

I. The Basics of Interstate Motor Carriers

There are two kinds of motor carriers: (1) interstate carriers and (2) intrastate carriers. An interstate carrier provides transportation services across state borders and is required to register with the Secretary of Transportation¹ while an intrastate carrier has its operations entirely within one state and does not affect interstate commerce.² Because the federal government is limited to regulating only “interstate commerce,” federal regulations governing motor carriers are only applicable to interstate carriers, and intrastate carriers only have to comply with state laws governing commercial motor vehicles.³ Many states, through their legislature or Public Service Commission, have adopted the federal regulations governing motor carriers as applicable to intrastate carriers and as a practical matter, removed the distinction between the two kinds of carriers.⁴ The importance of federal regulations on the motor carrier industry is discussed throughout this handbook, and it is critical to an analysis of a trucking claim to determine the applicability of these regulations to the carrier’s operations.

****Practice Pointer:** If a motor carrier operates as an intrastate carrier, review state laws to determine the applicability of federal regulations to the carrier’s operations.

A. Federal Registration

Before a motor carrier can begin interstate operations, the carrier must register with the Federal Motor Carrier Safety Administration (“FMCSA”), obtain a USDOT number, and obtain operating authority from the FMCSA.⁵ The motor carrier then must file a MCS-150 identification report with the FMCSA⁶ and mark each commercial motor vehicle with the name of the motor carrier and the USDOT number.⁷ The motor carrier must be willing and able to comply with (1) the regulations of the Secretary of Transportation and the Surface Transportation Board, (2) any safety regulations, duties of employers and employees, and safety fitness requirements imposed by the Secretary, and (3) the minimum financial responsibility requirements.⁸

For numerous years, interstate carriers followed a Single State Registration System (“SSRS”) and were required to register and pay filing fees to a single participating State as its registration state, sometimes referred to as its “Home State.”⁹ On August 10, 2005, the President signed into law the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” otherwise known as SAFETEA-LU.¹⁰ This legislation went into effect on January 1, 2007. As part of SAFETEA-LU, the SSRS was repealed and Uniform Carrier Registration System (“UCRS”) was adopted in its place.¹¹ Under the UCRS, the motor carrier still designates as its “Base State” the State where it maintains its principal place of business.¹² The motor carrier registers with the UCR through its Base State and must pay a standard fee to the UCR as set out by the UCR agreement rather than

1 49 U.S.C. § 13901.

2 Progressive Casualty Insurance Co. v. Hoover, 809 A.2d 353 (Pa. 2002).

3 Texas v. United States, 866 F.2d 1546 (5th Cir. 1989).

4 See Transportation Rules of the Georgia Public Service Commission.

5 49 C.F.R. § 385.301.

6 49 C.F.R. § 390.19.

7 49 C.F.R. § 390.21.

8 49 U.S.C. § 13902.

9 49 C.F.R. § 367.3(a).

10 Pub. L. 109-59, August 10, 2005, 119 Stat. 1144.

11 49 U.S.C. § 14504a.

12 49 U.S.C. § 14504a(a)(2).

being subject to the fees and registration outlined by individual states.¹³ If the motor carrier is registered as an interstate carrier, a State can not require the motor carrier to obtain intrastate authority or require the motor carrier to make any insurance filings.¹⁴

As part of the federal registration scheme, each motor carrier must designate a registered agent for service of process in each state that the carrier operates.¹⁵ A registered agent may be canceled only by designating a substitute agent.¹⁶ A form for the designation of a registered agent must be filed with the FMCSA.¹⁷

In 2004, a safety permit program was instituted for the registration of all carriers of hazardous materials.¹⁸ The safety permit program applies to both intrastate and interstate carriers.¹⁹ The FMCSA will not issue a safety permit to any carrier that is in the top 30% of the national crash average as indicated in the Motor Carrier Management Information System (MCMIS).²⁰ As required by the program, intrastate carriers of hazardous materials must apply for a USDOT number and be subject to a compliance review but are not subject to additional federal safety regulations.²¹ Intrastate carriers of hazardous materials, like interstate carriers, must also file a motor carrier identification report and mark their vehicles with the motor carrier's name and USDOT number.²²

****Practice Pointer:** A list of registered agents for a motor carrier can be found on www.safersys.org and may provide a beneficial venue for a lawsuit.

B. Safety Fitness Ratings

An interstate carrier is required to meet minimum safety fitness standards.²³ In order to meet these standards, a carrier must have adequate safety management controls in place to reduce the risks associated with (1) commercial driver's license standard violations, (2) inadequate levels of financial responsibility, (3) the use of unqualified drivers, (4) improper use and driving of motor vehicles, (5) unsafe vehicles operating on the highways, (6) failure to maintain accident registers and copies of accident reports, (7) the use of fatigued drivers, (8) inadequate inspection, repair and maintenance of vehicles, (9) improper transportation of hazardous materials, and (10) motor vehicle accidents and hazardous materials incidents.²⁴ The Federal Highway Administration ("FHWA") performs an annual compliance review on each carrier and assigns it a safety rating.²⁵ A carrier's safety rating is based on the adequacy of safety management controls, frequency and severity of regulatory violations, frequency and severity of regulatory violations identified in roadside inspections, the number and frequency of out-of-service driver/vehicle violations, frequency of accidents, and the number and severity of violations of state safety rules.²⁶

13 49 U.S.C. § 14504a(f).

14 49 U.S.C. § 14504a(c)(1)(D).

15 49 C.F.R. § 366.3 & 366.4(a).

16 49 C.F.R. § 366.6.

17 49 C.F.R. § 366.2.

18 49 C.F.R. § 385.401.

19 49 C.F.R. § 385.403.

20 49 C.F.R. § 385.407.

21 49 C.F.R. § 385.403.

22 49 C.F.R. § 390.3.

23 49 C.F.R. § 385.1.

24 49 C.F.R. § 385.5.

25 49 C.F.R. § 385.9.

26 49 C.F.R. § 385.7.

The FMCSA provides notice to the carrier of its safety rating and reports a list of compliance deficiencies which the motor carrier must correct.²⁷ A “satisfactory” rating means that the motor carrier has in place adequate safety management controls to meet the safety fitness standards.²⁸ A “conditional” or “unsatisfactory” rating means a motor carrier does not have adequate safety management controls in place.²⁹ A carrier rated “unsatisfactory” is prohibited from operating commercial vehicles.³⁰ A carrier may petition the FMCSA for a review of its rating after taking corrective actions to remedy any problems and defects in its operations.³¹ Motor carriers domiciled in Mexico are subject to intensified monitoring by frequent safety audits and inspections.³² The safety rating and other information for each registered interstate carrier is available at the website: www.safersys.org.³³

www.safersys.org

[INSERT PICTURE OF SAFERSYS (In Website File)]

You can look up information on a company by clicking on the company snapshot link at the bottom of the page.

****Practice Pointer:** Review the carrier’s rating profile on www.safersys.org for safety deficiencies and other information on the carrier.

27 49 C.F.R. § 385.11.

28 49 C.F.R. § 385.3.

29 49 C.F.R. § 385.3.

30 49 C.F.R. § 385.13(a).

31 49 C.F.R. § 385.17.

32 49 C.F.R. § 385.103.

33 49 C.F.R. § 385.19.