

## Figuring Out the Federal Motor Carrier Safety Administration (FMCSA) Regulations: Do They Apply and What to Do if the Answer Is “Yes”

This fact sheet will provide an overview of federal regulation of interstate van and bus travel and when such regulation applies or does not apply to different classes of vehicles and situations. This memorandum only discusses passenger vehicles and not the transportation of property or hazardous materials. Included are references to statutes and regulations for easy reference. Also, it is important to note that the regulations do not always accurately reflect the laws and this will be mentioned wherever appropriate, as will topics on which information is lacking. This fact sheet includes general information and it is intended only as a starting point for legal consultation and research.

Section I will explain the general rule of federal regulation of van and bus travel. Section II will discuss what situations or vehicles are exceptions to FMCSA regulation. Section III will discuss the circumstances in which particular regulations do not apply. Section IV will explain what must be done when the FMCSA regulations do apply.

At the end of this memorandum is a sheet with quick information about van and bus regulations and a list of forms that transit providers are required to submit. There is also an appendix with a detailed list and explanation of commercial zones.

Determining whether an organization that engages in interstate travel must comply with federal motor carrier regulations can be a complex task. The answer will depend on the type of operation, the capacity of the vehicles, and even where the vehicles operate. In certain situations, some regulations apply and others do not. And what does compliance or violation mean? Operators need to learn about fees, paperwork, and potential penalties.

For answers to specific questions, consult a lawyer conversant in federal regulations or transportation law.

### I. What is the FMCSA and what do its regulations have to do with me?

The [Federal Motor Carrier Safety Administration](#) (FMCSA) is the federal agency that regulates van and bus travel across state lines. It is an agency within the U.S. Department of Transportation. The FMCSA enforces safety regulations and sets operating standards. The agency is governed by federal statutes in Title 49 of the U.S. Code and its regulations can be found in the Code of Federal Regulations and on the FMCSA website at [http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.asp?section\\_type=A](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguide.asp?section_type=A). Visit the [FMCSA website](#) for more information. It is a valuable resource.

Interstate travel:

The general rule is that any van or bus that crosses state lines, even to complete its trip within the originating state ([49 U.S.C. § 13501](#)), is subject to federal jurisdiction – meaning the federal government through the FMCSA has the authority to regulate. Once a vehicle moves people across state lines, it has entered the realm of interstate commerce. Interstate commerce is a very broad term that includes both for-profit and non-profit transportation providers.

According to the FMCSA's answers to its frequently asked questions ([FAQs](#)), interstate commerce means that "[e]ither the vehicle, its passengers, or cargo must cross a State boundary, or there must be the intent to cross a State boundary to be considered an interstate carrier." Note that this is an extremely broad definition that defines either the vehicle's or the passenger's itinerary.

Where a provider operates exclusively in intrastate commerce—meaning wholly within a particular state – it must comply with applicable State and local regulations. Please note that every state is required to have motor carrier regulations that are substantially identical to FMCSA's; the primary distinction is that states are all over the board with regard to the definition, registration and oversight of intrastate motor carriers.

The only FMCSA regulations that are applicable to intrastate operations are: the commercial driver's license (CDL) requirement, for drivers operating commercial motor vehicles as defined in [49 CFR § 383.5](#); and controlled substances and alcohol testing for all persons required to possess a CDL.<sup>1</sup> (There are additional regulations applicable to carriers of hazardous substances.)

Be aware that if an intrastate motor carrier has some kind of interlining or through ticketing arrangements with one or more interstate motor carriers, then the local carrier is regarded as being engaged in interstate commerce and thus responsible for complying with FMCSA requirements. This is why Greyhound and Jefferson Lines require FMCSA registration as a condition of their contracts with some local transit connections, even if the transit agency and its vehicles are nowhere near a state line.

"Commercial motor vehicles":

To what providers and vehicles does this general rule apply? The answer is FMCSA has jurisdiction over "commercial motor vehicles," which are defined in [49 U.S.C. § 31132\(1\)](#) for purposes of passenger transportation as:

a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle -

(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

(B) is designed or used to transport more than 8 passengers (including the driver) for compensation;

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<sup>1</sup> The reason why the federal government may regulate some aspects of transportation entirely within a single state is that the U.S. Supreme Court has interpreted the Commerce Clause of the Constitution to extend to the channels and instrumentalities of interstate commerce as well as activities that in the aggregate substantially affect interstate commerce. [Gonzales v. Raich, 545 U.S. 1 \(2005\)](#). For example, in *Raich* the Supreme Court banned the cultivation and sale of marijuana grown and sold solely within California for medicinal purposes because Congress already regulated that commerce in the Controlled Substances Act. The Court declared that Congress need only possess a rational basis for concluding that an activity in the aggregate will substantially affect interstate commerce, which marijuana cultivation and sale amounted to in *Raich*. According to this line of reasoning, it is well within Congress' power to regulate commercial drivers' licenses and testing drivers for drug and alcohol consumption even when vehicles never cross state lines.

(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; ... [Subsection D governs transportation of hazardous materials].

“Designed or used” is a term employed in the U.S. Code and in many FMSCA regulations, including the section quoted above. Remember that the higher number always applies. For example, a bus travelling across state lines—in interstate commerce—that is designed for 40 passengers, but only carrying four will be considered designed or used for 40.

Include the driver: A vehicle designed or used for a certain number **always includes the driver!**

Just like every other set of legal rules, the FMCSA and regulations are not so straightforward. There are exceptions to the rules and different categories of rules for different classes of vehicles.

II. When the FMCSA regulations do not apply

Vehicles excluded from the “commercial motor vehicle” definition:

The term “commercial motor vehicle” by definition excludes vehicles that carry fewer than nine passengers (including the driver). Taxicabs and other vehicles with a smaller seating capacity are exempt from the FMSCA’s authority to regulate. 49 U.S.C. §§ [13506](#), [31132](#). The vehicle seating thresholds in the regulations refer to the number of seats for which a vehicle is designed. Therefore, minivans and SUVs designed to carry seven passengers and actually carrying seven passengers or fewer (including the driver) across state lines to bring workers to factories will not be federal subject to motor carrier regulations. However, a van with 12 seats will meet the “commercial motor vehicle” definition if used for the same purpose.

Exceptions listed in [49 C.F.R. § 390.3\(f\)](#):

The FMSCA does not regulate certain limited categories of interstate van and bus travel. A list of exceptions is provided in the regulations at [49 C.F.R. § 390.3\(f\)](#). However, the commercial driver license regulations and drug and alcohol testing regulations apply. The relevant exceptions regarding passenger transportation are:

(f)(1) School bus operations – defined by [49 C.F.R. § 390.5](#) as the “use of a school bus to transport only school children and/or school personnel from home to school and from school to home.”

(f)(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 [not including non-governmental recipients of federal funds];

... ..

(f)(6)(i) 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 that motor carriers operating such vehicles are required to comply with [§§ 390.15, 390.19, and 390.21\(a\) and \(b\)\(2\)](#).<sup>2</sup>

In subsection (f)(6)(i), quoted just above, the term “direct compensation” can be misleading. It is used as the equivalent of interstate commerce, a very broadly defined term, and does not mean a for-profit business. For example, a non-profit enterprise, such as a local Area Agency on Aging, that receives state or federal funds and operates a van of up to 15 passengers (including the driver) to take older adults to a senior center across state lines is considered to be operating for direct compensation even if it receives no private payments or reimbursement for services. (See pull-out chart on last page.) Please note that subsection (f)(6)(i) does not exempt operators from all FMCSA regulations. The regulations for accident registers, motor vehicle identification reports, and motor carrier identification numbers apply to operators of these vehicles.

(Please note that [49 C.F.R. § 390.3 \(f\)\(6\)\(ii\)](#), which created an exception for the 75 air-mile radius “operation of commercial motor vehicles designed or used to transport between 9 and 15 passengers (including the driver) for direct compensation” is no longer in force. Section 4136 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU) [Public Law 109-59, 119 Stat. 1144, 1745 (Aug. 10, 2005)] directed FMCSA to remove the 75 air-mile radius standard. The FMCSA has not yet updated its regulations accordingly.<sup>3</sup>)

Please note that school bus operations are exempt only for the purpose of transporting students and staff to and from school.

The government exception of subsection (f)(2) is also limited. A private party that contracts with a state or federal agency is not covered. If the federal Bureau of Prisons enters into an agreement with a contractor to transport prisoners from a courthouse in Texas to a penitentiary in Kansas, the FMCSA laws and regulations apply, but if that same agency performs this operation in house, then the government as the transportation provider does not have to comply. However, even government employees are required to adhere to regulations governing drug and alcohol testing and commercial drivers’ licenses.

The laws and regulations governing interstate van and bus travel specifically grant the governmental exception to units of state or local government that provide interstate transit service. Likewise, a government-run transit system that has a contract with an interstate carrier to provide interstate transportation still does not have to register with the FMCSA, but the interstate provider would be required to register and comply with FMCSA regulations. However, a local non-profit agency with the same arrangement would be subject to FMCSA regulations.

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<sup>2</sup> The FMCSA regulations listed in [49 C.F.R. § 390.3\(f\)\(6\)\(i\)](#) that transit providers are required to follow are: § [390.15](#), which requires assistance in State, local, or FMCSA investigations of accidents and mandates that van and bus operators maintain an accident register with particular information. Section [390.19](#) requires operators to file with the FMCSA a Motor Carrier Identification Report, Form MCS-150, or the Combined Motor Carrier Identification Report and HM Permit Application, Form MCS-150B for permitted carriers. Subsections [390.21\(a\)](#) and [\(b\)\(2\)](#) require van and bus operators to mark their vehicles with “the motor carrier identification number issued by the FMCSA, preceded by the letters “USDOT.”

<sup>3</sup> The statutes in Title 49 of the U.S. Code grant authority to the FMCSA to issue regulations. Where the regulations and the statute conflict, the statute always controls.

Other exemptions in [49 U.S.C. § 13506](#):

Exempt from FMCSA regulation under [49 U.S.C. § 13506](#) are hotel vehicles that provide transportation between a hotel and a local station, transportation “incidental to transportation by aircraft” or “in lieu of transportation by aircraft due to adverse weather conditions,” and operation of vehicles in National parks or monuments.

An important exemption in [§ 13506\(10\)](#) is for vehicles carrying not more than 15 individuals in a single, daily roundtrip commute to and from work.

Safety regulations apply even to [§ 13506](#) exempt vehicles and transportation. [49 C.F.R. § 390.5](#).

Commercial Zones:

The commercial zone exception in [49 C.F.R. Part 372](#) excludes from FMCSA regulation local interstate bus and van transportation in the United States in and around our cities, large and small. This exemption has nothing to do with how many passengers a vehicle is designed or used for and it does not take into account the purpose of the transportation. See Appendix for more information about the geographic definition of a commercial zone and cities specifically listed.]

III. When some FMCSA regulations do not apply

**If a business or non-profit organization is transporting passengers across state lines, then certain regulations are applicable as long as the vehicle is “designed or used” to transport nine or more people, including the driver, and the vehicle or transit operation is not otherwise exempt.**

Depending on the vehicle’s capacity, again with the regulations always using the term “designed or used,” any operators that are not exempt from regulation must either comply with all or some FMCSA regulations. For vehicles designed or used for nine or more passengers and are not otherwise exempt, the regulations that must be followed provide for submission of motor carrier identification reports ([§ 390.19](#)), and required marking of CMVs ([§ 390.21 \(a\) and \(b\)](#)).

Though certain vehicles or transit operations are listed as exceptions to FMCSA regulatory authority, they are subject to some regulations. An exception listed in [49 C.F.R. § 390.3\(f\)\(6\)\(i\)](#) covers vehicles designed or used to transport between 9 and 15 passengers, including the driver, AND not operated for direct compensation. (These would be vehicles that do not fall under the governmental, school bus, commercial zone, or other exceptions.) The FMCSA regulations with which transit providers must comply are §§ [390.15](#), [390.19](#), and [390.21 \(a\) and \(b\)\(2\)](#). Section [390.15](#) requires assistance in State, local, or FMCSA investigations of accidents and mandates that van and bus operators maintain an accident register with particular information. Section [390.19](#) requires operators to file with the FMCSA a Motor Carrier Identification Report, Form MCS-150, or the Combined Motor Carrier Identification Report and HM Permit Application, Form MCS-150B for permitted carriers. (Forms are discussed later.) Subsections [390.21\(a\)](#) and [\(b\)\(2\)](#) require van and bus operators to mark their vehicles with “the motor carrier identification number issued by the FMCSA, preceded by the letters “USDOT.”

This one situation demonstrates why the regulations require careful reading. Here particular types of vehicles are listed as exceptions, but are actually not excused from all FMCSA regulations.

## Exceptions from Insurance Requirements:

An important exception exists from the federal financial responsibility—insurance— requirements for certain federally funded interstate transportation operations. [42 U.S.C. § 31138\(e\)](#) states that there are alternative insurance minimums where a vehicle is “providing transportation service 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 section [5307](#), [5310](#), or [5311](#), including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; except that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.”

### Translation:

**Vehicle operations funded in whole or in part by §§ [5307](#), [5310](#), or [5311](#) grants are exempt from federal financial responsibility requirements, but must obtain insurance in the highest amount required in the states in which the vehicles travel.**

There are a few noteworthy aspects of this rule. It is not included in the FMCSA regulations. However, the statute controls and the exception does apply.

Also note that the statutory language refers to the vehicle’s transportation service and not to the transportation provider. This choice of wording means that the alternative minimum extends only to the actual vehicles whose operations are funded or partially funded by §§ [5307](#), [5310](#), or [5311](#), rather than to the transit provider.

An additional source of funding will not rob a vehicle of this exception, but the absence of §§ [5307](#), [5310](#), or [5311](#) funding will make the alternative minimum inapplicable even if the vehicle is funded by another type of FTA grant, such as Job Access and Reverse Commute (JARC) funding ([§ 5316](#)).

Just because the FMCSA financial responsibility requirements do not apply, [42 U.S.C. § 31138\(e\)](#) requires that each vehicle must be insured at a minimum at “the highest level required for any” states in which it travels.

### Other exceptions from federal financial responsibility requirements:

Other exceptions from federal financial responsibility requirements for operators of certain commercial vehicles are listed in [49 C.F.R. § 387.27\(b\)](#). These include:

(b)(1) A motor vehicle transporting only school children and teachers to or from school;

(b)(2) A motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points;<sup>4</sup>

<sup>4</sup> 49 U.S.C. § 13102(22) defines “taxicab service” as “passenger transportation in a motor vehicle having a capacity of not more than 8 passengers (including the driver), not operated on a regular route or between specified places, and that - (A) is licensed as a *taxicab* by a State or a local jurisdiction; or (B) is offered by a person that - (i) provides local transportation for a fare determined (except with respect to transportation to or from airports) primarily on the basis of the distance traveled; and (ii) does not primarily provide transportation to or from airports.”

(b)(3) A motor vehicle carrying less than 16 individuals in a single daily round trip to commute to and from work; and

(b)(4) A motor vehicle operated by a motor carrier under contract providing transportation of preprimary, primary, and secondary students for extracurricular trips organized, sponsored, and paid by a school district.

Please note that school bus operations are listed as an exception under [49 C.F.R. § 390.3\(f\)\(1\)](#), but also appear in the exceptions to the financial responsibility (insurance) requirements in [§ 387.27\(b\) \(1\)](#) as well, with an additional limited exception in [§ 387.27\(b\) \(4\)](#) to the financial responsibility requirements for extracurricular trips.

There is also an exception for “Exempt intracity zones,” which covers operations within the zone, notwithstanding certain travel “to or from a point without such zone.” [49 C.F.R. § 390.3](#). However, the exception is limited to certain driver qualification requirements. This exception has nothing to do with the number of passengers. Please note that this exception is different from the exception for “commercial zones.”

#### IV. What to do when the FMCSA regulations apply

**For vehicles designed or used in interstate travel for nine or more passengers – including the driver – that are not otherwise exempt, the FMCSA regulations apply.**

If there is a determination that the vehicle is being used as a “commercial motor vehicle” and does not fit within any exceptions, then the question becomes what paperwork, fees, and penalties apply.

The transit operator or entity operating the vehicles must register with the FMCSA, which involves submission of paperwork and payment of fees or requests that fees be waived or reduced.

**Transit benefit operators must download all FMCSA forms and submit the forms on paper. The FMCSA on-line registration system is NOT DESIGNED FOR TRANSIT SYSTEMS and its use will create additional problems for transit systems seeking to apply and comply with FMCSA procedures.**

There are costs associated with complying with the FMCSA financial responsibility regulations. The costs for complying are per vehicle. However, the rates are highly variable. The greater cost is possibly the staff time needed to investigate and apply for insurance that will satisfy federal regulations. The estimate is from eight to 24 hours of staff time.<sup>5</sup>

Discussed below are the steps to take to comply with FMCSA registration regulations. These include:

- Arranging for a process agent in each state in which a transit operation travels;
- Showing proof of insurance to fulfill financial responsibility requirements;
- FMCSA forms that must be submitted; and
- Requesting a fee waiver.

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<sup>5</sup> For estimates of these costs, see “Potential Applicability of Financial Responsibility Requirements to Private Motor Carriers,” issued in March 2007.

Process agent:

A process agent is simply a person who serves as the agent of record in the event of any subsequent legal action that arises in the operation of interstate transportation. [49 C.F.R. § 366.3](#) provides, “All persons ... designated [as process agents] must reside or maintain an office in the State for which they are designated. If a State official is designated, evidence of his willingness to accept service of process must be furnished.” There are no other qualifications mentioned. The process agent does not have to be an attorney.

All organizations that apply for federal motor carrier registration must have an agent for service of process. Designations shall be made on [Form BOC-3](#). It must include all States for which agent designations are required. Only one copy must be retained by the carrier or broker at its principal place of business. [49 C.F.R. § 366.2](#).

The FMCSA publishes a list of “blanket process agents” on its website at <http://www.fmcsa.dot.gov/registration-licensing/licensing/agents.htm>. These agents will arrange process agents in any state for a fee. Blanket process agents certainly make sense for motor carriers, such as owner operator trucking and charter bus companies, which operate in many or all 48 contiguous states. However, there is no requirement that a blanket process agent be used and it probably makes sense not to use one if traveling in only a small number of states.

Process agents charge an annual fee. For process agents that advertise on the Internet, these range from \$30 to \$150.

Applications:

- New applicants must submit [Form MCS-150](#). This form must be updated every 24 months.
- All New-Entrant Motor Carriers beginning their operation on or after January 1, 2003, must also now file an [MCS-150A](#) Safety Certification for Application for USDOT Number. A “New Entrant” is defined as a Motor Carrier not based in Mexico that applies for a USDOT Number in order to initiate operations in interstate commerce.
- New applicants must submit [Form OP-1\(P\)](#) for operating authority.
- This paper work must be accompanied by the registration fee of \$300 unless a fee waiver applies. [49 C.F.R. § 360.3\(f\)](#). Apply for a fee waiver when applying for operating authority. **The FMCSA does not refund application fees.**

The FMCSA will waive the \$300 filing fee for the OP-1(P) application for transit benefit operators who are grantees under 49 U.S.C. §§ 5307, 5310, or 5311. See [49 C.F.R. § 360.3\(e\)\(1\)](#). The application papers must be submitted by mail and not online. The online application process does not accommodate this fee waiver, so applicants must mail the completed OP-1(P) application form with “TRANSIT BENEFIT OPERATOR” typed or printed at the top of page 1, in the box in Section III, and in the Payment Instructions section. (This information is repeated later in the section discussing paperwork.)

For purposes of fee waivers, the terms "Federal government agency" or "government entity" do not include a quasi- governmental corporation or government subsidized transportation company. [49 C.F.R. § 360.3\(e\)\(1\)](#).

All other operators must request reductions or waivers and demonstrate that the reduction or waiver will be in "the best interest of the public" or that the applicant will suffer hardship if the request is not granted. There are no other factors given; nor is any specific documentation required. [49 C.F.R. § 360.3\(e\)](#).

**A request for a fee waiver or reduction must be submitted at the time the application to operate interstate is filed. [49 C.F.R. § 360.3\(e\)\(2\)\(i\)](#).**

**Applications that include requests for fee waivers or reductions should be submitted by mail on paper** so that requests for waivers may be fully explained.

Insurance Requirements:

Vehicles designed or used for between nine and 15 passengers, including the driver, to which the FMCSA regulations apply, must carry a minimum of \$1.5 million insurance coverage. For vehicles designed or used for 16 or more, the insurance requirement is \$5 million in coverage. [49 C.F.R. § 387.31](#). These are requirements for each vehicle.

The forms regarding proof of insurance are discussed at [49 C.F.R. § 387.39](#).

Excused from federal insurance requirements is any "transportation service 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 section [5307](#), [5310](#), or [5311](#), including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; except that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States." [42 U.S.C. § 31138\(e\)\(4\)](#).

Translation into plain English:

**Section [5307](#), [5310](#), or [5311](#) grantees are not required to comply with federal financial responsibility requirements, but they must obtain insurance in the highest amount required in the states in which the vehicles travel.**

It is best to obtain commercial insurance because the bond required of those who self insure is quite onerous.

V. Potential Penalties

**The maximum penalty is \$11,000 for per violation, with each day a potential source for a new violation. [49 C.F.R. § 387.41](#).**

The Administrator of the FMCSA has discretion to impose a lower penalty, but there is no guarantee of such mercy. “In determining the amount of such penalty, the Administrator or his/her designee shall take into account the nature, circumstances, extent, the gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.” [49 C.F.R. § 387.41](#).

For employer responsibilities regarding commercial drivers’ licenses the civil penalty minimum is \$2,750, the maximum is \$25,000. These may be imposed only after a conviction for a violation of [§383.37\(c\)](#). For a violation of operating authority, an out of service order may be imposed. Other criminal penalties for fraud or perjury also apply.

Each interstate operation must determine whether it is subject to the FMCSA’s jurisdiction and whether it is required to comply all or some of the FMCSA regulations. These can be difficult legal questions and should be answered in consultation with an attorney. The likelihood of penalties being imposed and the amount of a penalty for a violation cannot be calculated here.

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On the next page is a removable sheet that displays quick information about FMCSA jurisdiction and regulations.

## DO THE FMCSA REGULATIONS APPLY TO MY OPERATION?

### NO

SMALL VEHICLES: DESIGNED FOR 8 OR LESS, SUCH AS TAXIS	SCHOOL TRANSPORTATION: TEACHERS OR STUDENTS TO OR FROM SCHOOL	SMALL COMMUTER TRAVEL: 15 PEOPLE OR LESS DAILY ROUNDTRIP COMMUTE TO AND FROM WORK
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### SOMETIMES

FEDERAL GOVERNMENT, A STATE, OR ANY POLITICAL SUBDIVISION OF A STATE	COMMERCIAL ZONE TRAVEL	VEHICLES DESIGNED FOR 9 TO 15 WITHOUT DIRECT COMPENSATION (except that motor carriers operating such vehicles are required to comply with <a href="#">§§ 390.15</a> , <a href="#">390.19</a> , and <a href="#">390.21(a)</a> and <a href="#">(b)(2)</a> )	49 U.S.C. §§ 5307, 5310, 5311 FUNDING (exception from federal insurance minimums)
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### YES

16 + FOR-PROFIT AND NON-PROFIT TRANSPORTATION PROVIDERS THAT CROSS STATE LINES (unless otherwise exempt)	VEHICLES DESIGNED OR USED FOR 9 - 15 FOR COMPENSATION (unless otherwise exempt)
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## WHAT DOES COMPLIANCE MEAN?

- FEDERAL INSURANCE MINIMUMS
- DESIGNATION OF PROCESS AGENT
- REGISTRATION FORMS
- FEE
- REQUEST FOR FEE REDUCTION OR WAIVER  
(submitted with registration forms)

## PENALTIES FOR VIOLATION OF FMCSA REGULATIONS

FINANCIAL RESPONSIBILITY REQUIREMENTS – MAXIMUM PENALTY: \$11,000 PER DAY PER VIOLATION  
EMPLOYER RESPONSIBILITIES REGARDING COMMERCIAL DRIVERS' LICENSES – CIVIL PENALTY MINIMUM  
\$2,750, MAXIMUM \$25,000 – ONLY AFTER A CONVICTION FOR A VIOLATION OF [§383.37\(c\)](#)  
VIOLATION OF OPERATING AUTHORITY – OUT OF SERVICE ORDER  
CRIMINAL PENALTIES FOR FRAUD OR PERJURY  
OTHER CIVIL AND CRIMINAL PENALTIES

## FMCSA PAPERWORK

**Make sure that the applicant name is exactly the same in all paperwork!**  
**File these together: MCS-150 form, MCS-150A form, OP-1(P) form, fee waiver request, and claim that FMCSA financial responsibility minimums do not apply.**  
**Keep a copy of all forms submitted.**

1. New applicants must submit [Form MCS-150](#) as part of the paperwork to obtain a USDOT Number. This form must be updated every 24 months, according to the schedule listed in [§ 390.19](#). (The month for subsequent submissions are determined by the USDOT number.)

Be careful with question 23, which asks for the type of operation. Generally, a community or public transportation provider will be listed as “Authorized For-Hire,” a non-exempt Motor Carrier who receives compensation for transporting passengers. In contrast, social service providers that transport their clients will be listed as Private Passenger (Non-business). For example, a not-for-profit senior center that uses a bus to transport older adults to a shopping center is a Private Passenger (Non-business).

2. New applicants must submit [Form MCS-150A](#) Safety Certification for Application for USDOT Number. This form need not be submitted if the company is an active Motor Carrier which began operating prior to January 1, 2003.
3. New applicants must submit [Form OP-1\(P\)](#) for operating authority.

The online application process does not accommodate a fee waiver, so applicants must **mail** the completed OP-1(P) application form with “TRANSIT BENEFIT OPERATOR” typed or printed at the top of page 1, in the box in Section III, and in the Payment Instructions section.

4. The FMCSA filing fee is \$300. However, this fee may be waived or reduced in the public interest. A written statement of reasons for waiving or reducing the fee must be submitted.
5. To obtain the benefit of the exception from federal insurance minimums for vehicles for §§ [5307](#), [5310](#), or [5311](#) grantees, the forms must be mailed in on paper instead of filing online.

A copy of the form to establish that you are a grantee under §§ [5307](#), [5310](#), or [5311](#) is not available online. It is available at CTA. Please contact Sheryl Gross-Glaser at [grossglaser@ctaa.org](mailto:grossglaser@ctaa.org) or 202.386.1669 to obtain a copy of the form.

6. **If mailing the OP-1(P) form, then the MCS forms must both also be mailed together with the OP-1(P) form and the filing fee or the request not to pay the filing fee.**

Mail completed forms together to:  
**Federal Motor Carrier Safety Administration**  
Attention: USDOT Number Application

1200 New Jersey Avenue SE  
Washington, DC 20590

7. Arrange for a process agent. Only requirement: Person chosen must reside or maintain an office in the State for which they are designated. Process agent for the state of principal place of business can be an employee or the owner of the transit entity. (May use a “blanket process agent.” These are listed on the FMCSA website at <http://www.fmcsa.dot.gov/registration-licensing/licensing/agents.htm>.)
8. If applying by mail, the grant letter (sent by FMCSA in response to the OP-1(P) form) should arrive via mail in approximately 4 weeks. This letter will include the MC (for motor carriers) or FF Number. Once the MC number is received, you may submit [form BOC-3](#) to designate a process agent. The form requires that the MC number be filled in.
9. Other filings:  
BMC-91 for proof of Insurance

This form is available from the insurance company to prove that the transportation provider has sufficient financial responsibility, meaning sufficient insurance coverage. The FMCSA does not provide this form. Please allow 3-5 working days for entry of insurance and process agent information.

## APPENDIX

### Commercial Zones

The commercial zone exception in [49 C.F.R. Part 372](#) excludes from FMSCA regulation local interstate bus and van transportation in the United States in and around our cities, large and small. This exception has nothing to do with how many passengers a vehicle is designed or used for and it does not take into account the purpose of the transportation.

For purposes of school bus travel, the rule “shall not be construed as being inapplicable to motor vehicles being used at the time of operation in the transportation of school children and teachers to or from school, even though such motor vehicles are employed at other times in transportation beyond the scope of the exemption.” [49 C.F.R. § 372.103](#).

First, [Part 372](#), in sections 372.201 to 372.237 specifically lists these cities.

- Albany, N.Y.
- Beaumont, Texas
- Charleston, S.C.
- Charleston, W.Va.
- Lake Charles, La.
- Pittsburgh, Pa.
- Pueblo, Colo.
- Ravenswood, W.Va.
- Seattle, Wash.
- Washington, D.C.
- Syracuse, N.Y.
- Spokane, Wash.
- Tacoma, Wash.
- Chicago, Ill.
- New York, N.Y.

New York and Washington demonstrate the usefulness of this exemption because these metropolitan areas span multiple states and jurisdictions. Interstate travel is an everyday occurrence for getting to work, schools, medical appointments and entertainment.

Twin cities are considered one municipality for purposes of determining population and the geographic reach of a commercial zone. [49 C.F.R. § 372.221\(a\)](#). Section [372.221\(b\)](#) lists the following cities as twin cities.

- Bluefield, Va.–W.Va.
- Bristol, Va.–Tenn.
- Davenport, Iowa, and Rock Island and Moline, Ill.
- Delmar, Del.–Md.
- Harrison, Ohio–West Harrison, Ind.
- Junction City, Ark.–La.
- Kansas City, Mo.–Kansas City, Kan.
- Minneapolis–St. Paul, Minn.
- St. Louis, Mo.–East St. Louis, Ill.
- Texarkana, Ark.–Texas

Texhoma, Texas–Okla.  
Union City, Ind.–Ohio

The metropolitan areas listed above are not the only ones to which the commercial zone exemption applies. It also extends to two other types of geographic areas, first, consolidated governments ([§ 372.223](#)), and second, commercial zones ([§ 372.241](#)).

Commercial zones are defined as including:

- (a) The municipality itself, hereinafter called the base municipality;
- (b) All municipalities which are contiguous to the base municipality;
- (c) All other municipalities and all unincorporated area within the United States which are adjacent to the base municipality as follows:
  - (c)(1) When the base municipality has a population less than 2,500 all unincorporated areas within 3 miles of its corporate limits and all of any other municipality any part of which is within 3 miles of the corporate limits of the base municipality,
  - (c)(2) When the base municipality has a population of 2,500 but less than 25,000 all unincorporated areas within 4 miles of its corporate limits and all of any other municipality any part of which is within 4 miles of the corporate limits of the base municipality.
  - (c)(3) When the base municipality has a population of 25,000 but less than 100,000 all unincorporated areas within 6 miles of its corporate limits and all of any other municipality any part of which is within 6 miles of the corporate limits of the base municipality, and
  - (c)(4) When the base municipality has a population of 100,000 but less than 200,000 all unincorporated areas within 8 miles of its corporate limits and all of any other municipality any part of which is within 8 miles of the corporate limits of the base municipality.
  - (c)(5) When the base municipality has a population of 200,000 but less than 500,000 all unincorporated areas within 10 miles of its corporate limits and all of any other municipality any part of which is within 10 miles of the corporate limits of the base municipality.
  - (c)(6) When the base municipality has a population of 500,000 but less than 1 million, all unincorporated areas within 15 miles of its corporate limits and all of any other municipality any part of which is within 15 miles of the corporate limits of the base municipality.
  - (c)(7) When the base municipality has a population of 1 million or more, all unincorporated areas within 20 miles of its corporate limits and all of any other municipality any part of which is within 20 miles of the corporate limits of the base municipality, and
- (d) All municipalities wholly surrounded, or so surrounded except for a water boundary, by the base municipality, by any municipality contiguous thereto, or by any municipality adjacent thereto which is included in the commercial zone of such base municipality under the provisions of paragraph [\(c\)](#) of this section.

For example, Omaha, NE, lies right near Council Bluffs, IA. Omaha's population is approximately 400,000, which would place it within subsection (c)(5) as a city of between 200,000 and 500,000 people. Therefore, travel across state lines from within the corporate limits of Omaha, Nebraska to 10 miles away and beyond 10 miles to the boundaries of any municipality within the 10 miles. Since Council Bluffs is right across the river from Omaha, these two cities are within the same commercial zone even though they are across state lines from each other. However, for medical transportation from Brookings, SD, population approximately 19,000, to a medical center at the University of Iowa in Iowa, City, the commercial zone exception would not apply because Iowa City is located beyond the limits for a commercial zone for a city the size of either Brookings or Iowa City.

Though somewhat confusing another list of cities is provided elsewhere in the regulations, in [Appendix F](#) to subpart B of [Part 390](#). Though there is much overlap with the cities mentioned in the lists set out above, there are additional cities listed. Each of these areas is defined in detail within [Appendix F](#).

Los Angeles, Calif., and contiguous and adjacent municipalities

Philadelphia, Pa.

Cincinnati, Ohio

Boston, Mass.

Commercial zones of municipalities in New Jersey within 5 miles of New York, N.Y.

Commercial zones of municipalities in Westchester and Nassau Counties, N.Y.,

Tucson, Ariz.

Albuquerque, N. Mex.

Detroit, Mich.

New Orleans, La.

Portland, Ore.

Vancouver, Wash.

Memphis, Tenn.

Houston, Tex.

Pueblo, Colo.

Louisville, Ky.

Sioux City, Iowa

Metropolitan Government of Nashville and Davidson County, Tenn.

Consolidated City of Indianapolis, Ind.

Lexington-Fayette Urban County, Ky.