

**COMPLIANCE MANUAL FOR  
SATISFYING REQUIREMENTS OF THE  
FEDERAL MOTOR CARRIER SAFETY REGULATIONS**

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## I. FMCSR APPLICABILITY

The Federal Motor Carrier Safety Regulations (FMCSR) contained in 49 C.F.R. Parts 390-396 apply to, among others, motor carriers of passengers and their drivers who operate commercial motor vehicles (CMVs) on public highways in **interstate** commerce. With respect to motor carriage of passengers, Section 390.5 of the FMCSR defines a CMV in relevant part as a motor vehicle that meets any of the following descriptions:

- **Category 1**—A motor vehicle with a gross vehicle weight (GVW) or gross vehicle weight rating (GVWR)<sup>1</sup> of 10,001 pounds or more, whichever is greater;
- **Category 2**—A motor vehicle designed or used to transport more than 8 passengers (including the driver) for compensation; or
- **Category 3**—A motor vehicle designed or used to transport more than 15 passengers, including the driver, and that is not used to transport passengers for compensation.

If the motor vehicle operated meets any of these three definitions, then the carrier and driver must comply with the following provisions of the FMCSR:

- Part 390—General Applicability inclusive of requirements for maintenance of an accident register, submission of an MCS-150 report to obtain a U.S. DOT Identification Number, and marking of CMVs
- Part 391—Driver Qualifications
- Part 392—Operation Guidelines for CMVs
- Part 393—CMV Parts and Accessories for Safe Operation
- Part 395—Driver Hours of Service
- Part 396—CMV Inspection, Repair and Maintenance

Additionally, if the motor vehicle used (a) has a GVWR of 26,001 pounds or more or (b) is designed or used to transport 16 or more passengers, including the driver, then not only must the driver and carrier meet the requirements of Parts 390-393 and 395-396, but also satisfy the mandates of the following two regulations:

- Part 382 covering mandatory driver alcohol and controlled substances testing; and
- Part 383 necessitating that the driver secure a commercial driver's license (CDL).

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<sup>1</sup> The GVW rating is the value specified by the manufacturer as the loaded weight of a single motor vehicle.

## II. ACCIDENT DEFINITION & RECORDATION REQUIREMENTS (§ 390.5 AND 390.15)

### A. Definition

Part 390.5 defines an accident as an occurrence involving a CMV operating on a public road in interstate or intrastate commerce ending in:

- (1) fatality;
- (2) bodily injury resulting in the immediate receipt of medical treatment away from accident scene; or
- (3) one or more vehicles incurring disabling damage requiring motor vehicle(s) to be transported away from accident scene by truck or other motor vehicle.

Importantly, in the view of the Federal Motor Carrier Safety Administration (FMCSA), an accident does **not** encompass:

- (1) an occurrence involving only boarding or alighting from a stationary vehicle, or
- (2) an occurrence involving only cargo loading or unloading.

### B. Recordation

Motor carriers operating CMVs must maintain an **Accident Register** identifying:

- (1) each accident date;
- (2) city or town in which or closest to where accident occurred and state where accident took place;
- (3) driver's name;
- (4) number of injuries;
- (5) number of fatalities;
- (6) whether hazmats materials were released (other than fuel spilled from fuel tanks of motor vehicles involved in accident); and
- (7) copies of all accident reports required by State or insurer.

A record of each such accident must be recorded and maintained for at least 3 years after the accident's occurrence. Significantly, the FMCSA takes the position that its definition of an accident applies to both collision and non-collision incidents involving CMVs. If a fire or explosion in a CMV operating on a highway in interstate commerce results in a fatality, bodily injury requiring immediate medical treatment away from the scene of the accident, or disabling damage requiring that the vehicle be towed, the incident must be recorded in the Accident Register even if there were no antecedent collision causing the fire or explosion.

### III. U.S. DOT IDENTIFICATION NUMBER REGISTRATION (§ 390.19)

Each motor carrier of property conducting operations in interstate commerce must file a Motor Carrier Identification Report, Form MCS-150, with the FMCSA's Office of Information Management in order to obtain a U.S. DOT Identification Number. The Form MCS-150 must be filed before the carrier begins operations and must be refiled (updated every 24 months) pursuant to the following schedule:

<u>If U.S. DOT Number Ends In</u>	<u>Form MCS-150 Must Be Filed By Last Day of:</u>
1	January
2	February
3	March
4	April
5	May
6	June
7	July
8	August
9	September
0	October

### IV. CMV MARKING REQUIREMENTS (§ 390.21)

An interstate motor carrier of property must mark each CMV it operates with:

- (1) its legal name or a single trade name; and
- (2) the motor carrier identification number it has been issued by the FMCSA preceded by the letters "US DOT."

Any other information inconsistent with the foregoing information may be marked on the CMV. The marking must:

- (1) appear on both sides of the CMV;
- (2) be in letters that contrast sharply in color with the background on which the letters appear; and
- (3) be readily legible, during daylight hours, from a distance of 50 feet while the CMV is stationary and be maintained in a manner that retains such legibility.

The marking may be painted on the CMV or may consist of a removable device, such as a magnetic placard, if that device meets the above-noted identification and legibility requirements.

## V. DRIVER QUALIFICATION FILE (DQF) (§ 391.51)

### A. Mandatory Content Requirements (§ 391.51(b))

A motor carrier of passengers operating CMVs in interstate commerce must maintain a DQF for each driver it employs (i.e., directly employs on its payroll or leases) for the duration of the driver's employment and for 3 years after that employment ends. The DQF must contain the following documents:

- (1) Driver's **employment application** form (§ 391.21).
- (2) Response from each State agency regarding driver's **driving record for the 3 years prior** to the driver's employment by the current motor carrier (§ 391.23(a)(1)).
- (3) Driver's **certificate of road test by current carrier employer** or copy of driver's **CDL** or previous employer's certificate of road test (§ 391.33).
- (4) Response of each State agency to current motor carrier's **annual driver record inquiry** (§ 391.25(a)).
- (5) Note confirming current motor carrier employer's **annual review** of driver's driving record (§ 391.25(c)(2));
- (6) List or certificate of driver's **motor vehicle law or ordinance violation(s)** for preceding 12 months (§ 391.27);
- (7) **Medical examiner's certificate** of physical qualification to drive a CMV or legitimate photographic copy of same (§ 391.43(f)); and
- (8) **Letter of waiver** of any physical disqualification issued by FMCSA Field Administrator, Division Administrator or State Director (§ 391.49).

### B. Permissible Periodic Removal of Certain DQF Documents (§ 391.51(d))

The following records may be removed from the DQF 3 years after their date of execution:

- (1) Each State agency's response to the annual driver record inquiry called for by § 391.25(a);
- (2) The motor carrier employer's note confirming its performance of the annual review of the driver's driving record under § 391.25(c)(2);
- (3) The list or certificate regarding violations of motor vehicle laws and ordinances required by § 391.27;
- (4) The medical examiner's certificate of driver's physical qualifications to drive a CMV or a photographic copy of the certificate as required by § 391.43(f); and
- (5) Any letter issued under § 391.49 granting a waiver of physical disqualification.

## VI. CRITERIA FOR ESTABLISHING QUALIFIED DRIVER STATUS (§ 391.11)

Only qualified drivers may operate CMVs. A qualified driver is one who:

- (1) is at least 21;
- (2) can read and speak English sufficiently to:
  - (i) converse with the general public;
  - (ii) understand highway traffic signs and signals in English;
  - (iii) respond to official inquiries; and
  - (iv) make entries on reports and records;
- (3) by experience, training, or both can:
  - (i) safely operate the assigned motor vehicle;
- (4) meets FMCSR § 391.41 physical requirements;
- (5) holds a valid CMV operator's license issued from only one State or jurisdiction;
- (6) has provided the employing carrier with a list of:
  - (i) all motor vehicle traffic law and ordinance convictions (other than parking) for the prior 12 months; and
  - (ii) all violations for which bond or collateral was forfeited during the prior 12 months;
- (7) has passed the driver's road test and holds a certificate to that effect or has presented an operator's license or equivalent certificate of road test; and
- (8) has furnished the employing carrier with an employment application.

## VII. DRIVER PHYSICAL REQUIREMENTS (§ 391.41)

### A. Standards

A driver will be deemed physically qualified to operate a CMV if that individual satisfies the following criteria and carries on his/her person the original or a photographic copy of a **medical examiner's certificate** attesting to such fitness. The medical examination must be performed by a licensed, certified and/or registered doctor of medicine, doctor of osteopathy, physician's assistant, advanced practice nurse, or doctor of chiropractic. A physically qualified driver:

- (1) is not missing a leg, foot, hand, or arm or has been issued a § 391.49 skill performance evaluation ("SPE") certificate, *i.e.*, waiver;
- (2) in the absence of an SPE certificate, has no impairment of:
  - (i) hand or finger interfering with power grasping; or
  - (ii) arm, foot or leg interfering with ability to perform normal motor vehicle operation tasks;
- (3) has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin;
- (4) has no established history or clinical diagnosis of any of the following conditions likely to interfere with operating a CVM safely:

- (i) rheumatic, arthritic, orthopedic, muscular neuromuscular or vascular disease;
- (ii) epilepsy or other condition likely to cause loss of consciousness;
- (iii) respiratory dysfunction.
- (5) has no current clinical diagnosis of:
  - (i) myocardial infarction;
  - (ii) angina pectoris;
  - (iii) coronary insufficiency;
  - (iv) thrombosis;
  - (v) other cardiovascular disease accompanied by syncope, dyspnea collapse or congestive cardiac failure;
- (6) has no current clinical diagnosis of high blood pressure likely to interfere with safe operation of a CMV;
- (7) has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with safe operation of a CMV;
- (8) has:
  - (i) distance visual acuity of at least 20/40 in each eye without corrective lenses or visual acuity of 20/40 or better with corrected lenses;
  - (ii) distant binocular acuity of at least 20/40 in both eyes with or without corrective lenses;
  - (iii) a field of vision of at least 70° in the horizontal Meridian in each eye; and
  - (iv) an ability to recognize the standard red, green and amber color of traffic signals;
- (9) first perceives a forced whisper voice in his or her better ear at not less than 5 feet with or without a hearing aid or, if tested by an audiometric device, does not have average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1000 Hz, and 2000 Hz with or without a hearing aid and when the audiometric device is calibrated to American National Standard Z24.5-1951;
- (10) does not use an amphetamine, narcotic, or any other habit-forming drug or any drug or substance identified in 21 C.F.R. § 1308.11, *Schedule I*; and
- (11) has no current clinical diagnosis of alcoholism.

**B. Persons Who Must Be Medically Examined and Certified (§ 391.45)**

- (1) Any driver who within the preceding 24 months has not been medically examined and certified as qualified to operate a CMV.
- (2) Any driver authorized to operate a CMV only within an exempt intracity zone, if within preceding 12 months driver was not medically examined and certified as qualified to drive in that zone.
- (3) Any driver whose ability to perform normal driving duties has been impaired by physical or mental injury or disease.

## VIII. DRIVER EMPLOYMENT APPLICATION (§ 391.21)

The driver employment application to be inserted in the DQF must contain the following information:

- (1) motor carrier employer's name and address;
- (2) driver applicant's name, address, birth date, and social security number;
- (3) address(es) at which driver resided for 3 years preceding employment application date;
- (4) application submission date;
- (5) issuing State, number, and expiration date of each unexpired CMV operator's license/permit issued to applicant;
- (6) nature and extent of applicant's experience in motor vehicle operation/type of equipment operated;
- (7) all of applicant's motor vehicle accidents during 3-year period preceding employment application submission date specifying—
  - (i) nature/date of each accident;
  - (ii) occurrence of any fatalities/personal injuries caused by each accident;
- (8) all motor vehicle law or ordinance violations (other than parking) of which applicant was convicted or forfeited bond or collateral during 3-year period preceding employment application submission date;
- (9) details of denial, revocation or suspension of any license, permit or privilege to operate a motor vehicle incurred by driver applicant, **or** statement that no denial, revocation or suspension occurred;
- (10) names and addresses of applicant's employers during 3-year period preceding submission date of employment application, including—
  - (i) dates of employment;
  - (ii) reasons for leaving employ of each employer; and
  - (iii) after October 29, 2004, whether applicant was subject to the FMCSR while employed by that previous employer and whether applicant was then subject to controlled substance and alcohol testing under DOT regulation; and
- (11) for a driver required to hold a CDL under Part 383 of the FMCSR, names and addresses of driver's employers during the 7-year period preceding the 3-year term referred to in (10) above who required applicant to operate a CMV (report must disclose dates of employment and reasons driver left).

## IX. DRIVER INVESTIGATION HISTORY FILE (§ 391.53)

The motor carrier must maintain in a secure location with controlled access those records pertaining to its investigation into the **safety performance history** of each new or prospective driver. **Access** to such data **must be restricted** only to those who are involved in the hiring decision or who control access to the data. This data may only be used for the hiring decision. The motor carrier's insurer may also be given access to this data, with the sole exception being the alcohol and controlled substances data.

The **Driver Investigation History File** must include:

- (1) copy of driver's written authorization for prospective motor carrier employer to request information regarding driver's possible alcohol and controlled substances history;
- (2) each previous employer's name and address;
- (3) date each previous employer was contacted or date of any unsuccessful attempts to make contact;
- (4) responses received from each previous employer or confirmation of their failure to respond;
- (5) general driver identification and employment verification information; and
- (6) date, place and number of fatalities and/or injuries involved with respect to any DOT-defined accident in which the driver was involved in the 3-year period preceding date of employment application and whether hazmats (other than fuel spilled from the fuel tank of the vehicles involved in the accident) were released.

If the previous employer employed the driver applicant during the previous three years in a safety-sensitive function requiring that the driver be subjected to mandatory DOT alcohol and controlled substance testing under Part 382, the prospective carrier employer must inquire of the previous employer:

- (1) whether driver violated DOT's alcohol and controlled substances prohibitions while so employed;
- (2) whether driver failed to undertake a rehabilitation program prescribed by a substance abuse professional (**SAP**);
- (3) whether driver applicant who had successfully completed an SAP's rehabilitation referral incurred any of the following testing violations thereafter:
  - (i) Alcohol tests with a result of 0.04 or higher alcohol concentration;
  - (ii) Verified positive drug tests; or
  - (iii) Refusals to be tested (including verified adulterated or substituted drug results tests).

The safety performance histories received from previous employers must be maintained for as long as the driver applicant remains on the carrier's payroll and for 3 years thereafter.

Each previous employer of a driver applicant must be furnished with the driver's **written consent** to the release of that driver's safety performance history information. If the driver applicant refuses to grant such consent, the prospective carrier employer may not permit the driver applicant to operate a CMV on its behalf.

The previous employer must respond within 30 days after the request is received and may do so by letter, facsimile or e-mail designed to ensure confidentiality. The prospective employer must inform each driver applicant of his or her:

- (1) right to review information provided by previous employer;
- (2) right to have errors corrected by previous employer; and

- (3) right to have a rebuttal statement attached to alleged erroneous information if the driver applicant and previous employer cannot agree on accuracy of information furnished.

The previous employer must either correct and forward the information to the prospective employer or notify the driver within 15 days of receiving the driver's request for data correction that it does not agree to so correct the data. Any driver desiring to rebut the information provided by a previous employer must send the rebuttal to the previous employer with instructions to include the rebuttal in that driver's safety performance history.

The prospective employer must initiate all precautions reasonably necessary to protect records from disclosure to any person who is not directly involved in deciding whether to hire the driver. The prospective employer may not furnish any alcohol or controlled substance information to its insurer.

No action for defamation of character, invasion of privacy or tortious interference with contractual relations based on the furnishing or use of information provided under 49 C.F.R. § 391.23 may be brought against:

- (1) the prospective employer as the party requesting such information;
- (2) a previous employer who has furnished such information in response to prospective employer's request; or
- (3) prospective employer's agents or insurers, except that insurers are not granted a limitation of liability for any alcohol or controlled substance information.

#### **X. MANDATORY DRIVING RECORD INVESTIGATION (§ 391.23(a)(1))**

The prospective motor carrier employer must contact the appropriate agency of each State in which the driver applicant held a motor vehicle operator's license or permit during the 3 years preceding the driver's submission of the employment application. A copy of each State agency's response (showing the driver's driving record or certifying that no record exists) must be placed in the DQF within 30 days of the date the driver's employment begins.

#### **XI. ANNUAL INQUIRY & REVIEW OF DRIVING RECORD (§ 391.25)**

At least once every 12 months each motor carrier employer must review the driving record covering at least the preceding 12 months for each driver it employs to determine whether that individual meets the minimum requirements for safe driving or is disqualified from operating CMVs. In fulfilling this responsibility, the motor carrier must inquire of every State in which the driver held a CMV operator's license or permit during that preceding 12 months. Consideration should be given to any evidence of the driver's violations of the FMCSR, as well as:

- (1) the driver's accident record; and
- (2) his or her violation(s) of laws governing the operation of motor vehicles, particularly evidence of speeding, reckless driving and operating a motor vehicle while under the influence of alcohol or drugs.

The motor carrier must maintain in each DQF a copy of the response from each State agency to which such inquiry was made, as well as:

- (1) name of person who performed review of driver's record; and
- (2) date of such review.

## **XII. ANNUAL RECORD OF TRAFFIC LAW VIOLATIONS (§ 391.27)**

At least once every 12 months each motor carrier must require each driver it employs to prepare and provide it with a list of all violations of motor vehicle traffic laws and ordinances (other than parking violations) for which the driver was convicted or with respect to which the driver forfeited bond or collateral during the prior 12 months. That list or a certification by the driver attesting to the fact that no convictions or forfeitures have been incurred must be retained in the DQF.

## **XIII. DRIVER ROAD TEST (§ 391.31)**

### **A. Requirements**

Before a motor carrier may permissibly assign an individual to operate a CMV in interstate commerce, that person must successfully have completed a road test administered either by the motor carrier or a person designated by it and must have received a certificate of satisfactory completion of that test. The road test must be administered by one qualified to determine whether the individual tested has demonstrated competent operation of the CMV to which that driver will be assigned.

The road test must evaluate the driver's ability to perform the following:

- (1) pre-trip inspection of CMV of:
  - (i) service brakes;
  - (ii) parking (hand) brake;
  - (iii) steering mechanism;
  - (iv) lighting devices and reflectors;
  - (v) tires;
  - (vi) horn;
  - (vii) windshield wiper or wipers; and
  - (viii) rear-vision mirror or mirrors.
- (2) placing the CMV in operation;
- (3) use of the CMV's controls and emergency equipment;

- (4) operating the CMV in traffic and while passing other motor vehicles;
- (5) turning the CMV;
- (6) braking and slowing the CMV by means other than braking; and
- (7) backing and parking the CMV.

The motor carrier must provide the road test form on which the party administering the test will rate the performance of the person taking the test as to each operation or activity tested. The test administrator must sign the road test form and upon successful completion of the road test complete a certificate of driver's road test. One copy of the certificate must be given to the person who was tested. The motor carrier must retain in the tested driver's DQF:

- (1) original of signed road test form; and
- (2) original or copy of road test certificate.

#### **B. Alternative to Road Test (§ 391.33)**

As a permissible alternative to administration of the road test, the prospective motor carrier employer may accept:

- (1) copy of valid certificate of driver's road test issued to driver applicant within preceding 3 years; or
- (2) valid CDL issued to operate specific categories of CMVs and which under laws of issuing State licenses that driver after successful completion of road test in CMV of type the prospective carrier employer intends to assign that driver.

The prospective carrier employer must maintain a copy of the certificate or CDL in the DQF.

### **XIV. DRIVER DISQUALIFICATION FROM OPERATING A CMV**

#### **A. Bases for Disqualification**

Under the Regulations, a driver will be disqualified to operate a CMV in the event of:

- Loss of driving privileges to operate a CMV (license revocation);
- Conviction for any of the following offenses committed during on-duty time while the driver is engaged interstate, intrastate, or foreign commerce activity for his or her carrier employer:
  - (i) Driving under the influence of alcohol, i.e., driver's blood alcohol concentration level is 0.04% or higher;
  - (ii) Driving under the influence of alcohol as defined and prohibited by state law;
  - (iii) Refusing state-prescribed intoxication testing;
  - (iv) Driving a CMV while under the influence of:
    - (a) an amphetamine;
    - (b) a narcotic drug;

- (c) formulations of amphetamines;
  - (d) narcotic drug derivatives; or
  - (e) a 21 C.F.R. § 1308.11 Schedule 1 drug;
- (v) Transportation/possession/unlawful use of any substance identified in subsections (iv)(a)-(e) above.
  - (vi) Leaving the scene of an accident that resulted in injury or death; or
  - (vii) Using a motor vehicle to commit a felony.

## **B. Disqualification Periods**

Pursuant to Part 391.15, if a driver (1) operates a CMV while under the influence of alcohol or a controlled substance, (2) transports, possesses or unlawfully uses a controlled substance while on duty, (3) leaves the scene of an accident involving a CMV, or (4) commits a felony involving a CMV, the following disqualification periods will be triggered for first-time offenders:

- One year from the date of conviction or forfeiture of bond or collateral, if during the preceding 3 years the driver was not convicted of, or did not forfeit bond or collateral in regard to a charge constituting an FMCSR disqualifying offense described in A. (i)-(iii) and (v-vii) above.
- Six months from the date of conviction or forfeiture of bond or collateral for transportation or possession of any of the items identified in A.(iv)(a)-(e) above.
- For subsequent offenders the disqualification period will be three years if during the preceding 3 years the driver had been convicted of or forfeited bond or collateral as to an FMCSR disqualifying offense.

### **For Violations of DOT Issued Out-of-Service Orders<sup>2</sup>**

- First Out-of-Service Order Violation: Not less than 90 days nor more than 1 year if convicted of a first violation of an out-of-service order.
- Second Out-of-Service Order Violation: Not less than 1 year nor more than 5 years where conviction of a violation of a second out-of-service order occurs within 10 years of the first.
- Third or Subsequent Out-of-Service Order Violation: Not less than 3 years nor more than 5 years if 3 or more convictions of such out-of-service violations occur within 10 years.

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<sup>2</sup> An “out-of-service order” is a declaration by an authorized enforcement officer of a Federal, State, or local jurisdiction that a driver, a CMV or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Parts 392.5, 395.13 or 396.9.

## XV. DRIVER'S HOURS OF SERVICE RESTRICTIONS & RECORDATION REQUIREMENTS (PART 395)

### A. Prohibitions

If a motor carrier does not operate CMVs every day of the week, it may not permit or require a driver **to drive** after that person has been **on duty 60 hours in any 7 consecutive days**. By contrast, a motor carrier that operates CMVs every day of the week would be prohibited from allowing or requiring a driver **to drive** after that individual has been **on duty 70 hours in any 8 consecutive days**.

A motor carrier of passengers may **not** permit or require any driver it uses to **drive**—

- (1) more than **10** hours following **8** consecutive hours off duty; or
- (2) for any period after having been on duty for **15** hours following **8** consecutive hours off duty.<sup>3</sup>

### B. Recordation Guidelines

The FMCSR require each CMV driver to record **in duplicate** his/her duty status for each 24-hour period on a specified grid, *i.e.*, log, depicting the following time entries:

- (1) “Off-duty” or “OFF”
- (2) “Sleeper berth” or “SB” (only if a sleeper berth is used);
- (3) “Driving” or “D”; or
- (4) “On-duty not driving” or “ON.”

### C. Definitions Relative to Hours of Service Requirements (§ 395.2)

The Regulations define “driving time” as all time spent at the driving controls of a CMV while it is in operation. “On-duty time” refers to all time from the moment the driver begins to work or is required to be in readiness to work until relieved from work and the responsibilities for performing work. “On-duty-time” encompasses:

- (1) all of the driver’s time spent at the motor carrier’s facility or on any public property while waiting to be dispatched;
- (2) time spent conducting an equipment pre-trip inspection or in inspecting, servicing and conditioning a CMV at any time;
- (3) all driving time;
- (4) all time, other than driving time, spent in a CMV;
- (5) all time spent remaining in readiness to operate a CMV;
- (6) all time repairing, obtaining assistance, or remaining in attendance on a disabled CMV;

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<sup>3</sup> Motor carriers of passengers who are assigning drivers to CMVs that will be traveling in the State of Alaska should consult the provisions of 49 C.F.R. § 395.1(h)(2) for exceptions to the above-noted hours of service limitations.

- (7) all time spent furnishing a breath sample or urine specimen, including travel time to and from the collection site, to comply with a random, reasonable suspicion, post-accident or follow-up drug or alcohol testing procedure required by Part 382 of the FMCSR;
- (8) performing any other work in the motor carrier's employ; and
- (9) performing any compensated work for any non-motor carrier entity.

**D. Mandatory Log Entries (§ 395.8)**

For each change of duty status (*e.g.*, the place of reporting for work, starting to drive, on-duty not driving, and where released from work), the driver must record the name of the city, town or village where that duty status change occurs, as well as enter the abbreviation of the State where that change takes place.

Section 395.8 of the FMCSR requires that the driver of a passenger-carrying CMV enter the following information on the daily record of duty status:

- (1) date;
- (2) total miles driving today;
- (3) name of the employing motor carrier;
- (4) driver's signature/verification;
- (5) 24-hour period starting time;
- (6) the motor carrier's main office address;
- (7) total hours; and
- (8) remarks.

All log entries must be made by the driver only. The log must be depicted in one-hour increments with the words "Midnight" and "Noon" appearing above or beside the appropriate one-hour increment.

**E. 100 Air-Mile Radius Driving Exemption (§ 395.1(e))**

A driver is exempt from the FMCSR's **recordation of duty status requirements** if:

- (1) driver operates within 100 air-mile radius of his/her normal work reporting station;
- (2) driver returns to work reporting location and is released from work within 12 consecutive hours;
- (3) at least 8 consecutive hours off-duty separate each 12 hours on-duty;
- (4) the driver does not exceed 10 hours maximum driving time following 8 consecutive hours off duty;
- (5) motor carrier employer maintains and retains for 6 months accurate and true records showing:
  - (i) driver's reporting time for duty each day;
  - (ii) driver's total on-duty hours each day;
  - (iii) time driver is released from duty each day; and

- (iv) for drivers used for the first time or intermittently, total on-duty time for preceding 7 days.

Note that the exemption from the FMCSR's recordation of duty status requirements for driving operations within a 100 air-mile radius of the driver's normal work reporting station **does not accord the driver an exemption from the 7 consecutive day or 8 consecutive day limitation on further driving hours discussed in the first paragraph of this Section XIV.**

**F. Filing of Driver's Record of Duty Status (§ 395.8(i))**

The original of the record of duty status must be submitted by the driver to the motor carrier employer within 13 days after the driver has completed the form. If the motor carrier relies on the services of a driver who is used by one or more other motor carriers during any 24-hour period in effect at the driver's home terminal, the driver must submit a copy of the record of duty status to each such motor carrier. The record must disclose:

- (1) all duty time for entire 24-hour period;
- (2) name of each motor carrier served by driver during that period; and
- (3) beginning and finishing time, including a.m. or p.m., worked for each carrier.

When a motor carrier uses a driver for the first time or intermittently, it must obtain from the driver a signed statement setting forth the total time on duty the driver incurred during the immediately preceding 7 days, and the time at which the driver was last relieved from duty prior to beginning work for the motor carrier.

**G. State of Hawaii Exception**

The **driver recordation of duty status requirements** of 49 C.F.R. § 395.8 **do not apply** to drivers carrying passengers in CMVs in Hawaii, if the employing motor carrier maintains and retains for 6 months accurate and true records showing:

- (1) Total hours driver is on duty each day; and
- (2) Time at which driver reports for, and is released from, duty each day.

**H. Duty Status Record Retention (§ 395.8(k))**

A motor carrier must maintain each driver's records of duty status and all supporting documents for 6 months from their date of receipt. Each driver must retain a copy of each record of duty status for the previous 7 consecutive days. That record must be in the driver's possession and available for inspection while the driver is on duty.

## **XVI. VEHICLE INSPECTION, REPAIR & MAINTENANCE (PART 396)**

### **A. Required Records (§ 396.3)**

A motor carrier must maintain with respect to each motor vehicle it controls for 30 or more consecutive days a record identifying:

- (1) vehicle make;
- (2) serial number;
- (3) year of manufacture;
- (4) tire size;
- (5) company vehicle identification number (if vehicle is so marked);
- (6) vehicle lessor's name (where equipment is leased to motor carrier);
- (7) nature and due date of various inspection and maintenance operations to be performed on the equipment; and
- (8) date and nature of inspection, repairs and maintenance actually performed.

These records must be kept where the vehicle is **either housed or maintained** for 1 year, and for 6 months after the motor vehicle leaves the motor carrier's control.

### **B. Motor Vehicle Out-of-Service Classification (§ 396.9(c))**

If the FMCSA declares a motor vehicle "out-of-service," it may not be operated again until all repairs required by the "out-of-service" notice have been completed satisfactorily. The "Out-of-Service Vehicle" sticker may not be removed from a motor vehicle prior to completion of all repairs required by the "out-of-service notice."

If the driver who receives an FMCSA inspection report is not scheduled to arrive at the motor carrier's place of business within 24 hours, the driver must immediately mail the report to the motor carrier. If the driver will arrive within that 24-hour period, he or she must furnish the record to the motor carrier immediately upon arriving at that site. The motor carrier must then examine the report and within 15 days thereafter (1) certify on that report that all violations noted have been corrected and (2) return the completed roadside inspection form to the FMCSA official who issued it. A copy of the form, as certified, must be kept at the motor carrier's **principal place of business or where the vehicle is housed** for 12 months from the date of the inspection.

### **C. Driver Post-Operation Vehicle Inspection Report ("VIR") (§ 396.11)**

Each driver must prepare a report in writing at the completion of each day's work with respect to each CMV that driver operated that day for his or her carrier employer. That report must cover the following vehicle parts and accessories:

- (1) service brakes;
- (2) parking (hand) brake;
- (3) steering mechanism;

- (4) lighting devices and reflectors;
- (5) tires;
- (6) horn;
- (7) windshield wipers;
- (8) rear vision mirrors;
- (9) wheels and rims; and
- (10) emergency equipment.

The report must identify the motor vehicle and list any defect or deficiency discovered that would affect its safety of operation or result in its mechanical breakdown. If the driver discovers no such defect or deficiency, the report must so indicate. The **driver must sign the VIR.**

Should a VIR indicate vehicle defects or deficiencies, the motor carrier must cause the items noted to be repaired before the vehicle is again dispatched and must certify on the VIR that those defects or deficiencies have been corrected or that correction is not necessary. The motor carrier must retain the original copy of each VIR, the certification of repairs made, and the certification of a driver's review for at least 3 months from the date the report is prepared. A legible copy of the last VIR must be carried in the motor vehicle.

#### **D. Driver Pre-Operation Vehicle Inspection (§ 396.13)**

Before beginning a haul, a driver must:

- (1) be satisfied that the motor vehicle he or she is assigned is in safe operating condition;
- (2) review the last driver VIR; and
- (3) sign the VIR only if defects or deficiencies were noted by the driver who originally prepared the VIR, to acknowledge that the driver has reviewed it and that a certification has been made that the required repairs have been performed.

#### **E. Annual CMV Inspection (§ 396.17)**

The motor carrier must ensure that each CMV it utilizes is subjected to an annual inspection. The carrier may perform the required annual vehicle inspection itself or may have a commercial garage, fleet leasing company, truck stop or other similar commercial business perform inspection as its agent, provided that such business operates and maintains facilities appropriate for commercial vehicle inspections and employs qualified inspectors as defined under § 396.19.

The motor carrier must retain evidence of that inspector's qualifications for the period during which the individual performs annual motor vehicle inspections for the carrier and for 1 year thereafter.

Vehicles which pass roadside or periodic inspections performed by a State government or equivalent jurisdiction or the FMCSA will be considered to have met the requirements of the annual inspection for a period of 12 months from the last day of the month in which the

inspection was performed. The annual vehicle inspection must result in the preparation of a report identifying:

- (1) the inspector;
- (2) the motor carrier and its address;
- (3) the inspection date;
- (4) the vehicle inspected;
- (5) the components inspected with a description of the inspection results, including identification of the components not meeting FMCSA minimum standards; and
- (6) certification as to whether the vehicle passed the inspection.

The report must certify the accuracy and completeness of the inspection as complying with all of the FMCSR § 396 requirements. An original or a copy of the inspection report must be retained by the motor carrier or by the person who is responsible for the inspection for a period of 14 months from the date of the inspection report. The original or a copy of the inspection report must be retained **where the vehicle is either housed or maintained**.

That report must be available for inspection upon demand by an authorized Federal, State or local official.

If the motor carrier did not perform the last annual inspection of a CMV, then the motor carrier will be responsible for obtaining the original or a copy of that inspection report upon demand of an authorized Federal, State or local official.

## **XVII. COMMERCIAL DRIVER'S LICENSE (PART 383)**

Section I of this Primer identified those drivers who because of the nature of the CMVs they are assigned to operate will be required to hold a valid Commercial Driver's License (CDL). To secure a CDL, the driver must pass both a knowledge test and a skills test.

### **A. Knowledge Test (§ 383.111)**

A CDL applicant must have knowledge of the following:

- (1) 49 C.F.R. Parts 382, 391, 392, 393, 395, and 396;
- (2) CMV safety control systems, *e.g.*, lights, horns, fire extinguishers;
- (3) Safe vehicle control measures, including—
  - (i) purpose and function of controls and instruments commonly found on CMVs;
  - (ii) basic shifting rules and shift patterns and procedures for common transmissions;
  - (iii) procedures and rules for backing maneuvers;
  - (iv) proper visual search methods, signaling procedures, and measures for driving in extreme conditions;
  - (v) speed management;
  - (vi) night driving preparations and procedures;
  - (vii) hazard perception;

- (viii) when and how to accomplish emergency maneuvers; and
- (ix) skid control and recovery procedures.
- (4) Proper procedures for performing vehicle inspections, including:
  - (i) the importance of periodic inspection and repair;
  - (ii) the effect of undiscovered malfunctions upon safety;
  - (iii) what safety-related parts to look for when inspecting vehicles;
  - (iv) pre-trip/post-trip inspection procedures; and
  - (v) measures for reporting findings.
- (5) Air brake systems encompassing:
  - (i) air brake system nomenclature;
  - (ii) the dangers of contaminated air supply;
  - (iii) implications of severed or disconnected air lines between the power unit and trailer;
  - (iv) implications of low air pressure readings;
  - (v) familiarity with procedures for conducting pre-trip, enroute and post-trip inspections of air actuated brake systems.

**B. Skills Test (§ 383.113)**

The CDL applicant must demonstrate the following for each vehicle group the driver operates or expects to operate:

- (1) basic vehicle control skills;
- (2) safe driving skills;
- (3) air brake skills including pre-trip inspection skills; and
- (4) driving skills.

**C. Minimum Passing Scores (§ 383.135)**

The CDL applicant must correctly answer at least 80% of the questions on each knowledge test in order to achieve a passing score on that test. To obtain a passing score on the skills test, the applicant must demonstrate that he/she can successfully perform all of the skills identified in Section XVI B above. If the applicant does not obey traffic laws or causes an accident during the test, he/she will automatically fail the test. If an applicant scores less than 80% on the air brake component of the knowledge test, the applicant will be deemed to have failed the air brake component of the examination and, if the individual is issued a CDL, an air brake restriction will be indicated on the license.