



U.S. Department of Transportation

Federal Motor Carrier Safety Administration

**SMALL ENTITY COMPLIANCE GUIDE
FOR BROKER OPERATIONS
49 CFR §371 and Other Applicable
Regulations and Statutes**



January 31, 2012

NOTICE

Small Entity Compliance Guides are prepared pursuant to Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Pub. L. 104-121. The statements in this document are intended solely as guidance to aid in complying with the associated rule. The material contained in this document is neither mandatory nor regulatory in nature and does not constitute a regulation. It describes an acceptable means, but not the only means, to demonstrate compliance with applicable regulations. The Federal Motor Carrier Safety Administration (FMCSA) will consider other methods of demonstrating compliance that any person subject to the associated rule elects to present. Terms such as “must” and “will” are used to indicate regulatory requirements when an acceptable method of compliance is described in this document.

In any civil or administrative action against a small business for a violation of a rule, the content of its Small Entity Compliance Guide may serve as evidence to indicate the degree to which the proposed fines and penalties are considered reasonable and appropriate. This guide may not apply in a particular situation based upon circumstances, and FMCSA retains the discretion to adopt approaches on a case-by-case basis that differ from this guide where appropriate. Any decisions regarding a particular broker will be made based on the statute and regulations. Therefore, interested parties are free to raise questions and objections about the substance of this guide and the appropriateness of its application in a particular situation. The FMCSA will consider whether the recommendations or interpretations in the guide are appropriate in that situation. The FMCSA may decide to revise this guide without public notice to reflect changes in its approach to implementing a rule or to clarify and update text. To determine whether FMCSA has revised this guide, contact the Commercial Enforcement Division at 202-366-3031.

CONTENTS

Background	4
Purpose	4
Overview of Broker Operations Regulated by FMCSA	5
Interacting with Other Transportation Operations	6
The Application Process to Obtain Broker Authority	9
The FMCSA Review of Broker Applications	10
Broker Authority Application Process Illustrated	11
Brokering and Financial Responsibility	11
Requirements for All Brokers	13
Records to be Kept by Brokers, 49 CFR §371.3	13
Understanding and Avoiding Misrepresentation in Compliance with Regulation, 49 CFR §371.7	13
Accounting Requirements in Compliance with Regulation, 49 CFR §371.13	14
New Requirements for Household Goods Brokers	15
Exemption from the HHG Broker Regulations	15
Doing Business Only with Motor Carriers Having Valid USDOT Numbers and Operating Authority, 49 CFR §371.105	17
Required Information in Your Advertisements and on Your Web site Homepage, 49 CFR §371.107	17
Information Household Goods Brokers Must Provide to All Potential Individual Shippers, 49 CFR §371.109	17
Providing Federal Consumer Protection Information to Potential Individual Shippers, 49 CFR §371.111	18
Providing Estimates to Individual Shippers, 49 CFR §371.113	18
Written Agreements with Motor Carriers before Providing Written Estimates, 49 C.F.R §371.115	19
Providing Individual Shippers with the Policies of Your Brokerage Concerning Cancellation, Deposits, and Refunds, 49 CFR §371.117	20
Consequences of Noncompliance with the Regulations, 49 CFR §371.121	20
Further Assistance	21
Appendix A – Exempt Commodities	22

Background

Brokers are unique to the transportation industry. They do not operate trucks or employ drivers but play a role in the shipment of a variety of commodities. Brokers engaged in interstate commerce are regulated by FMCSA and are subject to several Federal statutes and regulations, in particular 49 CFR §371. Brokers are required to register with FMCSA, maintain process agents to accept legal service, and establish and maintain appropriate coverage for financial liability. Brokers also have administrative and financial recordkeeping requirements. Brokers are prohibited from misrepresenting themselves as motor carriers or as anything other than providers of brokerage services registered with FMCSA.

In response to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and a petition by the American Moving and Storage Association (AMSA), the FMCSA amended §371 and other regulations. These amendments specify requirements for brokers of household goods, addressing consumer protection, financial liability coverage, and business practices. Additionally, in the future FMCSA will assign U.S. Department of Transportation (USDOT) numbers, in addition to Motor Carrier (MC) numbers, to all brokers to better identify them.

Purpose

This guide will help brokers of both property and household goods to comply with §371 and other applicable regulations and statutes. It will help established brokers already registered with FMCSA, and persons new to brokering understand recent changes in §371. It will also explain the process of applying for operating authority and an MC number, as well as the consequences of failing to comply with the regulations.

Overview of Broker Operations Regulated by FMCSA

A broker regulated by the USDOT is defined at 49 U.S.C. §13102(2):

BROKER - The term “broker” means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by a motor carrier for compensation.

A broker is further defined in the Federal regulation at 49 CFR §371.2(a):

Broker – means a person who, for compensation, arranges, or offers to arrange, the transportation of property by an authorized motor carrier. Motor carriers, or persons who are employees or *bona fide* agents of carriers, are not brokers within the meaning of this section when they arrange or offer to arrange the transportation of shipments which they are authorized to transport and which they have accepted and legally bound themselves to transport.

As a transportation broker, you will be connecting shippers who need to move their commodities with carriers that can transport them. Connecting the shippers and the carriers is *arranging* transportation. If you are compensated for the service, then you are brokering. If you *arrange* the interstate transportation, by a motor carrier, of a commodity for a shipper, then you are regulated by FMCSA and are required by Federal statute, at 49 U.S.C. §13904, to register with the USDOT. To be registered, FMCSA must grant you *authority* to operate as a broker. Registration also is referred to as “authority”, “operating authority”, or “being authorized.” All brokers regulated by FMCSA are required to use the services of authorized motor carriers. An *authorized* motor carrier has been granted *authority* to operate interstate and is validly registered by FMCSA.

There are two classifications of regulated brokers: property or freight brokers and household goods brokers. Each classification requires a specific registration or authority.

A property broker may arrange transportation of a variety of regulated commodities *other* than household goods. Property brokers may arrange transportation for commodities such as automobiles, electronics, or machinery.

A household goods broker can arrange transportation for shipments of household goods only. Household goods regulated by FMCSA are defined at 49 CFR §375.103 as:

Household Goods, as used in connection with transportation, means personal effects, property used, or to be used, in a dwelling, when part of the equipment of the dwelling. Transportation of household goods must be arranged and paid for by the individual shipper or by another individual on behalf of the shipper. Household goods includes property moving from a factory or store if purchased with the intent to use in a dwelling, and transported at the request of the householder who also pays the transportation charges. Household goods brokers regulated by FMCSA are defined at 49 CFR §371.103 as:

Household Goods Broker means a person, other than a motor carrier or an employee or a bona fide agent of a motor carrier, that as a principal or agent sells, offers to sell, negotiates for, or holds itself out by solicitation, advertisement, or otherwise sells, provides, or arranges for, transportation of household goods by a motor carrier for compensation.

As a broker, you may arrange transportation of all regulated commodities (property and household goods) provided that you obtain the appropriate authorities to arrange transportation for both. If you are a broker registered by FMCSA to arrange transportation for shipments of freight and you want to expand your business to include arranging transportation for shipments of household goods, then you must apply to FMCSA to obtain additional authority as a household goods broker. The same holds true if you are registered as a household goods broker and wish to expand your business to arrange transportation for regulated freight. You must apply to the FMCSA to obtain additional authority as a property broker.

Interacting with Other Transportation Operations

When doing business as a broker, you will work with other transportation operations that may or may not be subject to FMCSA's regulations, such as motor carriers, *bona fide* agents, and freight forwarders.

Motor carriers make brokering possible and are defined by regulation at 49 CFR §390.5 as:

Motor Carrier means a for hire motor carrier or private motor carrier. The term includes a motor carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B (of Title 49, C.F.R.), this definition includes the terms employer and exempt motor carrier.

There are several types of motor carriers; some are not regulated by FMCSA. With a few exceptions, intrastate motor carriers which operate only within the boundaries of a single state usually do not fall within the jurisdiction of FMCSA. Some hazardous materials motor carriers, depending on the hazardous materials transported, are subject to FMCSA regulations even if they only operate within the boundaries of one state. Private property motor carriers (or private motor carriers) with trucking operations that are incidental to other businesses, are subject to FMCSA safety regulations but usually do not require operating authority. A truck that is operated by a retailer to deliver its products to its consumers is an example of private property motor carriage.

For hire motor carriers that operate in interstate or foreign commerce, between states or between the United States and other countries, are subject to FMCSA safety and commercial regulations, including the requirement to obtain operating authority. There are exceptions, including, but not limited to, motor carriers that are agents for other motor carriers, and motor carriers that are leased to other motor carriers. Both agents and leased operations act under the authority of the motor carriers that employ them. As long as they are subordinate and are operating under the authority of other motor carriers, they are not required to have independent operating authority.

As a broker, you work with for hire property and/or household goods motor carriers, depending on your authority. As a broker, you are required to arrange transportation using *authorized* motor carriers. You may not arrange transportation with a motor carrier that does not have the appropriate operating authority granted by FMCSA. Remember, if you have authority as a property or freight broker, then you can only arrange transportation for motor carriers that have valid property motor carrier authority. If you have authority as a household goods broker, then you can only arrange transportation for motor carriers that have valid household goods motor carrier authority.

Bona fide agents appear similar to brokers and leased motor carriers in operation but are defined by regulation at 49 CFR §371.2(b) as:

Bona fide agents – are persons who are part of the normal organization of a motor carrier and perform duties under the carrier’s directions pursuant to a preexisting agreement that provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others.

A *bona fide* agent is an extension of the motor carrier. It has a preexisting written agreement with the motor carrier, and it is considered to act on behalf of that motor carrier. A *bona fide* agent works for its motor carrier and transports or otherwise handles shipments under its motor carrier’s operating authority.

The relationship between motor carriers and bona fide agents may appear similar to the relationship between motor carriers and brokers. Brokers, although they have business relationships with motor carriers consummated with written agreements, are independent of the motor carriers. There may come a time when you are arranging transportation for a motor carrier, but the shipment is transported by one of its *bona fide* agents. If shipments that you arrange as a broker are transported by *bona fide* agents, then the identity of the motor carrier for whom they are working must be clear, and the motor carrier must have valid authority.

Occasionally, you may have dealings with freight forwarders. The operations of freight forwarders are unique. Freight forwarders are defined by statute at 49 U.S.C. §13102(8) as:

Freight Forwarder – The term freight forwarder means a person holding their self out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business and

(A) Assembles and consolidates or provides for assembling and consolidating of shipments and performs or provides for break-bulk and distribution operations of shipments;

(B) Assumes responsibility for the transportation from the place of receipt to the place of destination; and

(C) Uses for any part of the transportation a carrier subject to jurisdiction under this subtitle.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII (49, U.S.C. Chapters 401-465 – Air Commerce and Safety).

Freight forwarders are required to have operating authority from FMCSA, if their businesses involve interstate commerce. What makes freight forwarders similar to motor carriers is that they may employ drivers and operate equipment as motor carriers to transport property. Freight forwarders are different from motor carriers in the way they handle the commodities they transport.

A motor carrier transports a shipment from a specific point of origin to a specific destination. For example, a motor carrier is employed to transport a shipment of 1,000 pounds of paper from Wausau, Wisconsin, to Fort Wayne, Indiana. A motor carrier can handle multiple shipments, but each shipment has a specific origin and destination. When a shipment moves from point to point, the motor carrier's only role is to transport it.

Freight forwarders may receive multiple shipments from multiple points of origin and combine those shipments into one shipment going to a single destination. Freight forwarders also may take a single shipment from a single point of origin and break it into multiple shipments going to single or multiple destinations. Freight forwarders also may employ motor carriers to accomplish that task. Freight forwarders, in addition to transporting property, offer other logistical services for shippers by coordinating the composition and movement of their shipments.

As an example, a freight forwarder receives a shipment of 30,000 pounds of clothing from a factory in Greensboro, North Carolina. That shipment is separated by the freight forwarder into three 10,000-pound shipments to be transported to destinations in Illinois, New York, and California. After separating the shipments, the freight forwarder employs a motor carrier to transport one shipment from North Carolina to California. The shipment to California is transported under the authority of the freight forwarder.

The Application Process to Obtain Broker Authority

The rules governing applications for operating authority are stated in regulations, 49 CFR §§365 and 366. The process to obtain operating authority as a broker begins with FMCSA's application for Motor Property Carrier and Broker Authority Form (OP-1). The OP-1 form can be downloaded as a Portable Document Format (PDF) file from FMCSA's Web site at <http://www.fmcsa.dot.gov/forms/print/r-l-forms.htm>.

You also have the option to file your OP-1 application online. You can apply online at <http://www.fmcsa.dot.gov/online-registration>. This method is highly recommended. You can follow step-by-step instructions to assist you in completing the online OP-1 form for the appropriate broker authorities.

Once downloaded, the OP-1 form allows you to input the required information directly on the form from your computer and then print it out. If you prefer, you can print out a blank form and input the information manually. If access to FMCSA Web site is not available to you, then you can request an OP-1 form packet be sent to you by U.S. Mail by contacting us at 800-832-5660. Once completed, you may submit the form via U.S. Mail. The OP-1 form comes with instructions to assist you completing and submitting the form.

There is an initial application fee of \$300.00 for each authority request. The fee is non-refundable. If you file by First Class U.S. Mail, then you may submit a check or money order, in U.S. dollars, payable to FMCSA to FMCSA P.O. Box 530226, Atlanta, GA 30353-0226. If you choose to send it by Express U.S. Mail, then the address is Bank of America, Lockbox Number 530226, 1075 Loop Road, Atlanta, GA 30337. If you file online, then you submit payment using a credit or debit card.

A very important part of your application is proof of Financial Responsibility. Financial Responsibility is protection of your business against liability. All are required to have either a Surety Bond or a Trust Fund as Financial Responsibility. Proof of financial responsibility is a condition to obtaining and maintaining operating authority. Without it you will not be granted authority as a broker. As a broker, the you submit a Property Brokers Surety Bond (Form BMC-84) as proof of a surety bond covering your business or a Property Brokers Trust Fund Agreement (Form BMC-85) as proof of a trust fund.

Another important part of your application for broker authority is the Form BOC-3, Designation of Agent for Service of Process (often referred to as a process agent). A process agent is an individual who will accept legal process on your behalf and forward it to you for response. Brokers are required to designate a process agent for each State where they have offices or write contracts, as stated in 49 CFR §366.4(b). For example, if your brokerage resides in Pennsylvania and you have offices in Maryland and Delaware, you must designate process agents in all three states to be in compliance with the regulation. Furthermore, if you have written agreements or contracts with motor carriers in Virginia and New York, then you must designate a process agent in those two states, as well.

You are ready to apply for broker authority when you have completed the OP-1 Form, BMC-84 or 85 Form, and BOC-3 Form. Be sure to check the forms for accuracy before you submit them. Errors and omissions can delay the processing of your application, ultimately delaying the granting of your authority.

The FMCSA Review of Broker Applications

After your application for broker authority has been submitted, it will be reviewed by FMCSA staff. The Federal regulation at 49 CFR §365.109 requires that FMCSA staff review your application for correctness, completeness, and adequacy of the evidence that you, as a broker, have the required amount of financial responsibility and are fit, willing, and able to comply with all applicable statutes and regulations.

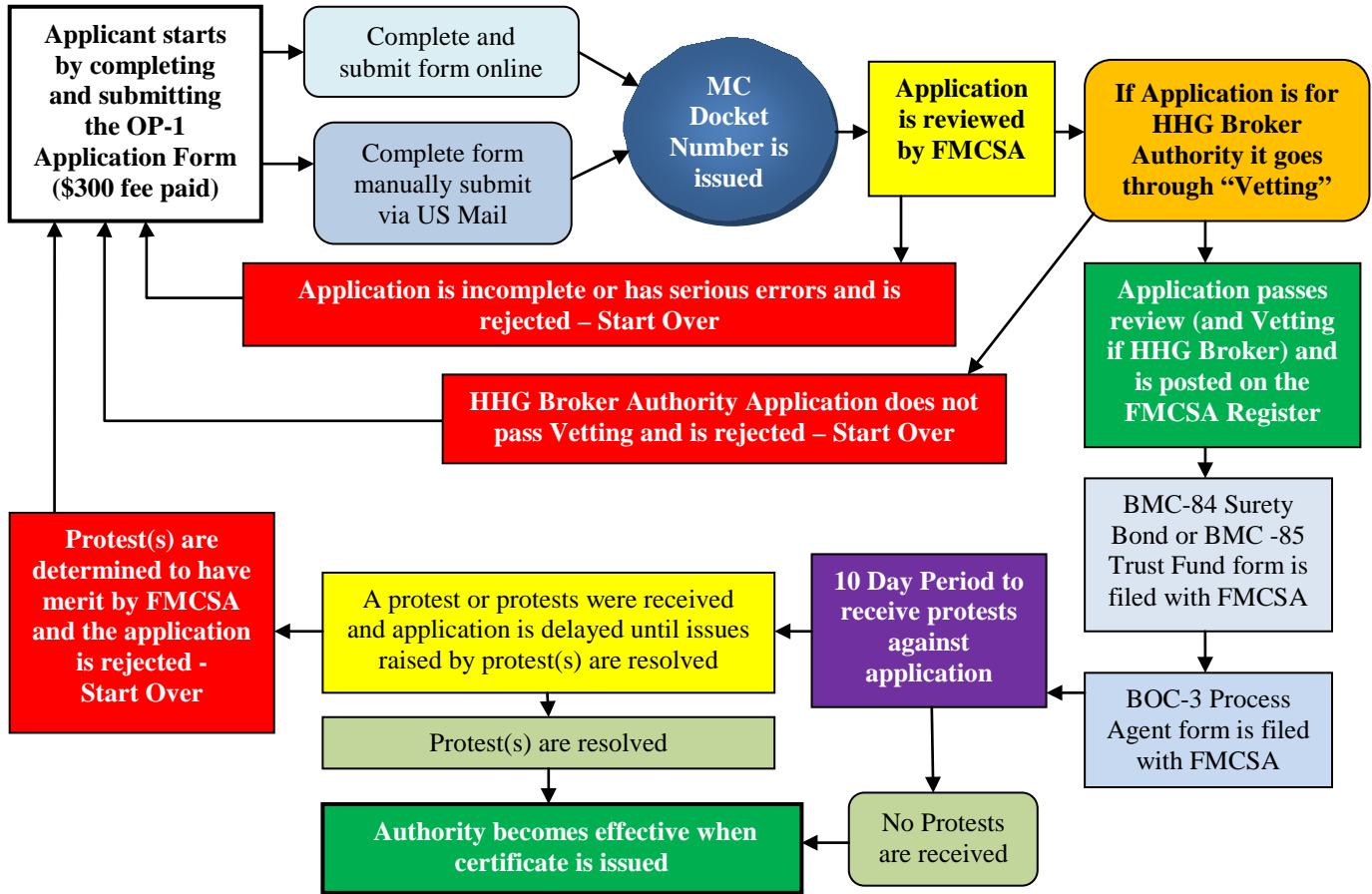
Minor errors found on your application may be corrected while going through the review process; however, incomplete applications will be rejected. Rejection of your application will delay the issuance of your operating authority. It is imperative that, before you file your application, you check the form and ensure that all the information is accurate, and that the form is complete. Closely follow the instructions that come with the OP-1 form, or as you submit the OP-1 form online.

Applicants for household goods broker authority have to go through an additional step in the review process. To better protect consumers from deceptive business practices in the industry, applicants for household goods broker authority undergo vetting. Information submitted by the applicant is closely examined, and in many cases verified to ensure that the applicant has not evaded accountability for non-compliance with Federal regulations by using the name of another company. Vetting can take up to ten weeks. If you are applying for authority as a household goods broker, it is very important that you ensure that your application is accurate, including avoiding any omissions on the application. The discovery of omitted information during vetting could result in rejection of the application.

If the FMCSA review of your application finds it acceptable, then a notice of the application will be posted in the FMCSA Register. If you have not done so during the application process, you must submit a Form BMC-84, evidence that your brokerage is covered by a surety bond of \$10,000 or \$25,000, depending on type of brokerage, property or household goods. A Form BMC-85 is the required evidence that your brokerage is covered by a trust fund of \$10,000 or 25,000 before authority may be granted.

After a summary of your application for authority is posted in the FMCSA Register, any person who opposes the approval of your application, on the grounds that you are not fit, willing, and able to comply with FMCSA's regulations, has 10 days from the date of publication in the FMCSA Register to file a protest. If no one opposes the application, then a certificate will be issued making it effective.

BROKER AUTHORITY APPLICATION PROCESS ILLUSTRATED



Brokering and Financial Responsibility

Financial responsibility protects your business against liability. As a broker, you must have adequate protection. Financial responsibility is a crucial part of your application for broker authority and must be maintained as a condition of your operating authority. If you cease having valid evidence of financial responsibility, then your operating authority will be revoked.

Financial responsibility is defined in the regulation, 49 CFR §387.5 as:

Financial Responsibility--the financial reserves (e.g., insurance policies or surety bonds) sufficient to satisfy liability amounts set forth in this subpart (49 CFR Part 387, Subpart A) covering public liability.

The financial responsibility required for brokers is a surety bond or trust fund sufficient to cover your legally required minimum liability. If you are a property or freight broker, then you must have a surety bond or trust fund in effect for \$10,000, as required by the regulation at 49 CFR §387.307(a)(1). If you are a household goods broker, then you must have a surety bond or trust fund in effect for \$25,000, as required by the regulation at 49 CFR §387.307(a)(2).

The BMC-84 Form for surety bonds or the BMC-85 Form for trust funds is proof to FMCSA that you have adequate financial responsibility. If, while conducting business as a broker, you decide to change bonding companies or the financial institution that holds your trust fund, then you must file a new BMC-84 or BMC-85 Form with FMCSA showing that your business still has adequate financial responsibility. Remember, financial responsibility is a condition of your authority. If it is reported to FMCSA that you no longer have financial responsibility, then your broker authority will be revoked.

Requirements for All Brokers

All brokers must comply with all the requirements of the regulations in 49 CFR §371. These regulations require records to be kept and apply to how you conduct business. The FMCSA encourages you to familiarize yourself with these regulations; you can access them on the FMCSA Web site at www.fmcsa.dot.gov.

Records to be Kept by Brokers, 49 CFR §371.3

All brokers must keep records of all transactions and all shipments for which they arrange transportation. To eliminate redundancy and to save time and effort, the regulation allows you to organize these records into master lists, containing your consignors and the motor carriers that transported their shipments.

Each record of a transaction (or master list of transactions) must contain the following information:

- The name and address of the consignor;
- The name, address, and registration or USDOT number of the originating motor carrier;
- Bill of lading or freight bill number;
- The amount of compensation received by you for the brokerage service you performed and the name of the person who paid;
- Description of any non-brokerage service you performed regarding the shipment, and the amount of compensation paid to you and the name of the person who paid; and
- The amount of any freight charges collected by you and the date of payment to the motor carrier handling the shipment.

As long as this information is properly recorded, you have flexibility how to organize it to maximize your productivity. You **must** keep these records for **3 years**.

The regulation gives all parties to your brokered transactions the right to review the records of transactions that involve them. Therefore, you must allow shippers and motor carriers involved in your brokered transactions to review records pertinent to them.

Understanding and Avoiding Misrepresentation, Compliance with Regulation, 49 CFR §371.7

When working as a broker, you may not do business, including advertise, in any name other than the name stated on your registration or operating authority. If you prefer to present yourself to potential shippers using a “doing business as” or “dba” name, then you must have your broker authority in that name. The name you register your brokerage with must be the name you present in your advertising.

You must be careful not to represent the operation of your business as that of a motor carrier. You must be clear that you provide services as a broker, not as a motor carrier. If you operate a Web site, then you must display on that Web site the name as stated on your broker registration, your MC docket number, and a statement that you are a broker.

Accounting Requirements, in Compliance with Regulation, 49 CFR §371.13

If you operate other businesses in addition to your brokerage, especially other transportation businesses such as motor carriers, then you must maintain your financial accounts so that revenues and expenses from your brokerage are separate from those of the other businesses. If your brokerage and the other businesses share common expenses, then your records must show which expenses belong to the brokerage.

New Requirements for Household Goods Brokers

Effective January 28, 2011, the FMCSA amended its regulations in response to the Household Goods Mover Oversight Enforcement and Reform Act of 2005 of SAFETEA-LU and a petition from AMSA. The amendments emphasize the responsibilities of household goods brokers to avoid deceptive business practices, and they increase the protection of consumers. Most of the amendments, referred to as “Special Rules for Household Goods Brokers,” are contained in Subpart B of 49 CFR §371. The full text of these rules is available on the FMCSA Web site at <http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.aspx?reg=371.101>

You, as a household goods broker, are subject to these regulations when you arrange transportation for **Individual Shippers**. An individual shipper is any person who –

1. Is the shipper, consignor, or consignee of a household goods shipment;
2. Is identified as the shipper, consignor, or consignor on the face of the bill of lading;
3. Owns the goods being transported; and
4. Pays his or her own tariff transportation charges.

Exemption from the HHG Broker Regulations

Brokerage of commercial and government shipments is exempt from the new household goods broker regulations. If your business deals only in the arrangement of transportation for commercial or government shippers, then you are exempt from the Subpart B of §371.

A **Commercial Shipper** is any person who is not the owner of the household goods being transported, but is responsible for payment for all transportation and other tariff charges. The commercial shipper can be named on the bill of lading as the consignor or consignee, but the owner of the goods is normally an employee of the consignor or consignee.

A freight forwarder, which, as part of its operations, employs a motor carrier to further a shipment, is also considered a commercial shipper.

A commercial shipper is a company coming to a broker to relocate an employee. The contents of the shipment belong to the employee, but the company pays all the tariff charges and is identified as the shipper, consignor, or consignee on the shipping documents, especially the bill of lading.

You may encounter shipments that appear to come from a commercial shipper when, in fact, they belong to an individual shipper. There can be subtle differences between commercial shippers and individual shippers. For example, an employee of Company X is relocated from New York City to Chicago. The policy of the company is to offer a moving allowance that could pay all the tariff charges or just subsidize them, depending on the costs. The employee comes to you to arrange the transportation of his household goods shipment. He is the shipper, he owns the contents of the shipment, and he is identified as the shipper on the bill of lading and all the other shipping documents, but Company X comes forward to pay the costs. That household goods shipment belongs to an individual shipper, and you are subject to the household goods broker regulations if you handle that shipment.

As a broker, you must clearly determine if the shipper fits the definition of a commercial shipper to take advantage of the exemption. The type of shipper you intend to do business with can better be determined by who is identified on the bill of lading, than by who is paying the tariff charges. If you are not sure, then refer to the definitions in the regulation.

Government shippers are simple to determine. Any shipment moved under a government bill of lading belongs to a government shipper. The best-known government shippers are the U.S. Department of Defense and the U.S. Department of State. If you deal solely with government shippers, then you, as a broker, are exempt from the household goods broker regulations. However, you are subject to the rules, regulations, and statutes governing the agency for which you arrange transportation. If you arrange transportation for government shippers, then it is in the best interest of your business to familiarize yourself with all the requirements of the agencies with which you do business.

Keep in mind that this exemption applies only to household goods broker regulations. As a broker, you are still required to obtain the appropriate broker authority and do business only with motor carriers having the appropriate operating authority. You still are required to keep the proper records. If you operate multiple businesses, then you still are required to maintain separate financial records for the brokerage.

Additionally, if your brokerage does business with government, commercial, and individual shippers, the exemption applies only to shipments from commercial and government shippers.

Doing Business Only with Motor Carriers Having Valid USDOT Numbers and Operating Authority, 49 CFR §371.105

As a household goods broker, you may do business only with a motor carrier that has a valid USDOT number and valid *household goods motor carrier authority*. You may not arrange transportation with motor carriers having only property motor carrier authority or household goods authority that is under suspension or has been revoked. You are encouraged to regularly verify the authority status of motor carriers that you do business with. You can check the status of a motor carrier's operating authority by going to the FMCSA Licensing and Insurance Web site at <http://li-public.fmcsa.dot.gov>. When you arrive at that Web site, click "Continue" at the bottom. On the next webpage, click "Choose Menu Option" in the upper right corner. When the drop-down menu appears, click "Carrier Search." On the next webpage, enter the motor carrier's USDOT or MC number and click "Search." You will see the results of your search, provided that the motor carrier is registered with FMCSA. If the carrier you are searching for appears, then choose either "HTML" or "PDF" to get a status report.

Required Information in Your Advertisements and on Your Web site Homepage, 49 CFR §371.107

As a household goods broker, you must PROMINENTLY display, in all of your advertisements and on the home pages of your Web site, the following information:

- The physical location of your brokerage;
- Your MC Docket number and the USDOT number issued to your business by FMCSA;
- That you are a household goods broker and arrange the transportation of household goods by an authorized household goods motor carrier;
- That your estimates are based on rates in the motor carrier's tariff; and
- That the motor carrier is required to make its tariff available for public inspection upon a reasonable request.

Information Household Goods Brokers Must Provide to All Potential Individual Shippers, §49 CFR 371.109

You must provide, to all potential individual shippers who contact you, a list of all the authorized household goods motor carriers that you use, including their USDOT and MC numbers. You may submit this list electronically or on paper. Additionally, you must provide, to all potential individual shippers that contact you, a statement saying that you are not a motor carrier authorized by the Federal Government to transport household goods but only arrange transportation and additional services, if applicable, by an authorized household goods motor carrier. This statement, as part of your response to any inquiries by potential shippers, can be combined with the list of authorized household goods motor carriers you use and can be provided electronically or on paper.

This is an example of a statement required by the regulation, 49 CFR §371.109:

(Name of your brokerage) is not a motor carrier authorized by the Federal Government to transport an individual shipper's household goods, and we only arrange for an authorized household goods motor carrier to perform transportation services and, if applicable, additional services.

The required statement can be programmed as the closing of all your responding e-mails to potential shippers. The list of the household goods motor carriers you use can be included in the responding e-mail or an attachment, but this information must be sent to all potential shippers.

Providing Federal Consumer Protection Information to Potential Individual Shippers, 49 CFR §371.111

You must provide potential individual shippers with Federal consumer protection information. The required Federal consumer protection information contains two publications:

- “Ready to Move – Tips for a Successful Interstate Move”; and
- “Your Rights and Responsibilities When You Move”.

You have the option of supplying hard copies of the publications to disseminate to potential shippers, or you may install a hyperlink on your Web site to the FMCSA Web site containing the publications. The link to the FMCSA Web site is www.protectyourmove.gov. Publications are accessible from the home page.

Providing Estimates to Individual Shippers, 49 C.F.R §371.113

As a household goods broker, you may provide individual shippers with estimates of the transportation and accessorial charges. The estimates you provide must be in writing and based on a physical survey of the household goods to be shipped. A physical survey is an on-site examination of the household goods shipment at the individual shipper's point of origin to determine a more accurate estimate. The physical survey can be conducted by you, as the household goods broker, or the household goods motor carrier on whose behalf the estimate was prepared. If the household goods shipment is located beyond a 50-mile radius from both you and the household goods motor carrier that will transport the shipment, then the physical survey requirement is waived. If your brokerage is not located within a 50-mile radius from the individual shipper's point of origin, then it is strongly recommended that you use a household goods carrier that is within the radius to avoid grossly inaccurate estimates and consumer complaints. Remember, you are required to inform potential shippers of the authorized household goods motor carriers that you use, so assigning a household goods shipment to a household goods motor carrier outside the 50-mile radius could result in complaints of deceptive business practices. Such complaints can negatively impact your business.

You may encounter a household goods shipper who will waive the physical survey. If that happens, then you must get a signed, written waiver agreement from the individual shipper. The waiver must be printed at no less than 7-point size, using Universe typeface font. The waiver agreement is kept as an attachment to the bill of lading. You and the household goods motor carrier that transports the shipment must each keep a copy of the waiver agreement. As the broker, you are required to keep a copy of this document for three years.

Written Agreements with Motor Carriers before Providing Written Estimates, 49 CFR §371.115

Before you can provide written estimates of transportation charges for household goods motor carriers, you must have written agreements with those motor carriers, as required by the regulation at 49 CFR §375.409.

That regulation states:

A household goods broker must not provide an individual shipper with an estimate of charges for the transportation of household goods unless there is a written agreement between the broker and you, the carrier, adopting the broker's estimate as your own estimate. If you make such an agreement with a broker, you must ensure compliance with all requirements of this part pertaining to estimates, including the requirement that you must relinquish possession of the shipment if the shipper pays you 110 percent of a non-binding estimate at the time of delivery.

As a household goods broker, you may not provide an estimate for a household goods motor carrier that you do not have a written agreement with, because that carrier cannot adopt your estimate as its own.

Your written agreement must have the following information:

- Your broker name as shown on your FMCSA registration (operating authority certificate), your physical address, and your MC Docket number;
- The authorized motor carrier's name as shown on its FMCSA registration, its physical address, and its USDOT and Motor Carrier (MC) Docket numbers;
- A concise, easy to understand statement that your written estimate to the individual shipper:
 - Will be exclusively on behalf of the authorized household goods motor carrier;
 - Will be based on the authorized household goods motor carrier's published tariff; and
 - Will serve as the authorized household goods motor carrier's estimate for purposes of complying with the requirements of 49 CFR Part 375, including the requirement that the authorized household goods motor carrier relinquish possession of the shipment upon payment of no more than 110% of a non-binding estimate at the time of delivery;
- Your owner's, corporate officer's, or corporate director's signature lawfully representing your household goods brokerage and the date; and
- The signature of the authorized household goods motor carrier's owner, corporate officer or corporate director's signature lawfully representing the household goods motor carrier and the date.

The signed written agreement between your household goods brokerage and a household goods motor carrier must be made available to the public for inspection upon a reasonable request. You must keep copies of written agreements for as long as you provide estimates on behalf of the authorized household goods motor carriers you work with, and 3 years after the agreements are terminated.

Providing Individual Shippers with the Policies of Your Brokerage Concerning Cancellation, Deposits, and Refunds, 49 CFR §371.117

You must PROMINENTLY disclose on your Web site(s), and in agreements with prospective shippers, your policies regarding cancellation, deposits, and refunds. You **must** retain, for **3 years**, records of all cancellation requests by individual shippers and how your brokerage handled those requests. You must keep records of all individual shipper deposit refunds. Your refund records must state that the individual shipper cashed or deposited the refunded money, if the financial institution provides that documentation, or show proof you delivered the refunded money to the individual shipper. These records, if kept properly, should protect your brokerage, if there are disputes with individual shippers over cancellations and deposits.

Consequences of Noncompliance with the Regulations, 49 CFR §371.121

When doing business as a broker, you have a responsibility to comply with all Federal statutes and regulations. Compliance with those statutes and regulations was a condition of obtaining your authority and is a condition of maintaining your authority. Noncompliance with the Federal regulations could result in complaints filed with FMCSA or the Surface Transportation Board against your brokerage. When those complaints are investigated by FMCSA, and violations of Federal regulations are discovered, the consequences may have an impact on your business and can be severe.

The FMCSA has authority granted to it by Congress to initiate enforcement actions for violations of Federal statutes and regulations. These can include Notices of Violations, Notices of Claims that could result in penalties starting at \$1,100, and suspension or revocation of your broker authority. Egregious violations could result in criminal prosecutions by the U.S. Department of Justice or by State law enforcement authorities. Additionally, your brokerage may be subject to civil court actions while FMCSA enforcement actions or Federal or State criminal prosecutions are in progress.

The minimum penalty is **\$10,000** if you are a household goods broker and you arrange transportation of a household goods shipment with a motor carrier with which you do not have a written agreement.

The minimum penalty is **\$25,000** if you are a household goods broker and you operate without household goods broker authority or while it is suspended.

It is important that you understand all of the laws and regulations that your brokerage must comply with to avoid losing business or going out of business.

Further Assistance

If you require further assistance with the information presented in this guide, you should contact the FMCSA, Commercial Enforcement Division, 1200 New Jersey Avenue, SE, Washington, DC 20590 at (202) 385-2400.

Appendix A – Exempt Commodities

Brokering Exempt Commodities

All brokers may arrange transportation of commodities that are exempt from regulation. Commodities exempt from regulation by the USDOT are listed in the Federal statute 49 U.S.C. §13506(a)(6):

- ordinary livestock;
- agricultural or horticultural commodities (other than manufactured products thereof);
- commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission*, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);
- cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, *other than* fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and
- livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.

***Administrative Ruling No. 107, March 19, 1958**
Bureau of Motor Carriers, Interstate Commerce Commission
List of Exempt Commodities

AGRICULTURAL COMMODITY LIST

Ruling No. 107
 March 19, 1958
 [Section 203(b)(6)]

GENERAL

This ruling relates to Section 203(b)(6) as it presently reads:

Nothing in this part except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include * * * (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation; * * * .

Pending before the Congress are bills which if enacted into law would limit or revise the application of the exemption and render obsolete many of the interpretations herein. For each entry in the Commodity List there is shown either the number assigned to one of the Commission or court decisions in the Case List, or the words "Bureau opinion," the latter denoting an informal expression of the Bureau. In a few instances reference is made to a numbered Note appended to the ruling. Certain of these explain the reason for Bureau opinions which differ from past Commission decisions. Others mention pending Commission proceedings which may affect the status of commodities making reference thereto.

Though commodities are shown as either "Exempt" or "Not exempt," it must be kept in mind that an "Exempt" commodity loses its exemption whenever it is transported in a vehicle which at the same time is transporting for compensation commodities not within the exemption. The absence of a commodity from the list below should not be taken to mean that it is either within or not within the exemption. Only those commodities are listed as to which inquiries have been received in the past by the Bureau or which has been the subject of Commission or court proceedings.

Alfalfa, see Feeds
 Animal fats--Not exempt-Bureau opinion
 Animals, see Livestock
 Bagged commodities--Placing exempt commodities in bags does not affect their exempt status-Case 1
 Bark, see Forest Products
 Barley, see Grains
 Bees-Exempt-Case 1
 Beeswax, crude, in cakes and slabs--Exempt-Bureau opinion
 Beet pulp, see Feeds
 Beets, sugar-Exempt-Case 1
 Berries, see Fruits
 Bran, see Feeds
 Broom com, threshed and baled-Exempt-Bureau opinion
 Bulbs, see Horticultural Commodities
 Butter-s-Not exempt-Case 20
 Buttermilk-Exempt-Case 20
 Canned fruits and vegetables-Not exempt-Case 20
 Carnauba wax as imported in slabs or chunks-Not exempt-Bureau opinion
 Castor beans-Exempt-Case 1
 Cattle, live, see Livestock
 Cattle, slaughtered-Not exempt-Case 20
 Charcoal-Not exempt-Bureau opinion
 Cheese-Not exempt-Case 1
 Cheese, cottage-Not exempt-Case 20.
 Cheese, cream-Not exempt-Case 20.
 Christmas trees, plain, sprayed, or coated-Exempt-Bureau opinion
 Citrus fruits, see Fruits
 Coal-Not exempt-Bureau opinion
 Cocoa beans--Exempt-Case 1(b), Note 1 (Not exempt-Ruling No. 110.)
 Coffee beans, green-Exempt-Case 1(b), Note 1 {Not exempt-Ruling No. 110.]
 Coffee, instant-Not exempt-Bureau opinion
 Coffee, roasted-Not exempt-Bureau opinion
 Containers, crates, and boxes which have been used in the movement of exempt commodities and are being returned for reuse-Exempt-Case 8

Administrative Ruling No. 107 COMMODITY LIST Continued

Containers, new for use in shipping exempt commodities--Not exempt-Case 8
 Copra meal-Not exempt-Case 6
 Corn, see Grain
 Com cobs-Exempt-Case 1
 Corn cobs, ground-Exempt-Bureau opinion, Note 4
 Com fodder-Exempt-Case 1
 Cottage cheese, see Cheese.
 Cotton, carded but not spun, woven, or knitted-Exempt-Bureau opinion, Note 5
 Cotton, ginned or unginned-Exempt-Case 1
 Cotton Linters-Exempt-Case 20
 Cotton waste, consisting of scraps of cotton fiber not spun, woven or knitted-Exempt-Bureau opinion. Note 5
 Cotton yarn--Not exempt-Bureau opinion
 Coffee beans, green-Exempt-Case 1 (b), Note 1 {Not exempt-Ruling No. 110.]
 Coffee, instant-Not exempt-Bureau opinion
 Coffee, roasted-Not exempt-Bureau opinion
 Containers, crates, and boxes which have been used in the movement of exempt commodities and are being returned for reuse-Exempt-Case 8
 Containers, new for use in shipping exempt commodities--Not exempt-Case 8
 Copra meal-Not exempt-Case 6
 Corn, see Grain
 Com cobs-Exempt-Case 1
 Corn cobs, ground-Exempt-Bureau opinion, Note 4
 Com fodder-Exempt-Case 1
 Cottage cheese, see Cheese.
 Cotton, carded but not spun, woven, or knitted-Exempt-Bureau opinion, Note 5
 Cotton, ginned or unginned-Exempt-Case 1
 Cotton Linters-Exempt-Case 20
 Cotton waste, consisting of scraps of cotton fiber not spun, woven or knitted-Exempt-Bureau opinion. Note 5
 Cotton yarn--Not exempt-Bureau opinion
 Cottonseed cake-Not exempt-Bureau opinion
 Cottonseed, dehulled-Exempt-Bureau opinion
 Cottonseed hulls-Exempt-Case 20
 Cottonseed meal-Not exempt-Case 20
 Crates, see Containers
 Cream, see Milk
 Cream cheese, see Cheese
 Dehydrated. See commodity name: Fruits, Vegetables, and Eggs, etc.
 Diatomaceous earth-Not exempt-Bureau opinion
 Dinners, frozen-Not exempt-Bureau opinion
 Dinners, seafood. Frozen - Not exempt-Case 7, Note 6 [Exempt-Ruling No. 110.]
 Dried, see commodity name; Fruits. Vegetables. Eggs; etc.
 Eggs
 Albumen, fresh, Liquid-Exempt-Case 5
 Dried-Exempt-Case 20
 Frozen-Exempt-Case 20
 In shell-Exempt-Case 1
 Liquid, whole or separated-Exempt-Case 5
 Oiled-Exempt-Case 1
 Powder, dried-Exempt-Case 20
 Shelled-Exempt-Case 5
 Yolks, dried-Exempt-Case 20
 Yolks, fresh, Liquid-Exempt-Case 5
 Fats, animal-Not exempt-Bureau opinion
 Feathers-Exempt-Case 20
 Feeds Alfalfa meal-Not exempt-Bureau opinion
 Alfalfa pellets-Not exempt--Bureau opinion
 Beet pulp-Not exempt-Case 6
 Bran shorts-Not exempt-Case 6
 Copra meal-Not exempt-Case 6
 Com Gluten-Not exempt-Bureau opinion
 Cottonseed products, see Cottonseed
 Distilled corn grain, residues, with or without solubles added-Not exempt-Case 6
 Fish meal-Not exempt-Case 6
 Hominy feed-Not exempt-Bureau opinion
 Middlings-Not exempt-Case 6
 Oat hulls, ground-Exempt-Bureau opinion, Note 4
 Pelletized ground refuse screenings-Not exempt-Case 6

Administrative Ruling No. 107 COMMODITY LIST Continued

Rice bran-Exempt-Bureau opinion-Compare Case 12
 Screenings, feed-Exempt-Case 6
 Wheat bran-Not exempt-Bureau opinion
 Wheat shorts-Not exempt-Bureau opinion
 Fertilizer, commercial-Not exempt-Bureau opinion
 Fish (including shell fish)
General. Frozen, quick frozen, and unfrozen fish and shell fish in the various forms in which it is shipped, such as live fish, fish in the round, beheaded, and gutted fish, filleted fish, beheaded shrimp, and oysters, clams, crabs, and lobsters, with or without shells, including crab meat and lobster meat-Exempt-Case 11
 Breaded, uncooked, frozen or unfrozen-Exempt-Administrative Ruling No. 98, November 28, 1955 [Exempt-Ruling No. 110.]
 Cakes, codfish-Not exempt-s-Case 7, Note 6 [Exempt-Ruling No. 110.J
 Clam juice Or broth-Not exempt-Bureau opinion [Exempt-Ruling No. 110.]
 Cooked or partially cooked fish or shrimp, frozen or unfrozen-Not exempt-Administrative Ruling No. 98, November 28, 1955 [Exempt-Ruling No. 110.]
 Croquettes, salmon, frozen-Not exempt-Case 7. Note 6 [Exempt-Ruling No. 110.)
 Deviled crabs, clams, or lobsters. frozen-Not Exempt-Case 7, Note 6 [Exempt-Ruling No. 110.1
 Dinners, frozen-Not exempt-Case 7, ~ Note 6 [Exempt-Ruling No. 110.]
 Fried fish fillets, oysters, or scallops, frozen-Not exempt-Case 7, Note 6 [Exempt-Ruling No. 110.]
 Frogs, live or dressed-Exempt-Bureau opinion
 Frozen, see General above, and individual listings.
 Hermetically sealed in containers as a treatment for preserving-Not exempt-Case 11
 Hermetically sealed in containers for cleanliness only, preservation attained by refrigeration-c-Exempt--Bureau opinion
 Meal-Not exempt-Case 6
 Offal (inedible portions of fish not further processed)-Exempt-Bureau opinion
 Oil from fishes-Not exempt-Bureau opinion
 Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned, or kippered-Not exempt-Case 11 [Ruling No. 110.]
 Shells, oyster, moving to market for use in button making-Not exempt-Case 16
 Stew, consisting of raw oysters or clams, milk, and seasoning, frozen but uncooked-Exempt-Bureau opinion.
 Sticks, frozen-Not exempt-Case 7, Note 6 [Exempt-Ruling No. 110.]
 Turtles, sea or fresh water-Exempt-Bureau opinion
 Whale meat, fresh-Exempt-Bureau opinion
 Flagstone--Not exempt-Bureau opinion
 Flax fiber-Exempt-Case 1
 Flaxseed, whole--Exempt-Case 1
 Flaxseed meal-Not exempt-Bureau opinion
 Flour-Not exempt-Bureau opinion
 Flowers and flower plants, see Horticultural commodities
 Fodder, corn and sorghum-Exempt-Case 1
 Forage, see Hay
 Forest products
 Bark-Exempt-Case 1
 Bark, boiled to clean and soften-Exempt-Bureau opinion
 Blankets of pine and spruce boughs-Exempt-Bureau opinion
 Greenery-Exempt-Case 1
 Holly sprigs and cuttings-Exempt-Bureau opinion
 Leaves-Exempt-Case 1
 Leaves, sisal, husks and moisture removed-Exempt-Bureau opinion
 Mistletoe--Exempt-Bureau opinion
 Myrobalans, as imported in natural state--Exempt-Bureau opinion
 Palmyra stalk fibers (fronds from palm leaves)-Exempt-Bureau opinion
 Peat moss, dried, shredded, baled-Exempt-Case 22
 Resin, crude--Exempt-Case 1
 Resin products, such as turpentine--Not exempt-Administrative Ruling No. 62, August 3, 1937
 Roots, natural or dried-Exempt-Bureau opinion
 Sap, maple--Exempt-Case 1
 Spanish moss-Exempt-Case 1
 Sphagnum moss--Exempt-c-Bureau opinion
 Spices, see separate listing: Spices
 Trees see separate listing: Trees.

Administrative Ruling No. 107 COMMODITY LIST Continued

Valonia, as imported in natural state-c-Exempt-s-Bureau opinion
 Wreaths of holly or other natural material with small amount of foundation or decorative material-Exempt-Bureau opinion
 Frogs, see Fish
 Frozen, see commodity name: Fruits, Vegetables, Fish, Poultry, etc.
 Fruits and Berries
 Bagged-Exempt-Case 1
 Canned-Not exempt-Case 20
 Citrus fruit sections, fresh, cold-packed, semi-frozen, or frozen-Exempt-Bureau opinion, Note 2 [Ruling No. 110.]
 Color added-Exempt-Case 1
 Dates, pitted, dried-e-Exempt-e-Bureau opinion
 Dehydrated-Exempt-Bureau opinion, Note 3
 Dried, naturally or artificially-Exempt-Cases 1 and 20
 Figs, dried, halved or quartered-c-Exempt--Bureau opinion
 Frozen, fresh--Exempt-c-Case 20 [Not exempt-Ruling No. 110.]
 Fumigated-Exempt-Case 1
 Graded-Exempt-Case 1
 Hulls of oranges after juice extractions--Not exempt-Bureau opinion
 In brine, to retain freshness-e-Exempt-e-Bureau opinion
 Juice, orange or other citrus-Not exempt-Case 17
 Juice, fruit, plain or concentrated-Not exempt-Bureau opinion
 Kernels-Exempt-Bureau opinion
 Oiled apples-Exempt-Case 1.
 Peaches, peeled, pitted, and put in cold storage in unsealed containers-Exempt-Case 20.
 Quick frozen, fresh-Exempt-Case 21' [Not exempt-s-Ruling' No. 110.]
 Pies, frozen-Not exempt-Case 14
 Preserved, such as jam-s-Not exempt-Bureau opinion
 Purees, strawberry and other, frozen-Not exempt-Case 7, Note 6
 Raisins, seeded or unseeded-Exempt-Bureau opinion
 Sliced, fresh or frozen-Exempt-Bureau opinion, Note 2 [Ruling No. 110.]
 Strawberries, in syrup and unsealed containers in cold storage--Exempt-Case 20
 Grains
 Artificially dried-Exempt-Case 1
 Barley, rolled-Exempt-Case 20
 Barley, whole-Exempt-Case 1
 Corn, cracked-Exempt-Bureau opinion
 Com, shelled-Exempt-Case 1
 Com, whole-Exempt-Case 1
 Feeds, see separate heading: Feeds
 Hulls, see Feeds
 Milo maize-Exempt-Bureau opinion
 Oats, whole-Exempt-Case 1
 Oil extracted from grain-Not exempt-Bureau opinion
 Popcorn, popped-Not exempt-Bureau opinion
 Popcorn, unpopped, shelled, in sealed or unsealed containers-Exempt-Bureau opinion
 Rice bran-Exempt-Bureau opinion, Compare Case 12.
 Rice, brewers-Exempt-Bureau opinion
 Rice, clean-Exempt-Cases 12 and 20
 Rice polish-Exempt-Case 20
 Rice, precooked-Not exempt-Bureau opinion
 Rice, whole-Exempt-Case 1
 Rye, whole-Exempt-Case 1
 Sorghum grains, whole-Exempt-Case 1
 Wheat germ-Not exempt-Bureau opinion
 Wheat, whole-Exempt-Case 1
 Grass sod-Exempt-Bureau opinion
 Gravel-Not exempt-Bureau opinion
 Greenery, see Forest products
 Grinding, see Note 4
 Hair, alpaca; camel, or goat, clipped from animal-Exempt-Bureau opinion
 Hair, hog or other animal, product of slaughter of animal-Not exempt-Bureau opinion
 Hay and forage, dried naturally or artificially-Exempt-Case 1
 Hay, chopped-Exempt-Case 20
 Hay, dehydrated-Exempt-Case 1
 Hay, salt (from salt marshes)-Exempt-Bureau opinion
 Hay, sweetened with 3% molasses by weight-Not exempt-Bureau opinion

Administrative Ruling No.107 COMMODITY LIST Continued

Hemp fiber-Exempt-Case 1 [Not exempt-Ruling No. 110.]
 Herbs, see Spices
 Hides, green and salted-Not exempt-Cases 1 and 23
 Honey, in the comb or strained-Exempt-Case 1
 Honey, heat treated to retard granulation-Exempt-Bureau opinion
 Hops-Exempt-Case 1
 Horticultural commodities
 Bulbs-Exempt-Bureau opinion
 Flowers, growing or cut-Exempt-Bureau opinion
 Leaves, natural or dried-Exempt-Bureau opinion
 Nursery stock-Exempt-Bureau opinion
 Plants, vegetable and flower-Exempt-Bureau opinion
 Roots, rhubarb, asparagus, mint, etc.-Exempt-Bureau opinion
 Trees, growing, balled in earth-Exempt-Bureau opinion
 Wreaths, holly or other natural material, with small amount of foundation or decorative material-Exempt-Bureau opinion
 Humus, of a nature similar to peat moss-Exempt-Bureau opinion
 Ice for cooling- subsequent shipments of exempt commodities-Exempt-Administrative Ruling No. 63, August 3, 1937
 Imported commodities-Have same status as domestic-Cases 1(b) and 22 [Ruling No. 110.)
 Insecticides--Not exempt-Bureau opinion
 Juices, See Fruits
 Jute fiber, in bales-Exempt-Bureau opinion
 Kelp, dried, ground-Exempt-Bureau opinion, Note 4
 Latex, see Rubber
 Leaves, see Forest products, Horticultural commodities, and Spices
 Livestock
 Exhibit animals, such as those of 4-H club members, which though showed for a few days, are chiefly valuable for slaughter-Exempt-Bureau opinion
 Medical use animals, such as ordinary healthy swine for serum manufacture--Exempt -Bureau opinion
 Monkeys-Not exempt-Bureau opinion
 Ordinary, i.e., all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, and other special uses-Exempt -Case 1
 Race horses-Not exempt-Case 1
 Registered or purebred cattle for ordinary farm or ranch uses, not chiefly valuable for breeding, race, show, or other special purposes-Exempt-Bureau opinion
 Show horses-Not exempt-Case 1
 Zoo animals-Not exempt-Bureau opinion
 Limestone, agricultural-Not exempt-Bureau opinion
 Linseed meal, see Meal
 Lumber, rough sawed or planed-Not exempt-Cases 1 and 9
 Manure, in natural state-Exempt-Case 1
 Manure, dried or dehydrated, bagged-Exempt-Bureau Opinion
 Maple sap-Exempt-Case 1
 Maple syrup-Not exempt-Bureau opinion
 Meal, alfalfa-Not exempt-Bureau opinion
 Meal, copra-Not exempt-Case 6
 Meal, cottonseed-Not exempt-Case 20
 Meal, fish-Not exempt-Case 6
 Meal, flaxseed-Not exempt-Bureau opinion
 Meal, linseed-Not exempt-Bureau opinion
 Meal, peanut-Not exempt-Bureau opinion
 Meal, soybean-Not exempt-Bureau opinion
 Meat and meat products, fresh, frozen or canned-Not exempt-Cases 1 and 20
 Milk and cream
 Buttermilk-Exempt-Case 20
 Chocolate-Not exempt-Case 1
 Condensed-Not exempt-Case 20
 Frozen-Exempt-Case 20
 Homogenized-Exempt-Case 1
 Pasteurized-Exempt-Cases 1 and 20
 Powdered-Exempt-Case 20
 Raw-Exempt-Case 1
 Skim-Exempt-Cases 1 and 20
 Skim, with two-thirds of water removed, in bulk or unsealed containers--Exempt-Bureau opinion

Administrative Ruling No. 107 COMMODITY LIST Continued

Standardized-Exempt-Case 1
 Sterilized in hermetically sealed cans-Not exempt - Bureau opinion
 Vitamin "A"- Exempt-Cases 1 and 20
 Milo, see Grains
 Mohair, raw, cleaned, or scoured-Exempt-Case 1(a)
 Molasses--Not exempt-Bureau opinion
 Moss, see Forest products
 Mushrooms, fresh-Exempt-Case 4
 Nursery stock, see Horticultural commodities
 Nuts, (including peanuts)
 Peanut meal-Not exempt-Bureau opinion
 Peanut shells, g-round-Exempt-Case 20, Note 4
 Polished-Exempt-Bureau opinion
 Raw, shelled or unshelled-c-Exempt--Cases 1,3, and 18
 Roasted or boiled-Not exempt-Bureau opinion
 Shelled, raw-Exempt-Cases 3 and 18
 Shells-Exempt-Bureau opinion
 Shells, ground peanut-Exempt-Case 20, Note 4
 Unshelled, raw-Exempt-Case 1
 Oats, see Grains
 Oil, mint-s-Not exempt-Case 1
 Oil, extracted from vegetables, grain, seed, fish, or other commodity-Not exempt-Bureau opinion
 Packaged commodities-Packaging exempt commodities does not affect their exempt status-Case 1
 Peanuts, see Nuts
 Peat moss, see Forest products
 Pelletized feeds, see Feeds
 Pelts-Not exempt-Case 1
 Pies, frozen-Not exempt-Case 14
 Pigeons, racing-Not exempt-Case 13
 Plants, vegetable or flower, see Horticultural commodities
 Poles, see Trees
 Popcorn, see Grains
 Poultry, dressed, fresh or frozen-Exempt-Case 19
 Poultry feathers-Exempt-Case 20
 Poultry, frozen-Exempt-Case 19
 Poultry, live-Exempt-Case 1
 Poultry, picked-Exempt-Case 20
 Poultry, stuffed and frozen-Exempt-Bureau opinion
 Pulp, beet-Not exempt-Case 6
 Pulp, sugarcane-Not exempt-Bureau opinion
 Purees, see Fruit-s
 Rabbits, dressed-Exempt-Bureau opinion
 Raisins, see Fruits
 Ramie Fiber-Exempt-Case 1
 Resin, see Forest products
 Rice, see Grains
 Rock-Not exempt-Bureau opinion
 Roots, see Forest products, Horticultural commodities
 Rubber, crude, in bales-Not exempt-Bureau opinion
 Rubber, latex, natural, liquid, from which water has been extracted and to which ammonia has been added-Not exempt-Case 15
 Rye, see Grains
 Sand-Not exempt-Bureau opinion
 Sap, see Forest products
 Sawdust, from lumber mills-Not exempt-Bureau opinion
 Seaweed, dried, ground-Exempt-Bureau opinion, Note 4
 Seeds
 Cotton, see Cottonseed
 Deawned-Exempt-Case 20
 Flax, see Flaxseed
 Inoculated-Exempt-Case 1
 Meal made from seeds, see Meal
 Natural-Exempt-Case 1
 Oil extracted from seeds-Not exempt-Case 1
 Packets or boxes of seeds in display racks-Exempt-Bureau opinion
 Scarified-Exempt-Case 20
 Screened or sized-Exempt-Case 2

Administrative Ruling No. 107 COMMODITY LIST Continued

Spice. see Spices
 Sprayed for disease control-Exempt-Case 2
 Shells, nut, see Nuts
 Shells, oyster, see Fish
 Shingle bolts, see Trees
 Skins, animal-Not exempt-Cases 1 and 23
 Sliced, see commodity name: Fruits, Vegetables, etc.
 Soil, potting-Not exempt-Bureau opinion
 Soil, top-Not exempt-Bureau opinion
 Sorghum fodder-Exempt-Case 1
 Sorghum grains-Exempt-Case 1
 Soup, frozen-Not exempt-Bureau opinion
 Spices and herbs, ungrounded, whether seeds, berries, leaves, bark, or roots-Exempt-Bureau opinion
 Spices and herbs. ground but not further processed-Exempt-Bureau opinion, Note 4
 Stover-Exempt-Case 1 -
 Straw-Exempt-Case 1
 Sugar-Not exempt-Case 1
 Sugar beets-Exempt-Case 1
 Sugar cane-Exempt-Case 1
 Sugar cane pulp-Not exempt-Bureau opinion
 Sugar, raw-Not exempt-Bureau opinion
 Syrup, cane-Not exempt-Case 1
 Syrup, maple-Not exempt-Bureau opinion
 Tea-Exempt-Case 1(b), Note 1 [Not exempt-Ruling No. 110.]
 Telephone poles, see Trees
 Textile waste, see Cotton waste
 Tobacco
 Chopped leaf-Exempt-Bureau opinion
 Cigars and cigarettes-Not exempt-Bureau opinion
 Homogenized-c-Not exempt-Bureau opinion
 Leaf-Exempt-Case 1
 Redried leaf-Exempt-Case 1(a)
 Smoking-Not exempt-Bureau opinion
 Stemmed leaf-Exempt-Bureau opinion
 Stems-Exempt-Bureau opinion
 Top Soil-Not exempt-Bureau opinion
 Trees -
 Bolts for making shingles-Exempt-Bureau opinion
 Brush, mesquite, twigs and debris burned off-Exempt-Bureau-opinion
 Christmas, plain, sprayed, or coated-Exempt-Bureau opinion
 Cut to length, peeled, or split-Exempt-Case 1
 Growing, see Horticultural commodities
 Sawed into lumber-Not exempt-Case 1
 Shingle bolts-Exempt-Bureau opinion
 Telephone poles, not creosoted-Exempt-Bureau opinion
 Turtles, see Fish
 Vegetables
 Bagged-Exempt-Case 1
 Beans, dried artificially and packed in small container-Exempt-Case 20
 Candied sweet potatoes, frozen-Not exempt-Case 7, Note 6
 Canned-Not exempt-Case 20
 Cooked-Not exempt-Bureau opinion
 Cucumbers, salt cured-Exempt-Case 1(b), Note 1
 Cured-Exempt-Case 1
 Cut up. fresh, in cellophane bags-Exempt-Case 20
 Dried, naturally or artificially-Exempt-Cases 1 and 20
 Dehydrated-Exempt-Bureau opinion, Note 3
 French fried potatoes-Not exempt-Case 10
 Frozen, fresh-c-Exempt-Case 21 [Not exempt-Ruling No. 110.]
 Garlic powder-Exempt-Bureau opinion, Notes 3 and 4
 Graded-Exempt-Case 1
 Oil extracted from vegetables-Not exempt - Bureau opinion
 Onion powder-Exempt-Bureau opinion, Notes 3 and 4
 Onion chips and flakes, dried-Exempt-Bureau opinion, Note 3
 Peas, split-Exempt-Bureau opinion
 Peeled, uncooked-Exempt-Bureau opinion
 Powder, onion and garlic-Exempt-Bureau opinion, Notes 3 and 4

Administrative Ruling No. 107 COMMODITY LIST Continued

Quick frozen, fresh-s-Exempt-c-Case 21 [Not exempt-Ruling No. 110.]
 Shelled-Exempt-Bureau opinion
 Soup, frozen-Not exempt-Bureau opinion
 Soybean meal-Not exempt--Bureau opinion
 Washed, fresh, in cellophane bags-Exempt-Case 20
 Whale meat, see Fish
 Wheat, see Grains
 Wheat products; see Feeds, Flour
 Wood chips for making wood pulp-Not exempt-Bureau opinion
 Wool grease, as obtained from cleaning or scouring process-Exempt-Bureau opinion
 Wool, raw, cleaned, or scoured-Exempt-Case 1 (a) (Ruling No. 110.)
 Wool tops and noils-Exempt-Bureau opinion, Note 5 [Not exempt-Ruling No. 110.]
 Wool waste, carded but not spun, woven or knitted-Exempt-Bureau opinion Note 5 [Ruling No. 110.] ,
 Wool yarn-Not exempt-Bureau opinion
 Wreaths, see Forest products

CASE LISTS

Commission

1. *Determination of Exempted Agricultural Commodities*, 52 M. C. C. S11 [8 FEDERAL CARRIERS CASES ¶ 32,042]
- 1(a). *Determination of Exempted Agricultural Commodities*, 62 M. C. C. 87 [10 FEDERAL CARRIERS CASES ¶32,845]
- 1(b). *Determination of Exempted Agricultural Commodities*, 74 M. C. C. 549 [13 FEDERAL CARRIERS CASES ¶ 34,247]
2. *Blythe Common Carrier Application*, 66 M. C. C. 560 [11 FEDERAL CARRIERS CASES ¶ 33,541]
3. *Bonney Motor Express, Inc., Extension*, 69 M. C. C.480 [12 FEDERAL CARRIERS CASES ¶ 33,844]
4. *Dougherty Common Carrier Application*, 31 M. C. C. 793 [3 FEDERAL CARRIERS CASES ¶ f 30,151]
5. *Erickson Transport Corp., Extension-Madison, South Dakota*, 74 M. C. C. 23 [13 FEDERAL CARRIERS CASES ¶34,257]
6. *Herrett Trucking Co., Inc., Extension-Feeds*, 69 M. C. C. 487 [12 FEDERAL CARRIERS CASES ¶ 33845]
7. *Hughes Extension - Frozen Foods*, 71 M. C. C. 457 [12 FEDERAL CARRIERS CASES ¶ 33935]
8. *Karst Extension-Containers*, 62 M. C. C. 579 [10 FEDERAL CARRIERS CASES ¶ 33,067]
9. *Lewis Common Carrier Application*, 69 M. C. C. 603 [12 FEDERAL CARRIERS CASES ¶33869]
10. *Midwest Coast Transport, Inc., Extension-Montana*, 74 M. C. C. 1 [12 FEDERAL CARRIERS CASES ¶34,209]
11. *Monark Egg Corp., Contract Carrier Application*, 52 M. C. C. 576 [8 FEDERAL CARRIERS CASES ¶32,043]
12. *Penn-Dixie Lines, Inc., Extension-Rice*, 72 M. C. C. 797 [12 FEDERAL CARRIERS CASES ¶ 34,097]
13. *Prang Extension-Homing Pigeons*, 53 M. C. C. 223 [8 FEDERAL CARRIERS CASES ¶ 32,154]
14. *Refrigerated Transport Co., Inc., Extension, Frozen Foods*, 72 M. C. C. 459 [13 FEDERAL CARRIERS CASES ¶ 34,255]
15. *Shipley Transfer, Inc., Extension-Liquid Latex*, 52 M. C. C. 806 (Not printed)
16. *Sprofera Common Carrier Application*, 66 M. C. C. 123 [11 FEDERAL CARRIER CASES ¶ 33,452]
17. *Watkins Motor Lines, Inc., Interpretation*, 64 M. C. C.455 [11 FEDERAL CARRIER CASES ¶ 33,35S]

Court

18. *Consolidated Truck Service, Inc. v. U. S. and I. C. C.*, 144 F. Supp. S14 [12 FEDERAL CARRIER CASES ¶ 81083]
19. *East Texas Motor Freight Lines, Inc. v. Frozen Food Express*, 351 U. S. 49 [11 FEDERAL CARRIER CASES ¶81,050]
20. *Frozen Food Express v. U. S. and I. C. C.*, 148 F. Supp. 399, affirmed without opinion 355 U.S. 6 [12 FEDERAL CARRIER CASES ¶ 81,100]
21. *Home Transfer & Storage Co. v. U.S. and I. C. C.*, 141 F. Supp. 599 [11 FEDERAL CARRIER CASES ¶ 81061], affirmed without opinion, 352 U. S. 884 [12 FEDERAL CARRIER CASES ¶ 81085]
22. *Premier Peat Moss Corp. v. U. S.*, 147 F. Supp. 169 [12 FEDERAL CARRIERS CASES ¶ 81,088]
23. *Southwestern Trading Co. v. U. S.*, 208 F. 2d 708

NOTES

Note 1.

The report in *Determination of Exempted Agriculture Commodities*, MC C-968, First Supplemental Report, decided February 11, 1958 was served on February 14,1958 [13 FEDERAL CARRIER CASES ¶ 34,247). Whether any petitions for reconsideration will be filed is not known at this time.

Administrative Ruling No. 107 COMMODITY LIST Continued

Note 2

In *Penn-Dixie*, 68 M. C. C. 29 [11 FEDERAL CARRIER CASES ¶33,690], Division 1 of the Commission held fresh citrus fruit sections not to be within the exemption. However, this decision was rendered prior to the affirmance by the U. S. Supreme Court of the court decisions in *I. C. C. v. Home Transfer & Storage Co.*, 141 F. Supp. 599 [11 FEDERAL CARRIER CASES ¶81,061], 352 U. S. 884 [12 FEDERAL CARRIER CASES ¶81,085] and in *Frozen Food Express v. U. S.*, 148 F. Supp. 399 [12 FEDERAL CARRIER CASES ¶ 81,100], 355 U. S. 6. In the former case peeled and sliced frozen peaches were held to be within the exemption, and in the latter case cut up vegetables and peeled and pitted peaches were held to be within the exemption.

Note 3.

In the *Determination* case, 52 M. C. C. 511 [8 FEDERAL CARRIER CASES ¶32,042], the Commission held that dehydrated vegetables do not come within the exemption. However, that position would seem no longer valid in view of the recent holding in *Frozen Food Express v. U.S.*, 148 F. Supp. 399 [12 FEDERAL CARRIER CASES ¶81,100] that dried egg powder, dried egg yolks and powdered milk are within the exemption, which holding was affirmed by the U. S. Supreme Court in 355 U. S. 6.

Note 4

It is, rather dear from the *Determination* case, 52 M. C. C. 511 [8 FEDERAL CARRIER CASES ¶ 32042], that the Commission considered grinding to be manufacturing, though it did not specifically so hold. The Bureau until recently considered all ground commodities to be not exempt. In *Herren*, 69 M. C. C. 487, (January 29, 1957) [12 FEDERAL CARRIER CASES ¶ 33845] the Commission, Division 1, held ground oat hulls not within the exemption. This, however, was prior to the expiration of the date for appeal in *Frozen Food Express v. U. S. and I. C. C.*, 148 F. Supp. 399 [12 FEDERAL CARRIER CASES ¶81,100], in which the court held, among other things, that ground peanut shells, dried egg powder, and powdered milk are within the exemption. No appeal was taken as to ground peanut shells, and on appeal the U. S. Supreme Court affirmed the decision as to the two powdered commodities. The Court opinion does not describe the grinding and powdering processes there involved, but in an early Commission case, *Harris and Callis*, 4 M. C. C. 169 [1 FEDERAL CARRIER CASES ¶ 7172], it was said that ground peanut shells are produced by pulverization in a hammer mill. In view of the Court holdings, which now are final, the Bureau no longer considers that grinding alone removes a commodity from the exemption. However, manufacturing which follows or precedes grinding may have this effect. Thus the bolting which produces flour would make that commodity non-exempt. Also meals produced by grinding commodities from which the oil has been extracted are considered not within the exemption. Thus in the *Frozen Food* case, mentioned above, the court held cottonseed meal not to be within the exemption.

Note 5.

In view of the "substantial identity" test of the U. S. Supreme Court in *East Texas Motor Freight Lines, Inc. v. Frozen Food Express*, 351 U.S. 49 [11 FEDERAL CARRIER CASES ¶ f 81,050], the Bureau takes the view that the exemption includes cotton or wool which has been combed or carded but not spun, woven or knitted. Thus wool tops and noils are now considered within the exemption. Also considered within the exemption is waste which consists of scraps or discards of cotton or wool fibers resulting from the handling and processing in mills, but not wastes made up of scraps of thread, yarn, or cloth.

Please review the Federal statute at 49 U.S.C. §13506 closely if you choose to broker shipments of exempt commodities. Keep in mind that there are non-exempt commodities that are similar to exempt commodities or created from exempt commodities listed in the statute. These are listed at 49 CFR §372.115**. Brokering shipments containing these non-exempt commodities makes you subject to regulation by FMCSA. If you broker a shipment that is a combination of exempt and non-exempt commodities, then you and the motor carrier that transports it are subject to the regulations of FMCSA. As a broker, it is imperative that you be fully aware of the commodities for which you arrange transportation and that you have the proper broker authority.

For example, a shipper wants you to move a shipment containing hogs (ordinary livestock, an exempt commodity) from North Carolina to Maryland. Because that shipment is exempt, it is not required to be transported by an authorized motor carrier, and you do not require authority as a property broker to broker the shipment. Another shipper wants you to move a shipment containing hand tools from Indiana to New York. That shipment must be transported by an authorized motor carrier, and you must have authority as a property broker to arrange transportation for it. A third shipper wants you to move his shipment of raw and roasted peanuts from Virginia to Delaware. The raw peanuts are exempt, and the roasted peanuts are not. That shipment must be transported by an authorized motor carrier, and you must have authority as a property broker to make the arrangements for transport.

**Commodities not exempt under 49 U.S.C. §13506(a)(6) as stated in 49 CFR §372.115			
Administrative Ruling No. 133			
Animal Fats	Butter	Canned Fruits and Vegetables	Carnauba wax as imported in slabs or chunks
Cattle, slaughtered	Charcoal	Cheese	Coal
Cocoa beans	Coffee, beans, roasted or instant	Copra meal	Cotton yarn
Cottonseed cake or meal	Diatomaceous Earth	Dinners, frozen	Fertilizer, commercial
Feeds: Alfalfa meal, Alfalfa pellets, Beet pulp, Bran shorts, Copra meal, Corn gluten, Distilled corn grain residues, with or without soluble added, Fish meal, Hominy feed, Middlings, Pelletized ground refuse screenings, Wheat bran, Wheat shorts			
Fish: Canned or salted as a treatment for preserving, Cooked or partially cooked fish or shrimp, frozen or unfrozen, Hermetically sealed in containers as a treatment for preserving, Oil from fishes, Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned, or kippered			
Flagstone	Flaxseed meal	Flour	Forest Products: Resin products, such as turpentine
Fruits and Berries: Bananas, fresh, dried, dehydrated, or frozen, Canned, Frozen, Hulls of oranges after juice extractions, Juice, fruit, plain or concentrated, Pies, frozen, Preserved, such as jam, Purees, strawberry and other, frozen			
Grains: Oils extracted from grain, Popcorn, popped, Rice, precooked, Wheat germ			
Gravel	Hair, hog or other animal, product of slaughter of animal	Hay, sweetened with 3% molasses by weight	Hemp fiber
Hides, green and salted	Insecticides	Limestone, agricultural	Lumber, rough sawed or planed
Livestock: Monkeys, Race horses, Show horses, Zoo animals			
Meal: Alfalfa, Copra, Cottonseed, Fish, Flaxseed, Linseed, Peanut, Soybean			
Milk and Cream: Chocolate, Condensed, Sterilized in hermetically sealed cans			
Nuts (including Peanuts): Peanut Meal, Roasted or boiled			
Seeds: Oil extracted from seeds			
Sugar, Sugar raw, Sugar cane pulp, Syrup, cane, Syrup, maple, Pulp, beet, Molasses			
Vegetables: Candied sweet potatoes, frozen, Canned, Cooked, French fried potatoes, Oil, extracted from vegetables, Soup frozen, Soybean meal			
Tobacco: Cigars and cigarettes, Homogenized, Smoking			
Wool imported from a foreign country, Wool tops and noils, Wool yarn, Wool waste (carded, spun, woven, or knitted)			
Meat and meat products, fresh, frozen or canned	Sand	Oil, mint	Oil, extracted from vegetables, grain, seed, fish or other commodity
Skins, animal	Pelts	Pelts	Rock (except natural crushed, vesicular rock to be used for decorative purposes)
Rubber, crude, in bales	Soup, frozen	Sand	Rubber, latex, natural, liquid, from which water has been extracted and to which ammonia has been added
Tea	Soil,	Soil, top	Trees: Sawed into lumber

As a broker, you must be aware of the commodities in the shipments you handle and the motor carriers you deal with or you could violate Federal regulations and statutes, risking penalties and suspension or revocation of your authority to operate as a broker.