

Motor Carrier Regulatory Agencies: Determining Which are Applicable and How to Comply

NOVEMBER 26, 2024

Authors: [Jonathan R. Todd](#)

The regulatory environment is top of mind these days coupled with speculation over potential change. Any attention paid to our obligations for safe and lawful operation is positive as we strive for compliance by our companies and those with whom we do business. To do so well requires that we understand the basic cast of characters across regulators and their roles.

This article provides a high-level summary of the balance between federal and state jurisdiction with frequently occurring examples of what that means for regulatory agencies governing operations, their jurisdiction, and key programs requiring regulatory compliance.

Federal and State Jurisdiction - The “Commerce Clause” in the US Constitution grants our federal government jurisdiction over traffic routed between the states or between a state and a foreign country. High-impact regulations such as operating authority requirements, safety regulations, and the like must be followed by all service providers operating in interstate commerce. Conversely, service providers operating in intrastate commerce are largely subject to state regulation. There is overlap on a case-by-case basis including for example a state’s right to govern “rules of the road” and its driver’s license program.

Determining Nature of Commerce - The determination of whether traffic is in interstate or intrastate commerce is fact-specific, but not as you may expect. The fact that a vehicle moves only within one state is not in and of itself determinative. The legal test used by courts focuses on the shipper’s intent at the time of tender. The test is not focused how that interstate service is delivered.

Imagine that a shipper requests delivery of a product to a location in another state. This happens every day across the country. The nature of commerce will be interstate even if one carrier handles over the road middle mile, the goods sit in temporary storage in transit at a fulfillment center in another state, and then a different carrier handles last mile delivery within that destination state. Instances of storage in transit and final delivery by another carrier operating in a single state do not necessarily convert any portion of the commerce to intrastate. Those legs and nodes in the outbound logistics supply chain are largely under federal jurisdiction.

Federal Motor Carriage and Brokerage - Our federal government holds jurisdiction over motor carrier and broker operations in interstate commerce. Motor carriers are understood as those performing transportation in commerce whether as for-hire (hauling goods of others) or private carriers (hauling goods the carrier company sells). Motor carriers must hold operating authority from the U.S. Department of Transportation’s (“U.S. DOT’s”) Federal Motor Carrier Safety Administration (“FMCSA”) including requisite evidence of insurance and agent for service of process. Brokers are

understood as those who arrange motor carrier transportation for hire. Brokers must hold broker permits from the FMCSA including requisite bond or trust fund and agent for service of process.

The FMCSA administers and enforces the Federal Motor Carrier Safety Regulations (“FMCSRs”). This is the key body of regulation for essentially all interstate carriers and brokers but also for certain intrastate functions. FMCSRs address subjects such as driver qualification, drug and alcohol testing, independent contractor owner-operator leasing, equipment safety, and safe operations. Interstate carriers also often participate in a number of other programs such as Uniform Carrier Registration (“UCR”) to apply for and maintain operating authority. Participation in the International Fuel Tax Agreement (“IFTA”) and the International Registration Plan (“IRP”) is also common although those programs function as clearinghouses to manage fuel tax collection and equipment registration across the various states of operation.

State Motor Carriage and Brokerage - The states take slightly different approaches to transportation and logistics regulation. The majority of states regulate intrastate motor carriage through their Department of Transportation (“DOT”) or their Public Utilities Commission (“PUC”). A minority of state regulate intrastate brokerage. Service provider registrations and bonds are often required. Some states have issued their own safety regulations for intrastate operations similar to the FMCSRs, while others have expressly adopted the FMCSRs. An operation’s base state will take the lead on fuel tax, equipment registration, and plating. Drivers licenses are managed by states where drivers are domiciled. State “rules of the road” of course apply depending on the state of operation as well as Highway Use Taxes (“HUT”) and similar programs.

Federal and State Commodity Regulation - Operations involving specific commodities are also subject to regulation for public safety and health. For example, the U.S. DOT’s Pipeline and Hazardous Materials Safety Administration (“PHMSA”) administers and enforces the Hazardous Materials Safety Regulations (“HMRs”). The HMRs require registration for certain activities as well as classification, packing, labeling, documentation, and safe handling requirements for both shippers and carriers. Another common example at the federal level is the Food and Drug Administration’s (“FDA’s”) Food Safety Modernization Act (“FSMA”). FSMA governs the safe tender and transportation of certain food products.

The commodity specific regulations administered and enforced by state agencies typically focus on the transportation and logistics of alcohol, dairy, and pharmaceutical products. State attention to these areas and their requirements vary widely across the nation. Those states that do regulate these commodity-specific activities often apply the requirements to operations within the state territory even if the nature of commerce for those operations is interstate.

Jonathan Todd is Vice Chair of the Transportation & Logistics Practice Group at Benesch Law. He can be reached at 216.363.4658 or jtodd@beneschlaw.com.