

that indicates that safety is being compromised. Based upon its evaluation of the 6 renewal applications, FMCSA renews the Federal vision exemptions for James S. Ayers, Vernon J. Dohrn, Mark A. Massengill, Douglas J. Mauton, Dennis L. Maxcy, and Dean B. Ponte.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 19, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Regulatory Guidance Concerning the Applicability of Fees for the Unified Carrier Registration Plan and Agreement

**AGENCY:** Federal Motor Carrier Safety Administration, DOT.

**ACTION:** Notice of regulatory guidance.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces regulatory guidance concerning the applicability of fees in 49 CFR 367.20 to registration under the Unified Carrier Registration (UCR) Plan and Agreement beginning after December 31, 2009. Until an adjustment in the fees is published by FMCSA, States participating in the UCR Plan and Agreement may assess and collect fees under the current FMCSA regulation. In accordance with a statutory amendment that applies to the current regulation, fees must be based on the number of self-propelled commercial motor vehicles owned and operated.

**DATES:** *Effective Date:* This regulatory guidance is effective on March 2, 2010.

**FOR FURTHER INFORMATION CONTACT:** Frederic L. Wood, Regulatory Affairs Division, Office of Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. E-mail:

*frederic.wood@dot.gov.* Telephone: (202) 366-0834.

#### SUPPLEMENTARY INFORMATION:

##### Legal Basis

The Secretary of Transportation has the responsibility for setting the initial fees, as well as any adjustments in those fees, to be paid by motor carrier entities required to register with the UCR Plan and Agreement (49 U.S.C. 14504a(d)(7)(B)). The Secretary is also authorized by section 4308 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub L. 109-59, 119 Stat. 1144, 1774 (Aug. 10, 2005) (SAFETEA-LU) (set out as a note to 49 U.S.C. 13902), to “issue such regulations as the Secretary determines are necessary to carry out [the Unified Carrier Registration Act of 2005, title IV, subtitle C, of SAFETEA-LU].” The FMCSA Administrator has been delegated authority by 49 CFR 1.73(a)(5) and (7) to carry out the functions and exercise the authority vested in the Secretary of Transportation by 49 U.S.C. chapters 139 and 145.

##### Background

This document provides regulatory guidance concerning the applicability of 49 CFR 367.20, *Fees under the Unified Carrier Registration Plan and Agreement for each registration year*, for registration years beginning after December 31, 2009. FMCSA added this section to part 367 of title 49, Code of Federal Regulations (CFR) in a final rule in 2007 in order to set the initial fees for the Unified Carrier Registration Plan (UCR Plan). 72 FR 48590 (Aug. 24, 2007).

The UCR Plan is generally governed by the provisions of 49 U.S.C. 14504a, as added by section 4305 of SAFETEA-LU, 119 Stat. 1764-1773. The UCR Plan is the organization responsible for implementing and administering the Unified Carrier Registration Agreement (UCR Agreement), an interstate agreement governing the collection and distribution of registration information and fees collected pursuant to the statute. 49 U.S.C. 14504a(a)(8) and (9). Section 14504a(f)(1)(A)(i) requires that motor carriers, motor private carriers, and freight forwarders operating motor vehicles be charged registration fees that are “based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder \* \* \*.” At the time of the issuance of the 2007 final rule, section 14504a(a)(1)(A) provided that, in general, a commercial motor vehicle “has the meaning such term has under [49 U.S.C.] 31101.” In that section, a

commercial motor vehicle is defined as “a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo \* \* \*.” Taken together, these provisions required entities subject to registration and payment of fees to the UCR Plan to determine both the number of self-propelled vehicles (i.e., powered units, such as tractors and straight trucks) and the number of towed vehicles (i.e., trailers) in their fleets in order to assess the applicable fee to be paid under 49 CFR 367.20.

In § 367.20, FMCSA published a table that established the fee schedule for motor carrier entities that are subject to registration and payment of fees under the UCR Plan. The headings of both § 367.20 and the table it contains read “Fees under the Unified Carrier Registration Plan and Agreement for each registration year.” Accordingly, the fee schedule is not limited to a specific year, but can be used in any registration year. The fee schedule is based on brackets established by the “number of commercial motor vehicles owned or operated by an exempt or non-exempt motor carrier, motor private carrier, or freight forwarder.” This is essentially identical to the statutory phrase in section 14504a(f)(1)(A)(i). Section 367.20 does not contain a separate definition of the term “commercial motor vehicles.” Therefore, it is reasonable to conclude that the term’s meaning is controlled by the statutory definition found in section 14504a(f)(1)(A)(i). The provisions of § 367.20 have been applied by the States participating in the UCR Plan and Agreement on that basis to assess and collect fees for three registration years: 2007, 2008 and 2009. See 73 FR 10157-58 (Feb. 26, 2008).

In 2008, in section 701(d)(1)(B) of the Rail Safety Improvement Act of 2008, Public Law 110-432, div. A, title IV, 122 Stat. 4848, 4906 (Oct. 16, 2008), Congress amended section 14504a(a)(1)(A) so that it now provides:

[T]he term “commercial motor vehicle”—  
(i) for calendar years 2008 and 2009, has the meaning given the term in section 31101 [of title 49, U.S.C.]; and

(ii) for years beginning after December 31, 2009, means a self-propelled vehicle described in section 31101.

This amendment means that for UCR registration years beginning with 2010, the number of “commercial motor vehicles” used to determine the size of a motor carrier’s fleet will be based only on the number of self-propelled (or powered) vehicles and will not include towed vehicles.

Because the meaning of the term “commercial motor vehicles” in § 367.20

is controlled by the meaning of that term in section 14504a(a)(1)(A), the change in meaning made by the statutory amendment also applies to the term used in § 367.20. This is a necessary result of this basic principle: “First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.” *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842–43 (1984). Congress has clearly expressed its intent to change the meaning of the term “commercial motor vehicles” as used in section 14504a for years beginning after December 31, 2009. The relevant FMCSA regulation implementing the statutory provisions must be interpreted accordingly.

#### **Purpose and Effect of This Interpretation**

FMCSA has received a recommendation by the UCR Plan regarding an adjustment in fees for 2010 in accordance with 49 U.S.C. 14504a(d)(7)(A). Although FMCSA published a notice of proposed rulemaking regarding a recommended adjustment in the fees on September 3, 2009 (74 FR 45583), a final rule has not yet been issued due to unexpected delays. States may, of course, await the publication of the final rule before assessing and collecting UCR Plan fees for 2010. However, the interpretation of § 367.20 set forth in this regulatory guidance—namely, the fact that the fee schedule in § 367.20 is not limited, but can be used in any registration year—allows the States participating in the UCR Plan to consider the option of assessing and collecting fees for registration year 2010 by applying that existing fee structure. In doing so, States would have to base fees on the number of self-propelled vehicles (not including towed vehicles) that are owned or operated by exempt or non-exempt motor carriers, motor private carriers, or freight forwarders.

This option allows those States to continue meeting their commitment, in accordance with section 14504a(e)(1)(B), “that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.” In addition, the participating States will also have funds available to meet their share of the costs of participating in the Motor Carrier

Safety Assistance Program’s grants, as permitted by 49 U.S.C. 31103(a), as amended by section 4307 of SAFETEA-LU, 119 Stat. 1774. To be sure, because the fees set in § 367.20 were based on the previous definition of commercial motor vehicles that included trailers, many motor carriers would pay fees based on a smaller number of commercial motor vehicles, thus producing less revenues for the participating States. Nonetheless, registration and payment of fees for 2010 under § 367.20 would allow participating States an opportunity to receive at least a partial flow of revenues in order to meet the statutory objectives.

The final rule establishing the adjusted fees beginning with registration year 2010 is presently under consideration by the Agency and the Department and will most likely be reviewed by the Office of Information and Regulatory Affairs of the Office of Management and Budget. Once a final determination is made concerning a final rule, participating States that decided to assess and collect fees under the current fee schedule may then assess and collect the balance due from any motor carrier entities that registered and paid the fees established in the current fee schedule.

#### **Regulatory Guidance**

##### *Part 367—Standards for Registration With States*

##### Sections Interpreted

Section 367.20 Fees Under the Unified Carrier Registration Plan and Agreement for Each Registration Year.

*Question:* Do the fees set by this section apply to registration years beginning after December 31, 2009?

*Guidance:* Yes. The States participating in the Unified Carrier Registration Plan and Agreement may assess and collect fees pursuant to the fee schedule set forth in 49 CFR 367.20. The statutory amendment of the applicable definition of commercial motor vehicles in 49 U.S.C. 14504a that applies beginning after December 31, 2009, also governs the application of the fees established by this section.

Issued on: February 22, 2010.

**Rose A. McMurray,**

*Associate Administrator and Chief Safety Officer.*

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## **DEPARTMENT OF THE TREASURY**

### **Office of Thrift Supervision**

#### **Basel Comprehensive Quantitative Impact Study**

**AGENCY:** Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

**DATES:** Submit written comments on or before May 3, 2010.

**ADDRESSES:** Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel’s Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to [infocollection.comments@ots.treas.gov](mailto:infocollection.comments@ots.treas.gov). OTS will post comments and the related index on the OTS Internet Site at <http://www.ots.treas.gov>. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to [public.info@ots.treas.gov](mailto:public.info@ots.treas.gov), or send a facsimile transmission to (202) 906–7755.

**FOR FURTHER INFORMATION CONTACT:** You can request additional information about this proposed information collection from Roberta M. Renz (202) 906–6447, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the