

MARKET BULLETIN

REF: Y4445

Title	U.S. Motor Truck Cargo filings.
Purpose	To inform the market of regulatory changes relating to Motor Truck Cargo coverage and filing requirements.
Type	Event
From	Giles Taylor, Manager, International Regulatory Affairs General Counsel's Division
Date	8 December 2010
Deadline	Changes to coverage and filing requirements take effect from 21 March 2011.

Summary

Effective 21 March 2011, the U.S. requirement for most motor carriers and freight forwarders to maintain cargo insurance in prescribed minimum amounts and file evidence of this insurance with the Federal Motor Carrier Safety Administration is being eliminated.

Household goods motor carriers and freight forwarders will continue to be subject to this cargo insurance requirement. This equates to about 10 percent of filings currently made by Lloyd's.

Although the subject coverage and filings will no longer be required for most motor carriers, filings in effect after 21 March 2011 will remain on the FMCSA system until March 2013 unless affirmatively cancelled. Lloyd's underwriters may wish to issue endorsements to each subject policy removing the coverage and cancel each cargo filing on the FMCSA system.

There have been no changes thus far to the various state-level coverage and filing requirements.

The Current Requirement

The FMCSA currently requires that U.S. motor carriers show evidence that they have cargo insurance in the minimum amounts required by law - \$5,000 on any one vehicle, with a \$10,000 aggregate, for a loss at any one time and place. This evidence is shown by the insurer attaching a BMC-32 cargo endorsement to the policy and filing a Form BMC-34 Certificate of Insurance with the FMCSA. FMCSA filings have no expiration date and remain in effect until affirmatively cancelled.

Definition of Household Goods

The shipment of "household goods" refers to the shipment of personal property used or to be used in a dwelling. This includes shipments from one's home, as well as shipments from a factory to a store, from a factory to a consumer, and from a store to a consumer, following the consumer's purchase of that property. The definition of "household goods" does not include the shipment of property from a factory to a store when that property has not yet been sold.

Endorsement

LMA5159 has been prepared to meet the requirements of the rule change.

Further Information

Please see Appendix 1 and the U.S. Department of Transportation Federal Motor Carrier Safety Administration [Final Rule - Cargo Insurance for Property Loss or Damage](#).

If you have any questions or concerns, or would like more information on motor truck cargo filing requirements or procedures, please contact:

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Appendix 1

12/1/2010

IMUA News

Current News from IMUA

Inland Marine Underwriters Association

**The B M C - 32
An End of an Era**Condensed from *Federal Register: June 22, 2010* (Volume 75 - Number 119)
Rules & Regulations - Pages 35318 - 35329

Second Update 11/9/2010

On November 9, 2010 the IMUA Transportation Committee met and discussed the current status of the proposed demise of the BMC-32 [see summary below]. While there has been little or no change or information of substance since the original *Federal Register* posting, the Committee felt there were several areas where some clarification and/or individual company action may be prudent.

1. While the Federal Motor Carrier Safety Administration [FMCSA] still maintains its position that it does not want insurance companies making mass cancellation filings circa 3/21/11 because it could potentially overload its system, there is some concern in some quarters that if insurance companies do nothing, i.e. leave the BMC -32 attached to the policy and/or the BMC-34 filing in place with the FMCSA, without a cancellation date, the company may in fact be providing some level of coverage that is not required or unintended. While it is IMUA's policy not to make underwriting or claims recommendations, the Committee felt strongly that each insurance company should establish some internal policy as respects how they want to handle the filing and corresponding endorsement for their clients [policyholders] after the March 2011 date.
2. Once the filing is no longer required by the FMCSA the failure to have a cargo filing in place will no longer be grounds to take a truck and/or driver out of service during a truck safety stop. That creates a potential concern that the policy holders will not maintain insurance by paying premium in these more difficult financial times as the failure to have cargo insurance will not prohibit them from operating. This may result in numerous cancellations and reinstatements for added cost to insurers as well as the potential for cargo losses during the time necessary to cancel for non-payment of premium.
3. If the BMC-32 endorsement is still attached to the policy even after it is no longer required, the underwriter may continue to be picking that exposure. The endorsement remains a part of the policy and whether a court would determine it to be inapplicable because it was no longer mandated will not be known until the matter is litigated.
4. The policy holder and/or shipper may ask for similar BMC protections to be offered, but possibly at greater limits, which the underwriter should consider in pricing the exposure and/or in line with a company's underwriting philosophy.
5. As respects shippers, the FMCSA has suggested that they need to become more aware of the type of insurance and limits provided by carriers, and particularly if a bankruptcy action is filed.

Again, the demise of the BMC - 32 is a fluid and evolving situation that the IMUA Transportation Committee felt requires some level of individual company scrutiny and decision making rather than assuming the FMCSA's guidelines are all encompassing.

Update from 8/11/2010

To the surprise of many insurance and transportation specialists, the Federal Motor Carrier Safety Administration [FMCSA] announced it is eliminating the requirement for most for-hire motor (common) carriers of property and for freight forwarders to maintain cargo insurance in prescribed minimum amounts, and file evidence of this insurance [the B M C - 32] with the FMCSA.

<http://www.imua.org/lit/999136.html>

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Note: Household goods motor carriers and household goods freight forwarders will continue to be subject to this cargo insurance requirement.

This proceeding applies only to for-hire motor carriers and freight forwarders as defined in 49 U.S.C. 13102. The proposed effective date is March 21, 2011.

According to the FMCSA, of the approximately 252,600 total for-hire motor carriers and freight forwarders, there are about 166,700 for-hire carriers and 1,600 freight forwarders registered with the FMCSA subject to current cargo insurance requirements.

After considering all of the comments made to the Docket No. FMCSA-2010-0189 [Reviewable on <http://www.regulations.gov>] - a review of the 4 pages revealed no specific comment relating directly to the subject matter - the Agency decided to do away with the B M C - 32 except for the aforementioned entities.

So in the spirit of less government regulation - how is that working out for everyone - but with an eye toward prudent decision making, the FMCSA has directed the shipping industry "... to protect itself by insuring that carriers with whom they do business are adequately insured."

From an insurance industry perspective, page 35326 provides the procedural answers for the insurance industry as follows -

Forms BMC-32 and BMC-34 for Non-Household-Goods Motor Carriers and Freight Forwarders

All BMC-32 endorsements and BMC-34 certificates of insurance that insurers have issued to motor carriers and freight forwarders, except household goods motor carriers and household goods freight forwarders, will expire on the effective date of this final rule, March 21, 2011.

FMCSA will be amending the BMC-32 endorsement and BMC-34 certificate of insurance to reflect the requirements of this final rule by removing the references to common carriers and amending other incorrect references. FMCSA will be seeking Office of Management and Budget (OMB) approval of the new forms before the effective date of the final rule. Insurance companies will not need to cancel any previous FMCSA filings.

FMCSA will not remove the names of insurance companies and the appropriate policy numbers from FMCSA web sites and any other FMCSA distribution methods until March 18, 2013, the second anniversary of the effective date of this final rule, to facilitate identification of insurance coverage for claims arising from transportation occurring while the policies were in effect.

The Agency has added a new paragraph (f) to both Sec. Sec. 387.313 and 387.413. These new paragraphs will serve as notice to the public that any valid form BMC-32 endorsements and BMC-34 certificates of insurance on the day before the effective date will expire on the effective date of the final rule for those 70,000+ for-hire motor common carriers and freight forwarders that do not transport household goods for individual shippers.

FMCSA believes it is unreasonable to require the insurance companies to cancel the filings electronically or manually, as they may do under Sec. Sec. 387.313(d) or 387.413(d).

FMCSA will continue to maintain the previously filed data in its data systems until March 18, 2013, which is two years after the effective date of this final rule. Two years from notification of disallowance of the claim is the standard statute of limitations for filing a civil action based on a loss and damage claim under a receipt or bill of lading pursuant to 49 U.S.C. 14706(e).

<http://www.imua.org/lit/999136.html>

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The IMUA Transportation Committee will monitor future developments and advise members of any future developments.

[Close this window](#)

Notice of Cessation of Filings and Cancellation of BMC32 Endorsement

Policy number: {response}
Insured's name: {response}

You may be aware that the Federal Motor Carrier Safety Administration ("FMCSA") has announced that it will be eliminating the requirement for most for-hire (common) carriers of property, and freight forwarders, to maintain cargo insurance in prescribed amounts and file evidence of this insurance ("filings") with the FMCSA.

The requirement will cease on 21st March 2011.

The Underwriters for your Motor Truck Cargo policy are therefore hereby giving you notice that effective 21st March 2011 any cargo filings that Underwriters have effected on your behalf will be cancelled, along with the BMC 32 endorsement to your policy.

The endorsement to your policy, which will come into effect on 21st March 2011 is attached below.

The requirement to maintain cargo filings continues in respect of Household goods motor carriers and household goods freight forwarders. *If you believe you fall within these two categories please inform your agent urgently, to prevent your cargo filing from being cancelled.*

Endorsement number: {response}
Effective date: 21st March 2011

With effect from 21st March 2011 cargo filings effected in association with this policy, and the BMC 32 endorsement, are cancelled.

All other terms and conditions shall remain unchanged.

LMA5159
03 December 2010