



FLEET RISK:
**Non-CDL Commercial
Motor Vehicle & Driver**

CONSTRUCTION

BUILD MOMENTUM

Discussion Facilitator



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Areas of Expertise:

- ✓ **Oil & Gas Transmission & Distribution**
- ✓ **Underground Utilities & Municipal**
- ✓ **Foundations & Deep Excavation**
- ✓ **Highway & Street Construction**
- ✓ **Trucking/Fleet Operations**
- ✓ **Environmental Management**
- ✓ **Work Zone Risk & Temporary Traffic Control**

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Learning Outcomes

- A. Clarify intrastate vs. interstate motor carrier definition as it relates to a contractor
- B. Define non-CDL CMV driver qualifications
- C. Identify non-CDL CMV compliance
- D. Describe inspection and maintenance considerations
- E. Recognize Hours of Service (HOS) for a non-CDL CMV driver

Boundaries for our Discussion

- ✓ Commercial Driver's License (CDL)
- ✓ In-depth INTERstate vs. INTRAstaterules comparison
- ✓ Wacky state rules and unique state-specific vehicle and driver exemptions
- ✓ HAZMAT



Baseball Analogy



Consideration: some of the most valuable insight you receive is not what you want to hear

- ✓ **Rules for baseball are the same regardless of where the game is played**
 - Elementary School, Middle School, High School, College, Professional League
- ✓ **What observable change occurs between elementary & the professionals?**
- ✓ **Observable change: *Level of Play***
 - Level of play changes with the quantity and quality of planning, practice, execution

Question: how many hours/days do you spend planning and preparing for the execution of FMCSA & DOT driver/vehicle expectations?

Point of Impact: What is Your Level of Play?

Amateur or Professional



Amateur vs. Professional Example

Did You Read the Standard, Reg, Rule or Law?



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Ignorance Is No Excuse For Compliance

Tolerating Risk/Safety Issues Substantiates
Liability & Potential **Negligence**

Compliance Violations are Evidence of Relevant
Negligence in Civil Litigation

Definition: Motor Carrier

Private vs. For-hire

Property vs. Passenger

Inter vs. Intra-State



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Are Contractors Considered Motor Carriers?



Motor Carrier provides and operates a commercial motor vehicle (CMV) to transport property, passengers or hazardous materials (HAZMAT) and is involved in commerce

- Contractors use CMV's in "Furtherance of a Business"

Private Motor Carrier transports its own goods/cargo, is required to have a USDOT number and is not a "for-hire" motor carrier

Motor Carrier of Property transports property/items/goods/cargo, not passengers

INTRASTATE Motor Carrier transports goods/cargo from one point to another within the same state; no state borders are crossed

INTERSTATE Motor Carrier transports goods/cargo:

- a) between a place in a state and a place outside of that state a CMV does not have to physically cross a state line for it to be an interstate move, if the load originated outside the state it is characterized as interstate until load reaches its final destination
- b) between a place in a state and a place outside of US
- c) between two places in the same state if the shipment passes through another state
- d) between two places in the same state if the shipment passes through a place outside the US



<https://csa.fmcsa.dot.gov/>



CARRIER REGISTRATION INFORMATION (MCS-150 DATE: 05/05/2023)

**Typically,
Contractors
Register as:**

**Interstate
Private Property
Motor Carrier**

Motor Carrier A

Vehicle Miles Traveled: 1,060,000
 VMT Year: 2022
 Power Units: 52
 DUNS Number:
 Drivers: 47
 Carrier Operation: Interstate
 Passenger: No
 HM: No
 HHG: No
 New Entrant: No

Motor Carrier B

Vehicle Miles Traveled: 25
 VMT Year: 2022
 Power Units: 12
 DUNS Number:
 Drivers: 12
 Carrier Operation: Intrastate Non-Hazmat
 Passenger: No
 HM: No
 HHG: No
 New Entrant: No

OPERATION CLASSIFICATION

AUTHORIZED FOR HIRE
 PRIVATE PASSENGER, BUSINESS
 U. S. MAIL
 LOCAL GOVERNMENT

EXEMPT FOR HIRE
 PRIVATE PASSENGER, NON-BUSINESS
 FEDERAL GOVERNMENT
 INDIAN TRIBE

X PRIVATE PROPERTY
 MIGRANT
 STATE GOVERNMENT
 OTHER



Definition: Non-CDL Commercial Motor Vehicle

GVWR or GCWR $\geq 10,001$ lbs. but $\leq 26,000$ lbs.



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Understand “When” Regulations Begin...



GVWR - **Gross Vehicle Weight Rating** = the value specified by the manufacturer as the maximum allowable loaded weight

GCWR - **Gross Combination Weight Rating** = the value specified by the manufacturer as the maximum allowable loaded weight of a combination motor vehicle

- ✓ Absence of a reliable value (date plate) specified by the manufacturer, GCWR will be determined by adding the GVWR of power unit and GVWR of towed unit
- ✓ Also, CMV inspectors may add the axle capacities to determine GCWR

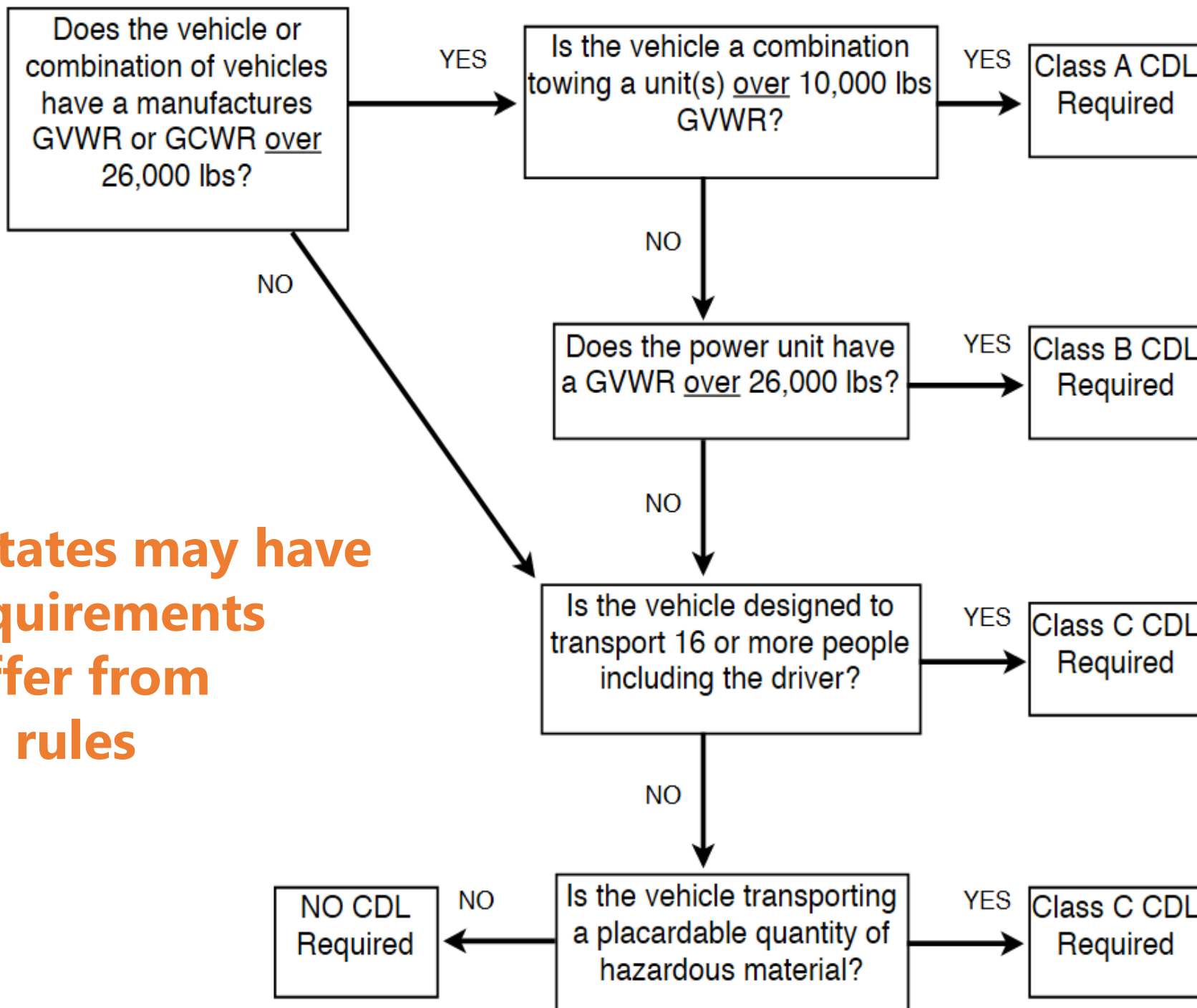
Regulated Commercial Motor Vehicle (CMV)

- ✓ Any vehicle used in furtherance of a business with **GVWR or GCWR \geq 10,001 lbs.**

Unregulated or Auto/Light Duty

- ✓ Motor vehicle GVWR or GCWR less than 10,000 lbs.
- ✓ Unregulated unless hauling a placarded amount of HAZMAT





Notice:

Some states may have CDL requirements that differ from Federal rules



Are Pick-up Trucks Considered CMVs?



Answer = a Definite Maybe...

Is the vehicle being used for any business purpose?

No – not a CMV

Yes – GVWR or GCWR will be the determining factor





		GVWR	
		3992 KG (8800 LB)	
GVWR FRONT	WITH TIRES	RIMS AT	COLD
2359 KG (5200 LB)	LT245/75R16-E	16X7.5	448 KPA (65 PSI)
GVWR REAR	WITH TIRES	RIMS AT	COLD
2760 KG (6084 LB)	LT245/75R16-E	16X7.5	551 KPA (80 PSI)

WEIGHT CARRYING / POIDS PORTANT / CARGA DE PESO	
MAX GROSS TRAILER WT POIDS BRUT MAX. DE LA REMORQUE PESO MÁXIMO BRUTO DEL REMOLQUE	5000 Lb. (2268 Kg)
MAX GROSS TONGUE WT POIDS MAX. AU TIMON PESO MÁXIMO DE LA HORQUILLA	500 Lb. (227 Kg)

Vehicle Only

= 8,800 lbs. and is Not a CMV

Vehicle/Trailer Combination

8,800 lbs. + 5,000 lbs. = 13,800 lbs.

CMV Rules Apply: DOT Number, Fed Med Card, Inspections, etc.

Avoid Creative Folly

Common Question:

Can I Request a Manufacturer Change the Vehicle/Trailer Data Plate to Reduce the Maximum Capability (GVWR) of the Unit?

- ✓ Simple Answer – **NO**
- ✓ Motor carriers cannot derate a vehicle and/or trailer to avoid FMCSA & DOT compliance *(registered weight is different)*
 - If that was allowed, then everyone would do it to avoid taxation and compliance issues
- ✓ If you would like a vehicle or trailer with less GVWR, then purchase vehicle or trailer with less GVWR



Non-CDL & CDL CMV's have Substantially Similar Compliance Expectations

Basic Requirement Guidelines for Commercial Motor Vehicles and Equipment		
Vehicle Requirements	10,001-26,000 GVW/GCVW	26,000+ GVW/GCVW
Vehicle Compliance		
Inspections	✓	✓
Standard Equipment	✓	✓
Repair/Maintenance	✓	✓
Emergency Equipment	✓	✓
Taxation		
IFTA	✗	✓
IRP	✗	✓
Permitting		
Hazmat	✓	✓
Placards	✓	✓
Oversize	✓	✓
Accident Compliance		
	✓	✓

Basic Requirement Guidelines for Commercial Motor Vehicle Drivers		
Driver Requirements	10,001-26,000 GVW/GCVW	26,000+ GVW/GCVW
Driver Qualifications		
CDL	✗	✓
MVR	✓	✓
Pre-Employment Drug/Alcohol Testing	✗	✓
Medical Card	✓	✓
Road Evaluation	✓	✓
Violation Accountability	✓	✓
Hours of Service		
Driver Logs	???	✓
Record Keeping		
	✓	✓
Audits		
	✓	✓

Ignorance Is No Excuse For Compliance

Searching for Exemptions?

Federal exemptions do not:

- A. Always provide a reliable defense in civil litigation, or
- B. Preempt State laws/regs in safety operation of a CMV, or
- C. Imply other exceptions, or
- D. Excuse operating a CMV fatigued

Exceptions are not self-evident

- Motor carrier and driver must prove an exemption specifically applies
- *Example: Hours of Service (HOS) exemptions for:*
 - Utility service vehicle, or
 - Construction materials and equipment





FLEET RISK:
Non-CDL CMV
Driver Qualification

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To drive a Non-CDL CMV, a driver must comply with the general qualifications outlined in 49 CFR 391.11

- ✓ **Drivers \geq 21 years of age operate a CMV for INTERstate commerce** *(verify fed & state rules)*
- ✓ **Drivers \geq 18 but $<$ 21 may only drive in their state of residence** *(verify fed & state rules)*
- ✓ **Speak and read English satisfactorily to:**
 - Converse with the general public,
 - Understand traffic signs and signals,
 - Respond to official questions, and
 - Make legible entries on reports and records.
- ✓ **Be physically qualified to perform all duties of a driver**
- ✓ **Pass a driver's road test or equivalent**
- ✓ **Is not disqualified to drive a commercial motor vehicle**
 - Disqualification criteria set forth in 49 CFR 391.15
- ✓ **Operate the CMV safely**



Driver Qualification File (DQF)

GVWR or GCWR $\geq 10,001$ lbs. but $\leq 26,000$ lbs.



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Driver Qualification File Checklist

[49 CFR 391](#) explains the minimum requirements for commercial motor vehicle drivers. Motor carriers are required to maintain a [qualification file](#) for each of their drivers. The following checklist will help you ensure that each driver qualification file is complete.

✓	Form/Inquiry/Note to Include	Must Retain Document For
Ongoing Updates	Inquiry To State Agencies for Driving Record – Annual — 49 CFR 391.25 (a) and (c) Motor carriers must contact State agencies annually for an updated copy of each driver’s MVR.	3 years from date of execution
	Review of Driving Record – Annual — 49 CFR 391.25 (c) (2) At least once every 12 months, the carrier must collect a current motor vehicle record (MVR) from the State issuing a driver’s license, and review the MVR to determine whether the driver still meets the minimum requirements for safe driving, and to confirm they are not disqualified pursuant to 49 CFR 391.15. A note including the name of the person who performed this review and the date must be retained in the file with the MVR.	3 years from date of execution
	Medical Examination Report and Medical Examiner’s Certificate — 49 CFR 391.43 All commercial drivers are required to pass a physical exam conducted by a licensed medical examiner at least once every 24 months. The carrier must retain a copy of this certificate. For CDL drivers; the carrier must retain a copy of the CDLIS motor vehicle record, which contains the examination information.	3 years from date of execution
	Employer note verifying that medical examiner is listed on National Registry of Certified Medical Examiners — Non-CDL drivers: 49 CFR 391.51(b)(9)(i) ; CDL drivers: 49 CFR 391.51(b)(9)(iii) A note must be included in the driver’s qualification file to verify that the medical examiner is listed on the National Registry of Certified Medical Examiners .	3 years from date of execution
Initial DQ File Documents	Driver’s Application for Employment — 49 CFR 391.21 A driver must not drive a CMV unless an application for employment is completed and signed.	Life of employment + 3 years after termination
	Driver’s Road Test Certificate or Equivalent* — 49 CFR 391.31(e) A person must not drive a commercial motor vehicle until he/she has successfully completed a road test and has been issued a certificate.	Life of employment + 3 years after termination
	Inquiry to Previous Employers: Safety Performance History Records Request — 49 CFR 391.23(a)(1) and (b) Carriers must investigate the driver’s employment record during the preceding three years. This investigation must be completed within 30 days of the date employment begins. Carrier must retain a record of the request and all response documentation.	Life of employment + 3 years after termination
	Safety Performance History Records: Driver Correction or Rebuttal (if applicable) — 49 CFR 391.23(i)(2) and 49 CFR 391.23(j)(3) Carriers must maintain a record of both the request for a driver’s safety performance history and any related documentation, for example if a driver documents that information in the history is inaccurate.	Life of employment + 3 years after termination

Repeatable & Predictable



✓	Form/Inquiry/Note to Include	Must Retain Document For
Initial DQ File Documents	Inquiry To State Agencies for 3-Year Driving Record — 49 CFR 391.23(a)(1) and (b) Carriers must contact State agencies for the driver’s MVR for the past three years. Request must be made within 30 days of hire. MVR must be kept in the driver’s personnel file, and updated annually. See “Review of Driving Record” entry above.	Life of employment + 3 years after termination
	Pre-Employment Drug and Alcohol Documents — 49 CFR 40.25(j) ; 49 CFR 382.301 ; 49 CFR 391.23(e) Before performing safety-sensitive functions, such as operating a CMV, the driver must undergo testing for controlled substances. However, if a driver meets certain exceptions, listed in 382.301(b), the employer is not required to submit the driver to testing; if exercising one of these exceptions, the employer must retain in the driver qualification file specific information, outlined in 382.301(c). In addition, as part of the investigation and inquiries employers are required to conduct for each driver they employ, as outlined in 391.23, employers must request information about previous drug and alcohol program violations from all previous DOT-regulated employers that employed the driver within the last three years in a position that required DOT drug and alcohol testing. This information supplements queries conducted in the Drug and Alcohol Clearinghouse, as required per 382.701, to cover the required three years. Any documentation collected from previous employers through these inquiries must be retained in the driver qualification file. Clearinghouse query results do not need to be retained in the driver qualification file, as they are retained by FMCSA in the Clearinghouse.	See Controlled Substances and Alcohol chapter for recordkeeping requirements.
	The following additional documents are only required for certain types of drivers, or in specific situations.	
	Longer Combination Vehicle (LCV) Driver Training Certificate — 49 CFR 380.401 A driver must not operate an LCV unless the driver can produce an LCV Driver Training Certificate or an LCV Driver Training Certificate of Grandfathering.	Life of employment + 3 years after termination
	Longer Combination Vehicle (LCV) Certificate of Grandfathering — 49 CFR 380.111	Life of employment + 3 years after termination
	Multiple-Employer Drivers — 49 CFR 391.63	Life of employment + 3 years after termination
	Skill Performance Evaluation Certificate — 49 CFR 391.49	3 years from date of execution

Driver Qualification File: Non-CDL CMV Driver



A. Driver's Application for Employment

- A driver **must not drive** a CMV unless a FMCSA approved application is completed and signed
- Non-CDL drivers must list any employer they have worked for in the **last 3 years** – 49 CFR 391.21

B. Inquiry & Verification of Previous Employers for Safety Performance History

- Motor carriers must investigate, document, retain all drivers' previous employment safety performance history for the **3 years immediately** prior to the driver joining a new employer – 49 CFR 391.23

C. Inquiry to State Agencies for Driver's Motor Vehicle Record (MVR) and Motor Carrier's Annual Review of MVR

- An inquiry, **within 30 days of the date the driver's employment begins**, to each driver's licensing authority where the driver held or holds a motor vehicle operator's license or permit **during the preceding 3 years to obtain an MVR**
- A copy of the MVR(s) obtained in response to the inquiry must be placed in the DQF **within 30 days** of the date the driver's employment begins and be retained in compliance with 49 CFR 391.51
- If no MVR is received from the State required to submit this response, **the motor carrier must document a good faith effort** to obtain such information, and certify that no record exists for that driver
- Motor carrier must then **obtain an updated MVR annually**, and review it to determine whether minimum safe driving requirements have been met, and confirm that there are no disqualifying offenses

Driver Qualification File: Non-CDL CMV Driver



D. Medical Examiner's Certificate *(aka Fed Med Card)*

- Non-CDL CMV driver must pass a medical examination and issued a Medical Examiner's Certificate
- Motor carrier must keep a current copy of the Medical Examiner's Certificate in the driver's DQF
- For non-CDL CMV drivers, the DQF must include verification of medical examiner listing on the National Registry of Certified Medical Examiners required by § 391.23(m)(1)

E. Annual List of Violations

- At least once a year, motor carriers must require each driver to provide a list of all traffic violations (not including parking tickets) they've been convicted of, or forfeited bond or collateral for, during the previous 12 months

F. Driver's Road Test Certificate or Equivalent *(more info to follow)*

- Drivers must not drive a CMV until they have completed a road test and are issued a certificate

G. Inquiry about Drug and Alcohol Tests *(more info to follow)*

- Employers must ask potential employees if they have tested positive, or refused to test, on any pre-employment drug or alcohol test where the employee applied for, but did not obtain, safety-sensitive transportation work
- If a driver refuses to allow the prospective employer to make an inquiry about previous drug and alcohol tests, the employer must not permit the driver to operate a CMV



Driver's Road Test

49 CFR 391.31



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GVWR or GCWR \geq 10,001 lbs. but \leq 26,000 lbs.



Road Test or Equivalent § 391.33



Non-CDL CMV Driver – road test or equivalent **must be** performed

In place of, and as equivalent to, the road test required by § 391.31, a person who seeks to drive a CMV may present, and a motor carrier may accept:

A) **Valid CDL** defined in § 383.5 ... which has been issued to him/her to operate specific categories of CMVs ... after successful completion of a road test in a CMV of the type a motor carrier intends to assign to him/her,

OR

B) **Copy of a valid certificate of driver's road test** issued to him/her pursuant to § 391.31 within preceding 3 years

- ✓ If a driver presents, **and a motor carrier accepts**, a previous road test certificate as equivalent to the road test, the motor carrier shall retain a legible copy certificate in the driver's DQF
- ✓ **A motor carrier may require** any person who presents a certificate as equivalent to the road test to take a road test or any other test of his/her driving skill as a condition to his/her employment

CDL driver – choice of accepting valid CDL and/or perform road test

As an equivalent to the driver's road test certificate, a motor carrier may accept and retain a copy of the driver's valid CDL, or a copy of the driver's valid road test certificate (issued within the past 3 years)



(a) Except as provided in subpart G, a person shall not drive a commercial motor vehicle unless he/she has first successfully completed a road test and has been issued a certificate of driver's road test in accordance with this section.

(b) The road test shall be given by the motor carrier or a person designated by it. However, a driver who is a motor carrier must be given the test by a person other than himself/herself. The test shall be given by a person who is competent to evaluate and determine whether the person who takes the test has demonstrated that he/she is capable of operating the commercial motor vehicle, and associated equipment, that the motor carrier intends to assign him/her.

(c) The road test must be of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the commercial motor vehicle, and associated equipment, that the motor carriers intends to assign to him/her. As a minimum, the person who takes the test must be tested, while operating the type of commercial motor vehicle the motor carrier intends to assign him/her, on his/her skill at performing each of the following operations:

- (1) The pretrip inspection required by §392.7 of this subchapter;
- (2) Coupling and uncoupling of combination units, if the equipment he/she may drive includes combination units;
- (3) Placing the commercial motor vehicle in operation;
- (4) Use of the commercial motor vehicle's controls and emergency equipment;
- (5) Operating the commercial motor vehicle in traffic and while passing other motor vehicles;
- (6) Turning the commercial motor vehicle;
- (7) Braking, and slowing the commercial motor vehicle by means other than braking; and
- (8) Backing and parking the commercial motor vehicle.

(d) The motor carrier shall provide a road test form on which the person who gives the test shall rate the performance of the person who takes it at each operation or activity which is a part of the test. After he/she completes the form, the person who gave the test shall sign it.

(e) If the road test is successfully completed, the person who gave it shall complete a certificate of driver's road test in substantially the form prescribed in paragraph (f) of this section.

(f) The form for the certificate of driver's road test is substantially as follows:

CERTIFICATION OF ROAD TEST

Driver's name _____
 Social Security No. _____
 Operator's or Chauffeur's License No. _____
 State _____
 Type of power unit _____ Type of trailer(s) _____
 If passenger carrier, type of bus _____

This is to certify that the above-named driver was given a road test under my supervision on _____, 20____, consisting of approximately _____ miles of driving.

It is my considered opinion that this driver possesses sufficient driving skill to operate safely the type of commercial motor vehicle listed above.

(Signature of examiner)

(Title)

(Organization and address of examiner)

FMCSA 49 CFR 391.31

Road Test

1. Pretrip inspection required by § 392.7,
2. Coupling/uncoupling combination unit (vehicle & trailer), if the equipment he/she may drive includes combination units,
3. Placing the CMV in operation,
4. Use of CMV controls, emergency equip't,
5. Operating CMV in traffic and while passing other motor vehicles,
6. Turning the CMV,
7. Braking, and slowing the CMV by means other than braking, and
8. Backing and parking the CMV

Controlled Substances and Alcohol Use and Testing 49 CFR 382

Exceptions to Part 382 include Drivers exempt from CDL requirements by their issuing State, however...

...an employer may have their own nonregulated drug & alcohol testing policy in conformance with applicable federal & state laws

NOTICE: CMV's used in federal railroad or pipeline operation, maintenance or emergency are not discussed



Remember: exemptions do not always provide a reliable defense in civil litigation



Reasonable Suspicion Testing

- ✓ **A trained employer official determines whether reasonable suspicion exists**
 - Based on specific, contemporaneous, and articulable observations of the appearance, behavior, and speech or body odors of the driver
 - 49 CFR 382.603 – supervisor training requirements
- ✓ **Employer may require a driver to submit to an alcohol and/or drug test when alcohol and/or drug reasonable suspicion exists**
 - In conformance with applicable federal and state laws



"Safety-sensitive Function" 49 CFR 382.107



All time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

- (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty;
- (2) **All time inspecting equipment** as required by §§ 392.7 and 392.8 or otherwise **inspecting, servicing, or conditioning any commercial motor vehicle at any time;**
- (3) **All time spent at the driving controls** of a CMV in operation;
- (4) **All time, other than driving time,** in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of § 393.76);
- (5) **All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle,** or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.



Drugs: Non-CDL CMV & Driver

Non-CDL drivers cannot be in a DOT test pool, however employer may have their own non-regulated testing according to applicable federal & state laws

- ✓ ZERO federal exemptions exist for any state's recreational marijuana or lawful consumable laws

§ 392.4 Drugs & other substances – No driver shall be on duty *(all time from the time a driver begins work or is required to be in readiness for work until the time the driver is relieved from work and all responsibilities for performing work)* **and possess, be under the influence of, or use, any of the following drugs or other substances:**

(1) Any 21 CFR 1308.11 Schedule I substance

- ✓ **Marijuana** is a federal schedule 1 drug
 - <https://www.dea.gov/drug-information/drug-scheduling>

(4) Any other substance, to a degree which renders the driver incapable of safely operating a motor vehicle



Alcohol: Non-CDL CMV & Driver

Non-CDL drivers cannot be in a DOT test pool, however employer may have their own non-regulated testing according to applicable federal & state laws

- ✓ Consider *Reasonable Suspicion* training for all supervisors and employees

§ 392.5 Alcohol prohibition – no CMV driver shall:

- (1) **Use alcohol within 4 hours** before going on duty or operating, or having physical control of, a CMV; or
- (2) Use alcohol, be under the influence of alcohol, or have **any measured alcohol concentration** or **detected presence of alcohol**, while on duty, or operating, or in physical control of a CMV; or
- (3) **Be on duty or operate a CMV while the driver possesses wine, beer, or distilled spirits**
 - ✓ Unless the wine, beer, or distilled spirits is manifested and transported as part of a shipment

No motor carrier shall require or permit a driver to:

- (1) Violate any of the above-mentioned items, or
- (2) Be on duty or operate a CMV if, by the driver's **general appearance** or **conduct** or by **other substantiating evidence**, the driver appears to have used alcohol within the prior 4 hours.





FLEET RISK:
Non-CDL
CMV Compliance



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CMV Marking – 49 CFR 390.21



Construction and Durability – may be painted, permanent or consist of a removable device

- 1) Legal name or a single trade name of the motor carrier must be displayed
- 2) Identification number issued by FMCSA must be preceded by the letters "USDOT"
- 3) If any name other than the operating carrier appears on the CMV, the name of the operating carrier must be followed by #1 & #2 and be preceded by the words "operated by"

Size, Shape, Location, and Color of Marking Must:

- 1) Appear on both sides of the CMV
- 2) Be in letters that contrast sharply in color with the background where letters are placed
- 3) Be readily legible, during daylight hours, from a distance of 50 feet while the CMV is stationary
- 4) Be kept and maintained in a manner that retains the legibility required by #3



Rental CMV

✓ Rental/lease \leq 30 calendar days

- Written agreement must be carried on the vehicle during the full term of the rental/lease agreement
- Written agreement must include motor carrier USDOT number, whether INTER or INTRAstate travel, whether any placarded amount of HAZMAT is transported
- CMV Markings – 49 CFR 390.21

✓ Rental/lease $>$ 30 calendar days

- All the above plus your motor carrier name and USDOT number shall be displayed



Emergency Equipment, Inspection & Use - § 392.8, 392.22



No CMV shall be driven unless **the driver is satisfied that the required emergency equipment is in place and ready for use nor shall any driver fail to use or make use of such equipment when and as needed.**

A. Fire extinguisher

- ✓ **Minimum 5 B:C** for a non-HAZMAT power unit CMV; must be **securely mounted** to prevent sliding, rolling, or vertical movement; **UL rating** label/markings; constructed to permit visual indication of whether unit is fully charged

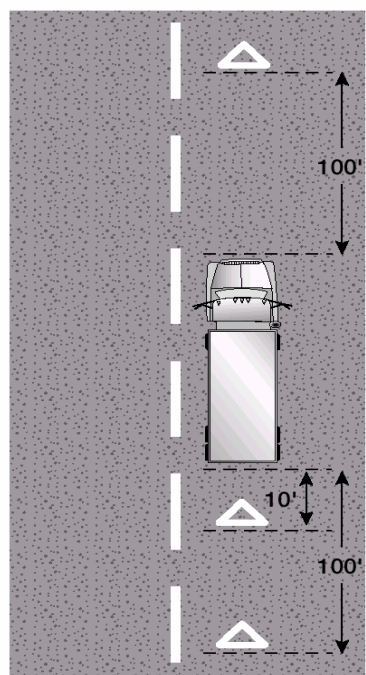
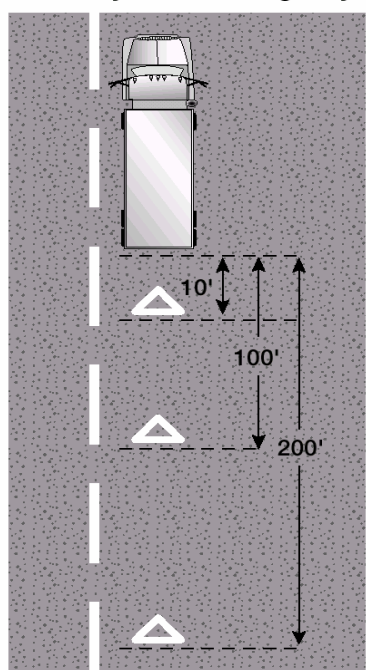
B. Spare fuses

- ✓ **At least one** spare fuse for each type/size of fuse needed to operate any CMV power unit required parts and accessories

C. Warning devices for stopped vehicle

- ✓ **3** bidirectional emergency reflective triangles conforming to FMCSA Motor Vehicle Safety Standard No. 125, § 571.125, or
- ✓ At least **6** fusees (red signal flare) or **3** liquid-burning flares





Placement of Warning Devices - 49 CFR 392.22(b)



General Rule – whenever a CMV is stopped upon the traveled portion or the shoulder of a highway for any cause other than necessary traffic stops, the driver shall, as soon as possible, but in any event **within 10 minutes**, place the warning devices in the following manner:

1. One on the traffic side of and **4 paces (approximately 10 feet) from stopped CMV** in the direction of approaching traffic; and
2. One at **40 paces (approximately 100 feet) from stopped CMV** in the center of the traffic lane or shoulder occupied by the CMV and in the direction of approaching traffic; and
3. One at **40 paces (approximately 100 feet) from the stopped CMV** in the center of the traffic lane or shoulder occupied by the CMV and in the direction away from approaching traffic.



Use of Seat Belts – 49 CFR 392.16

✓ Drivers

- **No driver shall operate a CMV**, and a motor carrier shall not require or permit a driver to operate a CMV, that has a seat belt assembly installed at the driver's seat **unless the driver is properly restrained by the seat belt assembly.**

✓ Passengers

- **No driver shall operate a property-carrying CMV**, and a motor carrier shall not require or permit a driver to operate a property-carrying CMV, that has seat belt assemblies installed at the seats for other occupants of the vehicle **unless all other occupants are properly restrained by such seat belt assemblies.**

Fueling Precautions - Ignition of Fuel Prevention § 392.50

- ✓ No driver or any employee of a motor carrier shall fuel a CMV **with the engine running**, except when it is necessary to run the engine to fuel the CMV

CMV Compliance & Technology



Radar Detectors § 392.71

- ✓ No driver may use a radar detector in a CMV, or operate a CMV that is equipped with, or contains, any radar detector

Prohibition against texting § 392.80

- ✓ No driver shall engage in texting while driving
- ✓ No motor carrier shall allow or require drivers to engage in texting while driving

Using a hand-held mobile telephone § 392.82

- ✓ No driver shall use a hand-held mobile telephone while driving a CMV.
- ✓ No motor carrier shall allow or require drivers to use a hand-held mobile telephone while driving

Driving = operating a CMV on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a CMV when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary



Materials of Trade (MOT) = HAZMAT Exemption



Hazardous material, other than hazardous waste

- (1) Protecting the health and safety of the motor vehicle operator
- (2) Supporting the operation or maintenance of a motor vehicle
- (3) By a private motor carrier in direct support of a principal business

Safety Rating & OOS Rates

(As of 07/18/2023 updated daily from [SAFER](#))

SATISFACTORY

(Rating Date: 03/08/2006)



Out of Service Rates

Type	OOS %	National Avg %
Vehicle	40.0	21.4
Driver	0.0	6.0
Hazmat	100.0	4.5

MOTs Limited Amounts Summary

- ✓ Aggregate gross weight of all MOTs on a motor vehicle
- ✓ Diesel fuel bulk tank or packaging ≤ 119 gallons
- ✓ Gasoline per container: DOT 8-gallon max 49 CFR 392.40
- ✓ Division 2.1 material in a cylinder is limited to a gross weight of 100 lbs
 - Division 2.1 material = flammable gas, liquefied petroleum gas, butane, propane, LNG, methane

Packaging and Containers

- ✓ Must be leak tight, securely closed, **secured against shifting, protected against damage**
- ✓ Outer packagings are not required for receptacles (e.g., cans and bottles) **secured against shifting** in cages, carts, bins, boxes, compartments or by other means

Cargo Securement - 49 CFR 393, Subpart I

A. Prevention against **loss of load**

- Each CMV must be loaded and equipped, with cargo secured, to prevent cargo from **leaking, spilling, blowing, falling** from the vehicle or trailer

B. Prevention against **shifting of load**

- Cargo must be contained, **immobilized or secured to prevent shifting** upon or within the vehicle to such an extent that the vehicle's stability or maneuverability is adversely affected

✓ Please **read 49 CFR 393, Subpart I for detailed answers to cargo securement questions**

- Regulations include minimum strength requirements for devices used to secure cargo, requirements that prevent cargo from moving, and rules for securing specific commodities



Cargo Securement – Driver Inspection 49 CFR 392.9



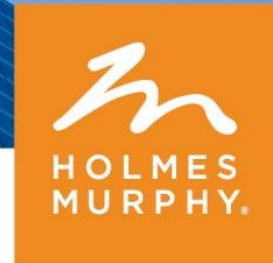
The CMV driver must:

1. **Inspect** the cargo and the devices used to secure the cargo within the first 50 miles after beginning a trip, and
2. **Reexamine** the cargo and its load securement devices during the course of transportation and make any necessary adjustment to the cargo or load securement devices whenever:
 - A. The driver makes a change of his/her duty status; **or**
 - B. The CMV has been driven for 3 hours; **or**
 - C. The CMV has been driven for 150 miles, whichever occurs first.





FLEET RISK:
Non-CDL CMV
Inspection & Maintenance

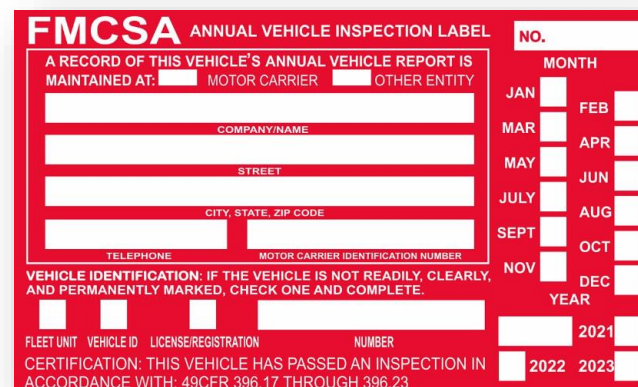


CONSTRUCTION

BUILD MOMENTUM

Periodic Inspection § 396.17-23

- ✓ **Every CMV and trailer used in combination must undergo periodic inspection at least once every 12 months**
 - Inspections must comply with 49 CFR 396 Appendix A: Minimum Periodic Inspection Standards and be performed by a qualified inspector (49 CFR 396.19)
- ✓ **Must retain periodic inspection report for 14 months**
- ✓ **Documentation of the most recent periodic inspection (sticker, report or decal) must be kept on the vehicle or trailer**



Driver Vehicle Inspection Report (DVIR) § 396.11



Required Report (Post Trip) – Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day's work – 49 CFR 396.11(a)(1)

- **DVIR Exceptions** – private motor carrier of passengers (nonbusiness), a driveaway-towaway operation, any motor carrier operating only one (1) CMV, intermodal equipment tendered by an intermodal provider

Corrective action – prior to requiring or permitting a driver to operate a vehicle, every motor carrier shall repair any defect or deficiency listed on the DVIR which would be likely to affect the safety of operation of the vehicle

- Every motor carrier shall certify on the DVIR which lists any defect or deficiency that the defect or deficiency has been repaired or that repair is unnecessary before the vehicle is operated again.

Pre-trip Inspection – Before operating the vehicle, the driver must inspect the vehicle and be satisfied that it is in safe operating condition – 49 CFR 396.13

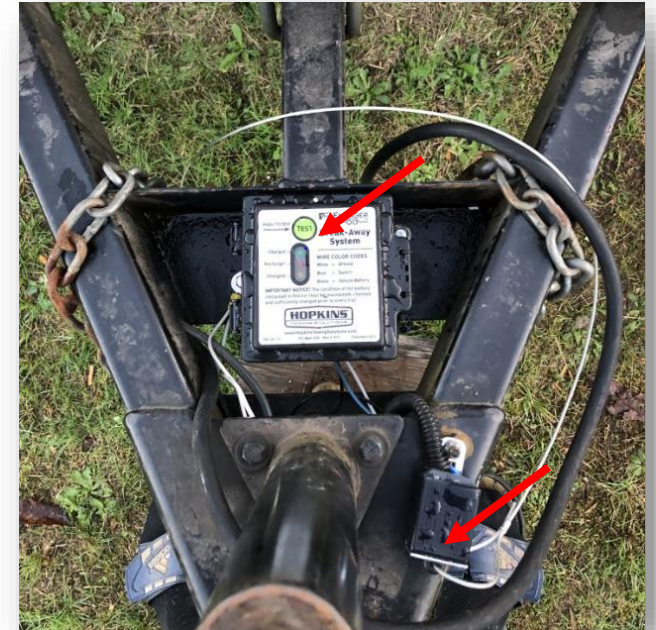
- If the last vehicle inspection report notes any deficiencies, the driver must review and sign to acknowledge and certify that the required repairs were made.

Recordkeeping – motor carrier shall maintain the DVIR, the certification of repairs, and the certification of the driver's review for 3-months from date written report was prepared 

Breakaway Braking Requirements for Trailers



- ✓ Every trailer required to be equipped with brakes shall have brakes which apply **automatically and immediately** upon breakaway from the towing vehicle
- ✓ Brakes must remain in the applied position for **at least 15 minutes**
 - With the exception of trailers having three or more axles, **all brakes** with which the trailer is required to be equipped must be applied upon breakaway from the towing vehicle.
 - Read 49 CFR 393.43(d)



Roadside Inspection Reports § 396.9



- ✓ **Any driver who receives a roadside inspection report is required to deliver it to the motor carrier within 24 hours**
 - If a vehicle is declared "out-of-service," violations or defects must be corrected **before** a vehicle may operate again
- ✓ **Motor carrier must sign and return the completed roadside inspection report within 15 days of the inspection, verifying all violations have been corrected**
 - RECORDKEEPING - copy of report must be retained by the motor carrier for 12 months following inspection date





FLEET RISK:
Non-CDL CMV
Hours of Service (HOS)


CONSTRUCTION

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Read & Understand Compliance

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

Interstate Truck Driver's Guide to Hours of Service



FMCSA-MCE-20-005
June 2020

APRIL 2022
FMCSA-HOS-395-DRIVERS-GUIDE-TO-HOS(2022-04-28)

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

KNOW THE FACTS: UPDATES TO HOURS OF SERVICE RULES

HOURS OF SERVICE FINAL RULE

On June 1, 2020, the Federal Motor Carrier Safety Administration (FMCSA) published a rule that revises HOS regulations in 49 CFR Part 395, which prescribe driving limits for commercial motor vehicle (CMV) drivers.

The rule includes changes designed to offer drivers greater flexibility, while maintaining the highest safety standards on our Nation's roads, and was developed based on extensive public and industry input.

Web:
<https://www.fmcsa.dot.gov/regulations/hours-of-service>
Email:
hoursofservice@dot.gov

FMCSA-MCE-20-005
June 2020

What's Changing?

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

HOURS OF SERVICE (HOS) FACT SHEET SHORT-HAUL EXCEPTION

HOS Changes

- 1 Short-Haul Exception
- 2 Adverse Driving Conditions Exception
- 3 30-Minute Break
- 4 Sleeper Berth Provision

HOURS OF SERVICE FINAL RULE

On June 1, 2020, the Federal Motor Carrier Safety Administration (FMCSA) published the Hours of Service final rule that revises the HOS regulations in 49 CFR Part 395, which prescribe driving limits for commercial motor vehicle (CMV) drivers.

The rule includes four changes designed to offer drivers greater flexibility, while maintaining the highest safety standards on our Nation's roads, and was developed based on extensive public and industry input.

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hoursofservice@dot.gov

FMCSA-MCE-20-005
June 2020

Changes to the Short-Haul Exception

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

HOURS OF SERVICE (HOS) FACT SHEET ADVERSE DRIVING CONDITIONS

HOS Changes

- 1 Short-Haul Exception
- 2 Adverse Driving Conditions Exception
- 3 30-Minute Break
- 4 Sleeper Berth Provision

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Email:
hoursofservice@dot.gov

FMCSA-MCE-20-006
June 2020

Adverse Driving Conditions Exception Changes

This fact sheet explains the differences between the adverse driving conditions exception under the previous HOS rule and the new rule that takes effect on September 29, 2020.

When unforeseen adverse driving conditions affect their route, drivers can:

Previous	New
Drive for up to 2 hours beyond the driving limits	2-hour extension applies to both driving limit and on-duty limit
<ul style="list-style-type: none"> Property carrier 11-hour driving limit Passenger carrier 10-hour driving limit 	<ul style="list-style-type: none"> Property carrier 11-hour driving limit and 14-hour driving window §395.3(a)(2) Passenger carrier 10-hour driving limit and 15-hour on-duty limit §395.5(a)(2)
	When using adverse driving conditions exception, drivers can drive up to:
	<ul style="list-style-type: none"> Property: 13 hours within a 16-hour driving window Passenger: 12 hours within a 17-hour on-duty period

The definition of adverse driving conditions now considers the role of the driver:


Previous	New
Adverse driving conditions means snow, sleet, fog, or other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun.	Adverse driving conditions means snow, ice, sleet, fog, or other adverse weather conditions or unusual road or traffic conditions that were not known, or could not reasonably be known, to: <ul style="list-style-type: none"> a driver immediately prior to beginning the duty day or immediately before beginning driving after a qualifying rest break or sleeper berth period, or a motor carrier immediately prior to dispatching the driver.

Example

No Violation Calculation of the 11- and 14-hour limits for this property carrier begin at midnight after the driver has taken 10 consecutive hours off-duty on the prior day. The driver drives for 3 hours, is off-duty for 1 hour, drives for 4 hours, and is on-duty for 1 hour. The driver then hears that a bridge on the route ahead is closed due to a gravel spill, and the bridge is the only way to get to the destination. The driver takes 1-hour off-duty from 9 a.m. to 10 a.m. to wait at a rest area while the bridge is cleared, then drives for 5 more hours to the destination. This results in the driver driving for 12 hours, and also operating beyond the 14-hour driving window by 1 hour between 2 p.m. and 3 p.m. There is no violation of either the 11- or 14-hour limits under the new HOS final rule when using the adverse driving conditions exception.



Driver Status Definitions

- ✓ **Driving Time** – all time spent at the driving controls of a CMV in operation
- ✓ **Off-Duty Time** is not specifically defined in the regulations
 - Any time that is not “driving time” or “on-duty time” as defined in § 395.2
- ✓ **On-Duty Time** – all time from the time a driver begins work or is required to be in readiness for work until the time the driver is relieved from work and all responsibilities for performing work
 - Complete definition of On-Duty Time § 395.2.
- ✓ **Travel Time** – when a driver at the direction of a motor carrier is traveling, but not driving any vehicle or assuming any other responsibility to the carrier, such time shall be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at destination, in which case he/she shall be considered off duty for the entire period - § 395.1(j) 

Hours of Service (HOS) Definitions 49 CFR 395

- ✓ **HOS – “Hours of Service” = maximum amount of time drivers are permitted to be on duty including driving time**
 - In general, all carriers and drivers operating commercial motor vehicles (CMVs) must comply with HOS regulations in 49 CFR 395.
- ✓ **RODS – “Record of Duty Status” aka Logging**
 - Either an electronic record or standard paper grid-style timekeeping log of a driver’s status throughout the previous 24-hours
- ✓ **ELD – “Electronic Logging Device”**
 - Technology used to automatically record driving time and HOS records, as well as capture data on the vehicle's engine, movement and miles driven



Limited **HOS** Exemptions related to Construction



Note: topics are complete or partial exemptions from Federal HOS compliance, while others are RODS-only exemptions – you **must** read the standard!

- Oilfield operations - 49 CFR 395.1(d)
- Ground water well drilling operations - 49 CFR 395.1(l)
- Construction materials and equipment - 49 CFR 395.1(m)
- Utility service vehicles - 49 CFR 395.1(n)
- Railroad signal employees - 49 CFR 395.1(r)
- Ready-mixed concrete delivery vehicle - 49 CFR 395.1(t)
- Pipeline welding trucks - 49 CFR 395.1(x)



Limited **ELD** Exemptions

- 1. Drivers who use paper RODS for not more than 8 days out of every 30-day period, or**
- 2. Drivers operating under the short-haul 150 air mile exemption may continue using timecards, or**
 - Not required to keep RODS and not required to use ELDs
- 3. Drivers conducting drive-away-tow-away operations, or**
- 4. Drivers of vehicles manufactured before 2000**

Interstate Travel & HOS

If you are operating a CMV over 10,001 lbs. GVWR in INTERstate commerce, then the motor carrier and driver are subject to the Federal Hours of Service (HOS) rules in 49 CFR 395.

- ✓ Violations of HOS rules can only occur when a driver is operating a CMV on a public road past the various Federal HOS limits
- ✓ A driver can work past the limits (i.e., be on duty) they simply can't drive once they've reached these various limits

For more detailed and in-depth INTERstate HOS discussions, please meet with your HMA Construction Risk & Safety Consultant.



Operators of Property-carrying CMVs

Not Requiring a CDL 49 CFR 395.1(e)(2)



Non-CDL CMV drivers are exempt from § 395.3(a)(2) 14-hour period, § 395.8 Driver's RODS, § 395.11 Supporting documents if:

- ✓ Operates within a 150 air-mile radius (172.6 statute miles) of driver's reporting location; and
- ✓ Driver returns to the normal work reporting location at the end of each duty tour; and
- ✓ Driver does not drive:
 - After 14th hour after coming on duty on 5 days of any period of 7 consecutive days; and
 - After 16th hour after coming on duty on 2 days of any period of 7 consecutive days;

Motor carrier must maintain accurate driver time records for 6 months:

- A. Time the driver reports for duty each day;
- B. Total number of hours the driver is on duty each day;
- C. Time the driver is released from duty each day;
- D. Total time for the preceding 7 days for drivers used for the first time or intermittently §395.8(j)(2)





HOURS OF SERVICE (HOS) FACT SHEET

SHORT-HAUL EXCEPTION

Short-Haul Exception and Electronic Logging Devices/Logbooks

While operating under the short-haul exception, drivers are permitted to keep a time record instead of recording time in a graph grid or with an ELD.

When using the short-haul exception, the motor carrier must record the driver's time in, time out, and total number of hours per day

- Time must include the total time for the 7 preceding days
- Records must be maintained for 6 months

When a driver no longer meets the short-haul exception (drives too far/ works too many hours), the driver must complete a regular log or use an ELD for the day (§395.8)

If a driver is required to complete a log for:

- 8 or fewer days within the last 30 days, a driver can use a paper log with a graph grid or an ELD
- More than 8 days within the last 30 days, a driver must use an ELD to record time for that day



Adverse Driving Conditions Exception Changes

This fact sheet explains the differences between the adverse driving conditions exception under the previous HOS rule and the new rule that takes effect on September 29, 2020.

When unforeseen adverse driving conditions affect their route, drivers can:

Previous	New
<p>Drive for up to 2 hours beyond the driving limits</p> <ul style="list-style-type: none"> ✓ Property carrier 11-hour driving limit ✓ Passenger carrier 10-hour driving limit 	<p>2-hour extension applies to both driving limit and on-duty limit</p> <ul style="list-style-type: none"> ✓ Property carrier 11-hour driving limit and 14-hour driving window §395.3(a)(2) ✓ Passenger carrier 10-hour driving limit and 15-hour on-duty limit §395.5(a)(2) <hr/> <p>When using adverse driving conditions exception, drivers can drive up to:</p> <ul style="list-style-type: none"> ✓ Property: 13 hours within a 16-hour driving window ✓ Passenger: 12 hours within a 17-hour on-duty period

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Previous	New
<p>Adverse driving conditions means snow, sleet, fog, or other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun.</p>	<p>Adverse driving conditions means snow, ice, sleet, fog, or other adverse weather conditions or unusual road or traffic conditions that were not known, or could not reasonably be known, to:</p> <ul style="list-style-type: none"> ✓ a driver immediately prior to beginning the duty day or immediately before beginning driving after a qualifying rest break or sleeper berth period, or ✓ a motor carrier immediately prior to dispatching the driver.

49 CFR 395.1 (b)(1)

Adverse Driving Conditions - a driver who encounters adverse driving conditions (*means snow, ice, sleet, fog, or other adverse weather conditions or unusual road or traffic conditions*) may drive a CMV for not more than 2 additional hours beyond the maximum allowable hours

49 CFR 395.1(b)(2)

Emergency Conditions - in case of any emergency, a driver may complete his/her run without being in violation of the provisions of the regulations in this part, if such run reasonably could have been completed absent the emergency

Personal Conveyance – for personal use or reasons



✓ **Consideration: use it wisely, use it sparingly, know who & when**

- Personal Conveyance interpretation will impact liability following an accident

✓ **§395.8 Driver's Record of Duty Status Guidance Q&A #26**

- **Guidance:** A driver may record time operating a CMV for personal conveyance (i.e., for personal use or reasons) as **off-duty** only when the driver is relieved from work and all responsibility for performing work by the motor carrier.
- **Guidance:** CMV may be used for personal conveyance even if it is laden (loaded), since the load is not being transported for the commercial benefit of the motor carrier at that time.
- **Guidance:** Motor carriers can establish personal conveyance limitations either within the scope of, or more restrictive than, this guidance, *such as **banning use** of a CMV for personal conveyance purposes, imposing a **distance limitation** on personal conveyance, or **prohibiting personal conveyance while CMV is laden (loaded)***



The background is a solid orange color. In the top right corner, there is a 2x2 grid of squares: purple (top-left), yellow (top-right), and teal (bottom-right). In the bottom left corner, there is a 2x3 grid of squares: teal (left), red (middle), and purple (right).

In Closing...

Learning Outcomes

- A. Clarify intrastate vs. interstate motor carrier definition as it relates to a contractor
- B. Define non-CDL CMV driver qualifications
- C. Identify non-CDL CMV compliance
- D. Describe inspection and maintenance considerations
- E. Recognize Hours of Service (HOS) for a non-CDL CMV driver



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Thank You.

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Sr. Risk & Safety Consultant

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