have to register with the federal government in two steps – One to obtain a DOT# and second, to haul processed goods of others in interstate commerce, obtain a MC#. The MC# also required proof of financial responsibility. The qualified interstate motor carrier in some cases also had to meet state requirements to operate through the state or even if domiciled in the state. The fees that originally started with “Bingo Stamps” that were replaced with the Single State Registration System only required MC# holders to pay. With the simplification change, all holders of federal interstate DOT#'s would have to pay.

The DOT was to complete the simplification by 1/1/98 and nothing happened until 2005 with the SAFETEA-LU Act. The Unified Carrier Registration System became effective 12/07. This is an interstate agreement governing registration information and fees paid by motor carriers, private carriers, brokers, freight forwarders and leasing companies. The UCR committee addressed the money but not the financial responsibility.

In 10/12 the FMCSA implemented the Unified Registration System (URS). The first phase added consequences to the requirement that the interstate motor carrier must update their federal information (information on the MC150 form) every two years. If not, then the motor carrier would now be placed out-of-service for non-compliance and if never completed be dropped from the system. This would give the FMCSA a better accounting of who the active motor carriers were. It also increased enforcement regarding who must have a DOT#. Most enforcement was for the 18-wheelers (big trucks) but the businesses using smaller units that are commonly private went under the radar. However, they should have a DOT# if the unit is 10,001 GVW and used in interstate commerce. Why the enforcement pressure? – To address the money going into the UCR by determining who is active and enforcing businesses that

are required to have a DOT# and pay the fees. The second phase was to be effective 10/15. Last year at this time we were asking, “Will the next phase addressing financial responsibility happen?” The FMCSA realized they could not meet the deadline, pushed it to 9/30/16 and blamed their IT department.

The areas that were to be implemented included a new, on-line portal for obtaining a DOT# and updating current DOT# holder’s information. The 150 form for DOT#’s and OP1 for MC#’s could be submitted on-line, faxed or mailed. The new format can only be done on-line and is in one form, the MCSA-1. It combines all previous information and includes information about owners and management and the new DOT# holder’s past involvement in the motor carrier industry. This is an attempt to stop the shutting down of a motor carrier with bad history and starting over again; running away from the past history. We, in the insurance industry, because of CAB call these carriers chameleon carriers and so does the FMCSA. The balance of the URS is set to be effective 9/30/16.

<b>URS Final Rule Major Provision</b>	<b>New Effective Date</b>
Registration Application Process using the MCSA-1 online application for New Applicants	12/12/2015
Use of MCSA-1 online application for all new and existing entities for all reasons to file	09/30/2016
US DOT Numbers as sole identifier (discontinuing issuance of docket numbers)	09/30/2016
New Fees Schedule	09/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for New Private HM and Exempt For Hire Carriers	09/30/2016
Process Agent Designation (BO-3) for New Private and Exempt for Hire Carriers	09/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for Existing Private HM and Exempt For Hire Carriers	09/30/2016*
Process Agent Designation (BOC-3) for Existing Private and Exempt For Hire Carriers	09/30/2016*

\*Compliance deadline for existing entities not until 12/31/2016

**New Applicants:** URS Phase One impacts only new registration applicants, who will be required to use the URS online registration application beginning on December 12 2015. Only the initial registration by new applicants will be done using the URS online registration application until 2016.

**Already registered with FMCSA:** All other aspects of the URS regulation, including the new fee structure, will roll out during a later phase. All existing entities with a US DOT, MC or FF number, or combinations of them will continue to use existing agency forms and processes to conduct updates, seek additional registration authorities, make administrative filings, and other registration related transactions, until September 30, 2016. The requirement

for all existing private hazmat and exempt for-hire carriers to have proof of financial responsibility in place will take effect December 31, 2016. The requirement for all existing private and exempt carriers to have BOC-3 filings in place will take effect December 31, 2016. New applicants will begin providing this information September 30, 2016.

Looking at the information as it pertains to providing insurance to motor carriers, US DOT#'s as sole identifier (discontinuing issuance of docket numbers), a docket is the MC#. What does this mean? Basically there is no difference to register for private, for-hire exempt and non-exempt. Authority is no longer recognized. All register to operate. Why is this important? – Because of the proof of financial responsibility. As of 9/30/16, any business subject to the MCA80 that requires a MCS90 attached to the policy will have to have a filing. The holders of MC#'s are required now. Effective 9/30/16, the exempt for-hire and private hauling any quantity of hazardous material across state lines in a unit 10,000 GVW or larger will have to have proof of insurance filings based on the DOT#. This is the published rule.

My thought is that now there is no difference between pickle haulers and cucumber haulers (non-exempt and exempt). If still using the TCF, when it refers to authority, authority no longer has the same meaning. There is no difference between common and contract carriers. Yes, the MCSA-1 still asks: “What type of property will the applicant transport?” – Choose one – Exempt commodities or Non-exempt commodities. So will the future still show the difference? – Time will tell.

The concern today is how will the filings be made in the future? If FMCSA follows their own rules, it will be based on DOT#s. No more MC#'s. Some observers have expressed the opinion that the exempt hauler and private hazmat haulers will be issued a MC# so that they can have a filing made. I do not read it that way. This would be even more complicated because if nothing else, the meaning of a “docket number”. Could FMCSA do this? Based on past history, yes. Will they? -- Probably not. If they are not able to accept proof of insurance based on a DOT# 9/30/16, then the choice would be to push the date forward again – Maybe to 12/31/16 when the enforcement starts or issue the exempt and private haulers a MC# which I do not believe will happen -- Again, time will tell.

The question to the FMCSA that insurance providers have is: “Are they prepared to make a filing based on a DOT#?” Hopefully, the FMCSA will provide you with the information. Secondly, risks that they are now writing (exempt for-hire) will have to have a filing made some time after 9/30/16. The compliance for existing entities is not until 12/31/16. Again, what does this mean? Will the enforcement of not having the proper proof when stopped on

the road by an enforcement officer be a warning, a ticket and fine, or placed out-of-service? Does it mean that if the DOT# holder does not have proof of financial responsibility sent, they will be placed out-of-service?

A couple of other items to look forward to – What will the Company Snapshot in Safer look like? Now it is based on information in the MC150 – MCSA-1 has more and different information. For the next four months, current DOT# holders will update on the 150, new DOT# seekers will apply on the MCSA-1. After 9/30/16, all updates and new applications will be through the MCSA-1. As current DOT# holders only have to update every two years, the complete cycle will not be completed until 10/1/18. What will the Company Snapshot and SMS look like after the completion?

Will the License & Insurance information still be available? The MC# is the license and there will no longer be a MC#. Does this mean no license? Insurance is still required but will be based on a DOT# so will it be a second portal or shown in Safer or SMS? Time will tell.

I have been hearing concerns from members that received a memo which stated that businesses with more than one operation will be issued one DOT# if same ownership. The memo contained the following:

The U.S. Department of Transportation's combination of multiple motor carrier registration systems will put historically separate freight forwarders/brokers under a single USDOT number with sister for-hire trucking operations. Motor carriers with freight forwarding/brokerage and cargo transportation under the same ownership will register both operations with a single USDOT number under the Unified Registration System (URS). The Federal Motor Carrier Safety Administration (FMCSA) will cease issuing separate "docket numbers" on September 30, 2016.

I have checked with a couple of people I rely on and we all agree that the term ownership means legal entity and not ownership of legal entities. This is consistent with the previous suggestion arising out of MAP-21 that if a business is doing both they need to separate into different legal entities. Under URS as I interpret the previous, each legal entity will have a DOT# and if the legal entity does both transportation and brokerage/freight forwarding, all operations will be under the one DOT#.

The memo continued to state:

While the combination of trucking and freight forwarder/broker operations under the same ownership is not new, the URS transition to a single

USDOT number has generated insurance related questions within the motor carriage industry.

USDOT proof of insurance requirements are the same for both trucking and freight forwarder operations. The issue is that there is apparently no standard means for indicating exactly which of the sister operations is being insured under a policy when both use the same USDOT number.

My thoughts – I do not see a transportation company with brokerage operations as a new concern because of the URS. Most insurance carriers that I am aware of have a problem providing insurance when the combined operations are under the one legal entity so that is on their no-no list. The combined operation under one DOT# does not cause any additional concern that is not already a concern. The reason is that brokerage does not have a requirement for proof of insurance. The MCS90 only applies to transportation and not brokerage. Having the combination under one DOT# does not change the exposure from what we have now. It is a concern but not due to URS. The concern has lessened with the use of the Motor Carrier Coverage Form (MCCF) which is based on the written agreement. The brokerage operation which in most cases does not have a written contract, the policy of the motor carrier/broker would not make the transportation company hauling the load an insured under their MCCF, and the policy covering the transportation company would have to respond to the claim and protect the broker. Most insurance companies will not provide insurance to a legal entity that has both transportation and brokerage operations now, and the URS makes no difference.

The freight forwarder is different because they are both (based on a DOT regulation) a motor carrier and both do require proof of insurance. I do not know of any company that has the transportation operation and the freight forward operation in the same legal entity. Yes, they could, but it would not be many. I do not know of any insurance company that would provide insurance to a business with transportation and freight forward operations in the same legal entity without a lot of additional underwriting questions. I do not see that the URS makes any difference in how we are underwriting now. If a freight forwarder makes a statement that they do not own or operate a vehicle, then proof of insurance is not required, but that statement cannot be made in most cases if the operation also includes transportation that has vehicles. Again, the operations should be in different legal entities and two DOT numbers. The URS, in my opinion, does not add additional exposure.

This is a long blog and the bottom line is that only time will tell. I have been studying the move since 1996. After watching it for some 20 plus years, it

looks like the changes will be complete, but FMCSA has missed many deadlines!

During the September 29-30, 2016 Annual Conference in Orlando, we will have experts address this subject and hopefully provide some clarity. After all, if the current schedule takes effect, it will be on the last day of the conference.