

FMCSA Compliance Manual

For Passenger Carriers




J. J. Keller
& Associates, Inc.[®]
Since 1953

FMCSA Compliance Manual for Passenger Carriers

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Introduction

For more than a century, the U.S. government has taken an interest in making sure that the nation's transportation system operates in a safe and efficient manner. Since at least the 1930's, that interest has extended to include the transportation of passengers and goods by commercial motor vehicle (CMV) on public roadways. The U.S. Department of Transportation (DOT) is charged with ensuring that commercial buses, motorcoaches, trucks, and other vehicles are operated safely, to prevent accidents, injuries, and fatalities.

Since 2000, responsibility for overseeing the regulation of commercial vehicles has fallen to the Federal Motor Carrier Safety Administration (FMCSA). The FMCSA's primary mission is to prevent CMV-related fatalities and injuries. This is accomplished in part by enforcing federal laws and regulations, and particularly the Federal Motor Carrier Safety Regulations (FMCSRs). The *FMCSA Compliance Manual for Passenger Carriers* is designed to help companies and individuals comply with a majority of the FMCSRs and related regulations as they relate to safe vehicle operations.

This manual is divided into six major sections, each focusing on a different compliance topic. Within each section are plain-English "Easy Explanations," the FMCSRs and related regulations, any official interpretations that apply to that topic, and any other pertinent reference materials. Each major section of the manual is designed to stand alone, so in some cases information is repeated or restated when it applies to multiple topics. Section I, *Compliance Fundamentals*, sets the stage for understanding the FMCSRs and how they apply. The sections that follow address personnel issues, hours of service, vehicle compliance, driving-related regulations, enforcement programs, and penalties that can result from non-compliance.

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Fundamentals

General

Easy Explanations

The Federal Motor Carrier Safety Regulations (FMCSRs) are the federal regulations that set safety and operational standards for companies and individuals operating buses, vans, trucks, and other commercial motor vehicles involved in interstate commerce. Rules found in the FMCSRs include those for the qualification and licensing of drivers, their allowable hours of service and operating requirements, vehicle specifications, inspections, maintenance, insurance, vehicle marking, and other topics. The rules are written and enforced by the Federal Motor Carrier Safety Administration (FMCSA) — an agency within the U.S. Department of Transportation — and its state partners.



Did You Know?

The FMCSRs are found in the *Code of Federal Regulations* (CFR), the official codified rules and regulations of the U.S. government. The CFR is divided into 50 titles representing broad areas of regulation. The FMCSRs are found within:

- > Title 49, *Transportation*
- > Subtitle B, *Other Regulations Relating to Transportation*
- > Chapter III, *Federal Motor Carrier Safety Administration*
- > Subchapter B, *Federal Motor Carrier Safety Regulations*

When the FMCSRs refer to “Subchapter B” or “this subchapter,” they are referring to the FMCSRs themselves.

Who Is Subject to the FMCSRs?

In general, the FMCSRs apply to all employers, employees, and commercial motor vehicles that are involved in the transportation of passengers or property across state lines for a commercial purpose (known as “interstate commerce”). This can include companies that operate vehicles for their own private use — such as a professional orchestra using buses for

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concert tours — as well as those transporting passengers for compensation (for-hire), such as a charter bus service. The rules may apply whether the vehicles are leased, borrowed, rented, or owned, and whether empty or loaded. In some cases, vehicles operating strictly within a single state (operating in *intrastate* commerce) are also subject.

Some exemptions from all or portions of the regulations do exist, however, often based on the size of the vehicle or the type of operation. The applicability of and exceptions from the FMCSRs are described below, with details found in Sec. 390.3 and important definitions provided in Sec. 390.5.

Which “Employers” and “Employees” Are Regulated?

For purposes of the FMCSRs:

- An **employer** is any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it.
- An **employee** is any individual (other than an employer) who is employed by an employer and who, in the course of that employment, directly affects commercial motor vehicle safety. This obviously includes drivers (including independent contractors), but also mechanics or anyone else who might affect the safety of vehicle operations.



Compliance Point

With a few notable exceptions, the FMCSRs apply to motor carriers and drivers engaged in *interstate* commerce, meaning trade, traffic, or transportation that crosses state or national lines or that begins or ends across state or national lines. Those not subject to the FMCSRs remain subject to their state’s (*intrastate*) rules, which may or may not be similar or identical to the federal rules. Be aware that most states adopt some or all of the FMCSRs as their own, however.

Note that under Sec. 390.9, state and local governments are allowed to adopt and enforce their own vehicle safety rules as long as those rules don’t prevent compliance with the FMCSRs.

What Is a “Commercial Motor Vehicle”?

For purposes of most of the FMCSRs, the definition of “commercial motor vehicle” (CMV) is found in Sec. 390.5. Under that definition, a CMV is any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:

- Is designed or used to transport 9 or more passengers (including the driver) for compensation; or
- Is designed or used to transport 16 or more passengers (including the driver) *not* for compensation; or
- Has a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR), gross vehicle weight (GVW), or gross combination weight (GCW) of 10,001 pounds or more, whichever is greater; or

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- Is used to transport a certain amount of hazardous materials.

As used in the CMV definition above:

- A **motor vehicle** is any bus, van, coach, shuttle, trailer, vehicle, or machine (or any combination of those) propelled or drawn by mechanical power and used on the highways in the transportation of passengers or property (including the vehicle itself). This does not include vehicles operated on rails, nor trolley buses powered by an overhead electrical wire.
- A **highway** is any road, street, or way (whether on public or private property) that is “open to public travel,” meaning that the road or way is available (except during scheduled periods, extreme weather, or emergency conditions) and passable by four-wheel standard passenger cars, and is open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration.
- The **gross vehicle weight rating** is the value specified by the manufacturer as the loaded weight of a single motor vehicle.
- The **gross combination weight rating** is the greater of: (1) the value specified by the manufacturer of the power unit, as shown on the certification label, or (2) the sum of the GVWRs or the GVWs of the power unit and the towed unit(s), or any combination of those that produces the highest value. Note that the GCWR of the power unit will not be used to define a commercial motor vehicle when the power unit is not towing another vehicle.

Based on this definition, the FMCSRs do not apply to motor vehicles which weigh or are rated at 10,000 pounds or less unless they transport enough passengers (or hazardous materials).



Caution

The CMV definition includes combinations of vehicles that by themselves may not be regulated. For example, a commercial eight-passenger van that weighs less than 10,000 pounds and which is not normally regulated as a CMV could become a regulated CMV when pulling a trailer, potentially making it subject to the FMCSRs.

Note also that a different CMV definition is used for the commercial driver's license (CDL) and drug/alcohol testing regulations under Parts 382 and 383. These regulations apply to interstate or intrastate vehicles weighing or rated at 26,001 pounds or more, designed to transport 16 or more passengers (including the driver), or placarded for hazardous materials (see Secs. 382.107 and 383.5). Refer to the PERSONNEL section for more information.

Classification of Passenger Carriers

Vehicles designed to carry multiple passengers — and the business models behind their operation — come in all shapes and sizes, from small private vans used to shuttle employees or scout groups, to modern 60-passenger, for-hire luxury coaches. But for the FMCSA, an underlying concern for *all* passenger vehicles is safety. Since 1935, the FMCSA's predecessor agencies only regulated “for-hire” passenger transportation in vehicles designed to transport

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more than 15 people. Today, safety regulations exist at all levels, governing small private church groups and large tour operators alike, with certain exceptions.



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General

The following is an overview of the regulations and exceptions affecting passenger-carrying operations, by size and business model. Keep in mind that in-state-only operations are governed at the state and local level, where requirements may vary. Refer also to the accompanying flowcharts.

For-hire motor carriers

For-hire motor carriers of passengers provide transportation of passengers in exchange for some sort of compensation. Examples of for-hire passenger transportation include intercity bus services, charter bus services, canoe rental company bus services, and hotel bus services. According to the FMCSA, three factors need to be present before a motor carrier of passengers is classified as a for-hire carrier:

1. The motor carrier provides interstate transportation of passengers for 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 (although it does not have to be).



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For-hire motor carriers of passengers are subject to all the FMCSRs, with possible exceptions based on vehicle size and method of compensation:

Passenger Capacity*	Vehicle Weight or Rating	Compensation Type	Applicability of FMCSRs
16 or more	Any	Any	Subject to all FMCSRs, including rules for CDL licensing, drug and alcohol testing, insurance, driver qualification, hours of service, and vehicle maintenance and inspection.
9 to 15	Any	Direct**	Subject to all FMCSRs, including rules for insurance, driver qualification, hours of service, and vehicle maintenance and inspection. Exempt from CDL licensing and drug and alcohol testing if weight remains under 26,001 pounds.
9 to 15	10,000 pounds or less, including any trailer	Indirect	Exempt from the FMCSRs but must keep an accident register, obtain a USDOT number and mark it on the vehicle, and comply with the prohibitions on texting and the use of hand-held mobile phones. See Sec. 390.3(f)(6).
9 to 15	10,001 pounds or more, including any trailer	Indirect	Subject to all FMCSRs based on weight of vehicle. Rules for CDL licensing and drug and alcohol testing do not apply if weight remains under 26,001 pounds.

* Including the driver, and based on either the manufacturer's design or the actual use.

****Direct compensation** means payment made to the motor carrier by the passengers or a person acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services.



Historical Note

Prior to passage of the *Motor Carrier Act of 1984*, the federal government's jurisdiction only extended to for-hire motor carriers of passengers, not private carriers. After a lengthy rulemaking process, private carriers became subject to the FMCSRs on January 1, 1995, but those operating in a non-business capacity (such as churches) were exempted from most paperwork requirements.

Private motor carriers: business

Known as "business private motor carriers of passengers" or "business PMCPs," these operations provide private transportation of passengers in the furtherance of a commercial purpose. Examples include companies that use buses to transport their own employees and professional musicians who use buses for concert tours. This does NOT include commercial businesses that provide transportation to the general public.

Business PMCPs are subject to the same regulations and exceptions as for-hire carriers, as described above, but:

- The insurance requirements (Part 387) do not apply, and
- Under Sec. 391.69, certain qualification requirements do not apply to certain drivers who have been employed by the same company since 1994.

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Vanpools — Commuter vanpool operations may or may not be subject to FMCSA safety regulations. According to the agency, vanpools are exempt from its safety regulations when all of the following conditions are met:

1. The motor vehicle is operated by individuals travelling to and from work transporting other individuals as part of a daily commute to and from work in an interstate, single daily round trip;
2. The motor vehicle is designed and used to carry no more than 15 individuals (including the driver);
3. The gross vehicle weight and gross vehicle weight rating are both less than 10,001 pounds; and
4. The money received by the vanpool operator for transportation does not have to be reported to the Internal Revenue Service.

Private motor carriers: non-business

Non-business private motor carriers of passengers (PMCPs) provide private transportation that is NOT in the furtherance of a commercial purpose. Examples include churches, private schools, scout groups, civic or scientific organizations, and other charitable organizations that may purchase or lease buses for the private transportation of their respective groups. This does not include individuals providing personal conveyance of passengers for recreational purposes; a non-business PMCP must be engaged in some type of group activity.

Non-business PMCPs are subject to the same regulations and exceptions as for-hire carriers, as described above, but are exempt from many paperwork requirements. Specifically, these operations are exempt from:

- Insurance requirements (Part 387);
- Driver minimum-age restrictions;
- The need for drivers to provide a list of violations from the past 12 months;
- Road tests;
- Employment applications, driving-record checks, previous-employer inquiries, and annual reviews (Part 391, Subpart C);
- The requirement for drivers to be medically examined and carry a medical exam certificate (but drivers are not exempt from the minimum physical qualifications in Sec. 391.41(b));
- Driver qualification and investigation files;
- Records of duty status (logs);
- Maintenance records as required under Sec. 396.3(b); and
- Daily post-trip vehicle inspection reports.

School buses

Under the FMCSRs, a “school bus” is a passenger motor vehicle designed or used to carry a driver plus 11 or more passengers and is primarily used for the purpose of transporting pre-primary, primary, or secondary-school students from home to school and from school to home. These “standard” school bus operations — those that operate between a school and students’ homes — are exempt from the FMCSRs as noted in Sec. 390.3(f)(1), with the exception of the bans on texting and hand-held cell-phone use. School buses operated by the government, such as a local school district, are exempt from the FMCSRs entirely, as noted

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in Sec. 390.3(f)(2), but this exemption does not extend to contractors performing transportation on behalf of the government.



School buses used to transport post-secondary students or traveling to extracurricular activities across state lines, however, may be subject to at least some of the rules.

The following table outlines how the FMCSRs apply to school-bus operations:

Operation Type	Student Type	When Used To/From School and Home:	When Used for Extracurricular Activities:
Public school	Any	Exempt from most FMCSRs except CDL licensing and drug/alcohol testing	Exempt from most FMCSRs except CDL licensing and drug/alcohol testing
Private school	Pre-primary, primary, and/or secondary	Exempt from most FMCSRs except CDL licensing and drug/alcohol testing	Subject to FMCSRs as non-business PMCP
	Post-secondary	Subject to FMCSRs as non-business PMCP	
For-hire contractor	Pre-primary, primary, and/or secondary	Exempt from most FMCSRs except CDL licensing and drug/alcohol testing	Subject to FMCSRs as for-hire carrier
	Post-secondary	Subject to FMCSRs as for-hire carrier	

Flowcharts

The following flowcharts help classify motor carriers of passengers and the rules to which they are subject.

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