

Chapter Trans 178

UNIFIED CARRIER REGISTRATION SYSTEM

| | |
|---------------|--|
| Trans 178.01 | Authority, purpose, and scope. |
| Trans 178.02 | Definitions. |
| Trans 178.025 | Requirement to register. |
| Trans 178.03 | Fees. |
| Trans 178.04 | Determining the number of commercial motor vehicles. |

| | |
|--------------|--|
| Trans 178.05 | Records requirements and retention period. |
| Trans 178.06 | Audits and assessments. |
| Trans 178.07 | Appeal procedures. |
| Trans 178.08 | Revocation. |
| Trans 178.09 | Actions to collect. |

Note: Chapter Trans 178 was created as an emergency rule effective December 19, 2007.

Trans 178.01 Authority, purpose, and scope. (1) As authorized by s. 194.407, Stats., the purpose of this chapter is to establish, consistent with federal law, an annual fee under s. 194.407, Stats., for a fleet of commercial motor vehicles that is used in interstate commerce, is subject to the Unified Carrier Registration Agreement, and whose owner or operator is based in Wisconsin, or is based in a state that is not participating in the UCR and has elected to declare Wisconsin as its base state.

(2) This chapter applies to any motor carrier, motor private carrier, freight forwarder, broker, and leasing company that meets any of the following criteria:

(a) Operates any commercial motor vehicle in interstate commerce.

(b) Has no vehicles but is a motor carrier related business located in Wisconsin.

(c) Has declared Wisconsin as the base state for UCR, as required in federal law 49 USC 14504a and the Unified Carrier Registration Agreement.

(3) This chapter applies to any motor carrier, motor private carrier, freight forwarder, broker, or leasing company that operates any commercial motor vehicle in interstate commerce, as provided in 49 USC 14504a. The requirement to register under the Unified Carrier Registration system is not affected by the type of motor carrier authority that the motor carrier, motor private carrier, freight forwarder, broker, or leasing company possesses, and is not affected by the type of business activity undertaken.

History: CR 08-002: cr. Register June 2008 No. 630, eff. 7-1-08.

Trans 178.02 Definitions. Words and phrases used in this chapter have the meanings given in 49 USC 14504a, and in the Unified Carrier Registration Agreement unless this chapter provides a different definition. In this chapter:

(1g) “Audit” means the department’s examination of records sufficient to determine the registrant’s correct UCR fee.

(1m) “Broker” means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by a motor carrier for compensation.

(2) “Commercial motor vehicle,” as defined in 49 USC 31101, means a self-propelled vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle meets any of the following criteria:

(a) Has a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds.

(b) Is designed to transport more than 10 passengers including the driver.

(c) Is used in transporting material found by the secretary of the United States department of transportation to be hazardous under 49 USC 5103 and transported in a quantity requiring placarding under regulations prescribed by that secretary.

(3) “Freight forwarder” means a person holding itself out to the general public, other than as a pipeline, rail, motor or water carrier, to provide transportation of property for compensation and, in the ordinary course of its business, does all of the following:

(a) Assembles and consolidates, or provides for assembling and consolidating, shipments, and performs or provides for break-bulk and distribution operations of the shipments.

(b) Assumes responsibility for the transportation from the place of receipt to the place of destination.

(c) Uses for any part of the transportation a carrier subject to 49 USC subtitle IV.

(4) “Interstate commerce” means trade, traffic, or transportation in the United States between any of the following:

(a) A place in a state and a place outside that state, including a place outside of the United States.

(b) Two places in a state through another state or through a place outside of the United States.

(c) Two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.

(d) Wisconsin and any adjacent state under a registration reciprocity agreement between Wisconsin and that other state.

(5) “Intrastate commerce” means any trade, traffic, or transportation in any state that is not described in the term “interstate commerce” and is conducted wholly within a state.

(6) “Leasing company” means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

(7) “MCSA-1” means the form prescribed by the federal Motor Carrier Safety Administration for Motor Carrier Identification Report, Application for USDOT Number, Operating Authority Registration.

(8) “Motor carrier” means a person providing motor vehicle transportation for compensation.

(9) “Motor private carrier” means a person, other than a motor carrier, transporting property by motor vehicle when all of the following occur:

(a) The transportation is as provided in 49 USC 13501.

(b) The person is the owner, lessee, or bailee of the property being transported.

(c) The property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(10) “Motor vehicle” means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof as determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

(11) “Registrant” means a motor carrier, motor private carrier, broker, leasing company, or freight forwarder.

(12) “Registration year” means a calendar year.

(12g) “UCR” means Unified Carrier Registration.

(12m) “Underpaid” means having paid less UCR fees than the amount determined by audit.

(13) “Unified Carrier Registration Agreement” or “UCR Agreement” means the interstate agreement developed under the UCR Plan governing the collection and distribution of registration information and UCR fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to 49 USC 14504a.

(20) “Unpaid fee” refers to the UCR fee amount due that has

not been paid.

History: CR 08-002: cr. Register June 2008 No. 630, eff. 7-1-08; CR 10-099: am. (2) Register May 2011 No. 665, eff. 6-1-11; CR 16-074: renum. (1) to (1m), am. (7), cr. (1g), (12g), (12m), (20) Register June 2019 No. 762, eff. 7-1-19.

Trans 178.025 Requirement to register. No person to which this chapter applies under s. Trans 178.01 may operate as a motor carrier, motor private carrier, freight forwarder, broker, or leasing company unless registered for UCR under this chapter.

History: CR 16-074: cr. Register June 2019 No. 762, eff. 7-1-19; correction made under s. 35.17, Stats., Register June 2019 No. 762.

Trans 178.03 Fees. (1) Except as provided in sub. (2), as provided in 49 CFR 367.20, fees for registration year 2010 and thereafter are as follows:

| Bracket | Number of commercial motor vehicles owned or operated by exempt or non-exempt motor carrier, motor private carrier, or freight forwarder | Fee per company for exempt or non-exempt motor carrier, motor private carrier, or freight forwarder | Fee per company for broker or leasing company |
|---------|--|---|---|
| B1 | 0-2 | \$76 | \$76 |
| B2 | 3-5 | \$227 | \$76 |
| B3 | 6-20 | \$452 | \$76 |
| B4 | 21-100 | \$1,576 | \$76 |
| B5 | 101-1,000 | \$7,511 | \$76 |
| B6 | 1,001 and above | \$73,346 | \$76 |

(2) If the Federal Motor Carrier Safety Administration or the U.S. department of transportation acting under 49 USC 14504a(d)(7) publishes in the federal register a schedule of fees for the Unified Carrier Registration Plan that differ from the fees set forth in sub. (1), the department shall send notice of those revised fees to the chairpersons of the standing committees of the legislature having jurisdiction over transportation. If no chairperson notifies the secretary of transportation within 14 working days after the date of the department’s notice that the committee has scheduled a meeting for the purpose of reviewing the fees, the department shall implement the fees. If within 14 working days after the date of the department’s notice a chairperson of a committee notifies the secretary of transportation that the committee has scheduled a meeting for the purpose of reviewing the fees, the department shall implement the fees only with the approval of the committee.

History: CR 08-002: cr. Register June 2008 No. 630, eff. 7-1-08; CR 10-099: am. (1) Register May 2011 No. 665, eff. 6-1-11.

Trans 178.04 Determining the number of commercial motor vehicles. (1) The fee is determined by the number of commercial motor vehicles that the registrant operates in interstate commerce, which shall be counted as follows as provided in the UCR Agreement:

(a) The number of commercial motor vehicles owned or operated subject to the fee under this chapter is the greater of the following:

1. The number reported on the MCSA-1 most recently filed with the U. S. department of transportation.

Note: As stated in s. Trans 178.02 (2), a commercial motor vehicle for purposes of UCR does not include a towed vehicle. Therefore, a carrier should exclude any towed vehicles reported on the MCS-150.

2. The total number of commercial motor vehicles owned or operated for the 12-month period ending on June 30 immediately prior to the beginning of the registration year.

(b) The registrant shall include the number of commercial motor vehicles owned or operated by the registrant, or controlled by the registrant under a lease having a term longer than 30 days. A registrant may not include any vehicle that is operated by the registrant under a lease of 30 days or less.

(c) Before issuing any documentation of UCR Agreement compliance, the department may require the registrant to reconcile any discrepancy between the number of motor vehicles owned and leased as reported on the MCSA-1 most recently filed with the U. S. department of transportation.

(d) The registrant may, at its sole option, add to the sum of vehicles required to be counted under this section any of the following:

1. Any self-propelled commercial motor vehicle operated in intrastate or interstate commerce for compensation regardless of the weight of the vehicle, or the number of passengers transported by the vehicle, or whether the registrant owns or leases the vehicle.

2. Any motor vehicle used only in intrastate commerce regardless of the state in which the vehicle has been operated, or whether the registrant owns or leases the vehicle.

(e) The registrant may exclude the number of commercial motor vehicles owned or leased that were operated exclusively in the intrastate transportation of property, waste or recyclable material.

(2) A registrant that operates commercial motor vehicles solely in intrastate commerce is not required to register or pay any fee under this chapter.

(3) Except as provided in sub. (1), only motor vehicles that are operated in interstate commerce shall be counted under this section. Except as provided in sub. (1), motor vehicles operated exclusively in intrastate commerce may not be counted under this section.

(4) Except as provided in sub. (1), a school bus is not required to be counted under this chapter if it is all of the following:

(a) Operated exclusively for school activities.

(b) Not operated for any charter activity.

(c) Not used for any activities other than school activities.

(5) A business that is a single legal entity and operates more than one type of carrier operation that is subject to this chapter shall pay the fee that is the highest applicable fee for any of its carrier operations subject to this chapter. A business that comprises multiple legal entities that operate separate carrier operations subject to this chapter shall pay all appropriate fees for each legal entity.

(6) The department may authorize and designate an agent to collect fees and process registration applications under this chapter.

History: CR 08-002: cr. Register June 2008 No. 630, eff. 7-1-08; CR 16-074: am. (1) (a) 1., (c) Register June 2019 No. 762, eff. 7-1-19.

Trans 178.05 Records requirements and retention period. A registrant shall retain complete UCR records for the current calendar year and the prior year. The records shall contain the following:

(1) UCR Form.

(2) UCR Form 1, Vehicles removed in intrastate transportation.

(3) UCR Form 2, Vehicles owned and operated for the 12-month period ending June 30 of the year immediately prior to the year for which the UCR registration is made.

(4) MCSA-1 form filed by the registrant.

History: CR 08-002: cr. Register June 2008 No. 630, eff. 7-1-08; CR 16-074: cr. Register June 2019 No. 762, eff. 7-1-19; corrections made under s. 13.92 (4) (b) 1., 12., Stats., Register June 2019 No. 762.

Trans 178.06 Audits and assessments. (1) AUDIT. The department may conduct such audits that it deems necessary to determine the adequacy of the fees paid under this chapter. An applicant or registrant shall make records described in this chapter available to the department within 15 days after receiving a written request for the records.

(2) ASSESSMENTS. (a) The department may, by field or office audit, determine the registration fees to be paid by, or refunded to, any person described in s. Trans 178.01 (2). The department may base its determination on facts contained in the records or upon any other information in the department's possession.

(b) If any person fails to make records available or to maintain records from which the true fee liability may be determined, the department may assess a registration fee based upon the department's estimation of the registration fee liability.

(c) If a person required to register under this chapter does not file registration when due, the department shall determine the fee liability based on the best information available to it, and shall serve the assessment upon the person in the same manner as an audit assessment.

(d) Any person challenging an assessment shall bear the burden to establish by a fair preponderance of evidence that the department's assessment is erroneous or excessive and the department's assessment shall be set aside only if the correct liability is determined.

(3) NOTICE OF COMPLETED AUDIT. If the department requests records from a registrant, upon completing an audit the department shall provide written notice to the registrant that the audit is completed, the findings of the audit including clear support for the findings, and of any action taken in connection with an audit.

History: CR 16-074: cr. Register June 2019 No. 762, eff. 7-1-19; correction in (2) (a) made under s. 35.17, Stats., Register June 2019 No. 762.

Trans 178.07 Appeal procedures. (1) GENERAL. A person may petition the office that administers this chapter for a redetermination. If a person files a petition for redetermination, the additional fee or overpayment shall not become due and payable until 30 days after the date of notice of the completed audit.

Note: The motor carrier services section currently administers this chapter.

(2) FORMAT. The petition for redetermination shall be legibly written, typed, or emailed to the head of the department's motor carrier audit program. The petition shall set forth clearly and concisely the specific grievance to the action, including a statement of the relevant facts and propositions of law upon which the grievance is based. Each request shall be signed by the registrant or a duly authorized representative.

(3) FILING DEADLINE. A petition for redetermination shall be filed within 30 days after the date of notice of a completed audit. A petition for redetermination is considered filed on the date it is received by the department's office that completed the audit, or if it is mailed in a properly addressed envelope, with postage prepaid, the envelope is postmarked before midnight the 30th day and the petition is received by the department within 5 days of the postmark.

(4) PAYMENT. Any person who files a petition for redetermination may pay any portion of the assessment admitted to be correct. The payment shall be considered admission that that portion of the assessment is correct. The admitted portion that is paid may not be recovered in an appeal in any other action or proceeding.

(5) INFORMAL CONFERENCE. A person may request in a petition for redetermination or at any time before the department has acted upon the petition, an informal conference at which the facts and issues involved in the assessment or determination may be discussed. The conference shall be held at a time and place determined by the department. A request under this subsection does not toll the filing deadline under sub. (3).

(6) SETTLEMENT AGREEMENT. If during the appeal process the parties reach agreement, the department and the petitioner may enter a settlement agreement.

History: CR 16-074: cr. Register June 2019 No. 762, eff. 7-1-19; correction in (1) made under s. 13.92 (4) (b) 12., Stats., Register June 2019 No. 762.

Trans 178.08 Revocation. If an assessed fee has not been paid when due and the person has not filed a petition for redetermination within 30 days after the date of notice of a completed audit, the fee becomes delinquent and subject to collection under s. Trans 178.09. The department shall send a notice of delinquency and revocation to the last known address of the registrant advising of the immediate revocation of UCR registration, fuel tax licensing, and vehicle registration privileges, or authority to operate. The department may revoke a registration under this chapter if the registrant fails to comply with the provisions of this chapter or the provisions of the UCR Agreement. The department shall send a notice of revocation to the registrant's mailing address of record. Registration revoked under this chapter shall remain revoked until the reason for the revocation has been removed. The department may revoke, suspend, or refuse any registration, certificate, or permit issued by the department upon revocation of the person's UCR registration.

History: CR 16-074: cr. Register June 2019 No. 762, eff. 7-1-19; correction made under s. 35.17, Stats., Register June 2019 No. 762.

Trans 178.09 Actions to collect. (1) DEPARTMENT COLLECTION. The department shall make initial efforts to collect delinquent registration fees. The department may do any of the following to collect delinquent registration fees:

(a) Assess the person responsible for paying the registration fees. The department may subpoena any records necessary to determine the person responsible for paying the registration fees. Any officer, employee, fiduciary, or agent who is responsible for paying fees or other charges under this chapter incurred by another person but not paid is personally liable for those fees or other charges. The officer, employee, fiduciary, or agent may appeal that determination under the procedures in s. Trans 178.07.

(b) Suspend or refuse to issue any permit, license or registration to any person who is responsible for paying the fee under this chapter.

(2) SETOFFS BY DEPARTMENT OF REVENUE. The department may refer for collection any delinquent registration fees to the department of revenue under s. 71.93 (2), Stats., after having given the registrant reasonable notice and an opportunity to be heard with respect to the amount owed.

History: CR 16-074: cr. Register June 2019 No. 762, eff. 7-1-19; corrections in (1) (a), (2) made under s. 35.17, Stats., Register June 2019 No. 762.