

BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
DEPARTMENT OF TRANSPORTATION

COMMENTS OF THE
OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC.
IN RESPONSE TO NOTICE AND REQUEST FOR COMMENTS

DOCKET NO. FMCSA-97-2349

Unified Registration System

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BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
DEPARTMENT OF TRANSPORTATION

The Owner-Operator Independent Drivers Association, Inc. (“OOIDA”) submits these comments in response to the October 26, 2011, Supplemental Notice of Proposed Rulemaking (“SNPRM”) published at 76 Fed. Reg. 66506 by the Federal Motor Carrier Safety Administration (“FMCSA” or “Agency”), Docket No. FMCSA-97-2349, seeking public comments on revisions to its original proposal establishing the Unified Registration System (“URS”). In the SNPRM the Agency states that the additional rule changes proposed here address comments received in the original URS NPRM published on May 19, 2005 (“2005 NPRM”).

OOIDA is a not-for-profit trade association representing approximately 150,000 independent owner-operators, small-business motor carriers, and professional truck drivers (“small-business truckers”) located in all 50 states and Canada. Because small-business truckers with 20 or fewer trucks represent approximately 93 percent of active motor carriers, and more than half of those operate only one trucks, such truckers have a significant presence in the trucking industry. OOIDA is the largest international trade association promoting their views before government agencies, legislatures, courts, other trade associations, private businesses, and numerous committees and forums on the local, state, national, and international level.

Because OOIDA’s member small-business truckers are directly affected by the URS requirements, OOIDA filed comments in the 2005 NPRM. *See* 1997-2349-0162-0002. Those comments were generally supportive of many of FMCSA’s original proposals. OOIDA continues, for the most part, to support the URS with the currently-proposed amendments. However, as discussed below, OOIDA believes that certain technical aspects of the system can be improved.

DISCUSSION

I. Carriers using blanket process agent designations should update the BOC-3 biennially.

When FMCSA proposed in this SNPRM to expand the group of carriers required to file process agent designations, the FMCSA wanted to make it easier for individuals seeking compensation for losses incurred in any accident with a commercial motor vehicle to “better identify the appropriate individual(s) upon whom to serve notices for enforcement actions.” *See* 76 Fed. Reg. at 66516. OOIDA believes that effective service might still be elusive in cases where the involved motor carrier is using a blanket designation of agents in compliance with § 366.5, a problem that could be minimized by requiring such carriers to update the BOC-3 blanket designation form along with the biennial update of the MCSA-1.

Under the current registration system, once a blanket designation is filed via the BOC-3 it exists indefinitely regardless of whether any relationship is maintained between the process agent and the motor carrier. However, an agent for service of process may not have knowledge of the motor carrier’s address changes over time or the relationship might end for innumerable other reasons such as the agent simply withdrawing from offering the service. In the first instance, it would be unlikely that the agent would be able to serve notices in court or administrative enforcement actions in a timely manner. In the second instance, the motor carrier can fall victim to not being notified of enforcement actions being taken by FMCSA, which places their business in jeopardy of a federal out-of-service order for failure to respond. However, the designation regulation is silent concerning the ability of the process agent to cancel the designation on file with FMCSA. Section 366.6 only allows the motor carrier to take such action. While the proposal in this SNPRM of requiring the MCSA-1 to be updated biennially would *supposedly* mean a given motor carrier’s address is updated and accurate, that can not be assured unless the biennial update requirement is also expanded to include the BOC-3 form.

II. Carriers reactivating authority should be allowed to enter zero miles for prior year.

OOIDA files the current MCS-150 for many of its members seeking their own operating authority, whether it is an original application or a request to reactivate suspended or inactive authority. As a result, OOIDA's Permitting and Licensing department has learned of the following programming "glitch" that should be corrected by the Agency in developing the software to support electronic filing of the new MCSA-1.

When a carrier attempts to provide the data needed to reactivate suspended or inactive authority, the current system will not allow the numerical value of "0" (zero) miles to be inputted for the previous year even though there has clearly been no activity. The carrier must input a value of "1" mile in order for the system to accept the application. Having to make any mileage declaration could create a liability to pay Unified Carrier Registration ("UCR") fees for a year where there was no operation. Simply allowing carriers to accurately enter zero miles in this data field resolves the issue.

III. Conclusion.

OOIDA reaffirms its conclusion from its comments filed to the 2005 NPRM. "There are many positive benefits to the new combined registration system. Applicant time and effort will be saved, the FMCSA and states will have better information on each motor carrier to perform appropriate enforcement, and the public will benefit from a more comprehensive picture of the motor carrier industry created by the data collection." The minor changes suggested above will make the system even more useful for all involved parties.

Respectfully submitted,

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