

executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action nevertheless will be effective December 21, 2015.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 1, 2015.

**Ron Curry,**

*Regional Administrator, EPA Region 6.*

[FR Doc. 2015-26789 Filed 10-20-15; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**49 CFR Parts 360, 365, 366, 368, 385, 387, 390 and 392**

[Docket No. FMCSA-1997-2349]

RIN 2126-AB85; Formerly 2126-AA22

#### Unified Registration System

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Final rule; extension of effective dates.

**SUMMARY:** FMCSA delays the effective and compliance dates for its August 23, 2013, Unified Registration System (URS) final rule. Because FMCSA changes the effective date (the actual date when the regulatory text that appears in the Code of Federal Regulations (CFR) will be changed) and makes technical corrections and conforming amendments to the 2013 regulatory text, the Agency has determined that it is in the best interest of the regulated entities, our State partners and the general public to present the full text of the sections affected. The 2013 URS final rule was issued to improve the registration process for motor carriers, property brokers, freight forwarders, Intermodal Equipment Providers (IEPs), hazardous materials safety permit (HMSP) applicants and cargo tank facilities required to register with FMCSA, and streamline the existing Federal registration processes to ensure the Agency can more efficiently track these entities. Today's final rule delays the implementation of the 2013 final rule in order to allow FMCSA additional time to complete the information technology (IT) systems work required to fully implement that rule.

**DATES: Effective Dates:** The effective date of this rule is September 30, 2016, except for §§ 365.T106, 368.T3, and 390.T200, which are effective from December 12, 2015 through September 29, 2016. The effective dates of the rule published at 78 FR 52608 (August 23, 2013) are delayed until September 30, 2016. The withdrawal of Instruction #1 from the correction published at 78 FR 63100 (October 23, 2013) is effective October 21, 2015.

**Compliance Dates:** The compliance date for this rule is September 30, 2016, except that: New applicants must comply with §§ 365.T106, 368.T3 or 390.T200 (as applicable) from December 12, 2015 through September 29, 2016; private hazardous material carriers and exempt for-hire carriers must comply

with §§ 387.19 or 387.43 (as applicable) by December 31, 2016; and all entities must comply with § 366.2 by December 31, 2016.

Petitions for reconsideration must be received by November 20, 2015.

**ADDRESSES:** Petitions for reconsideration must be submitted to: Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

All background documents, comments, and materials related to this rule may be viewed in docket number FMCSA-1997-2349 using either of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>.

- Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffrey S. Loftus, 1200 New Jersey Avenue SE., Washington, DC 20590-0001, by telephone at (202) 385-2363 or via email at [jeff.loftus@dot.gov](mailto:jeff.loftus@dot.gov). Office hours are from 8:00 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

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## I. Executive Summary

This final rule is being issued to delay the effective and compliance dates of the Unified Registration System (URS) final rule, issued on August 23, 2013.<sup>1</sup> Because FMCSA changes the effective date (the actual date when the regulatory text that appears in the Code of Federal Regulations (CFR) will be changed) and makes technical corrections and conforming amendments to the 2013 regulatory text, the Agency has determined that it is in the best interest of the regulated entities, our State partners and the general public to present the full text of the sections affected. The URS final rule was issued to improve the registration process for motor carriers, property brokers, freight forwarders, IEPs, HMSP applicants and cargo tank facilities required to register with FMCSA, and streamline the existing Federal registration processes to ensure the Agency can more efficiently track these entities. The URS final rule increases public accessibility to data about interstate motor carriers, property brokers, freight forwarders, IEPs, HMSP applicants, and cargo tank facilities. Full implementation of the URS final rule will replace the registration functions of the following 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 (49 U.S.C. 503 and 13304).

FMCSA estimated a 2-year period for development of the information technology (IT) system to implement the August 23, 2013, URS final rule, and as a result set the initial compliance date for the majority of that rule at 26 months after publication (October 23, 2015).<sup>2</sup> During the 2 years since publication of the final rule, the Agency has experienced challenges completing the IT system necessary to fully implement the 2013 final rule. FMCSA also received a protest during the acquisition

process for a supporting contractor, which added to delays in development of the IT system for integrating and retiring the FMCSA legacy registration systems. The Agency and its supporting contractors worked diligently in the past 24 months to meet the original URS final rule's effective date, but ultimately determined that full implementation of the URS cannot be accomplished by that time.

As a result, FMCSA is delaying the effective and compliance dates of the URS final rule, as reflected in the table at the end of this executive summary. The new dates reflect the revised schedule for completing the IT system required. In doing so, the Agency determined that a discrete portion of the IT system will be available earlier than others, and so we are adding three temporary sections, one each in parts 365, 368, and 390, to allow for implementation of that portion of the new URS. These temporary sections will apply to new U.S.- or Canada-domiciled applicants and Mexico-domiciled applicants seeking registration to operate in the commercial zones along the U.S.-Mexico border. A new applicant is defined as anyone who does not have, and has never been assigned a USDOT, Motor Carrier (MC), Mexico owned or controlled (MX), or Freight Forwarder (FF) number. These new applicants will be required to use the new online application when requesting registration and a USDOT number beginning on December 12, 2015. The new online application and associated database will not be available for use by those who already have USDOT, MC, MX, or FF numbers until September 30, 2016, so we are establishing the new overall effective date of this final rule to coincide with that availability. Once that occurs, there will no longer be a need for the separate provisions dealing with new applicants, thus the temporary sections will be in effect only from December 12, 2015 through September 29, 2016. After that time, the URS system, including the online application, will be available for submission of all requests for new registration, to track applications, to update information, and to file biennial updates.

While we are delaying the effective date for most of the URS final rule requirements until September 30, 2016, we are providing an additional three months for full compliance with some provisions. Private hazardous material

carriers and exempt for-hire carriers registered with the Agency as of September 30, 2016, will be given three months from that date to file their evidence of compliance with the financial responsibility requirements. While these carriers have had to obtain adequate insurance coverage for some time now, the 2013 final rule provided the first rule requiring them to file proof of that coverage with FMCSA. As a result, FMCSA believes allowing for a three month compliance period will help alleviate potential concerns entities may have over using a new system, as well as ensure seamless operation of the URS.

Additionally, all entities registered with the Agency as of September 30, 2016, will have this same three month period to file their designation of a process service agent (Form BOC-3) using the URS online application. This delay is to ensure that regulated entities have sufficient time to become familiar with the system.

The new URS will be capable of handling both financial responsibility and designation of process agent filings on September 30, 2016, and FMCSA encourages those entities required to make these filings as early in the compliance period as they can. In order to include this staggered compliance period, we have revised § 366.2 (designation of process service agent) and sections 387.19 and 387.43 (financial responsibility) slightly from what was published on August 23, 2013, as explained in greater detail in the section-by-section discussion below.

We are making corrections to errors found in the original final rule since its publication. In parts 385, 387, 390 and 392 we are correcting inadvertent errors to the authority citations. In § 387.403, we are making conforming amendments based on other final rules that affected the registration requirements since the publication of the August 23, 2013 URS final rule. In § 390.207, we are correcting a cross reference. In § 368.8, we are removing a statement that "decisions by the Director will be final Agency orders on certain appeals"—the Agency has changed its internal delegations, and this sentence is no longer accurate. Finally, we are updating the web address for obtaining access to URS to provide a more precise location, as opposed to the main FMCSA home page. These changes are not substantive and are explained in more detail in the section-by-section

<sup>1</sup> Final Rule, *Unified Registration System*, 78 FR 52608 (Aug. 23, 2013).

<sup>2</sup> Some provisions (amendments to 49 CFR 390.19 and 392.9b) became effective on November 1, 2013, and are not impacted by this final rule. The amendment to 49 CFR 366.2 was set to go into effect

32 months after publication (April 25, 2016); this final rule also delays that date.

<sup>3</sup> 78 FR 63100, October 23, 2013.

discussion below. Finally, we have incorporated corrections that were made in an October 23, 2013 correction document.<sup>3</sup>

URS EFFECTIVE DATES

URS final rule major provision	(Existing) effective/compliance date	(New) effective/compliance date
Registration Application Process using the MCSA-1 online application for New Applicants <sup>1</sup>	10/23/2015	12/12/2015
Use of MCSA-1 online application for all new and existing entities for all reasons to file	10/23/2015	9/30/2016
USDOT Number as sole identifier (discontinuing issuance of docket numbers)	10/23/2015	9/30/2016
New Fees Schedule	10/23/2015	9/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for New Private HM and New Exempt For Hire Carriers	10/23/2015	9/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for Existing Private HM and Exempt For Hire Carriers	10/23/2015	12/31/2016
Process Agent Designation (BOC-3) for All New Motor Carriers (including Private and Exempt For Hire Carriers)	10/23/2015	9/30/2016
Process Agent Designation (BOC-3) for All Existing Motor Carriers (including Private and Exempt For Hire Carriers)	4/25/2016	12/31/2016

<sup>1</sup> New and existing Non-North American motor carriers will begin to use the MCSA-1 online application on 9/30/2016.

II. Public Participation

A. Viewing Documents

To view comments submitted to previous rulemaking notices on this subject, as well as documents identified in this preamble as available in the docket, go to <http://www.regulations.gov> and click on the "Read Comments" box in the upper right hand side of the screen. Then, in the "Keyword" box, insert "FMCSA-1997-2349" and click "Search." Next, click "Open Docket Folder" in the "Actions" column. Finally, in the "Title" column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

B. Privacy Act

All comments received were posted without change to <http://www.regulations.gov>. In accordance with 5 U.S.C. 553(c), DOT previously solicited comments from the public to better inform its rulemaking process. DOT posted these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

III. Acronyms and Abbreviations

ANPRM Advance Notice of Proposed Rulemaking

APA Administrative Procedure Act  
 BI&PD Bodily Injury and Property Damage  
 BOC-3 FMCSA Form—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders  
 CAA Clean Air Act  
 CD Compact Disc  
 CDL Commercial Driver's License  
 CE Categorical Exclusion  
 CFR Code of Federal Regulations  
 CMV Commercial Motor Vehicle  
 DOT/USDOT United States Department of Transportation  
 FF Freight Forwarder  
 FMCSA Federal Motor Carrier Safety Administration  
 FMCSRs Federal Motor Carrier Safety Regulations, 49 CFR parts 350 through 399  
 FR Federal Register  
 HM Hazardous Materials  
 HMR Hazardous Materials Regulations, 49 CFR parts 171 through 180  
 HMSP Hazardous Materials Safety Permit  
 IEP Intermodal Equipment Providers  
 ICCTA ICC Termination Act of 1995  
 NPRM Notice of Proposed Rulemaking  
 MAP-21 Moving Ahead for Progress in the 21st Century Act  
 MCMIS Motor Carrier Management Information System  
 MCS-150 FMCSA Form—Motor Carrier Identification Report (Application for USDOT Number)  
 MCSA-1 FMCSA Form, the URS online application  
 MC Motor Carrier  
 MC-R Office of the Associate Administrator for Research and Information Technology  
 MC-RI Office of Information Technology  
 MC-RS Office of Registration and Safety Information  
 MX Mexican-owned or controlled  
 OMB Office of Management and Budget  
 NEPA National Environmental Policy Act  
 PIA Privacy Impact Assessment  
 PII Personally Identifiable Information  
 PRISM Performance and Registration Information Systems Management

SAFETEA-LU Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users  
 SSRS Single State Registration System  
 TA Temporary Authority  
 UCR Unified Carrier Registration  
 URS Unified Registration System  
 U.S.C. United States Code

IV. Background

A. Legal Authority

FMCSA relies upon the same legal authority cited in the August 23, 2013, Unified Registration System (URS) final rule. The Agency extends the effective and compliance dates, and makes technical corrections and conforming amendments to the 2013 final rule. Because there are no substantive changes to content of the 2013 final rule, we will not expand upon the previous legal authority discussion presented in that rule.

The Administrative Procedure Act (APA) (5 U.S.C. 551-706) specifically provides exceptions to its notice and public comment rulemaking requirements where the Agency finds there is good cause (and incorporates the finding and a brief statement of reasons therefore in the rules issued) to dispense with them. Generally, good cause exists where the Agency determines that notice and public procedures are impractical, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(3)(B)). Today's URS final rule is being issued to delay the effective date of the original August 23, 2013, final rule. FMCSA will not have the technological ability to support the changes made by the August 23, 2013, final rule by its original effective date (October 23, 2013), which would

<sup>3</sup> 78 FR 63100, October 23, 2013.

make it impossible for motor carriers to comply with the original effective date. If FMCSA does not delay the effective date, motor carriers would find themselves unable to obtain a USDOT number, request registration, or file evidence of meeting the financial responsibility requirements, among other things. The motor carrier registration process would grind to a halt, posing potential harm to motor carriers, other FMCSA-regulated entities, drivers, and those who use their services. For these reasons, FMCSA finds good cause to dispense with notice and public comment on the effective date delaying portions of this final rule, as providing for public notice and comment would be contrary to the public interest.

For those portions of this final rule which are correcting errors in the original August 23, 2013 final rule, we likewise find good cause to dispense with notice and public comment, as doing so is unnecessary. These correcting changes are not substantive in nature; they are being made to correct inadvertent errors and in one instance, to indicate a change in the internal delegations within the Agency. Delaying the effective date of these changes to procure notice and comment would further postpone these corrections, possibly lead to greater confusion, and thus would be contrary to the public interest.

### B. Regulatory History

The Federal Highway Administration (FMCSA's predecessor agency) issued an advance notice of proposed rulemaking (ANPRM) announcing plans to develop a single, online, Federal information system in August 1996.<sup>4</sup> The ANPRM solicited specific detailed information from the public about each of the systems to be replaced by the URS, the conceptual design of the URS, uses and users of the information to be collected, and potential costs.

On May 19, 2005, FMCSA published an NPRM describing a proposal to merge all of the prescribed information systems except the SSRS into a unified, online Federal system.<sup>5</sup> The Agency subsequently revised the May 2005 proposal in an October 26, 2011, SNPRM to incorporate new congressionally mandated provisions in SAFETEA-LU, and modified certain proposals in response to comments to

the NPRM.<sup>6</sup> The SNPRM also included changes necessitated by final rules published subsequent to publication of the NPRM that directly impacted the URS. In the SNPRM, the Agency substantially altered the regulatory drafting approach proposed in the NPRM by creating a straightforward requirement for all entities to register and biennially update registration information under the new URS and by compiling a centralized cross-reference to existing safety and commercial regulations necessary for compliance with the registration requirements. The Agency abandoned previous efforts to reorganize all registration and new entrant requirements under a single part under title 49, Code of Federal Regulations (CFR) chapter III. FMCSA issued the final rule for URS on August 23, 2013.<sup>7</sup>

Upon enactment, MAP-21 affected a number of rules already being developed by FMCSA, including this one. Because MAP-21 was enacted several months after the close of the comment period for the SNPRM, the public did not have an opportunity to comment on provisions of the Act that may have an impact on the URS. Rather than delay issuance of the August 23, 2013, final rule, and to ensure an appropriate opportunity for public participation in the changes necessitated by MAP-21, FMCSA decided to initiate a separate rulemaking proceeding(s) to address most of the needed changes.

## V. Section-by-Section Analysis

### A. Overview

The section-by-section analysis from the August 23, 2013, URS final rule continues to apply to today's final rule, as today's actions delay the effective and compliance dates provided in that rule and make technical corrections and conforming amendments to that rule. The following analysis is limited to discussing these delayed dates, technical corrections and conforming amendments, and explaining how they are being reflected in the regulatory text. Because of the multiple CFRs affected by today's final rule, the Agency has determined that it is in the best interest of the regulated entities, our State partners and the general public to present the full regulatory text for the amended URS requirements, as opposed to simply correcting the effective date

and errant provisions. This action will make it easier for the reader to follow.

Throughout the regulatory text, we updated the web address for accessing the URS; the new address provides a more precise location ([www.fmcsa.dot.gov/urs](http://www.fmcsa.dot.gov/urs)), as opposed to the old address ([www.fmcsa.dot.gov](http://www.fmcsa.dot.gov)), which directed entities to the FMCSA homepage with directions to search using keywords. We also updated the way we refer to the Form MCSA-1, the URS online application, to reflect the terminology used on the FMCSA Web site.

### B. Part 360, Fees for Motor Carrier Registration and Insurance

This final rule delays the effective dates for the amendments to sections 360.1, 360.3, and 360.5. FMCSA has determined that it would not be appropriate to collect new filing fees for each registration authority sought by an applicant until the new URS is able to support the new functionality those fees were designed to fund. Therefore, these provisions will now become effective on September 30, 2016, at the same time that the full functionality of the URS will also be available. Those new applicants using the URS online application before September 30, 2016, will pay the same fees as they would today using the current application forms and procedures. Beginning on September 30, 2016, all applicants will be charged a separate \$300 fee for each distinct registration for which they apply with each entity that operates commercial motor vehicles in interstate commerce paying \$300 for the safety registration and \$300 for each additional registration. For example, a freight forwarder operating commercial motor vehicles in interstate commerce would pay \$300 for the safety registration and \$300 for registration as a freight forwarder. And a new private motor carrier of property that also seeks registration as a for-hire to enable the entity to transport freight for others on return trips would pay \$300 for the safety registration and \$300 for registration as a for-hire motor carrier of property. The full list of registration types that carry this \$300 fee are:

Safety Registration<sup>8</sup>

Safety Registration

Operating Authority Types<sup>9</sup>

U.S./Canada Domiciled Motor Carriers

Motor Carrier, Property

Motor Carrier, Property Household Goods

<sup>4</sup> Advance Notice of Proposed Rulemaking, Motor Carrier Replacement Information/Registration System, 61 FR 43816 (Aug. 26, 1996).

<sup>5</sup> Notice of Proposed Rulemaking, Unified Registration System, 70 FR 28990 (May 19, 2005).

<sup>6</sup> Supplemental Notice of Proposed Rulemaking, Unified Registration System, 76 FR 66506 (Oct. 26, 2011).

<sup>7</sup> Final Rule, Unified Registration System, 78 FR 52608 (Aug. 23, 2013).

<sup>8</sup> The registration required by 49 U.S.C. 31134.

<sup>9</sup> Distinct registrations authorized and required pursuant to 49 U.S.C. 13901-13904 and 49 CFR part 365.

Motor Carrier, Passenger  
 Motor Carrier, Passenger Regular Route (only applicable to recipients of Federal transportation grants)  
 Motor Carrier, Passenger Charter/Special Operations (only applicable to recipients of Federal transportation grants)  
 Motor Carrier, Property Temporary  
 Motor Carrier, Property Household Goods Temporary  
 Motor Carrier, Passenger Temporary  
 Motor Carrier, Property Enterprise  
 Motor Carrier, Property Household Goods Enterprise  
 Motor Carrier, Passenger Enterprise  
 Mexico Domiciled Motor Carriers<sup>10</sup>  
 Motor Carrier, Property MX Commercial Zone  
 Motor Carrier, Passenger MX Commercial Zone  
 Motor Carrier, Property MX Long Haul  
 Motor Carrier, Property Household Goods MX Long Haul  
 Motor Carrier, Passenger Charter/Special Operations MX Long Haul  
 Non-North American Domiciled Motor Carriers  
 Motor Carrier, Property NNA  
 Motor Carrier, Property Household Goods NNA  
 Motor Carrier, Passenger NNA  
 Brokers  
 Broker, Property  
 Broker, Property Household Goods  
 Freight Forwarders  
 Freight Forwarder, Property  
 Freight Forwarder, Property Household Goods

#### C. Part 365, Rules Governing Applications for Operating Authority

This final rule will delay the effective dates for the amendments to sections 365.101, 365.103, 365.105, 365.107, 365.109, 365.110, 365.111, 365.119, 365.201, 365.203, 365.301, 365.401, 365.403, 365.405, 365.507, and 365.509.

This final rule also adds temporary § 365.T106, which will be in effect from December 12, 2015, through September 29, 2016. Under this temporary section, new applicants, defined as U.S.- or Canada-domiciled entities that do not have (and have never had) an active USDOT, MC, MX, or FF Number, must apply for a USDOT number and, if applicable, operating authority using the URS online application, available at <http://www.fmcsa.dot.gov/urs>. These applications will be processed using the same legacy systems available to FMCSA today, and will be transitioned over to the complete URS database with

<sup>10</sup> The list of distinct authority types includes all authorized operating authority registration types. The identification of an authorized operating authority registration here does not change existing policy and statutory restraints on the issuance on certain operating authority registration types for Mexico domiciled motor carriers.

those records that already exist in the legacy systems. Applicants will have the ability to print out a summary of their online application after their application is complete and their fee is paid.

#### D. Part 366, Designation of Process Agent

This final rule will delay the effective dates for the revisions to sections 366.1, 366.2, 366.3, 366.4, 366.5, and 366.6. The requirement for electronic filing of Form BOC-3, designation of process agent, comes into effect on September 30, 2016; however, entities already registered with FMCSA as of that date will not be required to comply until December 31, 2016. The URS will have the ability to collect the Form BOC-3 filings on September 30, 2016, and we encourage motor carriers and freight forwarders to comply with this requirement as early as they can. In addition, this final rule will no longer make a distinction between private motor carriers or exempt freight forwarders when it comes to compliance dates. The system will be able to receive all notices at the same time, and all are being provided with additional time than originally included in the August 23, 2013 final rule. Note that after September 30, 2016, new applicants (*i.e.* entities that have not registered with FMCSA prior to September 30, 2016) will need to ensure a Form BOC-3 is submitted before registration will be granted.

#### E. Part 368, Application for a Certificate of Registration To Operate in Municipalities in the United States on the United States-Mexico International Border or Within the Commercial Zones of Such Municipalities

This final rule delays the effective date for the revisions in sections 368.3, 368.4, and 368.8 until September 30, 2016, when FMCSA estimates the URS online application will be available for all users, and the majority of the functionality of the URS will be fully available.

This final rule also adds temporary § 368.T3, which will be in effect from December 12, 2015, through September 29, 2016. Under this temporary section, new applicants, defined as citizens of Mexico or motor carriers owned or controlled by a citizen of Mexico, who do not have (and have never had) an active USDOT, MC, MX, or FF number, must apply for a USDOT number and, if applicable, operating authority using the URS online application, available at <http://www.fmcsa.dot.gov/urs>. These applications will be processed using the same legacy systems available to

FMCSA today, and will be transitioned over to the complete URS database with those records that already exist in the legacy systems. Applicants will have the ability to print out a summary of their online application after their application is complete and their fee is paid.

Section 368.8 also has a minor change. We have removed the last sentence, which indicated that the Director's decision would serve as the final Agency order in appeals after denials of applications. However, the Director no longer has the authority to make these decisions, as that authority has been redelegated to the Assistant Administrator. The change is being made to the regulation to reflect this change in delegation.

#### F. Part 385, Safety Fitness Procedures

This final rule delays the effective date for the revisions in sections 385.301, 385.303, 385.305, 385.329, 385.405, 385.409, 385.419, 385.421, 385.603, 385.607, 385.609, and 385.713 until September 30, 2016, when FMCSA estimates the URS online application will be available for all users, and the majority of the functionality of the URS will be fully available. No additional changes have been made to the provisions found in the listed sections; they appear here as they did in the August 23, 2013 URS final rule.

#### G. Part 387, Minimum Levels of Financial Responsibility for Motor Carriers

This final rule delays the effective date for the revisions in sections 387.19, 387.33, 387.43, 387.301, 387.303, 387.313, 387.323, 387.403, 387.413, and 387.419 until September 30, 2016, when FMCSA estimates the URS online application will be available for all users, and the majority of the functionality of the URS will be fully available.

It also provides for a three-month compliance period for private hazardous materials and exempt for-hire motor carriers, registered with FMCSA as of September 30, 2016, to complete their electronic filing requirements. This compliance period ends on December 31, 2016. These provisions can be found in sections 387.19 and 387.43. The URS will have the ability to collect the financial responsibility filings for private hazardous materials and exempt for-hire motor carriers on September 30, 2016. We encourage insurers of these motor carriers to comply as early as they can. Note that after September 30, 2016, new applicants (*i.e.*, entities that have not registered with FMCSA prior to September 30, 2016) will be required to

submit their evidence of meeting the financial responsibility requirements before registration will be granted.

This final rule adds a change to § 387.403. On October 1, 2013, FMCSA issued a final rule to implement section 32918 of MAP-21, which amended 49 U.S.C. 13906 to require a minimum surety bond or trust fund of \$75,000 and extended the bond requirement from brokers to freight forwarders. The October 1 final rule added paragraph (c) to § 387.403 to implement this change. It was not reflected in the August 23, 2013, URS final rule, and without this change, new paragraph (c) would be removed when today's final rule goes into effect. We have therefore revised § 387.403 to include paragraph (c) to ensure it remains intact after today's rule goes into effect.

#### *H. Part 390, Federal Motor Carrier Safety Regulations, General*

This final rule will delay the effective dates for the amendments to sections 390.3, 390.5, 390.19,<sup>11</sup> 390.21, 390.40, 390.201, 390.203, 390.205, 390.207, and 390.209.

This final rule also adds temporary Subpart E, consisting of § 390.T200, which will be in effect from December 12, 2015, through September 29, 2016. Under this temporary section, new applicants, defined as entities who do not have (and have never had) an active USDOT Number, must apply for a USDOT Number using the URS online application, available at <http://www.fmcsa.dot.gov/urs>. These applications will be processed using the same legacy systems available to FMCSA today, and will be transitioned over to the complete URS database with those records that already exist in the legacy systems. Applicants will have the ability to print out a summary of their online application after their application is complete.

This final rule incorporates a number of corrections to § 390.3 that were made in a correcting document published on October 23, 2013.<sup>12</sup> Because these corrections appear in the regulatory text laid out below, we are withdrawing the associated amendatory instructions from the October 23, 2013, correcting document. This change has no impact, but is necessary to ensure proper codification of the provisions in the Code of Federal Regulations. This final rule is also correcting an erroneous cross reference that was included in the August 23, 2013, final rule. In

§ 390.207(c), there is a cross reference to Subpart D as applying to intermodal equipment providers. This is incorrect; Subpart D covers the National Registry of Certified Medical Examiners. Subpart C of Part 390 is the appropriate cross reference, as it covers "Requirements and Information for Intermodal Equipment Providers and for Motor Carriers Operating Intermodal Equipment." FMCSA is also correcting the authority citation for part 390. The August 23, 2013, final rule inadvertently omitted some of the statutory authorities granted to FMCSA, and today's final rule is adding them back. As these authorities have remained in effect, there is no substantive impact from this change.

#### *I. Part 392, Driving of Commercial Motor Vehicles*

Today's final rule corrects the authority citation for part 392. The August 23, 2013, final rule inadvertently omitted some of the statutory authorities granted to FMCSA, and today's final rule is adding them back. As these authorities have remained in effect, there is no substantive impact from this change.

## **VI. Rulemaking Analyses and Notices**

### *A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

FMCSA has determined that today's final rule delaying the effective date of the URS rules is not a significant regulatory action within the meaning of E.O. 12866, as supplemented by E.O. 13563, or within the meaning of DOT regulatory policies and procedures. We do not expect today's final rule to have any new costs; today's action delaying the effective date will also delay the associated costs of the August 23, 2013, final rule. As discussed previously, this delay action is necessary because the URS technological solution, required to implement the URS final rule, is not ready. Not delaying the URS final rule may result in additional costs, as allowing the URS final rule to come into effect without having the required technological pieces (such as the URS online application and the integrated database required by statute) would require motor carriers, freight forwarders, brokers, and others to use a system that does not exist, with no alternative for seeking registration authorities. This could lead to a delay in processing registrations, which could then impact the applicants. Delaying the effective date of the URS final rule avoids these potential costs, without adding new costs over what was

originally estimated in the August 2013 RIA. The August 2013 RIA can be found in the docket for today's final rule.

### *B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601–612), FMCSA is not required to complete a regulatory flexibility analysis. This is because this rule does not require publication of a general notice of proposed rulemaking. However, in compliance with the RFA, FMCSA has evaluated the effects of today's final rule on small entities, and determined that delaying the effective date for the URS final rule will not result in a significant economic impact on a substantial number of small entities. Accordingly, the Administrator of FMCSA hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities.

### *C. Unfunded Mandates Reform Act of 1995*

Today's final rule will not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$155 million (which is the value of \$100 million in 1995 after adjusting for inflation) or more in any 1 year.

### *D. National Environmental Policy Act*

The Agency analyzed today's final rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraphs 6(e), 6(h) and 6(y)(2) of the Order from further environmental documentation. The CE under Appendix 2, paragraph 6(e) relates to establishing regulations and actions taken pursuant to the requirements concerning applications for operating authority and certificates of registration. The CE under Appendix 2, paragraph 6(h), relates to establishing regulations and actions taken pursuant to the requirements implementing procedures to collect fees that will be charged for motor carrier registrations and insurance for the following activities: (1) Application filings; (2) records searches; and (3) reviewing, copying, certifying, and related services. The CE under Appendix 2, paragraph 6(y)(2), addresses regulations implementing motor carrier identification and registration reports. In addition, the Agency believes that

<sup>11</sup> The August 23, 2013 final rule contained an amendment to § 390.19 that went into effect on November 1, 2013. Today's document does not impact that amendment.

<sup>12</sup> 78 FR 63100, October 23, 2013.

this rule includes no extraordinary circumstances that will have any effect on the quality of the human environment. Thus, today's rule does not require an environmental assessment or an environmental impact statement.

FMCSA also has analyzed today's rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement because it involves policy development and rulemaking activities regarding registration of regulated entities with FMCSA for commercial, safety and financial responsibility purposes. See 40 CFR 93.153(c)(2)(vi). The changes would not result in any emissions increases, nor will they have any potential to result in emissions that are above the general conformity rule's *de minimis* emission threshold levels. Moreover, it is reasonably foreseeable that the actions will not increase total CMV mileage or change the routing of CMVs, how CMVs operate, or the CMV fleet-mix of motor carriers.

#### *E. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal Agency must obtain approval from OMB for each collection of information it conducts, sponsors, or requires through regulations. The FMCSA analyzed the August 23, 2013, final rule and determined that its implementation would streamline the information collection burden on motor carriers and other regulated entities, relative to the baseline, or current paperwork collection processes. This included streamlining the FMCSA registration, insurance, and designation of process agent filing processes and implementing mandatory electronic online filing of these applications, as well as eliminating some outdated filing requirements. A full analysis of the impacted collections of information, both existing and new, can be found in that final rule,<sup>13</sup> a copy of which is in the docket for today's final rule. Today's final rule makes no changes to the collections described in that final rule.

#### *F. Executive Order 12630 (Taking of Private Property)*

Today's final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with

Constitutionally Protected Property Rights.

#### *G. Executive Order 12988 (Civil Justice Reform)*

Today's final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### *H. Executive Order 13045 (Protection of Children)*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (April 23, 1997, 62 FR 19885), requires that agencies issuing economically significant rules, which also concern an environmental health or safety risk that an Agency has reason to believe may disproportionately affect children, must include an evaluation of the environmental health and safety effects of the regulation on children. Section 5 of Executive Order 13045 directs an Agency to submit for a covered regulatory action an evaluation of its environmental health or safety effects on children. Today's final rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### *I. Executive Order 13132 (Federalism)*

This rule has been analyzed in accordance with the principles and criteria in Executive Order 13132, dated August 4, 1999 (64 FR 43255, August 10, 1999). The FMCSA consulted with State licensing agencies participating in its PRISM Program to discuss anticipated impacts of the May 2005 NPRM upon their operations. The Agency has taken into consideration their comments in its decision-making process for this rule. Thus, FMCSA has determined that this rule will not have significant Federalism implications or limit the policymaking discretion of the States.

#### *J. Executive Order 12372 (Intergovernmental Review)*

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to today's final rule.

#### *K. Executive Order 13211 (Energy Supply, Distribution, or Use)*

FMCSA has analyzed this rule under Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," and has

determined that this is not a significant energy action within the meaning of section 4(b) of the Executive Order. Today's final rule is not economically significant, and will not have a significant adverse effect on the supply, distribution, or use of energy.

#### *L. Privacy Impact Analysis*

The FMCSA conducted a privacy impact assessment of the August 23, 2013, final rule as required by section 522(a)(5) of division H of the FY 2005 Omnibus Appropriations Act, Public Law 108–447, 118 Stat. 3268 (Dec. 8, 2004) [set out as a note to 5 U.S.C. 552a]. The assessment considered any impacts of the final rule on the privacy of information in an identifiable form and related matters. FMCSA determined that the August 23, 2013, final rule will impact the handling of personally identifiable information (PII). FMCSA also determined the risks and effects the rulemaking might have on collecting, storing, and sharing PII and examined and evaluated protections and alternative information handling processes in order to mitigate potential privacy risks. Today's final rule makes no changes to the information being collected, or to the manner that it is stored and shared. FMCSA believes that the PIA for the August 23, 2013, final rule adequately covers today's action; that PIA remains available for review in the docket for today's final rule.

#### **List of Subjects**

##### *49 CFR Part 360*

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Hazardous materials transportation, Highway safety, Insurance, Motor carriers, Motor vehicle safety, Moving of household goods, Penalties, Reporting and recordkeeping requirements, Surety bonds.

##### *49 CFR Part 365*

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Motor carriers, Moving of household goods.

##### *49 CFR Part 366*

Brokers, Motor carriers, Freight forwarders, Process agents.

##### *49 CFR Part 368*

Administrative practice and procedure, Insurance, Motor carriers.

##### *49 CFR Part 385*

Administrative practice and procedure, Highway safety, Incorporation by reference, Mexico, Motor carriers, Motor vehicle safety,

<sup>13</sup> See 78 FR 52608, 52642.

Reporting and recordkeeping requirements.

*49 CFR Part 387*

Buses, Freight, Freight forwarders, Hazardous materials transportation, Highway safety, Insurance, Intergovernmental relations, Motor carriers, Motor vehicle safety, Moving of household goods, Penalties, Reporting and recordkeeping requirements, Surety bonds.

*49 CFR Part 390*

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

*49 CFR Part 392*

Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

In consideration of the foregoing, FMCSA is amending 49 CFR chapter III, subchapter B, parts 360, 365, 366, 368, 385, 387, 390, and 392, as set forth below:

■ 1. Effective September 30, 2016, revise part 360 to read as follows:

**PART 360—FEES FOR MOTOR CARRIER REGISTRATION AND INSURANCE**

360.1 Fees for registration-related services.

360.3 Filing fees.

360.5 Updating user fees.

**Authority:** 31 U.S.C. 9701; 49 U.S.C. 13908; and 49 CFR 1.87.

**§ 360.1 Fees for registration-related services.**

Certifications and copies of public records and documents on file with the Federal Motor Carrier Safety Administration (FMCSA) will be furnished on the following basis, pursuant to USDOT Freedom of Information Act regulations at 49 CFR part 7:

(a) Certificate of the Director, Office of Management and Information Services, as to the authenticity of documents, \$12;

(b) Service involved in locating records to be certified and determining their authenticity, including clerical and administrative work, at the rate of \$21 per hour;

(c) Copies of the public documents, at the rate of \$.80 per letter size or legal size exposure. A minimum charge of \$5 will be made for this service; and

(d) Search and copying services requiring information technology (IT), as follows:

(1) A fee of \$50 per hour for professional staff time will be charged when it is required to fulfill a request for electronic data.

(2) The fee for computer searches will be set at the current rate for computer service. Information on those charges can be obtained from the Office of Information Technology (MC-RI).

(3) Printing will be charged at the rate of \$.10 per page of computer-generated output with a minimum charge of \$1. There will also be a charge for the media provided (e.g., CD ROMs) based on the Agency's costs for such media.

(e) *Exception.* No fee shall be charged under this section to the following entities:

(1) Any Agency of the Federal Government or a State government or any political subdivision of any such government for access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or

(2) Any representative of a motor carrier, motor private carrier, broker, or freight forwarder (as each is defined in 49 U.S.C. 13102) for the access to or retrieval of the information related to such entity from the Unified Carrier Registration System for the individual use of such entity.

**§ 360.3 Filing fees.**

(a) *Manner of payment.* (1) Except for the insurance fees described in the next sentence, all filing fees must be paid at the time the application, petition, or other document is electronically filed. The service fee for insurance, surety or self-insurer accepted certificate of insurance, surety bond or other instrument submitted in lieu of a broker surety bond must be charged to an insurance service account established by FMCSA in accordance with paragraph (a)(2) of this section.

(2) *Billing account procedure.* A request must be submitted to the Office of Registration and Safety Information (MC-RS) at <http://www.fmcsa.dot.gov> to establish an insurance service fee account.

(i) Each account will have a specific billing date within each month and a billing cycle. The billing date is the date that the bill is prepared and printed. The billing cycle is the period between the billing date in one month and the billing date in the next month. A bill for each account that has activity or an unpaid balance during the billing cycle will be sent on the billing date each month. Payment will be due 20 days from the billing date. Payments received before the next billing date are applied to the account. Interest will accrue in accordance with 31 CFR 901.9.

(ii) The Federal Claims Collection Standards, including disclosure to consumer reporting agencies and the use of collection agencies, as set forth in

31 CFR part 901, will be utilized to encourage payment where appropriate.

(iii) An account holder who files a petition for bankruptcy or who is the subject of a bankruptcy proceeding must provide the following information to the Office of Registration and Safety Information (MC-RS) at <http://www.fmcsa.dot.gov>:

(A) The filing date of the bankruptcy petition;

(B) The court in which the bankruptcy petition was filed;

(C) The type of bankruptcy proceeding;

(D) The name, address, and telephone number of its representative in the bankruptcy proceeding; and

(E) The name, address, and telephone number of the bankruptcy trustee, if one has been appointed.

(3) Fees will be payable through the U.S. Department of Treasury secure payment system, *Pay.gov*, and are made directly from the payor's bank account or by credit/debit card.

(b) Any filing that is not accompanied by the appropriate filing fee will be rejected.

(c) *Fees not refundable.* Fees will be assessed for every filing listed in the schedule of fees contained in paragraph (f) of this section, titled, "*Schedule of filing fees*," subject to the exceptions contained in paragraphs (d) and (e) of this section. After the application, petition, or other document has been accepted for filing by FMCSA, the filing fee will not be refunded, regardless of whether the application, petition, or other document is granted or approved, denied, rejected before docketing, dismissed, or withdrawn.

(d) *Multiple authorities.* (1) A separate filing fee is required for each type of authority sought, for example broker authority requested by an entity that already holds motor property carrier authority or multiple types of authority requested in the same application.

(2) Separate fees will be assessed for the filing of temporary operating authority applications as provided in paragraph (f)(2) of this section, regardless of whether such applications are related to an application for corresponding permanent operating authority.

(e) *Waiver or reduction of filing fees.*

It is the general policy of the Federal Motor Carrier Safety Administration not to waive or reduce filing fees except as follows:

(1) Filing fees are waived for an application that is filed by a Federal government agency, or a State or local government entity. For purposes of this section the phrases "Federal government agency" or "government



entity” do not include a quasi-governmental corporation or government subsidized transportation company.

(2) Filing fees are waived for a motor carrier of passengers that receives a grant from the Federal Transit Administration either directly or through a third-party contract to provide passenger transportation under an agreement with a State or local government pursuant to 49 U.S.C. 5307, 5310, 5311, 5316, or 5317.

(3) The FMCSA will consider other requests for waivers or fee reductions only in extraordinary situations and in accordance with the following procedure:

(i) *When to request.* At the time that a filing is submitted to FMCSA, the applicant may request a waiver or reduction of the fee prescribed in this part. Such request should be addressed to the Director, Office of Registration and Safety Information.

(ii) *Basis.* The applicant must show that the waiver or reduction of the fee is in the best interest of the public, or that payment of the fee would impose an undue hardship upon the requester.

(iii) *FMCSA action.* The Director, Office of Registration and Safety Information, will notify the applicant of the decision to grant or deny the request for waiver or reduction.

(f) *Schedule of filing fees:*

Type of proceeding		Fee
<b>Part I: Registration</b>		
(1) .....	An application for USDOT Registration pursuant to 49 CFR part 390, subpart E.	\$300.
(2) .....	An application for motor carrier temporary authority to provide emergency relief in response to a national emergency or natural disaster following an emergency declaration under § 390.23 of this subchapter.	\$100.
(3) .....	Biennial update of registration .....	\$0.
(4) .....	Request for change of name, address, or form of business .....	\$0.
(5) .....	Request for cancellation of registration .....	\$0.
(6) .....	Request for registration reinstatement .....	\$10.
(7) .....	Designation of process agent .....	\$0.
(8) .....	Notification of Transfer of Operating Authority .....	\$0.
<b>Part II: Insurance</b>		
(9) .....	A service fee for insurer, surety, or self-insurer accepted certificate of insurance, surety bond, and other instrument submitted in lieu of a broker surety bond.	\$10 per accepted certificate, surety bond or other instrument submitted in lieu of a broker surety bond.
(10) .....	(i) An application for original qualification as self-insurer for bodily injury and property damage insurance (BI&PD).	\$4,200.
	(ii) An application for original qualification as self-insurer for cargo insurance	\$420.

**§ 360.5 Updating user fees.**

(a) *Update.* Each fee established in this subpart may be updated, as deemed necessary by FMCSA.

(b) *Publication and effective dates.* Notice of updated fees shall be published in the **Federal Register** and shall become effective 30 days after publication.

(c) *Payment of fees.* Any person submitting a filing for which a filing fee is established must pay the fee applicable on the date of the filing or request for services.

(d) *Method of updating fees.* Each fee shall be updated by updating the cost components comprising the fee. However, fees shall not exceed the maximum amounts established by law. Cost components shall be updated as follows:

(1) Direct labor costs shall be updated by multiplying base level direct labor costs by percentage changes in average wages and salaries of FMCSA employees. Base level direct labor costs are direct labor costs determined by the cost study in *Regulations Governing Fees For Service*, 1 I.C.C. 2d 60 (1984), or subsequent cost studies. The base period for measuring changes shall be April 1984 or the year of the last cost study.

(2) Operations overhead shall be developed on the basis of current relationships existing on a weighted basis, for indirect labor applicable to the first supervisory work centers directly associated with user fee activity. Actual updating of operations overhead shall be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead costs.

(3)(i) Office general and administrative costs shall be developed on the basis of current levels costs, *i.e.*, dividing actual office general and administrative costs for the current fiscal year by total office costs for the office directly associated with user fee activity. Actual updating of office general and administrative costs shall be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead and current operations overhead costs.

(ii) The FMCSA general and administrative costs shall be developed on the basis of current level costs; *i.e.*, dividing actual FMCSA general and administrative costs for the current fiscal year by total Agency expenses for the current fiscal year. Actual updating of FMCSA general and administrative

costs shall be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead, operations overhead and office general and administrative costs.

(4) Publication costs shall be adjusted on the basis of known changes in the costs applicable to publication of material in the **Federal Register** or FMCSA Register.

(e) *Rounding of updated fees.* Updated fees shall be rounded as follows. (This rounding procedure excludes copying, printing and search fees.)

(1) Fees between \$1 and \$30 shall be rounded to the nearest \$1;

(2) Fees between \$30 and \$100 shall be rounded to the nearest \$10;

(3) Fees between \$100 and \$999 shall be rounded to the nearest \$50; and

(4) Fees above \$1,000 shall be rounded to the nearest \$100.

**PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY**

■ 2. Effective September 30, 2016, the authority citation for part 365 is revised to read as follows:

**Authority:** 5 U.S.C. 553 and 559; 49 U.S.C. 13101, 13301, 13901–13906, 13908, 14708, 31133, 31138, and 31144; 49 CFR 1.87.

■ 3. Effective September 30, 2016, amend § 365.101 by revising paragraphs (a) and (h) to read as follows:

**§ 365.101 Applications governed by these rules.**

\* \* \* \* \*

(a) Applications for certificates of motor carrier registration to operate as a motor carrier of property or passengers.

\* \* \* \* \*

(h) Applications for Mexico-domiciled motor carriers to operate in foreign commerce as for-hire or private motor carriers of property (including exempt items) between Mexico and all points in the United States. Under NAFTA Annex 1, page I–U–20, a Mexico-domiciled motor carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

\* \* \* \* \*

■ 4. Effective September 30, 2016, revise § 365.105 to read as follows:

**§ 365.105 Starting the application process: Form MCSA–1.**

(a) Each applicant must apply for operating authority by electronically filing Form MCSA–1, the URS online application, to request authority pursuant to 49 U.S.C. 13902, 13903 or 13904 to operate as a:

- (1) Motor carrier of property or passengers,
- (2) Broker of general commodities or household goods, or
- (3) Freight forwarder of general commodities or household goods.

(b) A separate filing fee in the amount set forth at 49 CFR 360.3(f) is required for each type of authority sought in paragraph (a) of this section.

(c) Form MCSA–1 is the URS online application and is available, including complete instructions, from the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>.

■ 5. Effective December 12, 2015 until September 29, 2016, add § 365.T106 to read as follows:

**§ 365.T106 Starting the application process: URS online application.**

(a) Notwithstanding § 365.105, new applicants as defined in paragraph (b) of this section must apply for a USDOT number and if applicable, operating authority by electronically filing Form MCSA–1, the URS online application, to request authority pursuant to 49 U.S.C. 13902, 13903, or 13904 to operate as a:

(1) Motor carrier of property (not household goods), property (household goods) or passengers,

(2) Broker of general commodities or household goods, or

(3) Freight forwarder of general commodities or household goods.

(b) For purposes of this section, a “new applicant” is an entity applying for a USDOT number and if applicable, operating authority who does not at the time of application have an active registration or USDOT, Motor Carrier (MC), Mexico owned or controlled (MX) or Freight Forwarder (FF) number, and who has never had an active registration or USDOT, MC, MX, or FF number.

(c) Form MCSA–1 is the URS online application, and both the application and its instructions are available from the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>.

(d) This section is in effect from December 12, 2015 through September 29, 2016.

■ 6. Effective September 30, 2016, revise § 365.107 to read as follows:

**§ 365.107 Types of applications.**

(a) *Fitness applications.* Motor property applications and certain types of motor passenger applications require the finding that the applicant is fit, willing and able to perform the involved operations and to comply with all applicable statutory and regulatory provisions. These applications can be opposed only on the grounds that applicant is not fit [*e.g.*, is not in compliance with applicable financial responsibility and safety fitness requirements]. These applications are:

- (1) Motor carrier of property (except household goods).
- (2) Broker of general commodities or household goods.
- (3) Certain types of motor carrier of passenger applications as described in Form MCSA–1, the URS online application.

(b) Motor carrier of passenger “public interest” applications as described in Form MCSA–1, the URS online application.

(c) Intrastate motor passenger applications under 49 U.S.C. 13902(b)(3) as described in Form MCSA–1, the URS online application.

(d) Motor carrier of household goods applications, including Mexico- or non-North America-domiciled carrier applicants. In addition to meeting the fitness standard under paragraph (a) of this section, an applicant seeking authority to operate as a motor carrier of household goods must:

- (1) Provide evidence of participation in an arbitration program and provide a copy of the notice of the arbitration

program as required by 49 U.S.C. 14708(b)(2);

(2) Identify its tariff and provide a copy of the notice of the availability of that tariff for inspection as required by 49 U.S.C. 13702(c);

(3) Provide evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers’ rights and responsibilities, and options for limitations of liability for loss and damage; and

(4) Disclose any relationship involving common stock, common ownership, common management, or common familial relationships between the applicant and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration.

(e) Temporary authority (TA) for motor carriers. These applications require a finding that there is or soon will be an immediate transportation need that cannot be met by existing carrier service.

(1) Applications for TA will be entertained only when an emergency declaration has been made pursuant to § 390.23 of this subchapter.

(2) Temporary authority must be requested by filing the URS online application, Form MCSA–1, found at <http://www.fmcsa.dot.gov/urs>.

(3) Applications for temporary authority are not subject to protest.

(4) Motor carriers granted temporary authority must comply with financial responsibility requirements under part 387 of this subchapter.

(5) Only a U.S.-domiciled motor carrier is eligible to receive temporary authority.

■ 7. Effective September 30, 2016, amend § 365.109 by revising paragraphs (a)(5) and (6) and (b) to read as follows:

**§ 365.109 FMCSA review of the application.**

(a) \* \* \*

(5) All applicants must file the appropriate evidence of financial responsibility pursuant to 49 CFR part 387 within 90 days from the date notice of the application is published in the FMCSA Register:

(i) *Form BMC–91 or 91X or BMC 82 surety bond*—Bodily injury and property damage (motor property and passenger carriers; and freight forwarders that provide pickup or delivery service directly or by using a local delivery service under their control),

(ii) *Form BMC–84*—Surety bond or *Form BMC–85*—trust fund agreement

(property brokers of general commodities and household goods).

(iii) *Form BMC-34 or BMC 83 surety bond*—Cargo liability (household goods motor carriers and household goods freight forwarders).

(6) Applicants also must submit Form BOC-3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders—within 90 days from the date notice of the application is published in the FMCSA Register.

\* \* \* \* \*

(b) A summary of the application will be published in the FMCSA Register to give notice to the public in case anyone wishes to oppose the application.

■ 8. Effective September 30, 2016, revise § 365.110 to read as follows:

**§ 365.110 Need to complete New Entrant Safety Assurance Program.**

For motor carriers operating commercial motor vehicles as defined in 49 U.S.C. 31132, operating authority obtained under procedures in this part does not become permanent until the applicant satisfactorily completes the New Entrant Safety Assurance Program in part 385 of this subchapter.

■ 9. Effective September 30, 2016, amend § 365.111 by revising paragraph (a) to read as follows:

**§ 365.111 Appeals to rejections of the application.**

(a) An applicant has the right to appeal rejection of the application. The appeal must be filed at the FMCSA, Office of Registration and Safety Information, 1200 New Jersey Ave. SE., Washington, DC 20590, within 10 days of the date of the letter of rejection.

\* \* \* \* \*

■ 10. Effective September 30, 2016, revise § 365.119 to read as follows:

**§ 365.119 Opposed applications.**

If the application is opposed, opposing parties are required to send a copy of their protest to the applicant and to FMCSA. All protests must include statements made under oath (verified statements). There are no personal appearances or formal hearings.

■ 11. Effective September 30, 2016, revise § 365.201 to read as follows:

**§ 365.201 Definitions.**

A person wishing to oppose a request for operating authority files a *protest*. A person filing a valid protest is known as a *protestant*.

■ 12. Effective September 30, 2016, revise § 365.203 to read as follows:

**§ 365.203 Time for filing.**

A protest shall be filed (received at the FMCSA, Office of the Associate Administrator for Research and Information Technology, 1200 New Jersey Ave. SE., Washington, DC 20590) within 10 days after notice of the application appears in the FMCSA Register. A copy of the protest shall be sent to applicant's representative at the same time. Failure timely to file a protest waives further participation in the proceeding.

■ 13. Effective September 30, 2016, revise Subpart D to read as follows:

**Subpart D—Transfers of Operating Authority**

- Sec.
- 365.401 Scope of rules.
- 365.403 Definitions.
- 365.405 Reporting requirement.

**Subpart D—Transfers of Operating Authority**

**§ 365.401 Scope of rules.**

The rules in this subpart define the procedures for motor carriers, property brokers, and freight forwarders to report to FMCSA transactions that result in the transfer of operating authority and are not subject to approval by the U.S. Surface Transportation Board under 49 U.S.C. 14303.

**§ 365.403 Definitions.**

For the purposes of this subpart, the following definitions apply:

(a) *Transfer*. A transfer means any transaction in which an operating authority issued to one person is taken over by another person or persons who assume legal responsibility for the operations. Such transactions include a purchase of all or some of the assets of a company, a merger of two or more companies, or acquisition of controlling interest in a company through a purchase of company stock.

(b) *Operating authority*. Operating authority means a registration required by 49 U.S.C. 13902 issued to motor carriers; 49 U.S.C. 13903 issued to freight forwarders; and 49 U.S.C. 13904 issued to brokers.

(c) *Person*. An individual, partnership, corporation, company, association, or other form of business, or a trustee, receiver, assignee, or personal representative of any of these entities.

**§ 365.405 Reporting requirement.**

(a) Every transfer of operating authority from one person to another person must be reported by both the transferee and transferor using the URS online application, Form MCSA-1, (available at <http://www.fmcsa.dot.gov/>

urs) in accordance with § 390.201(d)(5) of this subchapter.

(b) The following information must be furnished:

(1) Full name, address and USDOT Numbers of the transferee and transferor.

(2) A copy of the operating authority being transferred.

■ 14. Effective September 30, 2016, amend § 365.507 by revising paragraph (e)(2) to read as follows:

**§ 365.507 FMCSA action on the application.**

\* \* \* \* \*

(e) \* \* \*

(2) Electronically file, or have its process agent(s) electronically file, Form BOC-3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, as required by part 366 of this subchapter; and

\* \* \* \* \*

■ 15. Effective September 30, 2016, amend § 365.509 by revising paragraph (a) to read as follows:

**§ 365.509 Requirement to notify FMCSA of change in applicant information.**

(a) A motor carrier subject to this subpart must notify FMCSA of any changes or corrections to the information in parts I, IA, or II of Form OP-1(MX), or in Form BOC-3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, during the application process or after having been granted provisional operating authority. The carrier must notify FMCSA in writing within 30 days of the change or correction.

\* \* \* \* \*

**PART 366—DESIGNATION OF PROCESS AGENT**

■ 16. Effective September 30, 2016, the authority citation for part 366 is revised to read as follows:

**Authority:** 49 U.S.C. 502, 503, 13303, 13304 and 13908; and 49 CFR 1.87.

■ 17. Effective September 30, 2016, revise § 366.1 to read as follows:

**§ 366.1 Applicability.**

The rules in this part, relating to the filing of designations of persons upon whom court or Agency process may be served, apply to for-hire and private motor carriers, brokers, freight forwarders and, as of the moment of succession, their fiduciaries (as defined at 49 CFR 387.319(a)).

■ 18. Effective September 30, 2016, revise § 366.2 to read as follows:

**§ 366.2 Form of designation.**

(a) Designations shall be made on Form BOC-3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders. Only one completed current form may be on file. It must include all States for which agent designations are required. One copy must be retained by the carrier, broker or freight forwarder at its principal place of business.

(b) All Motor Carriers, Brokers, and Freight Forwarders that are registered with FMCSA on September 30, 2016 must file their Form BOC-3 designation by no later than December 31, 2016. All other Motor Carriers, Brokers, and Freight Forwarders must file the FORM BOC-3 designation at the time of their application for registration. Failure to file a designation in accordance with this paragraph will result in deactivation of the carrier's USDOT Number.

■ 19. Effective September 30, 2016, revise § 366.3 to read as follows:

**§ 366.3 Eligible persons.**

All persons (as defined at 49 U.S.C. 13102(18)) designated as process agents must reside in or maintain an office in the State for which they are designated. If a State official is designated, evidence of his or her willingness to accept service of process must be furnished.

■ 20. Effective September 30, 2016, revise § 366.4 to read as follows:

**§ 366.4 Required States.**

(a) *Motor carriers.* Every motor carrier must designate process agents for all 48 contiguous States and the District of Columbia, unless its operating authority registration is limited to fewer than 48 States and DC. When a motor carrier's operating authority registration is limited to fewer than 48 States and DC, it must designate process agents for each State in which it is authorized to operate and for each State traversed during such operations. Every motor carrier operating in the United States in the course of transportation between points in a foreign country shall file a designation for each State traversed.

(b) *Brokers.* Every broker shall make a designation for each State, including DC, in which its offices are located or in which contracts will be written.

(c) *Freight forwarders.* Every freight forwarder shall make a designation for each State, including DC, in which its offices are located or in which contracts will be written.

■ 21. Effective September 30, 2016, revise § 366.5 to read as follows:

**§ 366.5 Blanket designations.**

Where an association or corporation has filed with the FMCSA a list of process agents for each State and DC (blanket agent), motor carriers, brokers and freight forwarders may make the required designations by using the following statement:

I designate those persons named in the list of process agents on file with the Federal Motor Carrier Safety Administration

by \_\_\_\_\_

(name of association or corporation)

and any subsequently filed revisions thereof, for the States in which this carrier is or may be authorized to operate (or arrange) as an entity of motor vehicle transportation, including States traversed during such operations, except those States for which individual designations are named.

■ 22. Effective September 30, 2016, revise § 366.6 to read as follows:

**§ 366.6 Cancellation or change.**

(a) A designation may be canceled or changed only by a new designation made by the motor carrier, broker, or freight forwarder, or by the process agent or company filing a blanket designation in accordance with § 366.5. However, where a motor carrier, broker or freight forwarder's USDOT Number is inactive for at least 1 year, designation is no longer required and may be canceled without making another designation.

(b) A change to a designation, such as name, address, or contact information, must be reported to FMCSA within 30 days of the change.

(c) Whenever a motor carrier, broker or freight forwarder changes its name, address, or contact information, it must report the change to its process agents and/or the company making a blanket designation on its behalf in accordance with § 366.5 within 30 days of the change.

(d) Whenever a process agent and/or company making a blanket designation on behalf of a motor carrier, broker, or freight forwarder terminates its contract or relationship with the entity, it should report the termination to FMCSA within 30 days of the termination. If process agents and/or blanket agents do not keep their information up to date, FMCSA may withdraw its approval of their authority to make process agent designations with the Agency.

**PART 368—APPLICATION FOR A CERTIFICATE OF REGISTRATION TO OPERATE IN MUNICIPALITIES IN THE UNITED STATES ON THE UNITED STATES-MEXICO INTERNATIONAL BORDER OR WITHIN THE COMMERCIAL ZONES OF SUCH MUNICIPALITIES**

■ 23. Effective September 30, 2016, the authority citation for part 368 is revised to read as follows:

**Authority:** 49 U.S.C. 13301, 13902 and 13908; Pub. L. 106-159, 113 Stat. 1748; and 49 CFR 1.87.

■ 24. Effective December 12, 2015 until September 29, 2016, add § 368.T3 to read as follows:

**§ 368.T3 Starting the application process: URS online application.**

(a) Notwithstanding any other provision of this part, new applicants as defined in paragraph (b) of this section must apply for a USDOT number and operating authority by electronically filing Form MCSA-1, the URS online application (available at <http://www.fmcsa.dot.gov/urs>) to request authority pursuant to 49 U.S.C. 13902 to provide interstate transportation in municipalities in the United States on the United States-Mexico international border or within the commercial zones of such municipalities as defined in 49 U.S.C. 13902(c)(4)(A).

(b) For purposes of this section, a "new applicant" is an citizen of Mexico or a motor carrier owned or controlled by a citizen of Mexico, applying for a USDOT number and operating authority who does not at the time of application have an active registration or USDOT, Motor Carrier (MC), Mexico owned or controlled (MX) or Freight Forwarder (FF) number, and who has never had an active registration or USDOT, MC, MX, or FF number.

(c) Form MCSA-1, is the URS online application, and both the application and its instructions are available from the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>.

(d) This section is in effect from December 12, 2015 through September 29, 2016.

■ 25. Effective September 30, 2016, amend § 368.3 by revising paragraphs (a), (b), and (f) to read as follows:

**§ 368.3 Applying for a certificate of registration.**

(a) If you wish to obtain a certificate of registration under this part, you must electronically file an application that includes the following:

(1) Form MCSA-1—URS online application.

(2) Form BOC-3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders or indicate on the application that the applicant will use a process agent service that will submit the Form BOC-3 electronically.

(b) The FMCSA will only process your application for a Certificate of Registration if it meets the following conditions:

(1) The application must be completed in English;

(2) The information supplied must be accurate and complete in accordance with the instructions to Form MCSA-1, the URS online application, and Form BOC-3.

(3) The application must include all the required supporting documents and applicable certifications set forth in the instructions to Form MCSA-1, the URS online application, and Form BOC-3.

\* \* \* \* \*

(f) Form MCSA-1 is the URS online application and is available, including complete instructions, from the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>.

■ 26. Effective September 30, 2016, amend § 368.4 by revising paragraph (a) to read as follows:

**§ 368.4 Requirement to notify FMCSA of change in applicant information.**

(a) You must notify FMCSA of any changes or corrections to the information in Section A of Form MCSA-1, the URS online application, or the Form BOC-3, Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, during the application process or while you have a Certificate of Registration. You must notify FMCSA in writing within 30 days of the change or correction.

\* \* \* \* \*

■ 27. Effective September 30, 2016, revise § 368.8 to read as follows:

**§ 368.8 Appeals.**

An applicant has the right to appeal denial of the application. The appeal must be in writing and specify in detail why the Agency's decision to deny the application was wrong. The appeal must be filed with the FMCSA, Office of Registration and Safety Information within 20 days of the date of the letter denying the application.

**PART 385—SAFETY FITNESS PROCEDURES**

■ 28. Effective September 30, 2016, the authority citation for part 385 is revised to read as follows:

**Authority:** 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 5113, 13901-13905, 13908,

31136, 31144, 31148, 31151, and 31502; Sec. 350 of Pub. L. 107-87; and 49 CFR 1.87.

■ 29. Effective September 30, 2016, revise § 385.301 to read as follows:

**§ 385.301 What is a motor carrier required to do before beginning interstate operations?**

(a) Before a motor carrier of property or passengers begins interstate operations, it must register with FMCSA and receive a USDOT Number. In addition, for-hire motor carriers must obtain operating authority from FMCSA, unless exclusively providing transportation exempt from the commercial registration requirements in 49 U.S.C. chapter 139. Both the USDOT Number and operating authority are obtained by following registration procedures described in 49 CFR part 390, subpart E. Part 365 of this chapter provides detailed instructions for obtaining operating authority.

(b) This subpart applies to motor carriers domiciled in the United States and Canada.

(c) The regulations in this subpart do not apply to a Mexico-domiciled motor carrier. A Mexico-domiciled motor carrier of property or passengers must register with FMCSA by following the registration procedures described in 49 CFR parts 365, 368 and 390. Parts 365 (for long-haul carriers) and 368 (for commercial zone carriers) of this chapter provide detailed information about how a Mexico-domiciled motor carrier may obtain operating authority.

■ 30. Effective September 30, 2016, revise § 385.303 to read as follows:

**§ 385.303 How does a motor carrier register with the FMCSA?**

A motor carrier registers with FMCSA by completing Form MCSA-1, the URS online application which is available at <http://www.fmcsa.dot.gov/urs>. Complete instructions for the Form MCSA-1 also are available at the same location.

■ 31. Effective September 30, 2016, revise § 385.305 to read as follows:

**§ 385.305 What happens after the FMCSA receives a request for new entrant registration?**

(a) The applicant for new entrant registration will be directed to the FMCSA Internet Web site (<http://www.fmcsa.dot.gov>) to secure and/or complete the application package online.

(b) The application package will include the following:

(1) Educational and technical assistance material regarding the requirements of the FMCSRs and HMRs, if applicable.

(2) Form MCSA-1, the URS online application. This form is used to obtain

both a USDOT Number and operating authority.

(c) Upon completion of the application form, the new entrant will be issued an inactive USDOT Number. An applicant may not begin operations nor mark a commercial motor vehicle with the USDOT Number until after the date of the Agency's written notice that the USDOT Number has been activated. Violations of this section may be subject to the penalties under § 392.9b(b) of this chapter.

(d) *Additional requirements for certain for-hire motor carriers.* For-hire motor carriers, unless providing transportation exempt from the commercial registration requirements in 49 U.S.C. chapter 139, must obtain operating authority as prescribed under § 390.201(b) and part 365 of this chapter before operating in interstate commerce.

■ 32. Effective September 30, 2016, amend § 385.329 by revising paragraphs (b) introductory text, (b)(1), (c)(1) and (d) to read as follows:

**§ 385.329 May a new entrant that has had its USDOT new entrant registration revoked and its operations placed out of service reapply?**

\* \* \* \* \*

(b) If the USDOT new entrant registration was revoked because of a failed safety audit, the new entrant must do all of the following:

(1) Submit an updated Form MCSA-1, the URS online application.

\* \* \* \* \*

(c) \* \* \*

(1) Submit an updated Form MCSA-1, the URS online application.

\* \* \* \* \*

(d) If the new entrant is a for-hire motor carrier subject to the registration provisions of 49 U.S.C. chapter 139 and also has had its operating authority revoked, it must re-apply for operating authority as set forth in § 390.201(b) and part 365 of this chapter.

■ 33. Effective September 30, 2016, revise § 385.405 to read as follows:

**§ 385.405 How does a motor carrier apply for a safety permit?**

(a) *Application form.* (1) To apply for a new safety permit or renewal of the safety permit, a motor carrier must complete and submit Form MCSA-1, the URS online application and meet the requirements under 49 CFR part 390, subpart E.

(2) Form MCSA-1, the URS online application, will also satisfy the requirements for obtaining and renewing a USDOT Number.

(b) *Where to get forms and instructions.* Form MCSA-1, the URS online application, is available,

including complete instructions, at <http://www.fmcsa.dot.gov/urs>.

(c) *Signature and certification.* An official of the motor carrier must sign and certify that the information is correct on each form the motor carrier submits.

(d) *Updating information.* A motor carrier holding a safety permit must report to FMCSA any change in the information on its Form MCSA-1 within 30 days of the change. The motor carrier must use Form MCSA-1, the URS online application, to report the new information.

■ 34. Effective September 30, 2016, amend § 385.409 by revising paragraph (a) to read as follows:

**§ 385.409 When may a temporary safety permit be issued to a motor carrier?**

(a) *Temporary safety permit.* If a motor carrier does not meet the criteria of § 385.407(a), FMCSA may issue it a temporary safety permit. To obtain a temporary safety permit, a motor carrier must certify on Form MCSA-1, the URS online application, that it is operating in full compliance with the HMRs, with the FMCSRs, and/or comparable State regulations, whichever is applicable; and with the minimum financial responsibility requirements in part 387 of this subchapter or in State regulations, whichever is applicable.

\* \* \* \* \*

■ 35. Effective September 30, 2016, revise § 385.419 to read as follows:

**§ 385.419 How long is a safety permit effective?**

Unless suspended or revoked, a safety permit (other than a temporary safety permit) is effective for two years, except that:

(a) A safety permit will be subject to revocation if a motor carrier fails to submit a renewal application (Form MCSA-1, the URS online application) in accordance with the schedule set forth for filing Form MCSA-1 in part 390, subpart E, of this subchapter; and

(b) An existing safety permit will remain in effect pending FMCSA's processing of an application for renewal if a motor carrier submits the required application (Form MCSA-1) in accordance with the schedule set forth in part 390, subpart E, of this subchapter.

■ 36. Effective September 30, 2016, amend § 385.421 by revising paragraphs (a)(1) and (a)(2) to read as follows:

**§ 385.421 Under what circumstances will a safety permit be subject to revocation or suspension by FMCSA?**

(a) \* \* \*

(1) A motor carrier fails to submit a renewal application (Form MCSA-1) in accordance with the schedule set forth in part 390, subpart E, of this subchapter.

(2) A motor carrier provides any false or misleading information on its application form (Form MCSA-1) or as part of updated information it is providing on Form MCSA-1 (see § 385.405(d)).

\* \* \* \* \*

■ 37. Effective September 30, 2016, revise § 385.603 to read as follows:

**§ 385.603 Application.**

(a) Each applicant applying under this subpart must submit an application that consists of:

(1) Form MCSA-1, the URS online application; and

(2) A notification of the means used to designate process agents, either by submission in the application package of Form BOC-3, Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, or a letter stating that the applicant will use a process agent service that will submit the Form BOC-3 electronically.

(b) The FMCSA will process an application only if it meets the following conditions:

(1) The application must be completed in English.

(2) The information supplied must be accurate, complete, and include all required supporting documents and applicable certifications in accordance with the instructions to Form MCSA-1 and Form BOC-3.

(3) The application must include the filing fee payable to the FMCSA in the amount set forth at 49 CFR 360.3(f)(1).

(4) The application must be signed by the applicant.

(c) An applicant must electronically file Form MCSA-1.

(d) Form MCSA-1 is the URS online application and is available, including complete instructions, at <http://www.fmcsa.dot.gov/urs>.

■ 38. Effective September 30, 2016, amend § 385.607 by revising paragraph (e)(2) to read as follows:

**§ 385.607 FMCSA action on the application.**

\* \* \* \* \*

(e) \* \* \*

(2) File or have its process agent(s) electronically submit, Form BOC-3—Designation of Agents—Motor Carriers, Brokers and Freight Forwarders, as required by part 366 of this subchapter.

\* \* \* \* \*

■ 39. Effective September 30, 2016, amend § 385.609 by revising paragraph (a)(2) to read as follows:

**385.609 Requirement to notify FMCSA of change in applicant information.**

(a) \* \* \*

(2) A motor carrier subject to this subpart must notify FMCSA of any changes or corrections to the information in Section A of Form MCSA-1 that occur during the application process or after the motor carrier has been granted new entrant registration. The motor carrier must report the changes or corrections within 30 days of the change. The motor carrier must use Form MCSA-1, the URS online application, to report the new information.

\* \* \* \* \*

■ 40. Effective September 30, 2016, amend § 385.713 by revising paragraphs (b) introductory text, (b)(1), (c) introductory text, (c)(1), and (d) to read as follows:

**§ 385.713 Reapplying for new entrant registration.**

\* \* \* \* \*

(b) If the provisional new entrant registration was revoked because the new entrant failed to receive a Satisfactory rating after undergoing a compliance review, the new entrant must do all of the following:

(1) Submit an updated Form MCSA-1, the URS online application;

\* \* \* \* \*

(c) If the provisional new entrant registration was revoked because FMCSA found the new entrant failed to submit to a compliance review, the new entrant must do all of the following:

(1) Submit an updated Form MCSA-1, the URS online application;

\* \* \* \* \*

(d) If the new entrant is a for-hire carrier subject to the registration provisions under 49 U.S.C. 13901 and also has had its operating authority revoked, it must reapply for operating authority as set forth in § 390.201(b) and part 365 of this subchapter.

**PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS**

■ 41. Effective September 30, 2016, the authority citation for part 387 is revised to read as follows:

**Authority:** 49 U.S.C. 13101, 13301, 13906, 13908, 14701, 31138, and 31139; and 49 CFR 1.87.

■ 42. Effective September 30, 2016, revise § 387.19 to read as follows:

**§ 387.19 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.**

(a) Insurers of exempt for-hire motor carriers, as defined in § 390.5 of this

subchapter, and private motor carriers that transport hazardous materials in interstate commerce that are registered with FMCSA on September 30, 2016, must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA by December 31, 2016. Insurers of all other exempt for-hire motor carriers, as defined in § 390.5 of this subchapter, and private motor carriers that transport hazardous materials in interstate commerce must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA at the time of the application for registration. These filings must be made electronically in accordance with the requirements and procedures set forth at § 387.323.

(b) The requirements of this section do not apply to motor carriers excepted under § 387.7(b)(3).

■ 43. Effective September 30, 2016, revise § 387.33 to read as follows:

**§ 387.33 Financial responsibility, minimum levels.**

(a) *General limits.* The minimum levels of financial responsibility referred to in § 387.31 are prescribed as follows:

**SCHEDULE OF LIMITS**

*Public Liability*

For-hire motor carriers of passengers operating in interstate or foreign commerce.

Vehicle seating capacity	Minimum limits
(1) Any vehicle with a seating capacity of 16 passengers or more, including the driver <sup>1</sup> .....	\$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less, including the driver <sup>1</sup> .....	1,500,000

<sup>1</sup> Except as provided in § 387.27(b).

(b) *Limits applicable to transit service providers.* Notwithstanding the provisions of paragraph (a) of this section, the minimum level of financial responsibility for a motor vehicle used to provide transportation services within a transit service area located in more than one State under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under 49 U.S.C. 5307, 5310 or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities, will be the highest level required for any of the States in which it operates. This paragraph applies to transit service providers that operate in more than one State, as well as transit service providers that operate in only one State but

interline with other motor carriers that provide interstate transportation within or outside the transit service area. Transit service providers conducting such operations must register as for-hire passenger carriers under part 365, subpart A and part 390, subpart E, of this subchapter, identify the State(s) in which they operate under the applicable grants, and certify on their registration documents that they have in effect financial responsibility levels in an amount equal to or greater than the highest level required by any of the States in which they are operating under a qualifying grant.

■ 44. Effective September 30, 2016, revise § 387.43 to read as follows:

**§ 387.43 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.**

(a) Insurers of for-hire motor carriers of passengers that are registered with FMCSA on September 30, 2016, must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA by December 31, 2016. Insurers of all other exempt for-hire motor carriers of passengers must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA at the time of the application for registration. These filings must be made electronically in accordance with the requirements and procedures set forth at § 387.323.

(b) This section does not apply to motor carriers excepted under § 387.31(b)(3).

■ 45. Effective September 30, 2016, amend § 387.301 by revising paragraph (a)(1) to read as follows:

**§ 387.301 Surety bond, certificate of insurance, or other securities.**

(a) *Public liability.* (1) No for-hire motor carrier or foreign (Mexican) motor private carrier or foreign motor carrier transporting exempt commodities subject to Subtitle IV, part B, chapter 135 of title 49, United States Code, shall engage in interstate or foreign commerce, and no certificate shall be issued to such a carrier or remain in force unless and until there shall have been filed with and accepted by the FMCSA surety bonds, certificates of insurance, proof of qualifications as self-insurer, or other securities or agreements, in the amounts prescribed in § 387.303, conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance or use of motor vehicles in transportation subject to Subtitle IV, part B, chapter 135 of title 49, U.S.C., or for loss of or

damage to property of others, or, in the case of motor carriers of property operating freight vehicles described in § 387.303(b)(2), for environmental restoration.

\* \* \* \* \*

■ 46. Effective September 30, 2016, amend § 387.303 by revising paragraph (b)(1)(iii) to read as follows:

**§ 387.303 Security for the protection of the public: Minimum limits.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(iii) *Limits applicable to transit service providers.* Notwithstanding the provisions of paragraph (b)(1)(ii) of this section, the minimum level of financial responsibility for a motor vehicle used to provide transportation services within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under 49 U.S.C. 5307, 5310 or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities, will be the highest level required for any of the States in which it operates. This paragraph applies to transit service providers who operate in a transit service area located in more than one State, as well as transit service providers who operate in only one State but interline with other motor carriers that provide interstate transportation within or outside the transit service area. Transit service providers conducting such operations must register as for-hire passenger carriers under part 365, subpart A and part 390, subpart E of this subchapter, identify the State(s) in which they operate under the applicable grants, and certify on their registration documents that they have in effect financial responsibility levels in an amount equal to or greater than the highest level required by any of the States in which they are operating under a qualifying grant.

\* \* \* \* \*

■ 47. Effective September 30, 2016, amend § 387.313 by revising paragraphs (b) and (d) to read as follows:

**§ 387.313 Forms and procedures.**

\* \* \* \* \*

(b) *Filing and copies.* Certificates of insurance, surety bonds, and notices of cancellation must be filed with the FMCSA at <http://www.fmcsa.dot.gov>.

\* \* \* \* \*

(d) *Cancellation notice.* Except as provided in paragraph (e) of this section, surety bonds, certificates of insurance, and other securities or

agreements shall not be cancelled or withdrawn until 30 days after written notice has been submitted to <http://www.fmcsa.dot.gov> on the prescribed form (Form BMC-35, Notice of Cancellation Motor Carrier Policies of Insurance under 49 U.S.C. 13906, and BMC-36, Notice of Cancellation Motor Carrier and Broker Surety Bonds, as appropriate) by the insurance company, surety or sureties, motor carrier, broker or other party thereto, as the case may be, which period of thirty (30) days shall commence to run from the date such notice on the prescribed form is filed with FMCSA at <http://www.fmcsa.dot.gov>.

\* \* \* \* \*

■ 48. Effective September 30, 2016, revise § 387.323 to read as follows:

**§ 387.323 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.**

(a) Insurers must electronically file forms BMC 34, BMC 35, BMC 36, BMC 82, BMC 83, BMC 84, BMC 85, BMC 91, and BMC 91X in accordance with the requirements and procedures set forth in paragraphs (b) through (d) of this section.

(b) Each insurer must obtain authorization to file electronically by registering with the FMCSA. An individual account number and password for computer access will be issued to each registered insurer.

(c) Filings must be transmitted online via the Internet at <http://www.fmcsa.dot.gov>.

(d) All registered insurers agree to furnish upon request to the FMCSA a copy of any policy (or policies) and all certificates of insurance, endorsements, surety bonds, trust fund agreements, proof of qualification to self-insure or other insurance filings.

■ 49. Effective September 30, 2016, revise § 387.403 to read as follows:

**§ 387.403 General requirements.**

(a) *Cargo.* A household goods freight forwarder may not operate until it has filed with FMCSA an appropriate surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed at § 387.405, for loss of or damage to household goods.

(b) *Public liability.* A freight forwarder may not perform transfer, collection, or delivery service until it has filed with the FMCSA an appropriate surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed at § 387.405, conditioned to pay any final judgment recovered against such freight forwarder for bodily injury to or

the death of any person, or loss of or damage to property (except cargo) of others, or, in the case of freight vehicles described at § 387.303(b)(2), for environmental restoration, resulting from the negligent operation, maintenance, or use of motor vehicles operated by or under its control in performing such service.

(c) *Surety bond or trust fund.* A freight forwarder must have a surety bond or trust fund in effect. The FMCSA will not issue a freight forwarder license until a surety bond or trust fund for the full limit of liability prescribed in § 387.405 is in effect. The freight forwarder license shall remain valid or effective only as long as a surety bond or trust fund remains in effect and ensures the financial responsibility of the freight forwarder. The requirements applicable to property broker surety bonds and trust funds in § 387.307 shall apply to the surety bond or trust fund required by this paragraph.

■ 50. Effective September 30, 2016, amend § 387.413 by revising paragraph (b) to read as follows:

**§ 387.413 Forms and procedures.**

\* \* \* \* \*

(b) *Procedure.* Certificates of insurance, surety bonds, and notices of cancellation must be electronically filed with the FMCSA.

\* \* \* \* \*

■ 51. Effective September 30, 2016, revise § 387.419 to read as follows:

**§ 387.419 Electronic filing of surety bonds, certificates of insurance and cancellations.**

Insurers must electronically file certificates of insurance, surety bonds, and other securities and agreements and notices of cancellation in accordance with the requirements and procedures set forth at § 387.323.

**PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL**

■ 52. Effective September 30, 2016, the authority citation for part 390 is revised to read as follows:

**Authority:** 49 U.S.C. 504, 508, 13301, 13902, 13908, 31132, 31133, 31136, 31144, 31151, 31502, 31504; sec. 114, Pub. L. 103-311, 108 Stat. 1673, 1677; sec. 212, 217, Pub. L. 106-159, 113 Stat. 1748, 1767, 1773; sec. 229 Pub. L. 106-159 (as transferred by sec. 4114 and amended by secs. 4130-4132, Pub. L. 109-59, 119 Stat. 1144, 1726, 1743-44); sec. 32101(d) and 32934, Pub. L. 112-141, 126 Stat. 405, 778, 830; sec. 2, Pub. L. 113-125, 128 Stat. 1388, and 49 CFR 1.81, 1.81a, and 1.87.

**§ 390.3 [Amended]**

■ 53. Effective October 21, 2015, amendatory instruction #1 from the correction to § 390.3 published at 78 FR 63100 (October 23, 2013) is withdrawn.

■ 54. Effective September 30, 2016, revise § 390.3 to read as follows:

**§ 390.3 General applicability.**

(a) The rules in subchapter B of this chapter are applicable to all employers, employees, and commercial motor vehicles that transport property or passengers in interstate commerce.

(b) The rules in part 383 of this chapter, Commercial Driver's License Standards; Requirements and Penalties, are applicable to every person who operates a commercial motor vehicle, as defined in § 383.5 of this subchapter, in interstate or intrastate commerce and to all employers of such persons.

(c) The rules in part 387 of this chapter, Minimum Levels of Financial Responsibility for Motor Carriers, are applicable to motor carriers as provided in §§ 387.3 or 387.27 of this chapter.

(d) *Additional requirements.* Nothing in subchapter B of this chapter shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.

(e) *Knowledge of and compliance with the regulations.* (1) Every employer shall be knowledgeable of and comply with all regulations contained in this subchapter that are applicable to that motor carrier's operations.

(2) Every driver and employee involved in motor carrier operations shall be instructed regarding, and shall comply with, all applicable regulations contained in this subchapter.

(3) All motor vehicle equipment and accessories required by this chapter shall be maintained in compliance with all applicable performance and design criteria set forth in this subchapter.

(f) *Exceptions.* Unless otherwise specifically provided, the rules in this subchapter do not apply to—

(1) All school bus operations as defined in § 390.5 except for the provisions of §§ 391.15(e) and (f), 392.80, and 392.82 of this chapter;

(2) Transportation performed by the Federal government, a State, or any political subdivision of a State, or an agency established under a compact between States that has been approved by the Congress of the United States;

(3) The occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;

(4) The transportation of human corpses or sick and injured persons;



(5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations;

(6) The operation of commercial motor vehicles designed or used to transport between 9 and 15 passengers (including the driver), not for direct compensation, provided the vehicle does not otherwise meet the definition of a commercial motor vehicle, except for the provisions of §§ 391.15(e) and (f), 392.80, and 392.82, and except that motor carriers operating such vehicles are required to comply with §§ 390.15, 390.21(a) and (b)(2), 390.201 and 390.205.

(7) Either a driver of a commercial motor vehicle used primarily in the transportation of propane winter heating fuel or a driver of a motor vehicle used to respond to a pipeline emergency, if such regulations would prevent the driver from responding to an emergency condition requiring immediate response as defined in § 390.5.

(g) *Motor carriers that transport hazardous materials in intrastate commerce.* The rules in the following provisions of this subchapter apply to motor carriers that transport hazardous materials in intrastate commerce and to the motor vehicles that transport hazardous materials in intrastate commerce:

(1) Part 385, subparts A and E, for carriers subject to the requirements of § 385.403 of this subchapter.

(2) Part 386, Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings, of this subchapter.

(3) Part 387, Minimum Levels of Financial Responsibility for Motor Carriers, to the extent provided in § 387.3 of this subchapter.

(4) Subpart E of this part, Unified Registration System, and § 390.21, Marking of CMVs, for carriers subject to the requirements of § 385.403 of this subchapter. Intrastate motor carriers operating prior to January 1, 2005, are excepted from § 390.201.

(h) *Intermodal equipment providers.* The rules in the following provisions of this subchapter apply to intermodal equipment providers:

(1) Subpart F, Intermodal Equipment Providers, of Part 385, Safety Fitness Procedures.

(2) Part 386, Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings.

(3) Part 390, Federal Motor Carrier Safety Regulations; General, except § 390.15(b) concerning accident registers.

(4) Part 393, Parts and Accessories Necessary for Safe Operation.

(5) Part 396, Inspection, Repair, and Maintenance.

(i) *Brokers.* The rules in the following provisions of this subchapter apply to brokers that are required to register with the Agency pursuant to 49 U.S.C. chapter 139.

(1) Part 371, Brokers of Property.

(2) Part 386, Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings.

(3) Part 387, Minimum Levels of Financial Responsibility for Motor Carriers, to the extent provided in subpart C of that part.

(4) Subpart E of this part, Unified Registration System.

(j) *Freight forwarders.* The rules in the following provisions of this subchapter apply to freight forwarders that are required to register with the Agency pursuant to 49 U.S.C. chapter 139.

(1) Part 386, Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings.

(2) Part 387, Minimum Levels of Financial Responsibility for Motor Carriers, to the extent provided in subpart D of that part.

(3) Subpart E of this part, Unified Registration System.

(k) *Cargo tank facilities.* The rules in subpart E of this part, Unified Registration System, apply to each cargo tank and cargo tank motor vehicle manufacturer, assembler, repairer, inspector, tester, and design certifying engineer that is subject to registration requirements under 49 CFR 107.502 and 49 U.S.C. 5108.

■ 55. Effective September 30, 2016, amend § 390.5 by revising the definition of “Exempt motor carrier” to read as follows:

**§ 390.5 Definitions.**

\* \* \* \* \*

*Exempt motor carrier* means a person engaged in transportation exempt from economic regulation by the Federal Motor Carrier Safety Administration (FMCSA) under 49 U.S.C. chapter 135 but subject to the safety regulations set forth in this subchapter.

\* \* \* \* \*

■ 56. Effective September 30, 2016, revise § 390.19 to read as follows:

**§ 390.19 Motor carrier identification reports for certain Mexico-domiciled motor carriers.**

(a) *Applicability.* A Mexico-domiciled motor carrier requesting authority to provide transportation of property or passengers in interstate commerce

between Mexico and points in the United States beyond the municipalities and commercial zones along the United States-Mexico international border must file Form MCS-150 with FMCSA as follows:

(b) *Filing schedule.* Each motor carrier must file the appropriate form under paragraph (a) of this section at the following times:

- (1) Before it begins operations; and
- (2) Every 24 months, according to the following schedule:

USDOT No. ending in	Must file by last day of
1 .....	January.
2 .....	February.
3 .....	March.
4 .....	April.
5 .....	May.
6 .....	June.
7 .....	July.
8 .....	August.
9 .....	September.
0 .....	October.

(3) If the next-to-last digit of its USDOT Number is odd, the motor carrier shall file its update in every odd-numbered calendar year. If the next-to-last digit of the USDOT Number is even, the motor carrier shall file its update in every even-numbered calendar year.

(4) A person that fails to complete biennial updates to the information pursuant to paragraph (b)(2) of this section is subject to the penalties prescribed in 49 U.S.C. 521(b)(2)(B) or 49 U.S.C. 14901(a), as appropriate, and deactivation of its USDOT Number.

(c) *Availability of forms.* The Form MCS-150 and complete instructions are available from the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>; from all FMCSA Service Centers and Division offices nationwide; or by calling 1-800-832-5660.

(d) *Where to file.* The Form MCS-150 must be filed with the FMCSA Office of Registration and Safety Information. The form may be filed electronically according to the instructions at the Agency’s Web site, or it may be sent to Federal Motor Carrier Safety Administration, Office of Registration and Safety Information, MC-RS 1200 New Jersey Avenue SE., Washington, DC 20590.

(e) *Special instructions.* A motor carrier should submit the Form MCS-150 along with its application for operating authority (OP-1(MX)), to the appropriate address referenced on that form, or may submit it electronically or by mail separately to the address mentioned in paragraph (d) of this section.

(f) Only the legal name or a single trade name of the motor carrier may be used on the Form MCS-150.

(g)(1) A motor carrier that fails to file the Form MCS-150 or furnishes misleading information or makes false statements upon the form, is subject to the penalties prescribed in 49 U.S.C. 521(b)(2)(B).

(2) A motor carrier that fails to update the Form MCS-150 as required in paragraph (b) will have its USDOT Number deactivated and will be prohibited from conducting transportation.

(h)(1) Upon receipt and processing of the form described in paragraph (a) of this section, FMCSA will issue the motor carrier or intermodal equipment provider an identification number (USDOT Number).

(2) A Mexico-domiciled motor carrier seeking to provide transportation of property or passengers in interstate commerce between Mexico and points in the United States beyond the municipalities and commercial zones along the United States-Mexico international border must pass the pre-authorization safety audit under § 365.507 of this subchapter. The Agency will not issue a USDOT Number until expiration of the protest period provided in § 365.115 of this chapter or—if a protest is received—after FMCSA denies or rejects the protest.

(3) The motor carrier must display the USDOT Number on each self-propelled CMV, as defined in § 390.5, along with the additional information required by § 390.21.

■ 57. Effective September 30, 2016, amend § 390.21 by revising paragraph (b)(1) to read as follows:

**§ 390.21 Marking of self-propelled CMVs and intermodal equipment.**

\* \* \* \* \*

(b) \* \* \*

(1) The legal name or a single trade name of the motor carrier operating the self-propelled CMV, as listed on the Form MCSA-1, the URS online application, or the motor carrier identification report (Form MCS-150) and submitted in accordance with § 390.201 or § 390.19, as appropriate.

\* \* \* \* \*

■ 58. Effective September 30, 2016, amend § 390.40 by revising paragraph (a) to read as follows:

**§ 390.40 What responsibilities do intermodal equipment providers have under the Federal Motor Carrier Safety Regulations (49 CFR parts 350-399)?**

\* \* \* \* \*

(a) Identify its operations to the FMCSA by filing the Form MCSA-1 required by § 390.201.

\* \* \* \* \*

■ 59. Effective December 12, 2015 until September 29, 2016, add a new subpart E consisting of § 390.T200 to read as follows:

**Subpart E—URS Online Application**

Sec. 390.T200 USDOT Registration.

**Subpart E—URS Online Application**

**§ 390.T200 USDOT Registration.**

(a) *Purpose.* This section establishes who must register with FMCSA using the Form MCSA-1, the URS online application, beginning on December 12, 2015 and continuing through September 29, 2016.

(b) *Applicability.* Notwithstanding any other provisions of this part or 49 CFR 385.305(b)(2), a new applicant private motor carrier or new applicant exempt for-hire motor carrier subject to the requirements of this subchapter must file Form MCSA-1 with FMCSA to identify its operations with the Federal Motor Carrier Safety Administration for safety oversight. Form MCSA-1 is the URS online application, and both the application and its instructions are available from the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>.

(c) *Definition.* For purposes of this section, a “new applicant” is an entity applying for operating authority registration and a USDOT number who does not at the time of application have an active registration or USDOT, Motor Carrier (MC), Mexican owned or controlled (MX), or Freight Forwarder (FF) number, and who has never had an active registration or USDOT, MC, MX, or FF number.

(d) *Effective period.* This section is in effect from December 12, 2015, through September 29, 2016.

■ 60. Effective September 30, 2016,, revise subpart E, as published August 23, 2013 (78 FR 52654) to read as follows:

**Subpart E—Unified Registration System**

Sec. 390.201 USDOT Registration. 390.203 PRISM State registration/biennial updates. 390.205 Special requirements for registration. 390.207 Other governing regulations. 390.209 Pre-authorization safety audit.

**Subpart E—Unified Registration System**

**§ 390.201 USDOT Registration.**

(a) *Purpose.* This section establishes who must register with FMCSA under

the Unified Registration System, the filing schedule, and general information pertaining to persons subject to the Unified Registration System registration requirements.

(b) *Applicability.* (1) Except as provided in paragraph (g) of this section, each motor carrier (including a private motor carrier, an exempt for-hire motor carrier, a non-exempt for-hire motor carrier, and a motor carrier of passengers that participates in a through ticketing arrangement with one or more interstate for-hire motor carriers of passengers), intermodal equipment provider, broker and freight forwarder subject to the requirements of this subchapter must file Form MCSA-1, the URS online application, with FMCSA to:

- (i) Identify its operations with the Federal Motor Carrier Safety Administration for safety oversight, as applicable;
- (ii) Obtain operating authority required under 49 U.S.C. chapter 139, as applicable; and
- (iii) Obtain a hazardous materials safety permit as required under 49 U.S.C. 5109, as applicable.

(2) A cargo tank and cargo tank motor vehicle manufacturer, assembler, repairer, inspector, tester, and design certifying engineer that is subject to registration requirements under 49 CFR 107.502 and 49 U.S.C. 5108 must satisfy those requirements by electronically filing Form MCSA-1, the URS online application, with FMCSA.

(c) *General.* (1)(i) A person that fails to file Form MCSA-1, the URS online application, pursuant to paragraph (d)(1) of this section is subject to the penalties prescribed in 49 U.S.C. 521(b)(2)(B) or 49 U.S.C. 14901(a), as appropriate.

(ii) A person that fails to complete biennial updates to the information pursuant to paragraph (d)(2) of this section is subject to the penalties prescribed in 49 U.S.C. 521(b)(2)(B) or 49 U.S.C. 14901(a), as appropriate, and deactivation of its USDOT Number.

(iii) A person that furnishes misleading information or makes false statements upon Form MCSA-1, the URS online application, is subject to the penalties prescribed in 49 U.S.C. 521(b)(2)(B), 49 U.S.C. 14901(a) or 49 U.S.C. 14907, as appropriate.

(2) Upon receipt and processing of Form MCSA-1, the URS online application, FMCSA will issue the applicant an inactive identification number (USDOT Number). FMCSA will activate the USDOT Number after completion of applicable administrative filings pursuant to § 390.205(a), unless the applicant is subject to § 390.205(b).

An applicant may not begin operations nor mark a commercial motor vehicle with the USDOT Number until after the date of the Agency's written notice that the USDOT Number has been activated.

(3) The motor carrier must display a valid USDOT Number on each self-propelled CMV, as defined in § 390.5, along with the additional information required by § 390.21.

(d) *Filing schedule.* Each person listed under § 390.201(b) must electronically file Form MCSA-1, the URS online application, at the following times:

- (1) Before it begins operations; and
- (2) Every 24 months as prescribed in paragraph (d)(3) of this section.

(3)(i) Persons assigned a USDOT Number must file an updated Form MCSA-1, the URS online application, every 24 months, according to the following schedule:

USDOT No. ending in . . .	Must file by last day of . . .
1 .....	January.
2 .....	February.
3 .....	March.
4 .....	April.
5 .....	May.
6 .....	June.
7 .....	July.
8 .....	August.
9 .....	September.
0 .....	October.

(ii) If the next-to-last digit of its USDOT Number is odd, the person must file its update in every odd-numbered calendar year. If the next-to-last digit of the USDOT Number is even, the person must file its update in every even-numbered calendar year.

(4) *When there is a change in legal name, form of business, or address.* A registered entity must notify the Agency of a change in legal name, form of business, or address within 30 days of the change by filing an updated Form MCSA-1, the URS online application, reflecting the revised information. Notification of a change in legal name, form of business, or address does not relieve a registered entity from the requirement to file an updated Form MCSA-1 every 24 months in accordance with paragraph (d)(3) of this section.

(5) *When there is a transfer of operating authority.* (i) Both a person who obtains operating authority through a transfer, as defined in part 365, subpart D of this subchapter (transferee), and the person transferring its operating authority (transferor), must each notify the Agency of the transfer within 30 days of consummation of the transfer by filing:

(A) An updated Form MCSA-1, the URS online application, for the

transferor, and for the transferee, if the transferee had an existing USDOT Number at the time of the transfer; or

(B) A new Form MCSA-1, the URS online application, if the transferee did not have an existing USDOT Number at the time of the transfer.

(C) A copy of the operating authority that is being transferred.

(ii) Notification of a transfer of operating authority does not relieve a registered entity from the requirement to file an updated Form MCSA-1, the URS online application, every 24 months in accordance with paragraph (d)(3) of this section.

(e) *Availability of form.* Form MCSA-1, the URS online application is available, including complete instructions, from the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>.

(f) *Where to file.* Persons subject to the registration requirements under this subpart must electronically file Form MCSA-1, the URS online application, on the FMCSA Web site at <http://www.fmcsa.dot.gov/urs>.

(g) *Exception.* The rules in this subpart do not govern the application by a Mexico-domiciled motor carrier to provide transportation of property or passengers in interstate commerce between Mexico and points in the United States beyond the municipalities and commercial zones along the United States-Mexico international border. The applicable procedures governing transportation by Mexico-domiciled motor carriers are provided in § 390.19.

**§ 390.203 PRISM State registration/ biennial updates.**

(a) A motor carrier that registers its vehicles in a State that participates in the Performance and Registration Information Systems Management (PRISM) program (authorized under section 4004 of the Transportation Equity Act for the 21st Century [Public Law 105-178, 112 Stat. 107]) alternatively may satisfy the requirements set forth in § 390.201 by electronically filing all the required USDOT registration and biennial update information with the State according to its policies and procedures, provided the State has integrated the USDOT registration/update capability into its vehicle registration program.

(b) If the State procedures do not allow a motor carrier to file the Form MCSA-1, the URS online application, or to submit updates within the period specified in § 390.201(d)(2), a motor carrier must complete such filings directly with FMCSA.

(c) A for-hire motor carrier, unless providing transportation exempt from the commercial registration

requirements of 49 U.S.C. chapter 139, must obtain operating authority as prescribed under § 390.201(b) and part 365 of this subchapter before operating in interstate commerce.

**§ 390.205 Special requirements for registration.**

(a)(1) *General.* A person applying to operate as a motor carrier, broker, or freight forwarder under this subpart must make the additional filings described in paragraphs (a)(2) and (a)(3) of this section as a condition for registration under this subpart within 90 days of the date on which the application is filed:

(2) *Evidence of financial responsibility.* (i) A person that registers to conduct operations in interstate commerce as a for-hire motor carrier, a broker, or a freight forwarder must file evidence of financial responsibility as required under part 387, subparts C and D of this subchapter.

(ii) A person that registers to transport hazardous materials as defined in 49 CFR 171.8 (or any quantity of a material listed as a select agent or toxin in 42 CFR part 73) in interstate commerce must file evidence of financial responsibility as required under part 387, subpart C of this subchapter.

(3) *Designation of agent for service of process.* All motor carriers (both private and for-hire), brokers and freight forwarders required to register under this subpart must designate an agent for service of process (a person upon whom court or Agency process may be served) following the rules in part 366 of this subchapter:

(b) If an application is subject to a protest period, the Agency will not activate a USDOT Number until expiration of the protest period provided in § 365.115 of this subchapter or—if a protest is received—after FMCSA denies or rejects the protest, as applicable.

**§ 390.207 Other governing regulations.**

(a) *Motor carriers.* (1) A motor carrier granted registration under this part must successfully complete the applicable New Entrant Safety Assurance Program as described in paragraphs (a)(1)(i) through (a)(1)(iii) of this section as a condition for permanent registration:

(i) A U.S.- or Canada-domiciled motor carrier is subject to the new entrant safety assurance program under part 385, subpart D, of this subchapter.

(ii) A Mexico-domiciled motor carrier is subject to the safety monitoring program under part 385, subpart B of this subchapter.

(iii) A Non-North America-domiciled motor carrier is subject to the safety

monitoring program under part 385, subpart I of this subchapter.

(2) Only the legal name or a single trade name of the motor carrier may be used on the Form MCSA-1, the URS online application.

(b) *Brokers, freight forwarders and non-exempt for-hire motor carriers.* (1) A broker or freight forwarder must obtain operating authority pursuant to part 365 of this chapter as a condition for obtaining USDOT Registration.

(2) A motor carrier registering to engage in transportation that is not exempt from economic regulation by FMCSA must obtain operating authority pursuant to part 365 of this subchapter as a condition for obtaining USDOT Registration.

(c) *Intermodal equipment providers.* An intermodal equipment provider is subject to the requirements of subpart C of this part.

(1) Only the legal name or a single trade name of the intermodal equipment provider may be used on the Form MCSA-1, the URS online application.

(2) The intermodal equipment provider must identify each unit of interchanged intermodal equipment by its assigned USDOT Number.

(d) *Hazardous materials safety permit applicants.* A person who applies for a hazardous materials safety permit is subject to the requirements of part 385, subpart E, of this subchapter.

(e) *Cargo tank facilities.* A cargo tank facility is subject to the requirements of 49 CFR part 107, subpart F, 49 CFR part 172, subpart H, and 49 CFR part 180.

**§ 390.209 Pre-authorization safety audit.**

A non-North America-domiciled motor carrier seeking to provide transportation of property or passengers in interstate commerce within the United States must pass the pre-

authorization safety audit under § 385.607(c) of this subchapter as a condition for receiving registration under this part.

**PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES**

■ 61. Effective September 30, 2016, the authority citation for part 392 is revised to read as follows:

**Authority:** 49 U.S.C. 504, 521, 13902, 13908, 31136, 31151, 31502; Section 112 of Public Law 103-311, 108 Stat. 1673, 1676 (1994), as amended by sec. 32509 of Public Law 112-141, 126 Stat. 405, 805 (2012); and 49 CFR 1.87.

Issued under authority delegated in 49 CFR 1.87 on: October 14, 2015.

**T.F. Scott Darling III,**  
*Acting Administrator.*

[FR Doc. 2015-26625 Filed 10-19-15; 4:15 pm]

**BILLING CODE 4910-EX-P**