

ODOT Guide to Compliance with Interstate Passenger Transportation Regulations



The Ohio Department of Transportation Office of Transit

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Table of Contents

Section 1.

INTRODUCTION AND PURPOSE 1

- Who Should Read This Manual? 1
- What is the Definition of Interstate Transportation? 1
- Examples of Interstate Passenger Transportation 1
- What is Requirements are Imposed if We Provide Interstate Transportation?..... 3
- Are These Regulations New?..... 4
- Why Have We Not Heard of These Regulations Before? 4
- Are the Compliance Requirements the Same for All Providers of Interstate Transportation?... 5
- Our Agency is a Nonprofit Organization – Are We Exempt from These Regulations?..... 5
- We are Currently Providing Transportation to Out-of-State Destinations – Should We Stop? . 5
- What is Covered in this Manual?..... 5

Section 2.

**CLASSIFICATION OF PASSENGER TRANSPORTATION CARRIERS UNDER THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA) 8**

- How Does FMSCA Classify Interstate Transportation Carriers?..... 8
- What is a “Municipal” or “Government” Carrier? 8
- What is a “For-Hire” Carrier?..... 9
- What is a Private Motor Carrier? 9
- What are Some Examples of For-Hire, Business, and Non-Business Private Motor Carriers? 10
- A Guide to Determining Your Classification as a Private Interstate Transportation Carrier ... 11
- What Are the Federal Motor Carrier Safety Regulations (FMCSR)?..... 12
- Are There Any Exemptions from FMCSRs?..... 13
- What is a Commercial Zone?..... 13

Section 3.

**COMPLIANCE RESPONSIBILITIES FOR PUBLIC ENTITIES PROVIDING
INTERSTATE PASSENGER TRANSPORTATION 17**

- What Do You Define “Public Entity?” 17
- What About Designated Recipients and Services Provided Under Contract?..... 17
- How Can We Identify What Requirements Are Applicable to Our Organization?..... 17
- Do We Need to Seek Authority from the FMCSA? 19
- Do the FMCSRs Apply? 19
- The FMCSA Registration Process 19
- Understanding Financial Responsibility Requirements..... 19
- Alternative Levels of Financial Responsibility for FTA Recipients 20
- Financial Responsibility Submission Requirements..... 21
- Electronic Filing Option 22
- Obtaining the Services of a Process Agent..... 22
- Filing for Authority..... 22

Completing Form OP-1(P).....	22
Application Fee.....	24
Waiver of Application Fee.....	24
Paper or Electronic Filing?	24
Where to Submit	25

Section 4.

COMPLIANCE RESPONSIBILITIES FOR PRIVATE ENTITIES PROVIDING INTERSTATE PASSENGER TRANSPORTATION 27

What Do You Mean by a Private Entities?.....	27
What About Designated Recipients and Services Provided Under Contract?.....	28
How Can I Tell What Type of Transportation Provider My Organization Falls Under?	28
What Does “For Compensation” Mean?.....	28
Is All Human Service Transportation Considered “For-Hire”?.....	29
What is a “Commercial Motor Vehicle”?.....	30
Does This Mean that Small CMVs are Subject to FMCSRs?	31
How Can We Identify What Requirements Are Applicable to Our Organization?.....	31
How Can Learn More About FMCSRs?.....	31
The Requirements for All Three Types of Private Providers Appear to be the Same Based on the Exhibits – Is this True?.....	39
Our Agency Needs to Register and Comply with these Regulations – Where Do We Begin?	39
The FMCSA Registration Process.....	39
Understanding Financial Responsibility Requirements – For-Hire Carriers.....	39
Financial Responsibility Submission Requirements.....	40
Electronic Filing Option	40
Obtaining the Services of a Process Agent.....	40
Filing for Authority.....	41
Completing Form OP-1(P).....	41
Application Fee.....	42
Waiver of Application Fee.....	42
Paper or Electronic Filing?	43
Where to Submit	43
Motor Carrier Identification Report – Form MCS-150	43
Where Do We Mail this Form if We Wish to Submit a Paper Copy?	44
Other Resources.....	44

Appendix A: FMCSA Form OP-1(P) and Instructions

Appendix B: FMCS Form MCS-150 and Instructions

Appendix C: Regulatory Overview of Key Legislation and Rulemaking

Section 1.

Introduction and Purpose



Section 1.

Introduction and Purpose

Who Should Read This Manual?

The Federal Motor Carrier Safety Administration (FMCSA) was created by Congress with passage of the Motor Carrier Safety Improvement Act of 1999 (Pub.L. 106-159). While this branch of the Federal government is primarily charged with the regulation and safety oversight of motor freight transportation companies, the agency also has regulatory oversight over passenger carriers as well. The FMCSA assumed responsibility previously administered by the Federal Highway Administration (FHWA) and the Interstate Commerce Commission (ICC). The FMCSA's regulatory coverage over passenger transportation carriers extends to public entities, private, for-profit organizations, and private nonprofit transportation companies that engage in interstate transportation, regardless of whether the entity is a recipient of Federal funds. Therefore, any organization, either public or private, that engages in the practice of the interstate transportation of passengers should read this manual.

What is the Definition of Interstate Transportation?

The definition of interstate transportation is contained in the statutory authority giving the Secretary of the U.S. Department of

Transportation the right to regulate such commerce. The definition is further stated in 49 CFR part 390.5 and reads as follows:

Interstate commerce means trade, traffic, or transportation in the United States--

(1) Between a place in a State and a place outside of such State (including a place outside of the United States);

(2) Between two places in a State through another State or a place outside of the United States; or

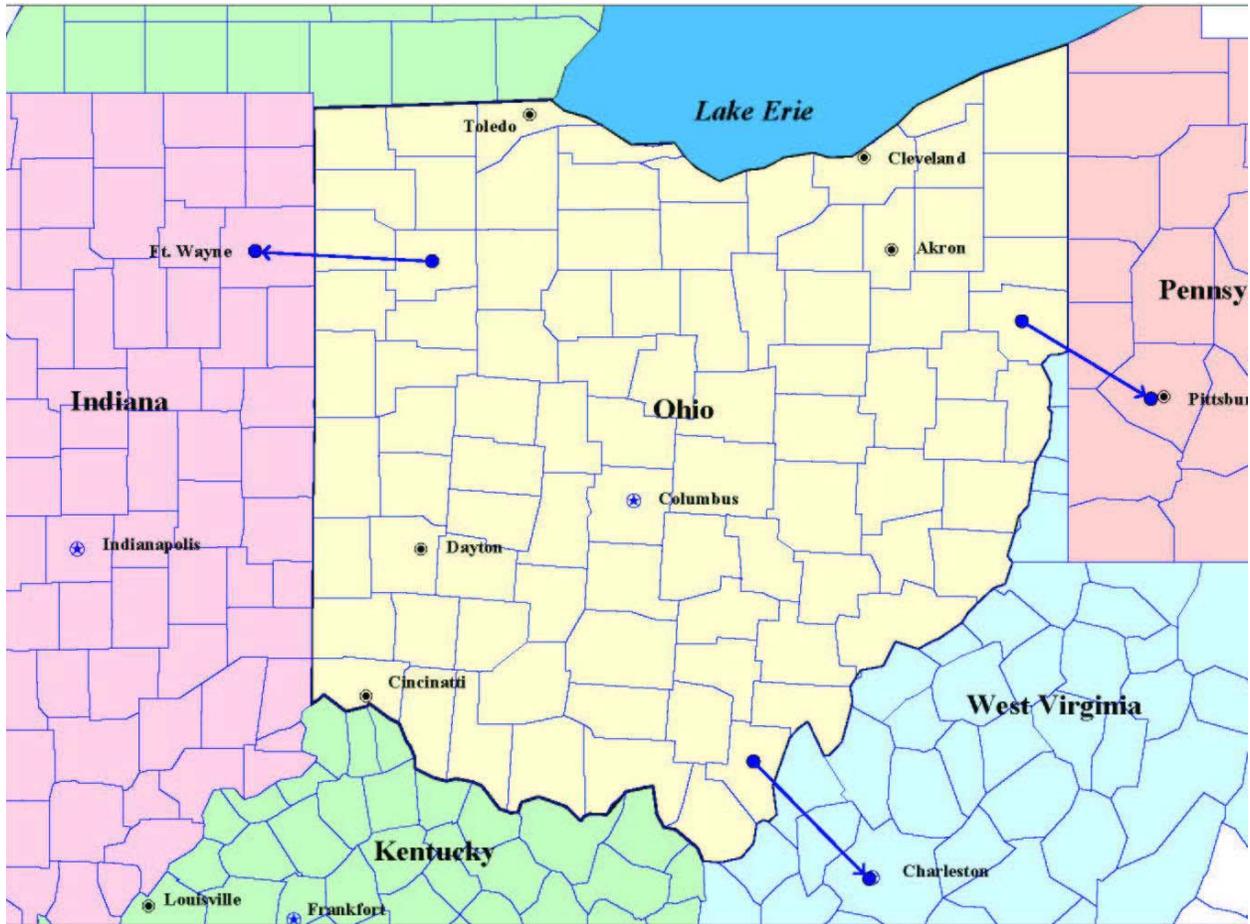
(3) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.

This definition includes passenger transportation.

Examples of Interstate Passenger Transportation

The definition encompasses two critical elements for Ohio transportation providers. In the first example, "interstate transportation" will include any trip that originates in Ohio and has a destination in another state (Exhibit 1.1).

Exhibit 1.1
Example of Interstate Transportation – Between a Place in a State and a Place Outside of Such State



In this example, transportation providers from various counties in Ohio transport passengers to major cities and their surrounding suburbs for shopping and/or medical purposes. An entity in Putnam County may transport individuals from their program to medical facilities in Fort Wayne, Indiana. Elsewhere, a transportation service provider in Gallia County may transport clients to medical facilities in Charleston, West Virginia. Finally, a community action agency, a designated provider of public transportation services in Columbianna County, may transport veterans to a regional VA Hospital and seniors to shopping malls in suburban Pittsburgh.

All are examples of interstate transportation of passengers.

Now consider the second part of the definition. In this example, a provider originates a transit trip in Ohio, and because of highway routing, crosses into another state, then returns to Ohio en route to the final destination. A transportation agency in Scioto County may need to transport passengers to Cincinnati. The agency believes that routing through Kentucky, from an origin in Portsmouth, to the final destination in Cincinnati, is the best route. This is also considered interstate transportation.

Exhibit 1.2
Example of Interstate Transportation – Travel Between Two Places in a State Through Another State



What is Requirements are Imposed if We Provide Interstate Transportation?

There are two sets of general requirements that are imposed on interstate passenger transportation providers. ODOT has referred to these requirements as registration requirements (you must obtain authority to engage in interstate commerce) and safety requirements:

- (1) **Registration Requirements.** If you are engaged in interstate transportation, you must register

with FMCSA in order to obtain authority to operate in interstate commerce. There are some exceptions to this requirement that will be further explained in this manual.

- (2) **Safety Requirements.** Interstate motor carriers of passengers must meet a series of safety requirements, collectively referred to as the “**Federal Motor Carrier Safety Regulations**” (FMCSRs). There are some exceptions to these requirements that will be further explained in this manual.

Are These Regulations New?

Yes and no. There has always been a need for “for-hire” carriers of passengers to register with the Federal government. Additionally, since the 1930s, the Federal Highway Administration (FHWA) exercised safety oversight on for-hire carriers. A major change occurred on January 1, 1995, FHWA extended its safety jurisdiction over private motor carriers of passengers (e.g., those carriers not open to the general public at large). These regulations extended coverage to include all commercial motor vehicles having a capacity of more than 15 persons, including the driver.

Another significant change occurred on February 12, 2001 when the Federal Motor Carrier Safety Administration issued new rules for motor carriers operating commercial motor vehicles used to transport between 9 and 15 passengers (including the driver). These regulations revised the definition of commercial motor vehicles and extended some, but not all, of the FMCSRs to operators of these vehicles. Many passenger transportation providers in the community transportation industry in both the public and private sectors are unaware of these regulations.

Why Have We Not Heard of These Regulations Before?

There are many possible explanations. Ohio providers are not alone in their unfamiliarity with these regulations. A recent survey conducted of midwestern states indicates few providers, if any, are aware of these regulatory requirements.

The Federal Transit Administration (FTA) has historically exercised regulatory and safety oversight over public transportation.

FTA defined eligible services and service areas for the Section 5311 program in FTA Circular 9040.1E, Chapter III, paragraph 3. The Circular recognized that some Section 5311 projects may provide service over a wide geographic area, may periodically travel to/from large cities (urbanized areas), and may occasionally cross state lines. The Circular notes:

The service area may include destinations across a state line. Operators of interstate service are required to register with the FHWA Office of Motor Carriers.

No other information is provided on how to register (Note: since the Circular has been published, Congress has transferred responsibility from the FHWA Office of Motor Carriers to the newly created Federal Motor Carrier Safety Administration). No other FTA Circular contains a reference to this requirement, although it is equally as likely a circumstance for recipients of Section 5307 or Section 5310. Thus, while a reference to this requirement is contained in FTA Circular 9040.1E, most transportation providers are unaware of the requirements.

Another reason transportation providers are unaware of these requirements relates to the fact that FTA is not the oversight agency. The level of program clarity and technical assistance available under FTA programs is generally good to excellent. ODOT has frequently augmented FTA guidance, providing further assistance to covered entities. However, when transit systems fall under the regulatory authority of other Federal oversight agencies, there is often confusion, misunderstanding, and contradictory guidance on regulatory

applicability and implementation procedures. ODOT believes this is the case for regulations regarding the interstate transportation of passengers.

This manual is designed to provide comprehensive information regarding these requirements, written for urban or rural public transportation providers and coordination projects.

Are the Compliance Requirements the Same for All Providers of Interstate Transportation?

No. The regulations are complex in many respects. The level of compliance responsibility will vary depending upon a number of factors. One of the primary factors is the carrier classification. Entities that transport passengers across state lines will fall into one of the following categories:

- ◆ Municipal or government exempt carrier
- ◆ For-hire carrier
- ◆ Private motor carriers of passengers operating in furtherance of a commercial purpose (Business – PMCP)
- ◆ Other private motor carrier of passengers (Non – Business PMCP)

There are regulatory requirements imposed on all these carriers. ODOT will help you determine what carrier classification your transportation program falls under and assist you comply with the applicable regulations.

Our Agency is a Nonprofit Organization – Are We Exempt from These Regulations?

There are some exemptions to these regulations. As a rule, however, nonprofit organizations are not categorically exempt from these regulations. In some cases, the requirements imposed on nonprofit organizations are more complex than those imposed on public or local government entities.

We are Currently Providing Transportation to Out-of-State Destinations – Should We Stop?

ODOT cannot advise any transportation to violate FMCSA regulations, as there are substantial penalties for such violations. However, FTA, recognizing that many public or specialized transportation providers are not in compliance with these requirements, has issued informal advice to continue to provide needed services and initiate actions to comply with the regulations governing interstate transportation of passengers.

What is Covered in this Manual?

In this manual, ODOT provides information and regulatory background on how to comply with Federal regulations governing the transport of passengers.

The manual is organized as follows:

Section 2 – Classification of Passenger
Transportation Carriers Under the Federal
Motor Carrier Safety Administration
(FMCSA)

Section 3 – Compliance Responsibilities for
Public Entities Providing Interstate
Passenger Transportation

Section 4 – Compliance Responsibilities for
Private Entities Providing Interstate
Passenger Transportation

Appendix A – Form OP-1(P) and
Instructions

Appendix B – Form MCS-150 and
Instructions

Appendix C - Regulatory Background

Section 2.

**Classification of Passenger Transportation
Carriers Under the Federal Motor Carrier
Safety Administration (FMCSA)**



Section 2.

Classification of Passenger Transportation Carriers Under the Federal Motor Carrier Safety Administration (FMCSA)

How Does FMCSA Classify Interstate Transportation Carriers?

The Federal Motor Carrier Safety Administration's (FMCSA) authority over passenger transportation providers extends only when the organization provides interstate transportation as defined in Section 1.

Once an organization provides interstate transportation of passengers, the applicable regulations will depend on a carrier's classification.

The various classifications include:

- ◆ Municipal or government exempt carrier
- ◆ For-hire carrier
- ◆ Private motor carriers of passengers operating in furtherance of a commercial purpose (Business – PMCP)
- ◆ Other private motor carrier of passengers (Non – Business PMCP)

What is a “Municipal” or “Government” Carrier?

Municipal or government carriers are not really an FMCSA classification, but rather

an exempt category or partially exempt category when determining the applicability of most Federal Motor Carrier Safety Regulations (FMCSRs) and registration requirements.

The general section of the FMCSRs (49 CFR part 390.3(f)(2)) states that the following services are not subject to FMCSRs:

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.

If a municipal corporation provides passenger transportation across state lines and travels beyond a contiguous jurisdiction or beyond its commercial zone (defined later in this section), the municipality must adhere to the FMCSA registration requirements and obtain authority for operating interstate service. The process involves three (3) steps:

- ◆ register with FMCSA
- ◆ obtain the services of a process agent; and
- ◆ demonstrate financial responsibility (e.g., liability insurance).

A municipal corporation or other governmental entity is not subject to FMCSRs.

Implementation assistance on compliance actions is provided in Section 3 of this manual.

What is a “For-Hire” Carrier?

A for-hire motor carrier is defined as a person (or organization) engaged in the transportation of goods or passengers for compensation. Generally, three factors must be present for a motor carrier is classified as a for-hire carrier:

- (1) The motor carrier provides interstate transportation in furtherance of a commercial purpose;
- (2) The motor carrier is compensated, either directly or indirectly, for the transportation service provided; and
- (3) The transportation service is generally available to the public at-large.

This class of carriers typically includes intercity bus service, charter bus operations, and can include other service providers such as bus services provided for hotels, conventions centers, and other commercial enterprises.

FMCSA has re-examined and refined how the agency classifies “for-hire” transportation carriers. The agency cites a previous interpretation, issued in the *Federal Register* on April 4, 1997:

The term “for-hire motor carrier” as defined in 49 CFR part 390 means a person engaged in the transportation of goods or passengers for compensation. The FHWA has determined that any business entity that assesses a fee, monetary or otherwise, directly or

indirectly for the transportation of passengers is operating as a for-hire carrier. Thus, the transportation for compensation in interstate commerce of passengers by motor vehicles (except in six-passenger taxicabs operating on fixed routes) in the following operations would typically be subject to all parts of the FMCSRs, including part 387: whitewater river rafters, hotel/motel shuttle transporters, rental car shuttle services, etc. These are examples of for-hire carriage because some fee is charged, usually indirectly in a total package charge or other assessment for transportation performed.

In a Final Rule published on January 11, 2001, FMCSA maintained the previous interpretation. FMCSA considers compensation to be synonymous with “for-hire.” Thus, any private entity operating a commercial motor vehicle designed or used to transport 9 or more passengers and that receives compensation, either directly or indirectly will be considered a “for-hire” carrier.

Carriers in this classification must follow all registration and Federal Motor Carrier Safety Regulations (FMCSRs),

What is a Private Motor Carrier?

A private motor carrier means a person (or organization) who provides transportation of property or passengers, by commercial motor vehicle, and is not a “for hire” motor carrier.

Once a private carrier is determined not to be a for-hire carrier, FMCSA categorizes private operators as either a business or non-

business private carriers. The two types of private carriers are defined as follows:

- ◆ **Private motor carrier of passengers (business)** – A private motor carrier engaged in the interstate transportation of passengers that is provided in the furtherance of a commercial enterprise and is not available to the public at large. These carriers are referred to as “**Business PMCPs.**”
- ◆ **Private motor carrier of passengers (non-business)** – A private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). These carriers are referred to as “**Non-business PMCPs.**”

The distinction between these two categories can be confusing from the perspective of the community transportation industry. Examples provided by FMCSA do not directly address, for example, the type of transportation services typically provided by recipients of FTA assistance in Ohio.

What are Some Examples of For-Hire, Business, and Non-Business Private Motor Carriers?

FMCSA cites the following as examples of “for-hire” carriers.

Examples of For-Hire Transportation Services:

- ◆ Hotel shuttle services that pick up passengers at an airport in one state and transports, via the hotel’s bus,

guests to the hotel located in a different state. While no fee is charged, the carrier is indirectly compensated for its services through the cost of the room. Additionally, the bus is engaged in interstate transportation, and hotel is operating in furtherance of a commercial purpose (the hotel intends to make a profit), and anyone wishing to stay at the hotel can avail themselves of the service.

- ◆ Intercity bus services between origins in one state and destinations in another state. In this case, the company is engaged in interstate transportation in furtherance of a commercial purpose (the company intends to make a profit), the company is directly compensated through the passenger fare, and the service is available to the general public.
- ◆ Charter services between an origin in one state and destinations in another state. In this case, the carrier is engaged in interstate transportation in furtherance of a commercial purpose, the carrier is directly compensated by the chartering group, and the service is available to anyone who wishes to charter the vehicle.

Note that FMSCA generally considers a carrier that charges a fee, whether directly or indirectly, as making the service available to the public at large. FMCSA considers it immaterial that the transportation services offered may be attractive only to a limited group.

This definition varies from the “general public” definition used in the FTA Section 5311 program.

Examples of Business Private Motor Carriers of Passengers (PMCPs)

The difference between this category and “for-hire” transportation is that these services are not available to the public at large and the provider is not compensated, either directly or indirectly, for the service.

Business PMCPs provide transportation in furtherance of a commercial purpose. A “commercial purpose” means that the organization provides service to the general public with the intent to make a profit (Reference: 59 FR 27329, May 7, 1993).

Examples cited by FMCSA are:

- ◆ Private companies that transport their own employees between a location in one state to a destination in another state. The transport is in furtherance of the organization’s commercial purpose and the enterprise seeks to make a profit, but the company does not charge the employee for the transport and, therefore, is not considered available to the public.
- ◆ Professional musicians use a tour bus while on a concert tour. The organization is operating in interstate commerce in furtherance of a commercial purpose, but is not available to the public at large.

Examples of Non-Business Private Motor Carriers of Passengers (PMCPs)

Non-business PMCPs are those organizations that provide private transportation of passengers across state lines but is not in the furtherance of a commercial purpose.

FMCSA cites the following types of organizations, when transporting their own respective groups, as being considered a non-business PMCP:

- ◆ Churches
- ◆ Private schools
- ◆ Civic organizations
- ◆ Scout groups
- ◆ Other charitable organization

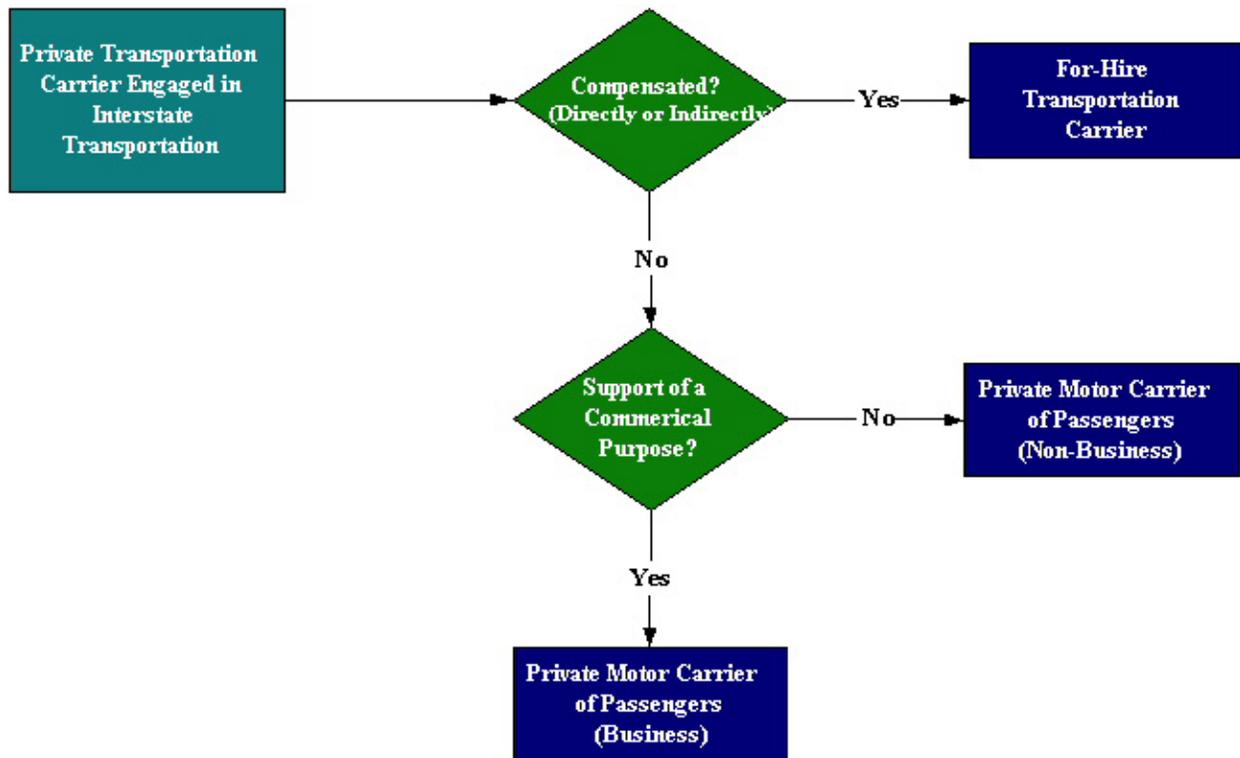
Guidance offered by FMCSA does not address a nonprofit organization delivering service to its own clients or coordinating services among other government or nonprofit organizations when engaged in interstate transportation. ODOT offers guidance on compliance in Section 4 of this manual.

A Guide to Determining Your Classification as a Private Interstate Transportation Carrier

The decision tree contained in Exhibit 2.1 is designed to help you assess your private organization’s carrier classification status if you determined in Section 1 that you provide interstate passenger transportation.

If a private entity engages in interstate transportation, and travels beyond a commercial zone, and is compensated, either directly or indirectly, the entity is considered a for-hire carrier. If the private entity is not a for-hire carrier, the classification as a private provider will depend on whether or not the entity is operating in furtherance of a commercial purpose (seeks to make a profit).

Exhibit 2.1
Decision Tree for Determining the Carrier Classification of a Private Entity Engaged in the Interstate Transportation of Passengers



What Are the Federal Motor Carrier Safety Regulations (FMCSR)?

Federal Motor Carrier Safety Regulations (FMCSRs) represent a collection of regulatory requirements that are imposed on motor carriers of passengers engaged in interstate transportation. The regulations have been codified in the Code of Federal Regulations and can be viewed from the FMCSA website (<http://www.fmcsa.dot.gov/rulesregs/fmcsr/fmcsrguide.htm>).

The applicability of these regulations, as noted earlier, may vary depending upon the type of carrier or carrier classification.

The requirements are discussed more fully in the compliance section of this manual.

Exhibit 2.2
Federal Motor Carrier Safety Regulations

49 CFR Part	Regulatory Topic
382	Controlled Substances and Alcohol Use and Testing
383	Commercial Drivers License
385	Safety Fitness Procedures
387	Financial Responsibility
390	General Applicability and Definitions
391	Qualifications of Drivers
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories
395	Driver's Hours of Service
396	Inspection, Repair, and Maintenance

There are other FMCSRs, however, they related to the transportation of hazardous materials or other elements unrelated to the transport of passengers. These regulations are not addressed here.

Are There Any Exemptions from FMCSRs?

Yes, some types of transportation are not subject to FMCSRs. Unless otherwise specifically provided, FMCSRs do not apply to:

- ◆ All school bus operations. School bus operation means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.
- ◆ 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.
- ◆ The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
- ◆ The transportation of human corpses or sick and injured persons;
- ◆ The operation of fire trucks and rescue vehicles while involved in emergency and related operations.
- ◆ The operation of commercial motor vehicles designed to transport less than 16 passengers (including the driver) until March 6, 2000 (Note: due to delays in rulemaking, this exemption extended through February 11, 2001).

The second bullet point contained in 49 CFR part 390.5(f) is the so-called government exemption from the applicability of FMCSRs.

What is a Commercial Zone?

The Federal Motor Carrier Safety Administration's jurisdiction is limited when the interstate transportation is confined to local area of commercial influence. 49 USC 13506(b)(1) states:

(b) Exempt Unless Otherwise Necessary. Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Board has jurisdiction under this part over—

- (1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities.*

This exemption means that if any interstate provider operates within its own jurisdiction, or in contiguous municipalities, or in the commercial zone, the entity is not required to register with FMCSA, even if the transportation service crosses state lines.

Commercial zones effectively extend the area a passenger transportation carrier can operate without need for registration.

A commercial zone is zone of commercial influence surrounding a municipal corporation. "Municipality" means any city,

town, village, or borough which has been created by special legislative act or which has been, otherwise, individually incorporated or chartered pursuant to general State laws, or which is recognized as such, under the Constitution or by the laws of the State in which located, and which has a local government. It does not include a town of the township of New England type.

In some cases, a municipal corporation has a statutorily defined commercial zone (49 CFR part 372). Several jurisdictions in Ohio have such a defined commercial zone, including:

- ◆ Cincinnati
- ◆ Cleveland
- ◆ Warren

If a specific definition is not provided in 49 CFR part 372, the following definition is used. A commercial zone consists of:

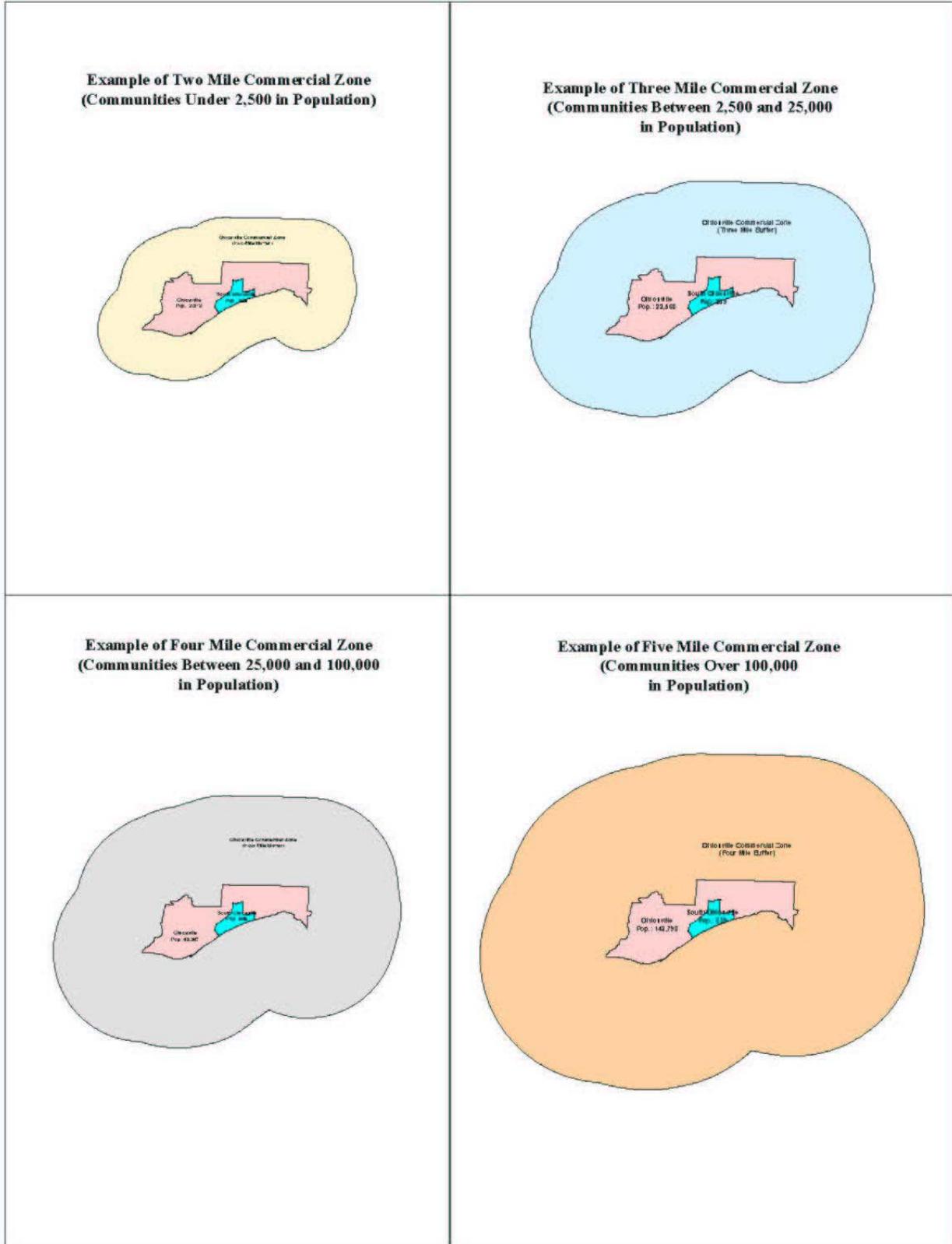
- (1) the municipality itself, hereinafter called the base municipality;
- (2) all municipalities which are contiguous to the base municipality;
- (3) all other municipalities and all unincorporated area within the United States which are adjacent to the base municipality as follows:
 - a. When the base municipality has a population less than 2,500 all unincorporated areas within two miles of its corporate limits and all of any other municipality any part of which is within two miles of the corporate limits of the base municipality,

- b. When the base municipality has a population of 2,500 by less than 25,000, 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. When the base municipality has a population of 25,000 but less than 100,000, 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, and
- d. When the base municipality has a population of 100,000 or more, all unincorporated areas within 5 miles of its corporate limits and all of any other municipality any part of which is within 5 miles of the corporate limits of the base municipality, and

- (4) 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 (3).

Exhibit 2.3 provides an illustration of the commercial zone concepts,

Exhibit 2.3
Illustration of Commercial Zones, by Population Size of Municipality



Section 3.

Compliance Responsibilities for Public Entities Providing Interstate Passenger Transportation



Section 3.

Compliance Responsibilities for Public Entities Providing Interstate Passenger Transportation

What Do You Define “Public Entity?”

A public entity is defined as 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.

In Ohio, this definition will include:

- ◆ County governments
- ◆ Regional Transit Authorities
- ◆ Municipal corporations
- ◆ County Transit Boards (formed pursuant to ORC Ch. 306)

What About Designated Recipients and Services Provided Under Contract?

In accordance with ODOT policy, a local government can designate another organization to serve as the designated recipient of Section 5311 funds. In some cases, the designated recipient may be a private nonprofit organization. For purposes of compliance with interstate passenger requirements, the organizational characteristics of the designated recipient will determine compliance procedures. In other words, if the designated recipient is a private nonprofit organization, then the organization will be considered a for-hire or

private motor carrier of passengers (either a Business PMCP or a Non-Business PMCP).

Contractors, or organizations that operate the transit service under a contractual agreement with the public entity, are treated in similar fashion. While some FTA regulations have a “stand-in-the shoes” requirement wherein the contractor must adhere to the public agency regulatory compliance obligations, there is no such provision with respect to applicable regulations governing interstate transportation.

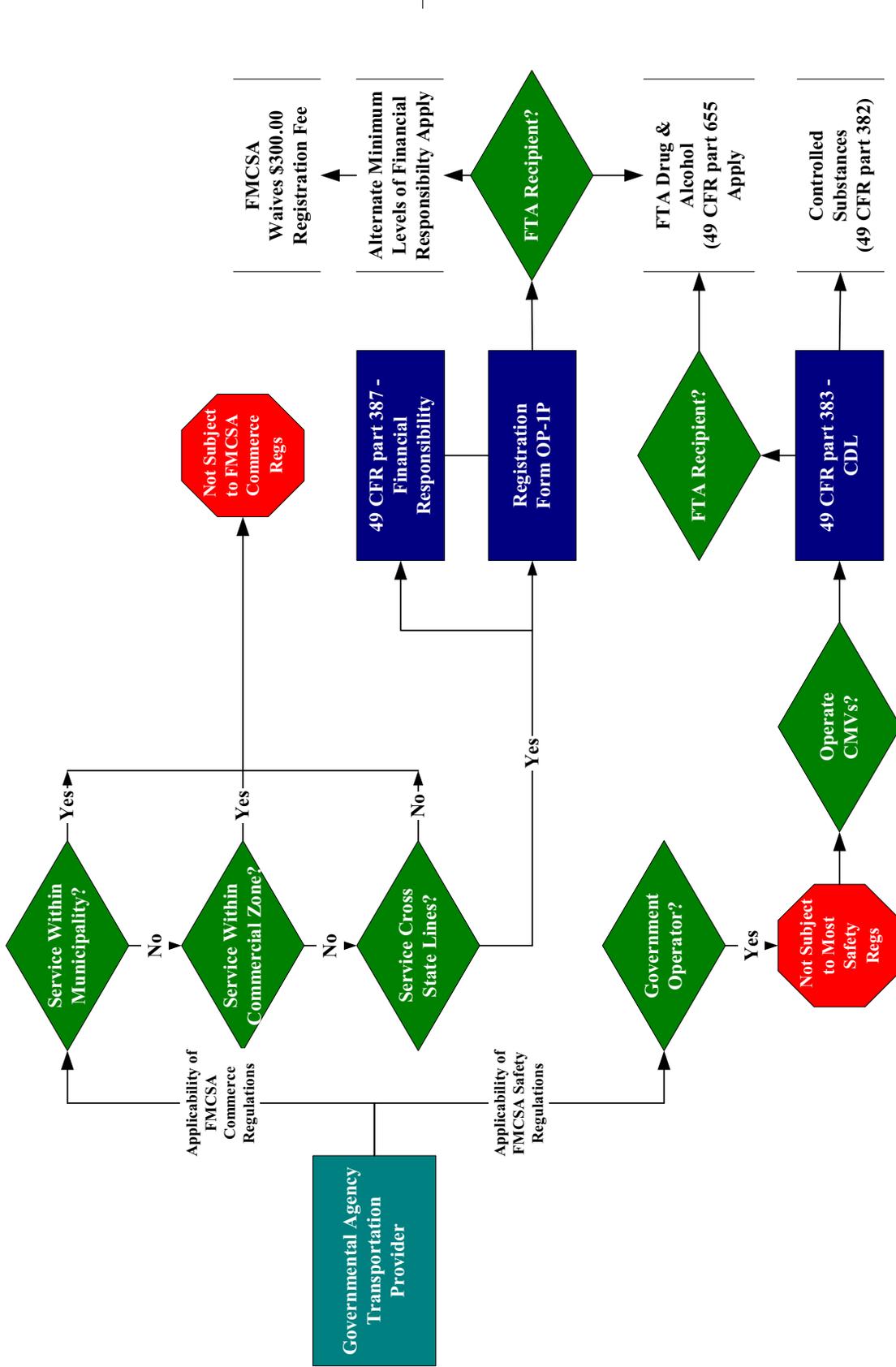
How Can We Identify What Requirements Are Applicable to Our Organization?

Exhibit 3.1 provides a decision tree to determine what regulations may be applicable to governmental organizations that engage in the interstate passenger of transportation.

In the exhibit, the top tier reflects choices leading to a determination whether the government agency needs to register with FMCSA.

The lower portion of the decision tree identify what portion, if any, of the FMCSRs will be applicable.

**Exhibit 3.1
Applicability of FMCSA Registration Requirements and Federal Motor Carrier Safety Regulations to Government Entities**



Do We Need to Seek Authority from the FMCSA?

A public entity should answer the following questions:

- ◆ Is the service provided entirely within the boundary of the municipality, even if the municipal boundary crosses state lines?
- ◆ If the service operated entirely within the commercial zone of a municipality?

If the answer to these questions is “Yes,” there is no requirement to register.

If the answer to these questions is “No” AND the transportation of passengers crosses state line, the public entity must register with the Federal Motor Carrier Safety Administration and seek operating authority.

Do the FMCSRs Apply?

If the public agency directly operates the service, most FMCSRs do not apply to the operation, even if there is a need to register as identified above.

If the vehicles used in the delivery of transit services meet the definition of a commercial motor vehicle, then the Commercial Driver License (CDL) regulations, considered as part of the FMCSRs, apply. Accordingly, if employees hold the CDL, they are subject to the drug and alcohol testing requirements of 49 CFR part 382. If the public entity is an FTA recipient, then 49 CFR part 382 does

not apply; FTA’s drug and alcohol regulations (49 CFR part 655), will apply.

The FMCSA Registration Process

The registration process consists of the following actions:

- ◆ Complying with financial responsibility requirements of 49 CFR part 387
- ◆ Obtaining the services of a process agent
- ◆ Filing an application for motor passenger carrier authority form (Form OP-1(P))
- ◆ Developing a cover letter to send with the registration form indicating that the organization, as a public entity, is an “exempt” applicant and a recipient of Federal financial assistance under Section 5307, 5310, or 5311, as appropriate

Considerable confusion may arise in the registration process, as many of the forms, requirements, directions, or other instructional material addresses only private for-hire carriers, not exempt government entities or business/non-business PMCPs.

To the extent possible, ODOT has tried to clarify confusing elements.

Understanding Financial Responsibility Requirements

Financial responsibility is synonymous with the entity carrying insurance to cover the liabilities associated with its operations. It can be defined as the financial reserves (*e.g.*,

insurance policies or surety bonds) sufficient to satisfy liability amounts set forth in this subpart covering public liability. 49 CFR part 387, Subpart B, addresses financial responsibility requirements for motor carriers of passengers engaged in interstate transportation.

This subpart prescribes the minimum levels of financial responsibility required to be maintained by motor carriers of passengers operating motor vehicles in interstate, foreign, or intrastate commerce. The purpose of these regulations is to create additional incentives to motor carriers to maintain and operate their vehicles in a safe manner and to assure that motor carriers maintain an appropriate level of financial responsibility for motor vehicles operated on public highways.

There are some exceptions to the minimum levels of financial responsibility set forth by FMCSA. These exceptions include:

- ◆ A motor vehicle transporting only school children and teachers to or from school;
- ◆ 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;
- ◆ A motor vehicle carrying less than 16 individuals in a single daily round trip to commute to and from work; and
- ◆ 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.

The required minimum liability insurance levels are specified in 49 CFR part 387.33 and specified in Exhibit 3.2.

**Exhibit 3.2
Required Levels of Financial
Responsibility**

Vehicle Seating Capacity	Required Level
Any vehicle with a seating capacity of 16 passengers or more, including the driver	\$5,000,000
Any vehicle with a seating capacity of 15 passengers or less, including the driver	\$1,500,000

**Alternative Levels of Financial
Responsibility for FTA Recipients**

If the government entity is a recipient of Section 5307, Section 5310, or Section 5311 under the Federal Mass Transit Act of 1964, as amended, the above requirement does not apply. Alternative minimum levels of financial responsibility apply.

49 U.S.C. 31138(e) provides that if an organization 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 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States."

In applying for authority, applicants should clearly note in their cover letter that they are a recipient of these funds. The applicant should provide sufficient documentation in the form of grant numbers, etc. to validate this fact. Based on the results of a survey of Ohio transit operators in the public and

private sectors, organizations are traveling to all contiguous states to Ohio, including Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia. The maximum required levels of insurance in each state is documented in Exhibit 3.3.

**Exhibit 3.3
Insurance Requirements of Contiguous States to Ohio**

Adjacent State	Liability				Mandatory No-Fault Coverage? (Y or N)	Reject Uninsured Underinsured Motorists Coverage? (Y or N)
	Each:			Combined		
	Person Bodily Injury	Accident Bodily Injury	Accident Property Damage			
West Virginia	20,000	40,000	10,000	32,500	No	No
Pennsylvania	15,000	30,000	5,000	35,000	Yes	Yes
Indiana	20,000	50,000	10,000	60,000	No	Yes
Kentucky	25,000	50,000	10,000	60,000	Yes	Yes
Michigan	20,000	40,000	10,000	50,000	Yes	N/A

Source: International Risk Management Institute, Inc.'s Commercial Auto Insurance Reference Guide, February 2001.

Financial Responsibility Submission Requirements

Operators of transit services do not submit information and documentation of insurance coverages to FMCSA. This must be done by your insurance underwriter or company. As a transit operator, you must have your insurance representative submit Form BMC-91 to the same address as you submit your registration request. FMSCA does not make this form available from its website; your

insurance company must be responsible for obtaining the form and completing it on your behalf. This form must be submitted within 90 days after the date notice of the application is published in the FMCSA register. ODOT recommends that this information be submitted immediately after obtaining their docket number from FMCSA. This documentation must be on file or FMSCA will not issue authority to operate interstate transportation service.

It is imperative that when third parties provide any assistance in filing matters, that

the name and address of the organization as submitted in the OP-1(P) form exactly matches in the all other submittals.

representation. Fees in the range of \$35.00 to \$100.00 per year should be anticipated for this service.

Electronic Filing Option

Insurance information can be filed using a new electronic submission process recently instituted by FMSCA. To obtain a user name and password, you must register with the FMCSA as an electronic filer and you must be a representative of an insurance company, surety company or financial institution. Registered electronic filers may file certificates and cancellations, view their last transmissions, and print their confirmation, acceptance, and reject reports. To register or for inquiries, please call (202) 358-7028 or (202) 358-7029.

Filing for Authority

Many public agencies have historically believed that the need for registration with FMCSA (or its predecessors) was limited to “for-hire” private motor carriers of passengers. However, FTA, in its Section 5311 program circular, noted the applicability of this requirement to any entity that engages in the interstate transportation of passengers.

Filing for authority begins with the submission of Form OP-1(P), “*Application for Motor Passenger Carrier and Broker Authority*”. This form is contained, along with instructions, in Appendix A to this manual.

Obtaining the Services of a Process Agent

Another one of the major requirements to obtain interstate operating authority is securing the services of a process agent. A process agent will serve as the agent of record in the event of any subsequent legal matter that may arise in the operation of interstate transportation.

FMSCA publishes a list of what are known as “blanket process agents” at http://fmcsa-li.volpe.dot.gov/LIVIEW/pkg_menu_prc_menu. These blanket companies will generally have a agent within each state who can serve as the process agent of record for the transportation provider. Identify the local agent by double clicking on the company name link on this page.

A transportation provider should anticipate paying an annual fee to the process agent for

Completing Form OP-1(P)

Section I – Applicant Information

This section deals with general identifying information about the applicant.

It is imperative that the applicant name be exactly as it is to appear in all subsequent filings. The name must match the name used in all other filings or rejection of the application can occur.

The representative in Section I is not the process agent. This is the name of the authorized official of the organization.

There is a question about a “U.S. DOT Number.” All operators of motor vehicles must obtain a U.S.DOT number and file an periodic report with FMCSA. Government operators, however, are exempt from this requirement.

The next questions relates to the form of business. None of these answer is appropriate for a public entity. Leave this information blank.

Section II – Type of Authority

The type of authority you are applying dictates the application fee. For each type checked, a fee is required. The standard fee is \$300.00 (fee can be waived if requested by Section 5307, Section 5310, or Section 5311 recipients). Public entities are neither common nor contract carriers.

Section III – Insurance Information

Applicants must check one box. Determine the type of vehicles in the fleet used for the interstate transport of passengers. Capacities listing should always include the driver.

Note again that recipients of FTA funding under Sections 5307, 5310, or 5311 are subject to alternative levels of liability insurance.

Section IV – Safety Certification

Governmental agencies are “Exempt Applicants.” Check the box that indicates that applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

Check only one box in this section.

Section V – Compliance Certification

This is a general certification that must be checked.

Section VI – Government Funding Status

Governmental agencies should check the first checkbox for “public recipient.”

A second section of this application lists a place for applicants for regular route authority and private recipients to introduce other information or evidence to support the application. This section is not applicable to governmental applicants.

The final section is designed for governmental agency response. This section is similar to the charter service requirements for Section 5311 recipients. It is designed to ensure that appropriate steps are taken to avoid unfair competition with private transportation providers.

Supplemental information must be provided here. Using the statutory requirements of 49 CFR part 604 as the basis for your response, discuss the availability of willing and able private operators to provide the service (or lack thereof) and efforts the applicant takes to incorporate those service providers in the actual provision of transit service.

Section VII – Scope of Operating Authority

This section relates to the type of interstate transportation to be provided by the applicant. Based on the survey responses of Ohio operators that do provide interstate transportation of passengers, virtually all services would be classified as charter and special transportation between points in the United State (first checkbox). These

services are characterized as operated over irregular routes and are not restricted to particular roads or highways in the United States.

In some cases, where the governmental agency operates, as a component of its overall public transportation system, service to out-of-state destinations under the terms of a purchase of service agreement to a specific group. Such services would not be open to the public at large. The applicant may find such services better suited to checkbox 5 (checkbox 7 on the electronic copy) for “Alternative Service Descriptions.” In either case, if the governmental agency checks these boxes, authority will be limited to the exact services described by the applicant. If services periodically change over time, use of the Alternative Service Descriptions may be more appropriate. Be sure to check the “Yes” checkbox following submission of the required descriptive information about these services.

Section VIII – Affiliations

All applicants must disclose pertinent information concerning their affiliation, if any, with other former Interstate Commerce Commission (ICC), Federal Highway Administration (FHWA) or now FMSCA-licensed entities. For government applicants, this box will be blank.

Section IX – Applicant’s Oath

Applications (Form OP-1(P)) may be prepared by the applicant or an authorized representative. In either case, the oath must be signed by the applicant.

Applications should be signed by the same individuals who are authorized by the public body to execute grant agreements, etc.

Application Fee

The fee to register is \$300.00 for each authority sought in Section II of the application.

Waiver of Application Fee

While it is not stated in any Federal publication, FTA and FMCSA report that if an applicant is a recipient of FTA funds, the \$300.00 application fee may be waived.

An applicant must request this waiver.

Paper or Electronic Filing?

FMCSA has introduced a new electronic application system. The system replicates the paper form application and may, in the future, result in faster processing times. FMCSA reports that, at present, there is no advantage in processing time between paper and electronic submissions.

ODOT recommends that paper submission be used by governmental applicants. The primary reason for this approach is the informal advice provided to ODOT by FTA. While an applicant can acknowledge “government funding status” in the electronic submission, there is no place or form to specifically request waiver of the registration fee. Paper submission affords this opportunity.

Where to Submit

Submit an original and one copy to:

Federal Motor Carrier Safety
Administration
Post Office Box 100147
Atlanta, GA 003084-0147

Section 4.

Compliance Responsibilities for Private Entities Providing Interstate Passenger Transportation



Section 4.

Compliance Responsibilities for Private Entities Providing Interstate Passenger Transportation

What Do You Mean by a Private Entities?

Private entities represent a range of organizations for purposes of application of FMCSA regulations governing the interstate transport of passengers. The list of organization includes, but is not necessarily limited to:

- ◆ Intercity bus companies
- ◆ Charter bus companies
- ◆ Other transportation companies under private ownership
- ◆ Taxicab companies
- ◆ Private businesses not primarily engaged in the business of transportation but who operate passenger transportation services as a component of their operations
- ◆ Private nonprofit corporations who provide transportation to their clients or the clients of other agencies
- ◆ Private nonprofit corporations formed exclusively to coordinate the transportation of various community organizations.

Services operated by some of these organizations may, by definition, be excluded from coverage under the regulations.

Your agency's private status does not determine the applicable coverage. In order

to determine what regulations apply, a private organization must know the following information:

- ◆ Does the organization engage in interstate transportation (read Section 1 for a definition of interstate transportation)?
- ◆ How is the organization compensated for service provision?
- ◆ What is the passenger capacity of vehicles used in interstate transportation?

In this section, ODOT will focus only on those private entities that fall under the general jurisdiction or scope of the Office of Transit. Thus, this section will address:

- ◆ Private nonprofit agencies serving as a “designated recipient” on behalf of a local government under the Section 5311 (*Nonurbanized Area Rural Formula Assistance*) Program.
- ◆ Private nonprofit organizations that participate in ODOT's Coordination Program (often a precursor to receipt of Section 5311 funds).
- ◆ Private nonprofit organizations that may periodically receive capital assistance under the Section 5310 (*Elderly and Persons with Disabilities*) Program.

Other private nonprofit corporations who do not directly participate in ODOT programs but that otherwise provide interstate transportation of passengers will also benefit from the material provided in this Section.

What About Designated Recipients and Services Provided Under Contract?

In accordance with ODOT policy, a local government can designate another organization to serve as the designated recipient of Section 5311 funds. In some cases, the designated recipient may be a private, nonprofit organization. For purposes of compliance with interstate passenger requirements, the organizational characteristics of the designated recipient will determine compliance procedures. In other words, if the designated recipient is a private nonprofit organization, engages in interstate compensation, receives compensation, either directly or indirectly, and operates commercial motor vehicles, the organization will be considered as a for-hire carrier.

Contractors, or organizations that operate the transit service under a contractual agreement with the public entity, are treated as private entities for purposes of compliance. While some FTA regulations have a “stand-in-the shoes” requirement wherein the contractor must adhere to the public agency regulatory compliance obligations, there is no such provision with respect to applicable regulations governing interstate transportation.

How Can I Tell What Type of Transportation Provider My Organization Falls Under?

There are three provider classifications (refer to Section 2 for more detailed definitions):

- ◆ For-hire carrier
- ◆ Private motor carriers of passengers operating in furtherance of a commercial purpose (Business – PMCP)
- ◆ Other private motor carrier of passengers (Non – Business PMCP)

Exhibit 2.1 provided a decision tree to determine what type of transportation provider your organization would be classified for purposes of determining applicable interstate passenger transportation regulations. In the sections that follow, we will provide guidance or questions that should be asked to assist in this determination.

What Does “For Compensation” Mean?

The first question that must be asked is whether or not, as a private entity engaged in the interstate transport of passengers, using vehicles meeting the definition of a commercial motor vehicle, is whether or not you are operating for compensation, either directly or indirectly.

FMCSA does not define what it means by being compensated directly or indirectly. ODOT has formulated the following recommendations to guide you in making this determination. Please note that there is little case history or law in regards to the

application of FMCSRs to the community transportation industry, thus the recommendations provided below are guidance, and may not represent the official or future interpretation of the FMCSA.

Direct Compensation

Examples of direct compensation would include, but not necessarily be limited to:

- ◆ Clients or passengers pay a cash fare at the time of boarding.
- ◆ Clients or passengers use a pre-paid token, trip ticket, multi-ride pass, or other form of pre-paid fare media at the time of boarding.
- ◆ Clients who work for the organization and that have an amount deducted from their paycheck as a payment to the provider for transportation (e.g., client of a sheltered workshop or individual engaged in supportive employment).
- ◆ A group of individuals that enter into an agreement with the provider for the use of the vehicle, on a one-time or continuous basis, for transport of the group and that pays for the use of the vehicle.

If any of these types of payments are being made (regardless of whether or not you make a profit), you are being directly compensated for your services and would be considered a “for-hire” carrier.

Indirect Compensation

Examples of indirect compensation would include, but may not necessarily be limited to:

- ◆ Payments made by families or friends on behalf of the passenger for transportation.
- ◆ Payments made by a third party to the provider, whether at the time of transport or on a post-transport basis (e.g., end of the month upon invoice from provider), for passenger transportation. This example is typified by a purchase of service agreement between a purchaser and a provider agency.
- ◆ Receipt of a grant award that specifically provides for compensation of client transportation services. An example of this would be a Title III-B grant under the Older Americans Act that specifically provide grant funding, usually on a price per trip basis, for senior transportation.

If any of these types of payments are being made (regardless of whether or not you make a profit), you are being indirectly compensated for your services and would be considered a “for-hire” carrier.

Is All Human Service Transportation Considered “For-Hire”?

Based on the examples provided above, it may seem that the virtually all human service transportation, particularly in a coordinated setting, may meet the tests imposed by FMCSA to be classified as “for-hire” transportation.

If your organization provides interstate transportation only to individuals served by your organization and the service is paid for from the organization’s general fund,

FMSCA does not consider this service to be “for-hire” transportation. Your organization would be classified as a Private Motor Carrier of Passengers (PMCP).

Additionally, there are some other considerations in determining your compliance responsibility. For FMCSA to have jurisdiction, the private entity must be operating a “commercial motor vehicle.”

What is a “Commercial Motor Vehicle”?

The Motor Carrier Act of 1935 (codified at 49 U.S.C. 31502) authorizes the FMCSA to regulate the safety of all for-hire and private carriers of passengers regardless of passenger capacity. In 1984, Section 204 of the Motor Carrier Safety Act (Pub.L. 98-554) defined a “commercial motor vehicle” for the first time. The definition was the basis for the regulatory definition contained in 49 CFR part 390.5, which generally determines the applicability of FMCSRs. Originally, a commercial motor vehicle was one with:

- ◆ A gross vehicle weight rating (GVWR) of 10,001 pounds or more; or
- ◆ Designed to transport more than 15 passengers, including the driver; or
- ◆ Transporting hazardous material in quantities that require the driver to be placarded.

Many private nonprofit organizations may be aware that commercial driver licensing requirements apply to this category of vehicle. Generally, federal authorities have only exercised jurisdiction over CMVs, even though authority existed to regulate smaller

vehicles. As a consequence, most human service agencies that operated vehicles that were 15-passenger capacity or smaller were free from most Federal Motor Carrier Safety Regulations (FMCSRs).

However, Section 4008(a)(2) of the Transportation Equity Act for the 21st Century (TEA-21) amended the definition of a Commercial Motor Vehicle (CMV). It reduced the capacity requirement to 9 passengers or greater (including the driver) from the previous 15-passenger or greater definition. It also added Gross Vehicle Weight to the definition as well.

The current definition of a Commercial Motor Vehicle (CMV) is now:

...a self propelled or towed vehicle used on highways in interstate commerce to transport passenger or property, if the vehicle:

- ◆ ***Has a gross vehicle rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;***
- ◆ ***Is designed or used to transport more than 8 passengers (including the driver) for compensation;***
- ◆ ***Is designed or used to transport more than 15 passengers, including the driver and is not used to transport passengers for compensation; or***
- ◆ ***Is used in transporting material found by the Secretary of Transportation to be hazardous under Section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.***

The new definition was incorporated into the FMCSR definitions (49 CFR part 390.5) effective February 12, 2001.

ODOT will refer to vehicles with capacities greater than 8-passengers (including the driver), but less than 15-passenger capacity (including the driver), as “small CMVs.”

Does This Mean that Small CMVs are Subject to FMCSRs?

Yes, but only to a limited degree. In rulemaking published in the January 11, 2001 *Federal Register*, FMCSA noted that operators of small CMVs were to be included under the scope of coverage of FMCSRs, unless the Secretary (of Transportation) determines, through a rulemaking process, that such operators should be exempt. Based on Congressional mandates and on comments submitted to the docket, FMCSA ruled that small CMVs should not be exempt, however, limited the scope of FMCSRs coverage. Operators of small CMVs must only:

- ◆ Complete a motor carrier identification report;
- ◆ Mark their vehicles with a USDOT identification number; and
- ◆ Maintain an accident register.

How Can We Identify What Requirements Are Applicable to Our Organization?

Exhibit 4.1 provides a decision tree to determine applicability of FMCSRs.

ODOT suggests that you follow these steps to determine compliance responsibility:

Step 1: Do we provide interstate transportation (refer to Section 1)?

Step 2: Are we compensated in any way, either directly or indirectly, for providing the interstate service?

Step 3: Is the service operated exclusively for only our clients, group, or participants or may others use the service?

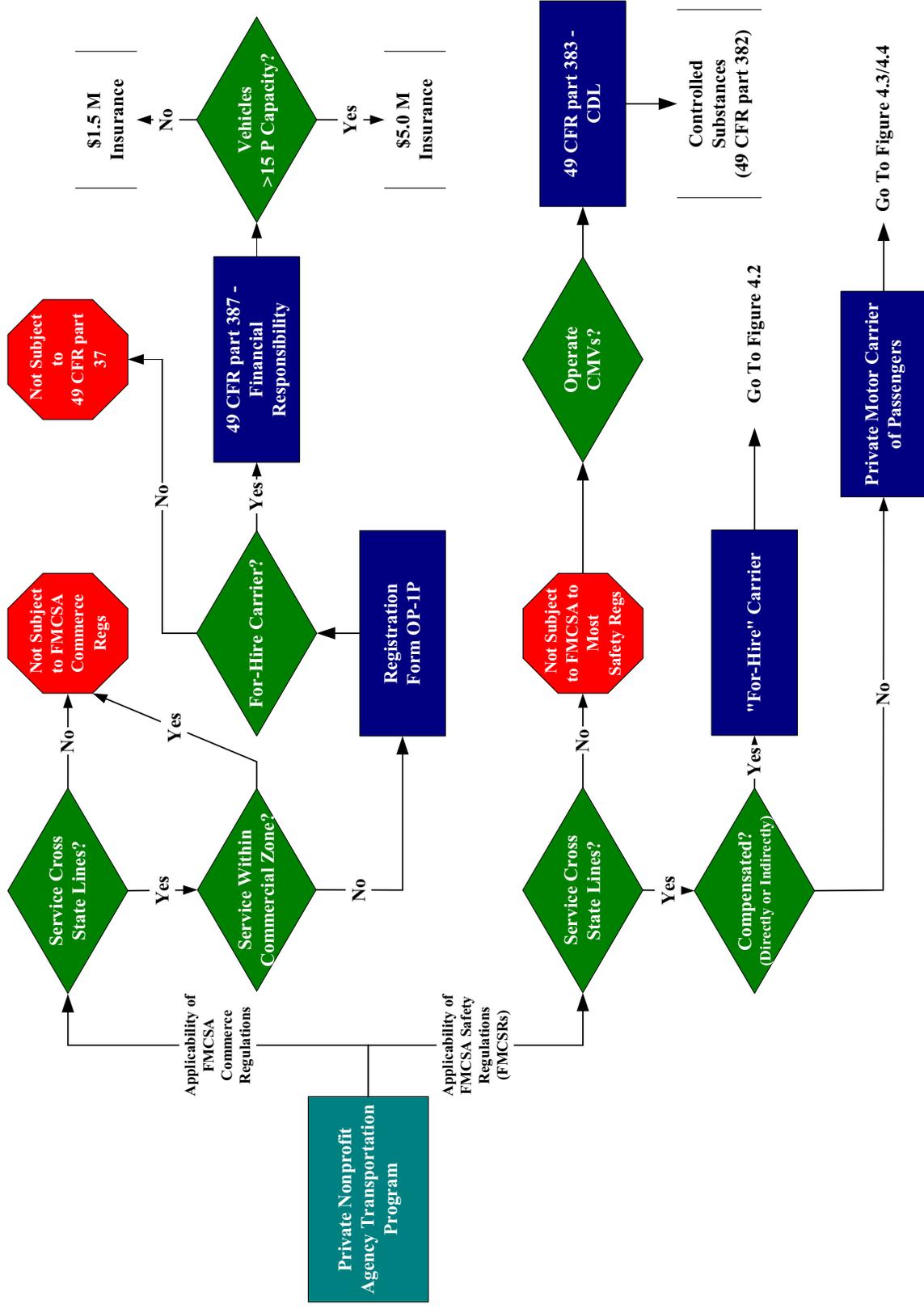
Step 4: Do we operate Commercial Motor Vehicles, Small Commercial Motor Vehicles, or other vehicles?

If you operate interstate transportation service, you will have to comply with requirements for application of authority and financial responsibility. Depending on your classification as a for-hire, business PMCP, or non-business PMCP, you will have to comply with some or all of the Federal Motor Carrier Safety Regulations. Refer to Exhibit 4.2 (for-hire carriers), Exhibit 4.3 (Business Private Motor Carrier of Passengers), and Exhibit 4.4 (Non-Business Private Motor Carriers of Passengers) to determine specific FMCSRs applicability.

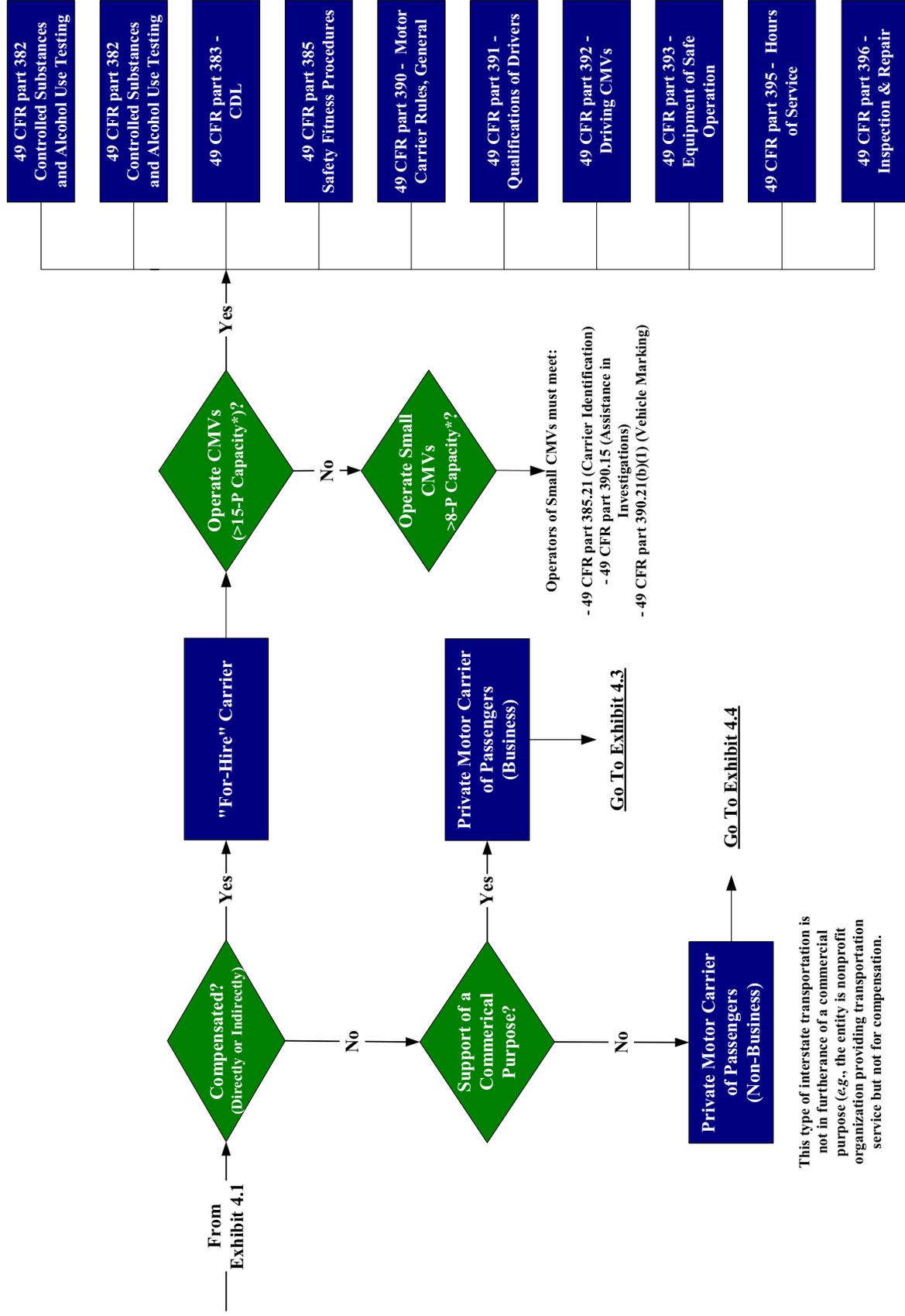
How Can Learn More About FMCSRs?

Text copies of the full extent of all FMCSRs are available from ODOT. Exhibits 4.5, 4.6, and 4.7, respectively address the applicable sections of the various FMCSRs for for-hire carriers, Business PMCPs, and Non-Business PCMPs.

**Exhibit 4.1.
Privately Operated Transportation System and Applicability of FMCSA Regulations**



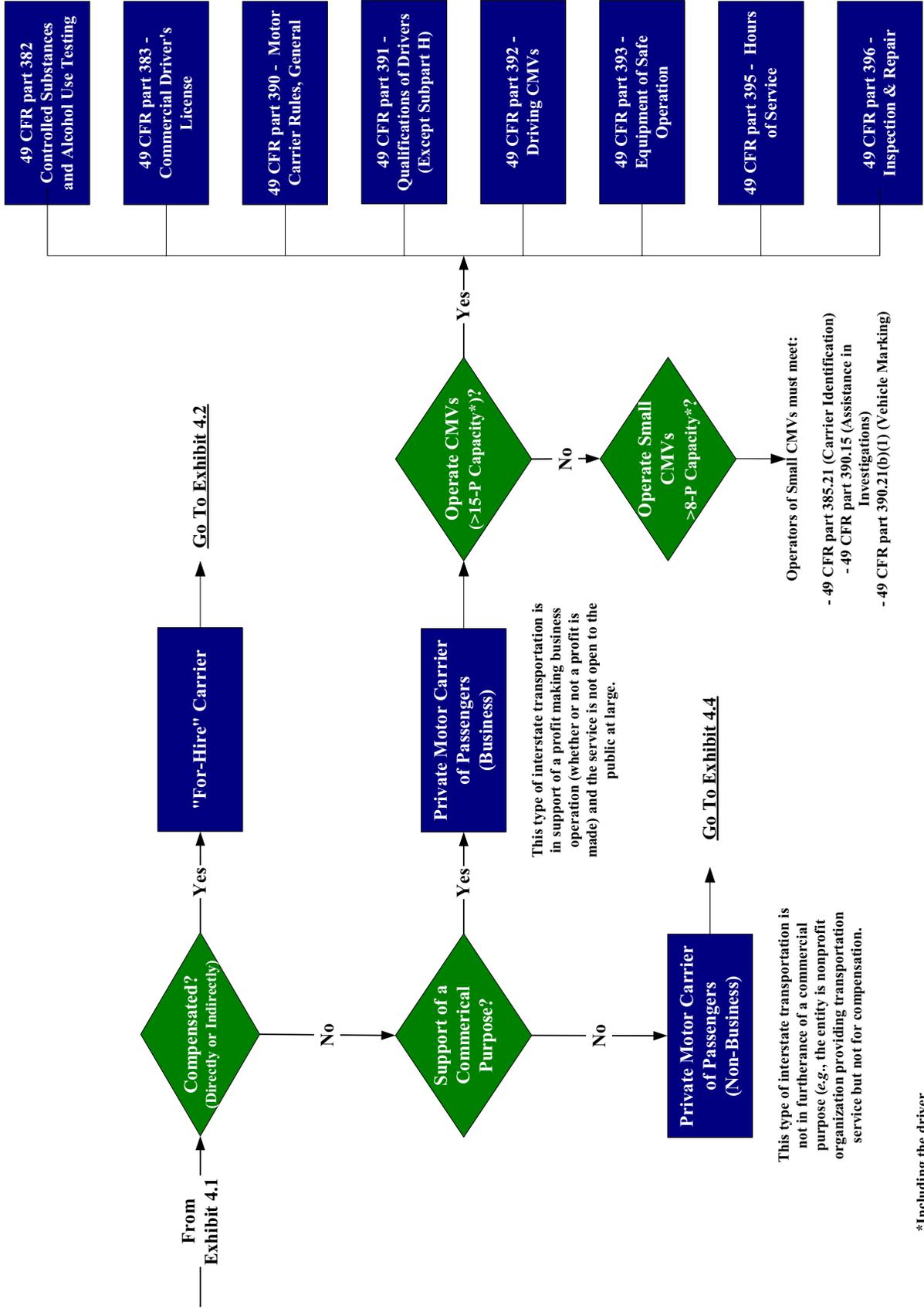
**Exhibit 4.2.
Privately Operated Transportation System Operating for Compensation and Applicability of FMCSRs
(For-Hire Carrier of Passengers)**



*Including the driver.

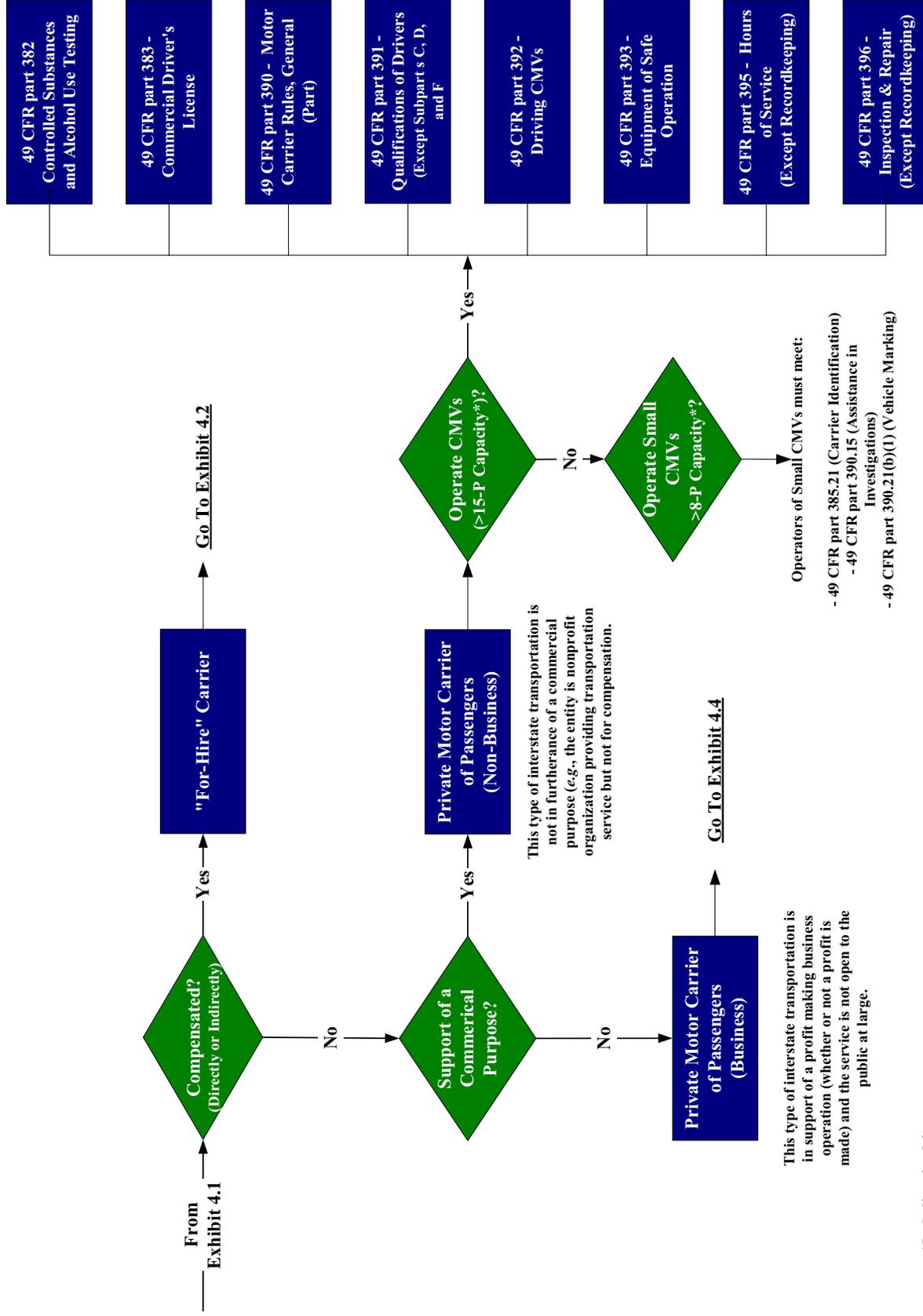
This type of interstate transportation is not in furtherance of a commercial purpose (e.g., the entity is nonprofit organization providing transportation service but not for compensation).

**Exhibit 4.3.
Privately Operated Transportation System Not Operating for Compensation and Applicability of FMCSRs
(Business Private Motor Carrier of Passengers (PMCP))**



*Including the driver.

Exhibit 4.4.
Privately Operated Transportation System Not Operating for Compensation and Applicability of FMCSRs
(Non-Business Private Motor Carrier of Passengers (PMCP))



*Including the driver.

Exhibit 4.5
Applicability of FMCSRs on For-Hire Carriers of Passengers (PMCP)

49 CFR Part	Regulatory Topic	Vehicle Capacity			Comments/Limitations	
		>15-P	Between 9-15,	8 or Less		
325	Interstate Motor Carrier Noise Emission Standards	---	---	---	See Note (1)	
382	Controlled Substances and Alcohol Use and Testing	Yes	No	No		
383	Commercial Drivers License	Yes	No	No		
385	Safety Fitness Procedures	Yes	Partial	No		See Note (2)
387	Financial Responsibility	Yes	No	No		
390	General Applicability and Definitions	Yes	Partial	No		See Notes (3) and (4)
391	Qualifications of Drivers	Yes	No	No		
392	Driving of Commercial Motor Vehicles	Yes	No	No		
393	Parts and Accessories	Yes	No	No		
395	Driver's Hours of Service	Yes	No	No		
396	Inspection, Repair, and Maintenance	Yes	No	No		

Notes:

- (1) Compliance required on motor vehicles that have a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or more.
- (2) 49 CFR part 385.21 regarding motor carrier identification report (MCS 150) applies to operators of small CMVs.
- (3) 49 CFR part 390.15 regarding assistance in investigations and special studies applies to operators of small CMVs.
- (4) 49 CFR part 390.21 regarding marking of commercial vehicles (except paragraph (b)(1)) applies to operators of small CMVs.

Exhibit 4.6
Applicability of FMCSRs on Business Private Motor Carriers of Passengers (PMCP)

49 CFR Part	Regulatory Topic	Vehicle Capacity			Comments/Limitations
		>15-P	Between 9-15,	8 or Less	
382	Controlled Substances and Alcohol Use and Testing	Yes	No	No	
383	Commercial Drivers License	Yes	No	No	
385	Safety Fitness Procedures	Yes	Partial	No	See Note (1)
387	Financial Responsibility	No	No	No	
390	General Applicability and Definitions	Yes	Partial	No	See Notes (2) and (3)
391	Qualifications of Drivers	Partial	No	No	See Note (4)
392	Driving of Commercial Motor Vehicles	Yes	No	No	
393	Parts and Accessories	Yes	No	No	
395	Driver's Hours of Service	Yes	No	No	
396	Inspection, Repair, and Maintenance	Yes	No	No	

Notes:

- (1) 49 CFR part 385.21 regarding motor carrier identification report applies to operators of small CMVs.
- (2) 49 CFR part 390.15 regarding assistance in investigations and special studies applies to operators of small CMVs.
- (3) 49 CFR part 390.21 regarding marking of commercial vehicles (except paragraph (b)(1)) applies to operators of small CMVs.
- (4) 49 CFR parts 391.21 (applications for employment), 391.23 (investigations and inquiries) and 391.31 (road test requirements for drivers) are not applicable pursuant to 49 CFR part 391.69 for all vehicles operated by Business PMCPs.

Exhibit 4.7
Applicability of FMCSRs on Non-Business Private Motor Carriers of Passengers (PMCP)

49 CFR Part	Regulatory Topic	Vehicle Capacity			Comments/Limitations
		>15-P	Between 9-15,	8 or Less	
382	Controlled Substances and Alcohol Use and Testing	Yes	No	No	
383	Commercial Drivers License	Yes	No	No	
385	Safety Fitness Procedures	Yes	Partial	No	See Note (1)
387	Financial Responsibility	No	No	No	
390	General Applicability and Definitions	Partial	Partial	No	See Notes (2) and (3)
391	Qualifications of Drivers	Partial	No	No	See Note (4)
392	Driving of Commercial Motor Vehicles	Yes	No	No	
393	Parts and Accessories	Yes	No	No	
395	Driver's Hours of Service	Partial	No	No	See Note (5)
396	Inspection, Repair, and Maintenance	Partial	No	No	See Note (6)

Notes:

- (1) 49 CFR part 385.21 regarding motor carrier identification report applies to operators of small CMVs.
- (2) 49 CFR part 390.15 regarding assistance in investigations and special studies applies to operators of small CMVs.
- (3) 49 CFR part 390.21 regarding marking of commercial vehicles (except paragraph (b)(1)) applies to operators of small CMVs.
- (4) 49 CFR parts 391.11(b)(1), (b)(6), and (b)(8) (relating to driver qualifications in general), Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of, drivers), 49 CFR parts 391.41 and 391.45 (relating to a driver to be medically examined and to have a medical examiner's certificate on his/her person), and Subpart F (Files and Records) are not applicable to Non-Business PMCPs pursuant to 49 CFR part 391.68.
- (5) 49 CFR part 395.8 regarding the maintenance of a driver's record of duty status is not applicable to Non-Business PMCPs.
- (6) 49 CFR part 396.11 regarding driver completion of vehicle inspection reports is not applicable to Non-Business PMCPs.

The Requirements for All Three Types of Private Providers Appear to be the Same Based on the Exhibits – Is this True?

No. While the requirements for all types of private entities operating interstate transportation of passengers *do* appear to be same, there are subtle differences in the applicable regulations as certain *parts* or *subsections* of the FMCSRs do not apply to Business PMCPs and Non-Business PMCPs. Additionally, most of the FMCSRs do not apply to any private entity engaged in interstate transportation of passengers if they only operate small commercial motor vehicles (*e.g.*, those vehicles that have a passenger capacity of 9-passengers or greater, including the driver).

Our Agency Needs to Register and Comply with these Regulations – Where Do We Begin?

The following sections detail the registration process and provides an overview of Federal Motor Carrier Safety Regulations.

The FMCSA Registration Process

The registration process consists of the following actions:

- ◆ Complying with financial responsibility requirements of 49 CFR part 387 (for-hire carriers only)
- ◆ Obtaining the services of a process agent

- ◆ Filing a request for authority to operate as in interstate carrier (Form OP-1(P))

Understanding Financial Responsibility Requirements – For-Hire Carriers

Financial responsibility is synonymous with the entity carrying insurance to cover the liabilities associated with its operations. It can be defined as the financial reserves (*e.g.*, insurance policies or surety bonds) sufficient to satisfy liability amounts set forth in this subpart covering public liability. 49 CFR part 387, Subpart B, addresses financial responsibility requirements for motor carriers of passengers engaged in interstate transportation.

This subpart prescribes the minimum levels of financial responsibility required to be maintained by motor carriers of passengers operating motor vehicles in interstate, foreign, or intrastate commerce. The purpose of these regulations is to create additional incentives to motor carriers to maintain and operate their vehicles in a safe manner and to assure that motor carriers maintain an appropriate level of financial responsibility for motor vehicles operated on public highways.

There are some exceptions to the minimum levels of financial responsibility set forth by FMCSA. These exceptions include:

- ◆ A motor vehicle transporting only school children and teachers to or from school;
- ◆ 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;

- ◆ A motor vehicle carrying less than 16 individuals in a single daily round trip to commute to and from work; and
- ◆ 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.

The required minimum liability insurance levels are specified in 49 CFR part 387.33 and specified in Exhibit 4.8.

**Exhibit 4.8
Required Levels of Financial
Responsibility**

Vehicle Seating Capacity	Required Level
Any vehicle with a seating capacity of 16 passengers or more, including the driver	\$5,000,000
Any vehicle with a seating capacity of 15 passengers or less, including the driver	\$1,500,000

**Financial Responsibility Submission
Requirements**

Operators of transit services do not submit information and documentation of insurance coverage to FMCSA. This must be done by your insurance underwriter or company. As a transit operator, you must have your insurance representative submit Form BMC-91 to the same address as you submit your registration request. FMSCA does not make this form available from its website; your insurance company must be responsible for obtaining the form and completing it on

your behalf. This form must be submitted within 90 days after the date notice of the application is published in the FMCSA register. ODOT recommends that this information be submitted immediately after obtaining their docket number from FMCSA. This documentation must be on file or FMSCA will not issue authority to operate interstate transportation service. It is imperative that when third parties provide any assistance in filing matters, that the name and address of the organization as submitted in the OP-1(P) form exactly matches in the all other submittals.

Electronic Filing Option

Insurance information can be filed using a new electronic submission process recently instituted by FMSCA. To obtain a user name and password, you must register with the FMCSA as an electronic filer and you must be a representative of an insurance company, surety company or financial institution. Registered electronic filers may file certificates and cancellations, view their last transmissions, and print their confirmation, acceptance, and reject reports. To register or for inquiries, please call (202) 358-7028 or (202) 358-7029.

Obtaining the Services of a Process Agent

Another one of the major requirements to obtain interstate operating authority is securing the services of a process agent. A process agent will serve as the agent of record in the event of any subsequent legal matter that may arise in the operation of interstate transportation.

FMCSA publishes a list of what are known as “blanket process agents” at http://fmcsa-li.volpe.dot.gov/LIVIEW/pkg_menu.prc_menu. These blanket companies will generally have a agent within each state who can serve as the process agent of record for the transportation provider. Identify the local agent by double clicking on the company name link on this page.

A transportation provider should anticipate paying an annual fee to the process agent for representation. Fees in the range of \$35.00 to \$100.00 per year should be anticipated for this service.

Filing for Authority

Filing for authority begins with the submission of Form OP-1(P), “*Application for Motor Passenger Carrier and Broker Authority*”. This form is contained, along with instructions, in Appendix A to this manual.

Completing Form OP-1(P)

Section I – Applicant Information

This section deals with general identifying information about the applicant.

It is imperative that the applicant name be exactly as it is to appear in all subsequent filings. The name must match the name used in all other filings or rejection of the application can occur.

The representative in Section I is not the process agent. This is the name of the authorized official of the organization.

There is a question about a “U.S. DOT Number.” All operators of commercial motor vehicles must obtain a U.S.DOT number and file an periodic report with FMCSA. If you are a first time filer, you will not have a U.S. DOT number. You must file form MCS-150 to request a DOT number.

The next questions relates to the form of business. The choices include corporation, sole proprietorship, and partnership. Most nonprofit organizations will check “corporation.”

Section II – Type of Authority

The type of authority you are applying dictates the application fee. For each type checked, a fee is required. The standard fee is \$300.00 (fee can be waived if requested by Section 5307, Section 5310, or Section 5311 recipients).

If you operate for compensation, check “motor passenger common carrier.” Non-business PMCPs should also check this box.

Section III – Insurance Information

Applicants must check one box. Determine the type of vehicles in the fleet used for the interstate transport of passengers. Capacities listing should always include the driver. In any vehicles in your fleet to be used in interstate transportation are in excess of 15 passengers (including the driver), you must maintain \$5,000,000 liability coverage.

Note again that recipients of FTA funding under Sections 5307, 5310, or 5311 are subject to alternative levels of liability insurance.

The associated forms must be filed within 90 days of your authority application.

Section IV – Safety Certification

Governmental agencies are “Exempt Applicants.” Check the box that indicates that applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

Check only one box in this section.

Section V – Compliance Certification

This is a general certification that must be checked.

Section VI – Government Funding Status

Nonprofit organizations that receive government financial assistance to support the operation of your interstate transportation services should check box 2 in this section.

Governmental agencies should check the first checkbox for “public recipient.”

A second section of this application lists a place for applicants for regular route authority and private recipients to introduce other information or evidence to support the application. Submit such evidence on a separate sheet of paper and attach to the application.

Section VII – Scope of Operating Authority

This section relates to the type of interstate transportation to be provided by the applicant. Based on the survey responses of Ohio operators that do provide interstate transportation of passengers, virtually all services would be classified as charter and

special transportation between points in the United State (first checkbox). These services are characterized as operated over irregular routes and are not restricted to particular roads or highways in the United States.

Section VIII – Affiliations

All applicants must disclose pertinent information concerning their affiliation, if any, with other former Interstate Commerce Commission (ICC), Federal Highway Administration (FHWA) or now FMSCA-licensed entities.

Section IX – Applicant’s Oath

Applications (Form OP-1(P)) may be prepared by the applicant or an authorized representative. In either case, the oath must be signed by the applicant.

Applications should be signed by the same individuals who are authorized by the governing board (typically the board of directors) to execute grant agreements, etc.

Application Fee

The fee to register is \$300.00 for each authority sought in Section II of the application.

Waiver of Application Fee

While it is not stated in any Federal publication, FTA and FMCSA report that if an applicant is a recipient of FTA funds, the \$300.00 application fee may be waived.

An applicant must request this waiver. ODOT recommends you note this fact in a cover letter accompanying the application.

Paper or Electronic Filing?

FMCSA has introduced a new electronic application system. The system replicates the paper form application and may, in the future, result in faster processing times. FMCSA reports that, at present, there is no advantage in processing time between paper and electronic submissions.

ODOT recommends that paper submission be used by any private entity that may receive Section 5310 financial assistance. The primary reason for this approach is the informal advice provided to ODOT by FTA. While an applicant can acknowledge “government funding status” in the electronic submission, there is no place or form to specifically request waiver of the registration fee. Paper submission affords this opportunity.

Where to Submit

Submit an original and one copy to:

Federal Motor Carrier Safety
Administration
Post Office Box 100147
Atlanta, GA 003084-0147

Motor Carrier Identification Report – Form MCS-150

The Federal Motor Carrier Identification Report (MCS-150) is used to *both* initially apply for a U.S.DOT number and update, on a biennial basis, information concerning your interstate transportation operation.

The MCS-150 is a single-page report. A motor carrier must provide basic information, (*e.g.*, name, address, telephone number, cargo classifications, any types of hazardous materials carried, numbers and types of equipment (trucks, tractors, trailers, passenger vehicles) used, number of drivers, and types of operations. A motor carrier can obtain a hard copy form from:

FMCSA
Office of Research, Technology and
Information Management
400 Seventh Street, SW.,
Washington, DC 20590

Copies of this form are also available from any of the four FMCSA Service Centers or fifty-two Division Offices. The form is printed so it may be folded and mailed, postage-paid by the FMCSA. A motor carrier can also obtain it from the Internet through the Federal Motor Carrier Safety Administration web page at: <https://www.mchqecom.com/mcs150v5/mcs150.pdf>. The motor carrier may fill out the MCS-150 on the screen, print it, and submit it by mail or by facsimile. A for-hire motor carrier should submit the MCS-150 along with its application for operating authority to the appropriate address shown on that form, or may submit it separately to the address mentioned on the web page.

Form MCS-150 is also included, in Adobe Acrobat format, in Appendix B to this Manual.

Data collected during this process is used for analytical purposes, including monitoring nationwide trends and evaluating program effectiveness. The demographic and operational information provided on the MCS-150 enables the agency to determine the safety performance of specific classes of motor carrier operations, by types of freight and passenger transportation provided, and by categories of cargoes transported. This enables the FMCSA to develop strategies to effectively address sector-specific safety issues. The information on types of passenger and freight transportation equipment operated, and the number of drivers used, facilitates the development of vehicle-type-specific safety performance information.

FMCSA has published a FAQ (Frequently Asked Questions) for this form. If you need to download the FAQ, point your web browser to <http://63.72.112.205/news.htm#faq>.

Form MCS-150 may also be filed electronically. Depending on your status, start on this web page: <http://63.72.112.205/intro.asp>. From here you will be able to electronically:

- ◆ Obtain a U.S. DOT Number
- ◆ File or obtain information needed for the biennial update.

In either circumstance, users who wish to file this form electronically will be required to have a valid credit card.

Where Do We Mail this Form if We Wish to Submit a Paper Copy?

If your organization wishes to submit MCS-150 form via the mail, send the completed form to:

FMCSA
Data Analysis & Information Systems,
MC-RIS
400 Seventh Street, SW.,
Washington, DC 20590

Other Resources

ODOT can provide copies of all FMCSRs upon request in either paper or electronic format. Contact ODOT if you require further information.

Additionally, ODOT has provided, in Appendix C, summaries of key legislation and rulemaking impacting the interstate transportation of passengers.

Appendix A

FMCSA Form OP-1(P) and Instructions



**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
FORM OP-1(P)
APPLICATION FOR MOTOR PASSENGER CARRIER AUTHORITY**

Approved by OMB
2125-0568
Expires 04/30/01

This application is for all individuals and businesses requesting authority to operate as motor passenger common or contract carriers.

FOR FMCSA USE ONLY	
Docket No. MC-	_____
Filed	_____
Fee No.	_____
CC Approval No.	_____

SECTION I

Applicant Information

Do you now have authority from or an application being processed by the former ICC, now FMCSA. <input type="checkbox"/> NO <input type="checkbox"/> YES If yes, identify the lead docket number(s) _____
LEGAL BUSINESS NAME _____
DOING BUSINESS AS NAME _____
BUSINESS ADDRESS _____ _____ _____ Street Name and Number City State Zip Code Telephone Number ()
MAILING ADDRESS (If different from above) _____ _____ Street Name and Number City State Zip Code
REPRESENTATIVE (Person who can respond to inquiries) _____ Name and title, position, or relationship to applicant _____ Street Name and Number City State Zip Code Telephone Number () FAX Number ()
U.S. DOT Number (If available; if not, see Instructions.) _____
FORM OF BUSINESS (Check only one.) <input type="checkbox"/> Corporation State of Incorporation _____ <input type="checkbox"/> Sole Proprietorship Name of Individual _____ <input type="checkbox"/> Partnership Identify Partners _____ _____

SECTION II

Type of Authority

You must submit a filing fee for each type of authority requested (for each box checked).	
<input type="checkbox"/>	MOTOR PASSENGER COMMON CARRIER
<input type="checkbox"/>	MOTOR PASSENGER CONTRACT CARRIER

SECTION III

**Insurance
Information**

All motor passenger carrier applicants must maintain public liability insurance. The amounts in parentheses represent the minimum amount of coverage required.

Applicant will use vehicles with seating capacities of (check only one box):

- 16 passengers or more (\$5,000,000)
- 15 passengers or fewer only (\$1,500,000)

SECTION IV

**Safety
Certification**

APPLICANTS SUBJECT TO FEDERAL MOTOR CARRIER SAFETY REGULATIONS - If you are subject to pertinent portions of the U.S. DOT's Federal Motor Carrier Safety Regulations at 49 CFR, Chapter 3, Subchapter B (Parts 350-399), you must certify as follows:

Applicant has access to and is familiar with all applicable U.S. DOT regulations relating to the safe operation of commercial vehicles and the safe transportation of hazardous materials and it will comply with these regulations. In so certifying, applicant is verifying that, at a minimum, it:

- (1) Has in place a system and an individual responsible for ensuring overall compliance with Federal motor carrier safety regulations;
- (2) Can produce a copy of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Transportation Regulations;
- (3) Has in place a driver safety training/orientation program;
- (4) Has prepared and maintains an accident register (49 CFR 390.15);
- (5) Is familiar with DOT regulations governing driver qualifications and has in place a system for overseeing driver qualification requirements (49 CFR Part 391);
- (6) Has in place policies and procedures consistent with DOT regulations governing driving and operational safety of motor vehicles, including drivers' hours of service and vehicle inspection, repair, and maintenance (49 CFR Parts 392, 395 and 396);
- (7) Is familiar with and will have in place on the appropriate effective date, a system for complying with U.S. DOT regulations governing alcohol and controlled substances testing requirements (49 CFR 382 and 49 CFR Part 40).

YES

EXEMPT APPLICANTS - If you are exempt from Federal Motor Carrier Safety Regulations, you must certify as follows:

Applicant is familiar with and will observe general operational safety guidelines, as well as any applicable state and local laws and requirements relating to the safe operation of commercial motor vehicles and the safe transportation of hazardous materials.

YES

SECTION V

**Compliance
Certification**

ALL MOTOR PASSENGER CARRIER APPLICANTS must certify as follows:
Applicant is fit, willing, and able to provide the proposed operations and to comply with all pertinent statutory and regulatory requirements.

YES

SECTION VI

**Government
Funding
Status**

Specify the nature of governmental financial assistance you receive, if any, by checking the appropriate box below. (Check only one box.)

- Public recipient - Applicant is any of the following: any state; any municipality or other political subdivision of a state; any public agency or instrumentality of such entities of one or more states; an Indian tribe; and any corporation, board or other person owned or controlled by such entities or owned by, controlled by, or under common control with such a corporation, board, person which is receiving or has ever received governmental financial assistance for the purchase or operation of any bus.
- Private recipient - Applicant is not a public recipient but is receiving, or has received in the past, governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.
- Non-recipient - Applicant is not receiving, or using equipment acquired with, governmental financial assistance.

Public Interest Criteria: Regular route applicants and private recipient applicants may introduce supplemental evidence describing how the proposed service will respond to existing transportation needs or is otherwise consistent with the public interest. Filing this evidence with the application is optional, but it may be needed later, if the application is protested.

Public Recipient Applicants: All public recipient applicants for charter or special transportation must submit evidence to demonstrate either that:

- (1) No motor common carrier of passengers (other than a motor common carrier of passengers that is a public recipient of governmental assistance) is providing, or is willing and able to provide, the transportation to be authorized by the certificate; or
- (2) The transportation to be authorized by the certificate is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

Supplemental evidence should be provided on a separate sheet of paper attached to this application.

Fitness Only Criteria: No additional evidence is needed from non-recipient applicants for charter and special transportation and applicants for contract carrier operations.

SECTION VII

Scope of Operating Authority

(1) **Charter and special** transportation, in interstate or foreign commerce, between points in the United States.

(2) Service as a common carrier over **regular routes**. (Regular route passenger carrier authority to perform regularly scheduled service only over named roads or highways.) Regular route passenger service includes authority to transport newspapers, baggage of passengers, express packages, and mail in the same motor vehicle with passengers, or baggage of passengers in a separate motor vehicle.

Applicants requesting authority to operate over regular routes - On a separate sheet of paper attached to the application, describe the specific routes over which you intend to provide regularly scheduled service. You must also furnish a map clearly identifying each regular route involved in your passenger carrier service description(s).

(3) **Intrastate authority**

(a) Are you also requesting **intrastate authority** to provide the service described in item 2?
 YES NO

(b) Do you already hold **interstate authority** to provide the service described above?
 YES NO

(c) If you responded "YES" to 3(b) (*i.e.*, if you already hold interstate authority to provide this service), was the authority issued on or before November 19, 1982?
 YES NO

If you responded "YES" to 3(c), you must attach to your application a copy of the interstate authority or authorities issued on before November 19, 1982, authorizing the transportation of passengers on the routes over which you request intrastate authority. You must mark the envelope and the application in the upper right corner of the front page "90-Day Intrastate Passenger Application."

NOTE: The FMCSA has no jurisdiction to grant intrastate authority independently of interstate authority on the same routes. Also, no carrier may conduct operations under a certificate authorizing intrastate regular route service unless it actually is conducting substantial operations in interstate commerce over the same route.

SECTION VII

**Scope of
Operating
Authority (cont.)**

(4) Service as a **contract carrier** between points in the United States, under continuing contract(s) with persons or organizations requiring passenger transportation service;

or

Service as a **contract carrier** between points in the United States, under continuing contract(s) with:

—
Contracting persons or organizations

As a contract carrier, I will: (Check the box(es) indicating how you will meet the statutory requirements for contract carriage.)

(a) Furnish the transportation service through the assignment of motor vehicles for a continuing period of time for the exclusive use of each group or organization served;

(b) Furnish the transportation service designed to meet the distinct needs of each group, organization, or class of groups or organizations. Describe briefly the distinct need(s) below and/or introduce supplemental supporting evidence to identify service needs corresponding to the operations proposed.

—

—

—

—

(5) Alternative Service Descriptions

If you request authority that is not covered by items 1-4 above, (*i.e.*, authority to operate in specific territories not identified in the service options previously set forth), describe in the space below.

—

—

—

This service description takes into account the applicant's operational capacity, is responsive to applicant's present and prospective service interest, is not unduly restrictive, and is consistent with the purposes of the Interstate Commerce Act. Certify by checking:

<input type="checkbox"/> YES

SECTION VIII

Affiliations

AFFILIATION WITH OTHER FORMER ICC, NOW FMCSA-LICENSED ENTITIES. Disclose any relationship you have or have had with any other former ICC, now FMCSA-licensed entity within the past 3 years. For example, this could be through a percentage of stock ownership, a loan, or a management position. If this requirement applies to you, provide the name of the company, MC-number, DOT number, and that company's latest U.S. DOT safety rating. (If you require more space, attach the information to this application form.)

SECTION IX

**Applicant's
Oath**

This oath applies to all supplemental filings to this application. The signature must be that of applicant, not legal representative.

I, _____, verify under penalty of
Name and title

perjury, under the laws of the United States of America, that all information supplied on this form or relating to this application is true and correct. Further, I certify that I am qualified and authorized to file this application. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to 5 years for each offense.

I further certify under penalty of perjury, under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862).

Finally, I certify that applicant is not domiciled in Mexico or owned or controlled by persons of that country. (Note: This portion of Applicant's Oath does not pertain to Mexican passenger carriers seeking to provide charter and tour bus service across the United States - Mexico international border.)

Signature _____ Date _____

Filing Fee Information

All applicants must submit a filing fee for each type of authority requested. The enclosed fee schedule will show the appropriate filing fee. The total amount due is equal to the fee times the number of boxes checked in **Section II**. Fees for multiple authorities may be combined in a single payment.

Total number of boxes checked in **Section II**: _____ x filing fee \$ _____ = \$ _____

INDICATE AMOUNT \$ _____ AND METHOD OF PAYMENT

CHECK or MONEY ORDER, payable to: **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

VISA MASTERCARD

Credit Card Number _____ Expiration Date _____

Signature _____ Date _____

Fee Policy

- Filing fees must be payable to the **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**, by check drawn upon funds deposited in a bank in the United States or money order payable in U.S. currency or by approved credit card.
- Separate fees are required for each **type of authority** requested. If applicant requests multiple types of permanent authority on one application form (for example, common and contract carrier authority) or if applicant submits more than one form in the OP-1 Series in a single filing, multiple fees are required. The applicant may submit a single payment for the sum of the applicable fees.
- Filing fees must be sent, along with the original and one copy of the application, to **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**, P. O. Box 100147, Atlanta, GA, 30384-0147. **For express mail only:** Nationsbank Wholesale Lockbox 100147, 6000 Feldwood Road, 3rd Floor East, College Park, GA 30349. **For credit card only:** FMCSA, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, D.C., 20024.
- After an application is received, the filing fee is not refundable.
- The FMCSA reserves the right to discontinue processing any application for which a check is returned because of insufficient funds. The application will not be processed until the fee is paid in full.

PAPERWORK BURDEN. It is estimated that an average of 2 burden hours per response are required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to both the **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**, Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024, and to the Office of Management and Budget, Office of Information and Regulatory Affairs (OMB No. 3120-0047), Washington, DC 20403.

Instructions for Form OP-1(P) - Application For Motor Passenger Carrier and Broker Authority

Download - [OP-1\(P\).PDF](#)

To view PDF files you must have Acrobat Reader, download the [PDF File Reader](#)

These instructions will assist you in preparing accurate and complete application filings. Applications that do not contain the required information will be rejected and may result in a loss of the application fee. The application must be typed or printed in ink. If additional space is needed to provide a response to any item, use a separate sheet of paper. Identify applicant on each supplemental page and refer to the section and item number in the application for each response.

SECTION FMCSA AUTHORITY. If you now have any former **ICC or FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION** authority or have an application for authority being processed now by the FMCSA, check the "YES" box and indicate the docket or the MC number you have been assigned. Example: MC-987654.

APPLICANT'S LEGAL BUSINESS NAME and DOING BUSINESS AS NAME. . The applicant name should be your full legal business name -- the name on the incorporation certificate, partnership agreement, tax records, etc. If you use a trade name that differs from your official business name, indicate this under "Doing Business As Name." Example: If you are John Jones, doing business as Quick Way Transit, enter "John Jones" under APPLICANT'S LEGAL BUSINESS NAME and "Quick Way Transit" under DOING BUSINESS AS NAME.

Because the FMCSA uses computers to retain information about regulated carriers, it is important that you spell, space, and punctuate any name the same way each time you write it. Example: John Jones Transit Co., Inc.; J. Jones Transit Co., Inc.; and John Jones Transit are considered three separate companies.

BUSINESS ADDRESS/MAILING ADDRESS. The business address is the physical location of the business. Example: 756 Bounty Street; 15433 State Highway 23. If applicant receives mail at an address different from the business location, also provide the mailing address. Example: P.O. Box 3721. NOTE: To receive pertinent FMCSA notices and to ensure that insurance documents filed on applicant's behalf are accepted, notify the FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION in writing (Licensing and Insurance Division, Suite 600, 400 Virginia Avenue, S.W., Washington, DC 20024) if the business or mailing address changes.

REPRESENTATIVE. If someone other than the applicant is preparing this form, provide the representative's name, title, position, or relationship to the applicant, address. and telephone and FAX numbers. Applicant's representative will be the

contact person if there are questions concerning this application.

U.S. DOT NUMBER. Applicants subject to the Federal Motor Carrier Safety Regulations are required to register with the U.S. Department of Transportation (U.S. DOT) before initiating service. Motor carriers that already have been issued a U.S. DOT registration number, should provide it; applicants that have not registered with U.S. DOT should refer to the U.S. DOT information sources under the "Additional Assistance" part of these Instructions.

FORM OF BUSINESS. A business is either a corporation, sole proprietorship or a partnership. If the business is a sole proprietorship, provide the name of the individual who is the owner. In this situation, the owner is the authority applicant. If the business is a partnership, provide the name of each partner.

SECTION II TYPE OF AUTHORITY. Check the appropriate box(es) for the type(s) of authority you are requesting. Note: A separate filing fee is required for each type of authority requested. See "Fee Policy" in the application form.

SECTION III INSURANCE INFORMATION. . Check the appropriate box that describes the seating capacity of your vehicles. If all the vehicles you operate have a seating capacity of 15 passengers or fewer, you are required to maintain \$1,500,000 minimum liability coverage. If any one of the vehicles you operate has a seating capacity of 16 passengers or more, you are required to maintain \$5,000,000 minimum liability coverage. Appropriate insurance forms must be filed within 90 days after the date notice of your application is published in the FMCSA Register: Form BMC-91 or BMC-91X for bodily injury and property damage. The FMCSA does not furnish copies of insurance forms. You must contact your insurance company to arrange for the filing of all required insurance forms.

SECTION IV SAFETY CERTIFICATION. Applicants for motor passenger carrier authority must complete the safety certification. You should check the "YES" response only if you can attest to the truth of the statements. The "Applicant's Oath" at the end of the application form applies to all certifications. and false certifications are subject to the

penalties described in that oath.

If you are exempt from the U.S. DOT safety fitness regulations, you must certify that you are familiar with and will observe general operational safety fitness guidelines and applicable state and local laws relating to the safe operation of commercial motor vehicles.

You must check only one of the boxes in this section.

SECTION FITNESS CERTIFICATION. You must complete the appropriate fitness certification.

V

SECTION FUNDING STATUS. All applicants must disclose their funding status. If you are a public recipient applicant, you must submit the additional evidence indicated. (This evidence should be provided on a separate sheet of paper attached to your application.)

VI

SECTION SCOPE OF OPERATING AUTHORITY.

VII

When developing passenger service descriptions, the following guidelines may be useful:

Special and charter operations and contract carrier operations generally are conducted over irregular routes (i.e., authority that is not restricted to particular roads or highways), between points in the United States.

Other passenger carrier operations generally are performed over regular routes (i.e., authority to perform regularly scheduled service between designated points and operating over named roads or highways).

Intrastate motor passenger applicants -- If you also request intrastate, regular-route authority, you must send a description of the proposed service to the state transportation regulatory body of the state(s) in which the operations described in the application will be performed.

SECTION AFFILIATIONS. All applicants must disclose pertinent information concerning their affiliations, if any, with other former ICC, now FMCSA-licensed entities.

VIII

SECTION IX APPLICANT'S OATH. Applications may be prepared by the applicant or an authorized representative. In either case, the oath must be signed by the applicant. In the case of companies, an authorized employee in the ownership structure may sign. An individual with power of attorney to act on behalf of the applicant may sign, provided that proof of the power of attorney is submitted with the application.

LEGAL PROCESS AGENTS All applicants must designate a process agent in each state where operations are authorized. Process agents who will accept legal filings on applicant's behalf are designated on FMCSA Form BOC-3. Form BOC-3 must be filed within **90** days after the date notice of the application is published in the FMCSA Register.

STATE NOTIFICATION Before beginning new or expanded interstate operations, all applicants must contact the appropriate regulatory agencies in every state in and through which the carrier will operate to obtain information regarding various state rules applicable to interstate authorities. It is the applicant's responsibility to comply with registration, fuel tax, and other state regulations and procedures. Begin this process by contacting the transportation regulatory agency for the state in which your business is located.

MAILING INSTRUCTIONS To file for authority you must submit an **original and one copy** of this application with the appropriate filing fee to **FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**, P. O. Box 100147, Atlanta, GA 03084-0147.

NOTE: RETAIN A COPY OF THE COMPLETED APPLICATION FORM AND ANY ATTACHMENTS FOR YOUR OWN RECORDS.

ALL DOCUMENTS WITH FEES ATTACHED:

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
P. O. Box 100147
Atlanta, GA 30384-0147

FOR EXPRESS MAIL ONLY

Nationsbank Wholesale Lockbox 100147
6000 Feldwood Road
3rd Floor East
College Park, GA 30349

FOR CREDIT CARD USERS ONLY:

FMCSA, Licensing and Insurance Division
Suite 600, 400 Virginia Avenue, S.W.
Washington, DC. 20024

ADDITIONAL ASSISTANCE FMCSA INFORMATION SOURCES

Additional information on obtaining operating authority or monitoring the status of your applications is available through the Automated Response Capability (ARC) telephone system. After dialing (202) 358-7000, press 1, then request appropriate menu number indicated below. You may use the ARC 24 hours a day, 7 days a week to obtain information in the following areas:

Information Requested MENU NUMBER

Status of your application = 1

(NOTE: Tracking the status of your application can be simplified and expedited if you refer to the assigned docket number when making inquiries. You will be informed of your docket number by letter sent on the date notice of your application appears in the *FMCSA Register*.)

Assistance in filing your application = 3

Status of insurance and process agent filing = 2

If you require information that is not available in the automated response system the ARC will guide you to an appropriate staff member who will be able to assist you in other areas.

U. S. DEPARTMENT OF TRANSPORTATION INFORMATION SOURCES

U.S. DOT Registration and Safety Ratings

- To obtain information on registering with U.S. DOT (filing Form MCS-150) or to request a safety fitness review, write to:

Director, Office of Data Analysis & Information Systems
FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION
400 7th Street, S.W. - HMIA
Washington, DC 20590

or call: (800) 832-5660 (Automated response system)

- For information concerning a carrier's assigned safety rating, call: (800) 832-5660



Appendix B

FMCSA Form MCS-150 and Instructions





MOTOR CARRIER IDENTIFICATION REPORT (Application for U.S. DOT Number)

IF THE SPACE ABOVE IS BLANK OR THE INFORMATION THEREIN IS INCORRECT, PLEASE IDENTIFY YOUR COMPANY'S PRINCIPAL OFFICE IN THE SPACES BELOW.

1. NAME OF MOTOR CARRIER/HM SHIPPER			2. TRADE OR D.B.A. (DOING BUSINESS AS) NAME		
3. PRINCIPAL STREET ADDRESS/ROUTE NUMBER			4. MAILING ADDRESS (P O BOX)		
5. CITY	6. STATE/PROVINCE	7. ZIP CODE+4	8. MAILING CITY	9. STATE/PROVINCE	10. ZIP CODE+4
11. COLONIA (MEXICO ONLY)		12. PRINCIPAL PHONE NUMBER		13. COLONIA (MEXICO ONLY)	
				14. PRINCIPAL FAX NUMBER	
15. USDOT NO.	16. MC OR MX NO.	17. DUN & BRADSTREET NO.	18. IRS/TAX ID NO. EIN # SSN #		19. INTERNET E-MAIL ADDRESS

20. CARRIER OPERATION (Circle One)
 A. Interstate B. Intrastate Only (Hazardous Materials) C. Intrastate Only (Non-Hazardous Materials)

21. SHIPPER OF HAZARDOUS MATERIALS OPERATION (Circle One)
 A. Interstate B. Intrastate

22. CARRIER MILEAGE (to nearest 10,000 miles for Last Calendar Year) YEAR

23. OPERATION CLASSIFICATION (Circle All that Apply)

<input type="checkbox"/> A. Authorized For-Hire	<input type="checkbox"/> D. Private Passengers (Business)	<input type="checkbox"/> G. U.S. Mail	<input type="checkbox"/> J. Local Government
<input type="checkbox"/> B. Exempt For-Hire	<input type="checkbox"/> E. Private Passengers (Non-Business)	<input type="checkbox"/> H. Federal Government	<input type="checkbox"/> K. Indian Tribe
<input type="checkbox"/> C. Private (Property)	<input type="checkbox"/> F. Migrant	<input type="checkbox"/> I. State Government	<input type="checkbox"/> L. Other _____

24. CARGO CLASSIFICATIONS (Circle All that Apply)

<input type="checkbox"/> A. GENERAL FREIGHT	<input type="checkbox"/> F. LOGS, POLES	<input type="checkbox"/> J. FRESH PRODUCE	<input type="checkbox"/> P. GRAIN, FEED, HAY	<input type="checkbox"/> V. COMMODITIES DRY BULK
<input type="checkbox"/> B. HOUSEHOLD GOODS	<input type="checkbox"/> BEAMS, LUMBER	<input type="checkbox"/> K. LIQUIDS/GASES	<input type="checkbox"/> Q. COAL/COKE	<input type="checkbox"/> W. REFRIGERATED FOOD
<input type="checkbox"/> C. METAL: SHEETS, COILS, ROLLS	<input type="checkbox"/> G. BUILDING MATERIALS	<input type="checkbox"/> L. INTERMODAL CONT.	<input type="checkbox"/> R. MEAT	<input type="checkbox"/> X. BEVERAGES
<input type="checkbox"/> D. MOTOR VEHICLES	<input type="checkbox"/> H. MOBILE HOMES	<input type="checkbox"/> M. PASSENGERS	<input type="checkbox"/> S. GARBAGE, REFUSE, TRASH	<input type="checkbox"/> Y. PAPER PRODUCTS
<input type="checkbox"/> E. DRIVE AWAY/TOWAWAY	<input type="checkbox"/> I. MACHINERY, LARGE OBJECTS	<input type="checkbox"/> N. OIL FIELD EQUIPMENT	<input type="checkbox"/> T. U.S. MAIL	<input type="checkbox"/> Z. UTILITY
		<input type="checkbox"/> O. LIVESTOCK	<input type="checkbox"/> U. CHEMICALS	<input type="checkbox"/> AA. FARM SUPPLIES
				<input type="checkbox"/> BB. CONSTRUCTION
				<input type="checkbox"/> CC. WATER WELL
				<input type="checkbox"/> DD. OTHER _____

25. HAZARDOUS MATERIALS CARRIED OR SHIPPED (Circle All that Apply.) C - CARRIED S - SHIPPED B(BULK) - IN CARGO TANKS NB(NON-BULK) - IN PACKAGES

C	S	A. DIV 1.1	B	NB	C	S	K. DIV 2.2A (AMMONIA)	B	NB	C	S	U. DIV 4.2	B	NB	C	S	EE. HRCQ	B	NB
C	S	B. DIV 1.2	B	NB	C	S	L. DIV 2.3A	B	NB	C	S	V. DIV 4.3	B	NB	C	S	FF. CLASS 8	B	NB
C	S	C. DIV 1.3	B	NB	C	S	M. DIV 2.3B	B	NB	C	S	W. DIV 5.1	B	NB	C	S	GG. CLASS 8A	B	NB
C	S	D. DIV 1.4	B	NB	C	S	N. DIV 2.3C	B	NB	C	S	X. DIV 5.2	B	NB	C	S	HH. CLASS 8B	B	NB
C	S	E. DIV 1.5	B	NB	C	S	O. DIV 2.3D	B	NB	C	S	Y. DIV 6.2	B	NB	C	S	II. CLASS 9	B	NB
C	S	F. DIV 1.6	B	NB	C	S	P. CLASS 3	B	NB	C	S	Z. DIV 6.1A	B	NB	C	S	JJ. ELEVATED TEMP MAT	B	NB
C	S	G. DIV 2.1	B	NB	C	S	Q. CLASS 3A	B	NB	C	S	AA. DIV 6.1B	B	NB	C	S	KK. INFECTIOUS WASTE	B	NB
C	S	H. DIV 2.1LPG	B	NB	C	S	R. CLASS 3B	B	NB	C	S	BB. DIV 6.1POISON	B	NB	C	S	LL. MARINE POLLUTANTS	B	NB
C	S	I. DIV 2.1(METHANE)	B	NB	C	S	S. COMB LIQ	B	NB	C	S	CC. DIV 6.1SOLID	B	NB	C	S	MM. HAZARDOUS SUB(RQ)	B	NB
C	S	J. DIV 2.2	B	NB	C	S	T. DIV 4.1	B	NB	C	S	DD. CLASS 7	B	NB	C	S	NN. HAZARDOUS WASTE	B	NB
										C	S	OO. ORM	B	NB					

26. EQUIPMENT

Straight Trucks	Truck Tractors	Trailers	HazMat Cargo Tank Trailers	HazMat Cargo Tank Trucks	Motor coach	PASSENGERS			
						School bus	Mini-bus/Van	Limousine	
OWNED									
TERM LEASED									
TRIP LEASED									

27. DRIVER INFORMATION

INTERSTATE	INTRASTATE
100-Mile Radius _____	100-Mile Radius _____
Beyond 100-Mile Radius _____	Beyond 100-Mile Radius _____
TOTAL DRIVERS 0	
TOTAL CDL DRIVERS _____	

28. CERTIFICATION STATEMENT (to be completed by an authorized official)

I, _____, certify that I am familiar with the Federal Motor Carrier Safety Regulations and/or the Federal Hazardous Materials Regulations. Under penalties of perjury, I declare that the information entered on this report is, to the best of my knowledge and belief, true, correct, and complete.

Signature _____ Date _____ Title _____

NOTICE

This collection of information is mandatory and is required by 49 CFR Part 385 and authorized by 49 U.S.C. 504 (1982 & Supp. III 1985). The Form MCS-150, Motor Carrier Identification Report, must be filed by all motor carriers operating in interstate or foreign commerce. A new motor carrier must file Form MCS-150 before beginning operations, Exception: A motor carrier that has received notification of a safety rating from the Federal Motor Carrier Safety Administration (FMCSA) need not file the report. If you are a Hazardous materials shipper, but not a motor carrier, you are not required to file this report. This information will be used to identify motor carriers subject to the Federal Motor Carrier Safety and Hazardous Materials Regulations. Carriers may voluntarily update information using this report.

The public reporting burden for this collection of information on the Form MCS-150 is estimated by the FMCSA to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is OMB No. 2126-0013. If you wish to comment on the accuracy of the estimate or make suggestions for reducing this burden, please direct your comments to the FMCSA at the following address: Federal Motor Carrier Safety Administration, Bus & Truck Standards & Operations, 400 7th Street SW, Washington, D.C. 20590.

To mail, fold the completed report so that the self-addressed postage paid panel is on the outside.

INSTRUCTIONS FOR COMPLETING THE MOTOR CARRIER IDENTIFICATION REPORT (MCS-150)

(Please **Print** or **Type** All Information)

1. Enter the legal name of the business entity (i.e., corporation, partnership, or individual) that owns/controls the motor carrier/shipper operation.
2. If the business entity is operating under a name other than that in Block 1, (i.e., "trade name") enter that name. Otherwise, leave blank.
3. Enter the principal place of business street address where safety records are kept.
4. Enter mailing address if different from the physical address, otherwise leave blank. Also, applies to #8, #9, #10 & 13.
5. Enter the city where the principal place of business is located.
6. Enter the two-letter postal abbreviation for the State or the name of the Canadian Province/Territory or Mexican State corresponding with the physical address.
7. Enter the zip code + 4 number corresponding with the physical street address.
8. Enter the city corresponding with the mailing address.
9. Enter the two-letter postal abbreviation for the State or the name of the Canadian Province/Territory or Mexican State corresponding with the mailing address.
10. Enter the zip code + 4 number corresponding with the mailing address.
11. If a Mexican motor carrier or shipper, enter the Mexican "colonia" or "barrio" where the principal place of business is located.
12. Enter the telephone number, including area code, of the principal place of business.
13. If a Mexican motor carrier or shipper, enter the Mexican "colonia" or "barrio" corresponding with the mailing address.
14. Enter the Fax number, including area code, of the principal place of business.
15. Enter the identification number assigned to your motor carrier operation by the U.S. Department of Transportation, if known.
16. Enter the motor carrier "MC" or "MX" number under which the Federal Motor Carrier Safety Administration (FMCSA), or Interstate Commerce Commission (ICC) issued your operating authority, if appropriate.
17. Enter your Dun & Bradstreet business number (used as a secondary identifier; if you do not have one, leave blank).
18. Enter the employer identification number (EIN #) or social security number (SSN #) assigned to your motor carrier operation by the Internal Revenue Service.
19. Enter the e-mail address for the official point of contact, if you have one.
20. Circle the appropriate type of carrier operation.
 - A. Interstate
 - B. Intrastate, transporting hazardous materials (49 CFR 100-180).
 - C. Intrastate, **NOT** transporting hazardous materials.

Interstate—transportation of persons or property across State lines, including international boundaries, or wholly within one State as part of a through movement that originates or terminates in another State or country.

Intrastate—transportation of persons or property wholly within one State.
21. If you are both a motor carrier and hazardous materials shipper, circle the type of operation.

Interstate & Intrastate—See #20.

 - A. Interstate
 - B. Intrastate
22. Enter the carrier's total mileage to nearest 10,000 miles for the past calendar year, and the year of the mileage.
23. Circle appropriate classification. Circle **all** that apply. If "L. Other" is circled, enter the type of operation in the space provided.

Authorized For Hire—transportation for compensation as a common or contract carrier of property, owned by others, or passengers under the provisions of the FMCSA.

Exempt For Hire—transportation for compensation of property or passengers exempt from the economic regulation by the FMCSA.

Private (Property)—means a person who provides transportation of property by commercial motor vehicle and is not a for-hire motor carrier.

Private Passengers (Business)—a private motor carrier engaged in the interstate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large (e.g., bands).

Private Passengers (Non-Business)—a private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business) (e.g., church buses).

Migrant—interstate transportation, including a contract carrier, but not a common carrier of 3 or more migrant workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon.

U.S. Mail—transportation of U.S. Mail under contract with the U.S. Postal Service.

Federal Government—transportation of property or passengers by a U.S. Federal Government agency.

State Government—transportation of property or passengers by a U.S. State Government agency.

Local Government—transportation of property or passengers by a local municipality.

Indian Tribe—transportation of property or passengers by an Indian tribal government.

Other—transportation of property or passengers by an operation classification not described above.

24. Circle **all** the letters of the types of cargo you usually transport. If "Other" is circled, enter the name of the commodity in the space provided.

25. Circle all types of hazardous materials (HM) you transport/ship. In the columns before the HM types, circle C for a carrier of HM and S for a shipper of HM. In the columns following the HM types, circle B if the HM is transported in bulk (over 119 gallons) and NB if the HM is transported in non-bulk (119 gallons or less). The HM types correspond to the classes and divisions listed in 49 CFR 173.2. Below are clarifications for the lettered codes:

A.	Div 1.1 Explosives (with mass explosion hazard)	AA.	Div 6.1 B (Poison Liquid which is a PIH Zone B)
B.	Div 1.2 Explosives (with projection hazard)	BB.	Div 6.1 Poison (Poisonous liquid with no inhalation hazard)
C.	Div 1.3 Explosives (with predominantly fire hazard)	CC.	Div 6.1 Solid (Meets the definition of a poisonous solid)
D.	Div 1.4 Explosives (with no significant blast hazard)	DD.	Class 7 Radioactive material
E.	Div 1.5 Very insensitive explosives; blasting agents	EE.	HRCQ (Highway Route Controlled Quantity of Radioactive Material)
F.	Div 1.6 Extremely insensitive detonating substances	FF.	Class 8 Corrosive material
G.	Div 2.1 Flammable gas	GG.	Class 8 A (Corrosive liquid which is a PIH Zone A)
H.	Div 2.1 LPG (Liquified Petroleum Gas)	HH.	Class 8 B (Corrosive liquid which is a PIH Zone B)
I.	Div 2.1 Methane Gas	II.	Class 9 Miscellaneous hazardous material
J.	Div 2.2 Non-flammable compressed gas	JJ.	Elevated Temperature Material (Meets definition in 49 CFR 171.8 for an elevated temperature material.
K.	Div 2.2 A (Anhydrous Ammonia)	KK.	Infectious Waste (Meets definition in 49 CFR 171.8 for an infectious waste)
L.	Div 2.3 A (Poison Gas which is Poison Inhalation Hazard (PIH) Zone A)	LL.	Marine Pollutants (Meets definition in 49 CFR 171.8 for a marine pollutant)
M.	Div 2.3 B (Poison Gas which is PIH Zone B)	MM.	Hazardous Sub(RQ) (Meets definition in 49 CFR 171.8 of a reportable quantity of a hazardous substance)
N.	Div 2.3 C (Poison Gas which is PIH Zone C)	NN.	Hazardous Waste (Meets definition in 49 CFR 171.8 of a hazardous waste)
O.	Div 2.3 D (Poison Gas which is PIH Zone D)	OO.	ORM (Meets definition in 49 CFR 171.8 of Other Regulated Material)
P.	Class 3 Flammable and combustible liquid		
Q.	Class 3 A (Flammable liquid which is a PIH Zone A)		
R.	Class 3 B (Flammable liquid which is a PIH Zone B)		
S.	Combustible Liquid (Refer to 49 CFR 173.120(b))		
T.	Div 4.1 Flammable solid		
U.	Div 4.2 Spontaneously combustible material		
V.	Div 4.3 Dangerous when wet material		
W.	Div 5.1 Oxidizer		
X.	Div 5.2 Organic peroxide		
Y.	Div 6.2 Infectious substance (Etiologic agent)		
Z.	Div 6.1 A (Poison Liquid which is a PIH Zone A)		

Note: Information on Poison Inhalation Hazards is found in column 7 of the Hazardous Materials table, (49 CFR 172.101).

26. Enter the total number of vehicles owned, term leased and trip leased, that are, or can be, operational the day this form is completed.

Passenger vehicles are defined as:

Motor coach—a vehicle designed for long distance transportation of passengers, usually equipped with storage racks above the seats and a baggage hold beneath the passenger compartment.

School Bus—a vehicle designed and/or equipped mainly to carry primary and secondary students to and from school, usually built on a medium or large truck chassis.

Mini-bus/Van—a multi-purpose passenger vehicle with a capacity of 10-24 people, typically built on a small truck chassis.

Limousine—a passenger vehicle usually built on a lengthened automobile chassis.

27. Enter the number of interstate/intrastate drivers used on an average work day. Part-time, casual, term leased, trip leased and company drivers are to be included. Also, enter the total number of drivers (Interstate/Intrastate) and the total number of drivers who have a Commercial Drivers License (CDL).

Interstate—driver transports people or property across State lines, including international boundaries, or wholly within one State as part of a through movement that originates or terminates in another State or country.

Intrastate—driver transports people or property wholly within one State.

100-mile radius driver—driver operates only within a 100 air-mile radius of the normal work reporting location.

28. Print or type the name, in the space provided, of the individual authorized to sign documents on behalf of the entity listed in Block 1. That individual must sign, date, and show his or her title in the spaces provided (Certification Statement, see 49 CFR 390.19).

U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Official Business
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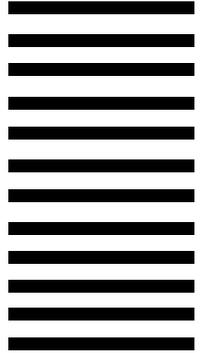
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Washington, D.C. 20590**



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Appendix C

Regulatory Overview of Key Legislation and Rulemaking



Appendix B-1

Summary of Key Legislation

Legislation:

The Motor Carrier Act of 1984 (Public Law 98-554)

Summary Description:

The Motor Carrier Act of 1984 (Public Law 98-554) extended, for the first time, the Federal government's jurisdiction to regulate **private** motor carriers of passengers (PMCPs). Congress defined the FHWA's jurisdiction on the basis of vehicles operating in interstate commerce. The stated purposes of the 1984 Act were to promote the safe operation of commercial motor vehicles; minimize dangers to the health of operators of commercial motor vehicles; and assure increased compliance with traffic laws and with the commercial motor vehicle safety rules.

Congress expanded the definition of commercial motor vehicle (CMV) in this legislation to include the definition widely known in the public transportation industry for purposes of determining whether the driver is required to hold a Commercial Driver's License (CDL).

Interstate commerce was defined in the same section of the Act as trade, traffic, or transportation in the United States which is between a place in a State and a place outside of such State (including a place outside of the United States) or is between two places in a State through another State or a place outside of the United States." Therefore, anyone operating or causing to be operated vehicles as defined in the Act in interstate commerce became subject to regulation

Key Provisions Applicable to Public and Coordinated Transportation:

Allowed FHWA (now FMCSA) to apply safety regulations to other than for-hire (common) carriers of transportation. All private nonprofit organizations and private, for-profit organizations who operate transit or operate transit under contract to a public entity will have to comply with the safety regulations promulgated by FHWA.

Attachment B-2

Summary of Key Legislation

Legislation:

The Commercial Motor Vehicle Safety Act (Public Law 99-570)

Summary Description:

The Commercial Motor Vehicle Safety Act (CMVSA) of 1986 established requirements for testing and licensing of all drivers of commercial motor vehicles as defined in that Act. Under the implementing regulations in 49 CFR part 383, all drivers subject to that part must successfully complete a knowledge test and skills examination, as applicable, both of which are administered by the driver's state of residence. The state then issues a Commercial Driver's License (CDL), which is the only license that may be possessed by an operator of a commercial motor vehicle. The operative definitions in the CMVSA of 1986 extends jurisdiction to any driver of a defined vehicle, whether in interstate or intrastate commerce, and whether or not otherwise subject to DOT jurisdiction.

Key Provisions Applicable to Public and Coordinated Transportation:

This legislation will impact all transit operations, both public transit and coordination projects, who operate passenger vehicles designed to carry more than 15 passengers, including the driver. The legislation requires each state to establish a licensing and testing program for all such drivers. Drivers who do not hold a commercial driver's license (CDL) will be unable to operate transit vehicles that fall into the category of a commercial motor vehicle (CMV).

Attachment B-3

Summary of Key Legislation

Legislation:

The ICC Termination Act (Public Law 104-88)

Summary Description:

The Act abolished the Interstate Commerce Commission, established a new Surface Transportation Board within the U.S. Department of Transportation, and transferred other regulatory functions that had not been heretofore subject to deregulation to the Secretary of Transportation.

Authority of the Surface Transportation Board

A new Surface Transportation Board was created with broad powers to regulate and enforce provisions of the Act over rail transportation; transportation by motor carrier, water carrier, and freight forwarders; miscellaneous classified carriers, and pipeline carriers.

Requirement for a Designated Agent

Any carrier with a matter before the Board must have designated agent to represent the entity. The Act states:

A carrier providing transportation subject to the jurisdiction of the Board ...shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Board may be made.

Oversight of Rail Passenger Transportation Provided By Mass Transit Agency

The Board's jurisdiction of rail transportation provided by a local government authority was limited to safety, recognition of employee bargaining rights, and retirement issues.

Oversight of Motor Carriers of Passengers

The Surface Transportation Board has jurisdiction over transportation by motor carriers to the extent that passengers are transported:

- ◆ between a place in a state and:
-

- a place in another state;
 - another place in the same state where the provider must first traverse through another state;
 - a place in a territory or possession of the United States;
 - another place in the United States where the provider must first traverse through a foreign country;
 - a place in a foreign county
- ◆ in a reservation under the exclusive jurisdiction of the United States or on a public highway.

Exclusions from Jurisdiction of the STB

Section. 13506 of the Act excluded the following types of passenger transportation from jurisdiction of the STB:

- ◆ a motor vehicle transporting only school children and teachers to or from school;
- ◆ a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;
- ◆ a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;
- ◆ the operation of a motor vehicle in a national park or national monument; and
- ◆ a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work.

Conditional Exemptions

In addition to the above stated exemptions, the ICC Termination Act also provided for some conditional exemptions. The “condition” being that in the event the Secretary of Transportation or the STB finds it necessary to exercise jurisdiction over the entities/organizations listed below in the interests of safety, they may chose to do so.

These conditional exemptions include:

- ◆ transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except
 - when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or
 - that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

- ◆ transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or
- ◆ the emergency towing of an accidentally wrecked or disabled motor vehicle.

Registration

Section 13901 requires that any provider subject to regulations under the jurisdiction of the STB must register with the Board.

Key Provisions Applicable to Public and Coordinated Transportation:

The Act reaffirmed, through legislation, existing statutory and rulemaking procedures in effect at the time relative to the ICC's authority to regulate for-hire or common and contract motor carriers of passengers. The Act transferred these regulations (typically called the "commerce" regulations to distinguish them from existing FHWA regulations, typically referred to as the "safety" regulations) to the Secretary of Transportation. The Federal Highway Administration (FHWA) was assigned responsibility of oversight (since transferred to the Federal Motor Carrier Safety Administration (FMCSA)).

The Act continued Federal jurisdiction to regulate these carriers when they were found to engage in interstate transportation. The Act recognized that public transportation operations may fall into this category, however, historically the ICC did not exercise jurisdiction over market entry, public convenience and necessity, rates, etc. on public transit. The Act continued the requirement that public transit (always referred to a transportation operating within a municipality) register with the ICC and maintain financial responsibility if engaged in interstate transportation. The Act also specifically identifies any recipient of Federal Transit Administration (FTA) Section 5307, 5310, and 5311 would have to adhere to alternative levels of financial responsibility, equal to the maximum level required by the state in which the operator traveled.

Attachment B-4

Summary of Key Legislation

Legislation:

The Motor Safety Improvement Act of 1999 (Public Law 106-159)

Summary Description:

A new administration, the Federal Motor Carrier Safety Administration, was established within the United States Department of Transportation following passage of the Motor Carrier Safety Improvement Act of 1999 (Public Law No. 106-159). Pursuant to the statute, the effective date of this new administration was January 1, 2000.

Creation of this agency was based, in part, with Congressional dissatisfaction with the level of safety inspections and oversight being conducted by the Federal Highway Administration in their role of enforcing motor carrier safety. In a preamble to the law, the following findings were issued:

The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.

- ◆ The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations.
- ◆ The Department of Transportation is failing to meet statutorily mandated deadlines for completing rulemaking proceedings on motor carrier safety and, in some significant safety rulemaking proceedings, including driver hours-of-service regulations, extensive periods have elapsed without progress toward resolution or implementation.
- ◆ Too few motor carriers undergo compliance reviews and the Department's data bases and information systems require substantial improvement to enhance the Department's ability to target inspection and enforcement resources toward the most serious safety problems and to improve States' ability to keep dangerous drivers off the roads.
- ◆ Additional safety inspectors and inspection facilities are needed in international border areas to ensure that commercial motor vehicles, drivers, and carriers comply with United States safety standards.
- ◆ The Department should rigorously avoid conflicts of interest in federally funded research.

- ◆ Meaningful measures to improve safety must be implemented expeditiously to prevent increases in motor carrier crashes, injuries, and fatalities.
- ◆ Proper use of Federal resources is essential to the Department's ability to improve its research, rulemaking, oversight, and enforcement activities related to commercial motor vehicles, operators, and carriers.

Congress also stated that in carrying out its duties, the new administration should consider “the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in motor carrier transportation.”

While only slightly more than one year old, the FMCSA has been active in its rulemaking responsibilities, some of which have significant impact on community transportation.

Key Provisions Applicable to Public and Coordinated Transportation:

In addition to establishing the Federal Motor Carrier Safety Administration (FMCSA), this act also directed FMSCA to make its safety regulations to commercial vans operating in interstate commerce outside of commercial zones that have been determined to pose “serious safety risk” and to commercial vans known as “comionetas,” vehicles that originate in Mexico and cross into the United States on a daily basis.

FMCSA issued a Notice of Proposed Rulemaking (NPRM) on January 11, 2001 soliciting comments on proposed rules regulating smaller commercial vehicles.

Attachment B-5

Summary of Key Rulemaking

Rulemaking, Type, Date:

Private Motor Carriers of Passengers, Final Rule and Request for Comments, February 23, 1994

Summary Description:

On February 23, 1994, concluding almost nine years of rulemaking action on this issue, FHWA issued regulations implementing changes to the definition of interstate commerce and extended the scope of Federal regulatory authority to private motor carriers of passengers (PMCP). This long awaited rulemaking, called for in the Motor Carrier Act of 1984, went into effect on January 1, 1995.

FHWA's approach to implementing this regulation was to define private motor carriers in two classes:

- ◆ business private motor carrier of passengers; and
- ◆ non-business private motor carriers of passengers.

The distinction is important, as FHWA, in determining which of its many safety rules apply to PMCPs, imposed a lesser burden of compliance on non-business PMCPs.

What is a Business Private Motor Carrier of Passengers?

A business PMCPs is defined as

...any entity involved in the interstate transportation of passengers; the transportation provided is in the furtherance of the entity's commercial purpose, which is not for-hire transportation; and the transportation is not available to the general public.

Examples of business PMCPs, provided in supplemental regulatory guidance, suggests that companies that use buses to transport their own employees and professional musicians who use buses for concert tours would be considered as business PMCPs.

These carriers must comply with the entire body of the FMCSRs, including recordkeeping. These carriers need not comply with the road and written test requirements of 49 part 391, since these requirements are essentially met by acquiring a CDL with proper bus endorsements. In addition, these carriers need not comply with the

fuel system requirements of 49 CFR part 393.67, provided the carrier's commercial motor vehicle fuel systems have been maintained and meet the original manufacturer's standards.

What is a Non-Business Private Motor Carrier of Passengers?

A non-business PMCPs is defined as

...any entity involved in the interstate transportation of passengers, other than for-hire, and does not meet the definition of a business PMCPs.

These carriers will be subject to parts 49 CFR part 383, 49 CFR part 385 (requiring a Motor Carrier Identification Report), 49 CFR part 390, 49 CFR part 391 (excluding subpart H and recordkeeping requirements), 49 CFR part 392, 49 CFR part 393 (excluding fuel systems that have been maintained and meet the original manufacturer's standards), 49 CFR part 395 (excluding the recordkeeping requirements), and 49 CFR part 396 (excluding the recordkeeping requirements).

Examples of non-business PMCPs, provided in supplemental regulatory guidance, suggests that churches, civic associations, scouts, and other charitable institutions that may purchase or lease buses for sponsored activities are included in this category.

Common Elements

In both the cases of business and non-business PMCPs, the respective definitions' exclusion of "for-hire" simply means that for-hire carriers, were already subject to regulation. More importantly, the definition of a private motor carrier means:

...a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a "for-hire" motor carrier.

Key Provisions Applicable to Public and Coordinated Transportation:

In discussing examples of organizations that are illustrative of non-business PMCPs, no mention is made of entities that could potentially fall into this category – human service agency or coordinated transportation. Nevertheless, if such an organization or entity crosses state lines, and is not specifically exempted from regulation, the organization may be subject to all FMCSRs as specified as a nonbusiness private motor carrier of passengers.

Attachment A

Summary of Key Rulemaking

Rulemaking, Type, Date:

Definition of Commercial Motor Vehicle (CMV) and Requirements for Operators of Small Passenger-Carrying CMVs, Final Rule, January 11, 2001

Summary Description:

On January 11, 2001, FMCSA published new rules regarding the definition of a commercial motor vehicle.

The current definition has evolved since it was first articulated in the Motor Carrier Safety Act of 1984. The language codified at 49 U.S.C. 31132(1) provided the basis for establishing the definition of a commercial motor vehicle. This was the definition used in the Federal Motor Carrier Safety Regulations (FMCSRs) in 49 CFR part 390.5 (Definitions, General Rules). In 1995, the ICC Termination Act changed the definition of a commercial motor vehicle. The definition of CMV used to transport passengers was changed again in the Transportation Equity Act for the 21st Century (TEA-21)(Public Law 105-178), passed on June 9, 1998.

The definition change in this rulemaking action essentially adopted the language contained in TEA-21. The critical element of this change was the weight threshold for a CMV. The rule now adds gross vehicle weight to the previous gross vehicle weight rating that was included in the previous definition.

Pursuant to language in TEA-21, all commercial motor vehicles operated in interstate transportation were to become subject to all FMCSRs, if they were not already covered, unless the Secretary (DOT) determines, through a rulemaking process, that it is appropriate to exempt such operators from the application of the regulations.

In the rulemaking process, FMCSA determined that operators of commercial motor vehicles, designed to carry 9 – 15 passengers for compensation must complete a motor carrier identification report (Form MCS-150), conform to CMV marking requirements, and maintain an accident register. FMCSA notes that by requiring registration, a database about the safety of interstate transportation in small will be established. The marking of the vehicle will require most, but not all, of the existing marking requirements. Finally, the accident register will be used to allow FMCSA to determine the adequacy of the carrier's safety management controls.

In one final regulatory move in this rulemaking, FMSCA amplified on the definition of “for compensation.” FMSCA considers that term synonymous with “for-hire.” FMCSA offers the following interpretation of this term:

...any business entity that assesses a fee, monetary or otherwise, directly or indirectly for the transportation of passengers is operating as a for-hire carrier. Thus the transportation for compensation in interstate commerce of passengers by motor vehicles (except in six-passenger taxicabs operating on fixed routes) in the following operations would typically be subject to all parts of the FMCSRs, including part 387.

Key Provisions Applicable to Public and Coordinated Transportation:

The impact of this regulation on private nonprofit agencies who manage and operate coordinated transportation system, and who engage in interstate transportation of passengers pursuant to those coordination arrangements, may be substantial. Since agencies pay the lead agency for transportation service, the coordinating entity may be considered a “for-hire” carrier under these guidelines.