

How Government Oversight Impacts Clients with Six-Wheel Trucks

by Tommy Ruke | A reprint from *ia Markets Plus* |

Note the intentional wording of the headline: Government oversight of the trucking industry may impact commercial clients you don't consider to be [trucking insureds](#).

Today, a “motor carrier” refers to any business that uses a vehicle with a gross vehicle weight (GVW) of 10,001 or higher—typically a unit with six wheels, or a unit with a trailer—in interstate commerce.

That broad definition means that [insuring motor carriers](#) takes a special commitment—one that begins with understanding the motor carrier business and, in particular, how the government is involved in the transportation industry.

ICC: Protecting Commerce

Government involvement in the trucking industry started with the Interstate Commerce Commission (ICC), which was founded in 1932 to assist and control the movement of “consumer goods” in interstate commerce. In other words, the agency focused on trucks that hauled processed goods—not raw or agricultural products—in interstate movement.

The ICC set up [rules to control and oversee](#) which businesses could provide the service and granted a certificate of authority to those that qualified as a matter of public convenience and necessity. The oversight of who and what service these businesses could provide included financial responsibility requirements. ICC review and oversight only applied to for-hire motor carriers hauling consumer goods of others in interstate commerce, and granted them the ability to haul these regulated commodities.

The ICC and its oversight remained essentially unchanged until 1980, when the Motor Carrier Act of 1980 passed. This legislation made three major changes in the trucking industry, including:

1) Lowering the requirements to be a for-hire motor carrier in interstate commerce. Instead of requiring these motor carriers to prove necessity, which limited who could provide the service, they now had to simply apply and pay \$300—opening up the transportation industry to more business.

2) Increasing the financial responsibility of motor carriers from \$300,000 to \$500,000 for five years and \$750,000 after Jan. 1, 1985, and increasing limits for hauling hazardous materials to \$1 or \$5 million, depending on the nature of the items. The new financial responsibility requirements applied to not only for-hire motor carriers, but also those that hauled their own hazardous goods in interstate and in some cases in intrastate commerce.

3) Requiring motor carriers to meet environmental restoration standards by adding the MCS90 endorsement to the policy issued to the business.

Proof of the financial responsibility requirements took two forms. First, the government required for-hire motor carriers hauling consumer (regulated) goods in interstate commerce to supply the ICC with a certificate of insurance reflecting required limits and acknowledging that the motor carrier had secured the MCS90 endorsement on the policy. All motor carriers subject to the requirements had to keep all paperwork at their locations so that when an enforcement officer arrived for an inspection visit, they could provide proof they met the requirements—or else face a daily fine of \$11,000.

Second, the financial responsibility requirements applied to all units with a GVW of 10,001 pounds or more—typically a unit with six small tires, or a combination of a unit with four tires and a trailer—that transports any quantity of hazardous items in interstate commerce or in intrastate commerce in bulk.

The Motor Carrier Act of 1980 was the first government regulation that applied to both for-hire and private motor carriers and marked the beginning of a number of similarly applicable regulations. For example, the Motor Carrier Act of 1986 established a commercial driver's

license requirement for all drivers of units with a GVW of 26,001 or higher, as well as drivers transporting people in a unit with more than 15 seats—regardless of whether the motor carrier was for-hire or private. (The First Baptist Church, which had an 18-seat “bus,” was not happy when I informed their committee that any driver of the bus must face a drug test. They sold the bus.)

FMCSA: Safety First

The ICC Termination Act of 1995 did away with the ICC as of Jan. 1, 1996. But many people in the industry still live in the past: Some applications still refer to an ICC number, some motor carriers still display an ICC number on the side of their trucks and many still refer to the ICC when discussing financial responsibility.

As part of the ICC Termination Act, Congress required the Department of Transportation (DOT) to establish a process by which motor carriers did not have to obtain permission to operate with a state if they were interstate-qualified, and streamline into a single registration process the need to obtain a registration to operate in interstate commerce and, if for-hire, obtain a second registration to haul consumer (regulated) goods. This requirement for a Unified Registration System (URS) was why ISO developed the Motor Carrier Coverage form as an option for the Truckers Coverage form. In 2013, ISO withdrew the Truckers Coverage form from the forms they support.

The ICC Termination Act also moved oversight of motor carriers to the Federal Motor Carrier Safety Administration (FMCSA). The name change spells out the major differences since 1980 and 1996, shifting the focus from [commerce to safety](#).

It was no surprise when the DOT did not meet Congress’s two-year deadline for the URS. In fact, nothing happened until 2005, which marked the beginning of the process: In 2005, the Uniform Carrier Registration replaced the previous single-state registration system. This system requires payment of a fee—dollars states then receive in order to enforce FMCSA regulations.

When the requirements took effect in 2013, the URS regulation—effective October of that year—established a timeline. That month marked the beginning of increased enforcement of requirements for all newly defined motor carriers.

The Act's most significant implication for insurance providers is that after Sept. 30, 2016, both an exempt for-hire interstate motor carrier hauling raw materials—such as cattle, pigs and farm goods—and a private business using a vehicle with a GVW of 10,001 pounds or larger in interstate commerce with any amount of hazardous material—which could refer to a weed eater with gas or a can of paint—must send a certificate of insurance to the FMCSA to verify they meet financial responsibility requirements. For private businesses, that's a \$1 million requirement and begins Oct. 1, 2016. Enforcement will begin Jan. 1, 2017.

For additional information about how noncompliance could impact your commercial clients who operate trucks, keep an eye on IAmagazine.com and upcoming editions of the Markets Pulse e-newsletter.

In the meantime, continue your trucking insurance education by checking out the [Motor Carrier Insurance Education Foundation](#) (MCIEF), which specializes in helping agents, brokers and insurance carriers build valuable relationships with their trucking clients through education and training. Want to stay ahead of your competition? Sign up to attend free trucking webinars every second Thursday of the month.

Tommy Ruke co-founded the MCIEF in 2013 to provide face-to-face presentations, Web-based education and other resources for insurance professionals who work with motor carriers.