

SAFETY DIRECTOR 101

**PRESENTED BY:
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SENIOR SAFETY CONSULTANT
SAFETY MANAGEMENT SERVICES COMPANY**



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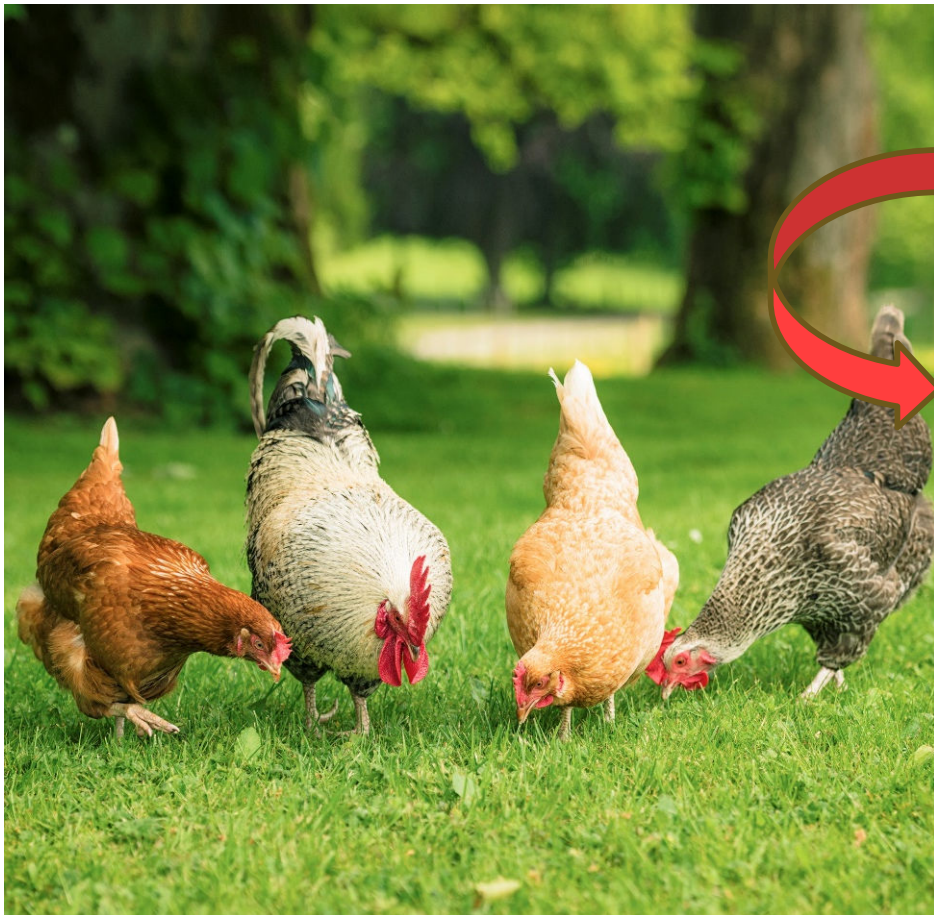
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**What word comes to mind
when you think of safety in
transportation?**

ARE THEY THE SAME THING?

Compliance?



Safety?



IS THERE A DIFFERENCE BETWEEN THE TWO?



Attribute	Compliance	Safety
Definition	Conforming to rules, regulations, and standards	Preventing harm, injury, or danger
Focus	Following laws and guidelines	Preventing accidents and injuries
Responsibility	Non-compliance can result in fines or legal action	Creating a safe environment for all
Insurance	Non-compliance can result in higher premiums, unable to retain/obtain insurance	Not following safety policies/best practices can lead to injuries and fatalities
Legal implications	Non-compliance can lead to cessation of operations, fines, and legal action	Not following safety policies can lead to injuries and fatalities

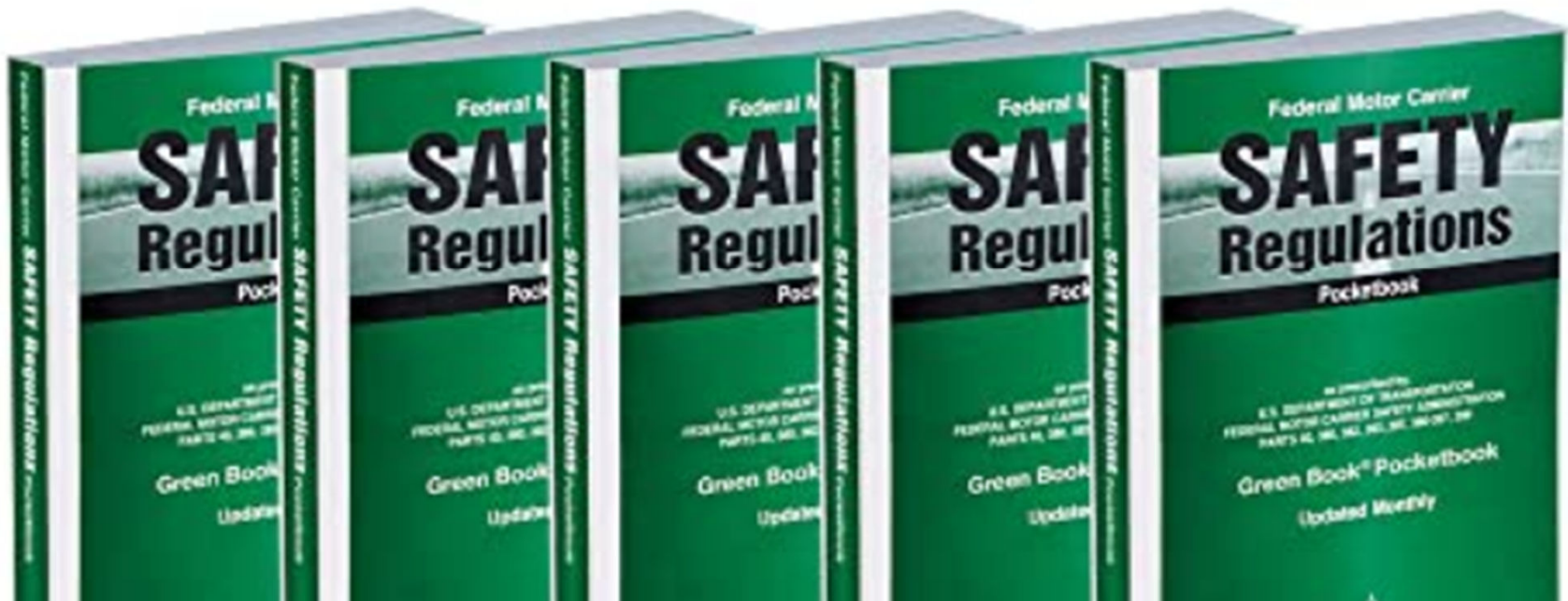
LAWS, REGULATIONS & REQUIREMENTS

Motor carriers are responsible for ensuring that their drivers know and comply with the FMCSRs and HMRs listed in:

Title 49 of the U.S. Code of Federal Regulations

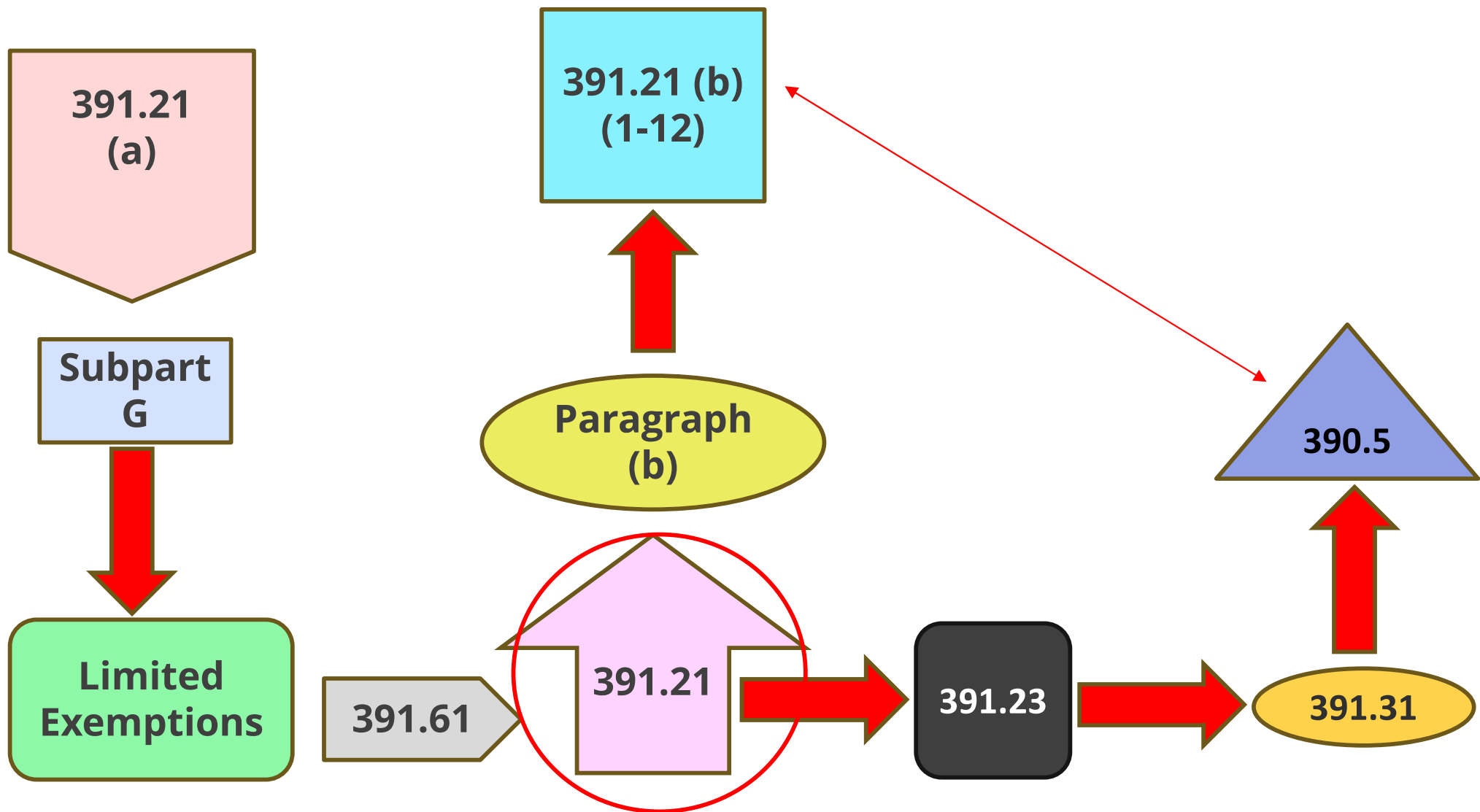


LAWS, REGULATIONS & REQUIREMENTS



CHAOS WITHIN THE REGULATIONS

Application for Employment 391.21



COMPLIANCE

“The FMCSRs establish operational, safety, and maintenance standards....and provide a framework for safety programs.....”



**Can you be rated
"satisfactory" and still be
considered "unsafe"?**

385.5 SAFETY FITNESS STANDARD

To meet the safety fitness standard, the motor carrier must demonstrate it has adequate safety management controls in place.



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



Federal
Motor Carrier
Safety
Administration



INTERVENTION TYPES

Intervention	Intervention Description
Warning Letter	A letter sent to a carrier's place of business that identifies potential safety performance and compliance issues based on SMS data. A warning letter is an opportunity for a carrier to improve its safety performance and compliance without further intervention from FMCSA.
Targeted Roadside Inspection	Inspectors may use the data in SMS to identify vehicles for inspection.
Offsite Investigation	A non-ratable investigation conducted remotely, rather than at the carrier's place of business. An offsite investigation will not result in a safety rating, but penalties may be assessed for any violations found. An Offsite Investigation may be converted to an Onsite Focused or Comprehensive Investigation.
Onsite Focused Investigation	An investigation conducted at the carrier's place of business that targets specific areas of regulatory compliance. A focused investigation will not result in Satisfactory safety rating because not all regulatory parts are examined. A focused investigation may be unrated, or may result in a Conditional or Unsatisfactory safety rating. Penalties may be assessed for any violations found.



INTERVENTION TYPES

Onsite Comprehensive Investigation	An investigation conducted at the carrier's place of business that examines all areas of regulatory compliance under 49 CFR 385, Appendix B. A comprehensive investigation may result in a Satisfactory, Conditional, or Unsatisfactory safety rating. Penalties may be assessed for any violations found.
Notice of Violation (NOV)	A document alleging that a carrier has safety violations for which corrective action is recommended. If the violations are not addressed, formal enforcement action may be taken.
Notice of Claim (NOC)	The initial document issued by FMCSA to assert a civil penalty for alleged safety violations.
Unfit/Operations Out-of-Service Order (OOSO)	If a proposed Unsatisfactory safety rating becomes final, FMCSA will issue an order placing out-of-service the carrier's operations in interstate and intrastate commerce.



WHY WERE YOU SELECTED?

The investigation scope is based on the following:

- **BASICS** that meet or exceed the intervention threshold (roadside).



- **Acute and/or Critical Violations**



- **Complaints**  **FILE A COMPLAINT**

- **High Profile Crash**

Texas Supreme Court hears Werner's controversial nuclear verdict case



§385.5 SAFETY FITNESS STANDARD

- **Factor 1 General-** Parts 387 and 390 (Carrier Registration/Operating Authority/Insurance/DOT Accident Register/Vehicle Markings)
- **Factor 2 Driver-**Parts 382, 383 and 391 (Drug and Alcohol Testing, Licensing, Driver Qualifications)
- **Factor 3 Operational-**Parts 392 and 395 (Driving and HOS)
- **Factor 4 Vehicle-**Parts 393 and 396 (Parts and Accessories, Inspection and Maintenance)
- **Factor 5 Hazardous Materials-**Parts 397 (Transportation of HM, Requirements, 171 General, 177 Highway, and 180 Continuing Qualification)
- **Factor 6 Accident Factor-** Recordable Rate



ACUTE OR CRITICAL



CRITICAL VIOLATIONS: Look for patterns. Generally, 10% or more of the documents checked indicate poor management, but some procedures are in place.

However, each pattern of noncompliance with a critical regulation relative to Part 395, Hours of Service of Drivers, will be assessed two points.

ACUTE: More severe. Non-compliance requires immediate action.

One point will be assessed for each instance of noncompliance with an acute regulation or each pattern of noncompliance with a critical regulation during the CR.

Listing of acute/critical violations found in Part 385, Appendix B.



Table 1—Current SFD Rating Table

Factor Ratings		Overall Safety Rating
Unsatisfactory	Conditional	
0	2 or fewer	Satisfactory
0	More than 2	Conditional
1	2 or fewer	Conditional
1	More than 2	Unsatisfactory
2 or more	0 or more	Unsatisfactory

If any factor is assessed one point, that factor is rated as **"conditional."**
If any factor is assessed two points, that factor is rated as **"unsatisfactory."**

Two or more individual factors rated as **"unsatisfactory"** will result in an overall rating of **"UNSATISFACTORY."**

One individual factor rated as **"unsatisfactory"** and more than two individual factors rated as **"conditional"** will also result in an **"UNSATISFACTORY"** rating overall.

SAFETY RATINGS

- **Satisfactory** *safety rating* means that a motor carrier has functional and **adequate** safety management controls to meet the safety fitness standard prescribed in 49 CFR 385.5.
- **Conditional** *safety rating* means a motor carrier **does not have adequate** safety management controls to ensure compliance with the safety fitness standard that **could** result in occurrences listed in 49 CFR 385.5 (a) through (k).
- **Unsatisfactory** *safety rating* means a motor carrier **does not have adequate** safety management controls to ensure compliance with the safety fitness standard, resulting in occurrences listed in 49 CFR 385.5.
- **Unrated/Non-rated** means that a safety rating has not been assigned to the motor carrier by the FMCSA.



ARE YOU GOOD ENOUGH?

To be “adequate” means something is enough or good enough for a particular need or requirement but not necessarily excellent or outstanding.





**How confident are you in
your understanding of
FMCSA regulations?**

KEY AREAS: FACTOR 1-PARTS 387 AND 390 (INSURANCE AND GENERAL REQUIREMENTS)

FORM MCS-90

OMB No.: 2126-0008 Expiration: 06/30/2027

For FMCSA Use Date Received: _____

Please note, the expiration date as stated on this form relates to the process for renewing the Information Collection Request for this form with the Office of Management and Budget. This requirement to collect information as requested on this form does not expire. For questions, please contact the Office of Registration, Financial Responsibility Filings Division.

A Federal Agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0008. Public reporting for this collection of information is estimated to be approximately 2 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-RRA, Washington, D.C. 20590.



Endorsement for Motor Carrier Policies of Insurance for Public Liability
under Sections 29 and 30 of the Motor Carrier Act of 1980

FORM MCS-90

Issued to _____ of _____
(Motor Carrier name) (Motor Carrier state or province) (USDOT Number)

Dated at _____ on this _____ day of _____, _____

Amending Policy Number: _____ Effective Date: _____

Name of Insurance Company: _____

Countersigned by: _____
(authorized company representative)

The policy to which this endorsement is attached provides primary or excess insurance, as indicated for the limits shown (check only one):

- ☐ This insurance is primary and the company shall not be liable for amounts in excess of \$ _____ for each accident.
- ☐ This insurance is excess and the company shall not be liable for amounts in excess of \$ _____ for each accident in excess of the underlying limit of \$ _____ for each accident.

Whenever required by the Federal Motor Carrier Safety Administration (FMCSA), the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is: _____

Cancellation of this endorsement may be effected by the company or the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's registration requirements under 49 U.S.C. 13901, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, DC).

Filings must be transmitted online via the Internet at <https://www.fmcsa.dot.gov/registration>.



KEY AREAS: FACTOR 1-PARTS 387 AND 390 (INSURANCE AND GENERAL REQUIREMENTS)

- ✓ Accident register and files (§390.15)

Motor carriers must maintain an accident register for 3 years after the date of each accident.

Accident Register

Accident Register Start Date:	MM/DD/YYYY											
Accident Register End Date:	MM/DD/YYYY											
Accident Date (MM/DD/YYYY)	Accident Hour (Military Time)	Accident Street Address	Accident City	Accident State	FMCSA Crash Report Number	No. of Deaths	No. of Non-Fatal Injuries	Towaways (Y/N)	HM (Y/N)	Driver's First Name	Driver's Last Name	Copy of State or Insurance Report (Y/N)

Copies of all accident reports required by State or other governmental entities or insurers.



KEY AREAS: FACTOR 1-PARTS 387 AND 390 (INSURANCE AND GENERAL REQUIREMENTS)

- ✓ Active DOT number, current MCS-150.

Motor Carrier Identification Report

(Application for USDOT Number)

FORM MCS-150

REASON FOR FILING (select only one):

- ☐ New Application ☐ Biennial Update or Changes ☐ Out of Business Notification
☐ Reapplication (after revocation of new entrant) ☐ Reactivate

1. LEGAL BUSINESS NAME: _____

2. DOING BUSINESS AS NAME (if different from Legal Business Name): _____

3-7. PRINCIPAL PLACE OF BUSINESS (see 49 CFR 390.5T):

3. STREET ADDRESS/ROUTE NUMBER 4. CITY 5. STATE/PROVINCE 6. ZIP CODE 7. COLONIA (Mexico only)

8-12. MAILING ADDRESS: ☐ Same as Principal Address ☐ Mailing address below:

8. STREET ADDRESS/ROUTE NUMBER 9. CITY 10. STATE/PROVINCE 11. ZIP CODE 12. COLONIA (Mexico only)

13-15. CONTACT NUMBERS:

13. PRINCIPAL BUSINESS PHONE NUMBER 14. PRINCIPAL CONTACT CELL PHONE NUMBER 15. PRINCIPAL BUSINESS FAX NUMBER

16-19. IDENTIFICATION NUMBERS:

16. USDOT NUMBER 17. MC or MX NUMBER 18. DUN & BRADSTREET NUMBER 19. IRS/TAX ID NUMBER
(see instructions before completing this section)

20. E-MAIL ADDRESS: _____

21. CARRIER MILEAGE (to nearest 10,000 miles for the previous 12 months): _____

22. COMPANY OPERATIONS (check all that apply):

- ☐ A. Interstate Carrier ☐ B. Intrastate Hazmat Carrier ☐ C. Intrastate Non-Hazmat Carrier ☐ D. Interstate Hazmat Shipper ☐ E. Intrastate Hazmat Shipper



MCS-150 must be updated at a minimum every 24 months according to the following 2 part schedule:

USDOT number ending in:	Must file by last day of:
1	January
2	February
3	March
4	April
5	May
6	June
7	July
8	August
9	September
0	October

➤ If the **next-to-last digit** of the USDOT Number is **odd**, file update for every **odd**-numbered calendar year.

➤ If the **next-to-last digit** of the USDOT Number is **even**, the file is updated in every **even**-numbered calendar year.

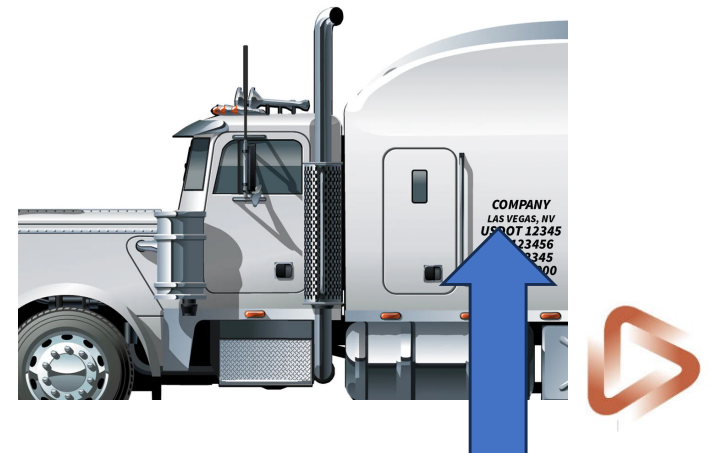
➤ Example: DOT Number 1234**56**
Update last day of June
in Odd Calendar Year (202**5**)



KEY AREAS: FACTOR 1-PARTS 387 AND 390 (INSURANCE AND GENERAL REQUIREMENTS)

✓ Vehicles properly marked (§390.19, §390.21)

- Interstate commerce CMVs must display the Motor carrier's legal name or a single trade name on both sides, as listed on the motor carrier identification report.
- The motor carrier's identification number is preceded by the letters "USDOT;" and letters that contrast sharply in color with the background on which they are placed and are legible during daylight hours from a distance of 50 feet.



KEY AREAS: FACTOR 2- PARTS 382, 383, and 391 (DRUG AND ALCOHOL TESTING, LICENSING, DRIVER QUALIFICATIONS)

FAILING TO IMPLEMENT A DRUG/ALCOHOL TESTING PROGRAM 382.115(A)

All employers must implement the requirements of part 382 on the date the employer begins CMV operations

Historically, one of the most frequent acute violations.

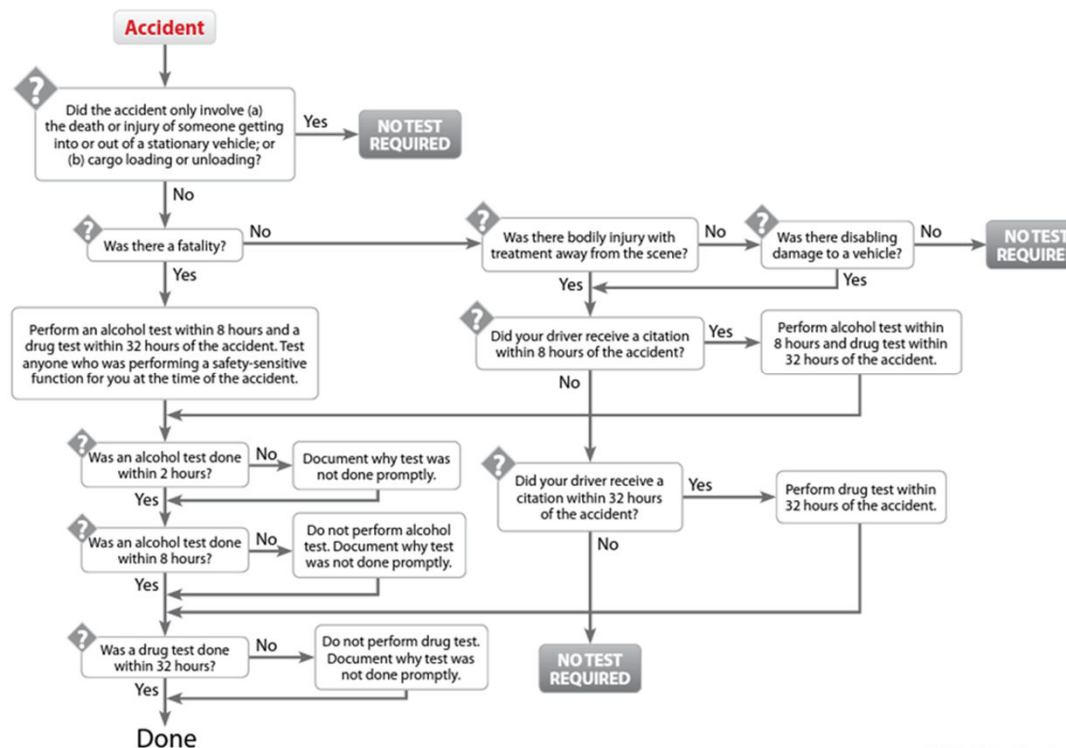
➤ **Fines have ranged from \$5,885 to \$15,876**



KEY AREAS: FACTOR 2=PARTS 382, 383, and 391 (DRUG AND ALCOHOL TESTING, LICENSING, DRIVER QUALIFICATIONS)

Pre-employment – (§382.301) An employer must receive a negative drug test result before permitting a CDL driver to operate a CMV.

Post-accident – (§382.303) Drug and alcohol tests may be required after crashes according to the following chart:



KEY AREAS: FACTOR 2-PARTS 382, 383, and 391 (DRUG AND ALCOHOL TESTING, LICENSING, DRIVER QUALIFICATIONS)

Random – (§382.305) CDL drivers must be randomly tested throughout the year.

Reasonable suspicion – (§382.603). Drivers who appear to be under the influence of drugs or alcohol can be immediately tested (§382.307). Employers must train CDL driver supervisors to detect the symptoms of driver impairment.

Return-to-duty – (§382.309 and §40.305) Required for drivers who tested positive, refused, or otherwise violated the prohibitions of 49 CFR Part 382 Subpart B; and who have completed the return-to-duty process with a DOT-qualified substance abuse professional. This test is directly observed, and a negative result is required before resuming driving duties.

Follow-up – Required for drivers who tested positive, refused, or otherwise violated the prohibitions of 49 CFR Part 382 Subpart B.



KEY AREAS: FACTOR 2-PARTS 382, 383, and 391 (DRUG AND ALCOHOL TESTING, LICENSING, DRIVER QUALIFICATIONS)

ALCOHOL AND CONTROLLED SUBSTANCE POLICY – 382.601

- All employers shall provide educational materials that explain the alcohol and controlled substance testing requirements and procedures to meet these requirements

- **12 required parts plus certificate of receipt**
- DER, Designated Employer Representative
- Driver Categories
- Safety sensitive definition
- Prohibited conduct
- Circumstances to be tested
- Procedures to test
- Requirement to submit
- Explanation of refusal
- Consequences
- Consequences of .02-.04
- Information concerning the effects of alcohol and controlled substances use
- Clearinghouse reporting

Clearinghouse entries

- (i) A verified positive, adulterated, or substituted drug test result;
- (ii) An alcohol confirmation test with a concentration of 0.04 or higher;
- (iii) A refusal to submit to any test required by subpart C of this part;
- (iv) An employer's report of actual knowledge, as defined at §382.107:
 - (A) On duty alcohol use pursuant to §382.205;
 - (B) Pre-duty alcohol use pursuant to §382.207;
 - (C) Alcohol use following an accident pursuant to §382.209; and
 - (D) Controlled substance use pursuant to §382.213;
- (v) A substance abuse professional (SAP as defined in §40.3 of this title) report of the successful completion of the return-to-duty process;
- (vi) A negative return-to-duty test; and
- (vii) An employer's report of completion of follow-up testing.



KEY AREAS: FACTOR 2=PARTS 382, 383 and 391 (DRUG AND ALCOHOL TESTING, LICENSING, DRIVER QUALIFICATIONS)



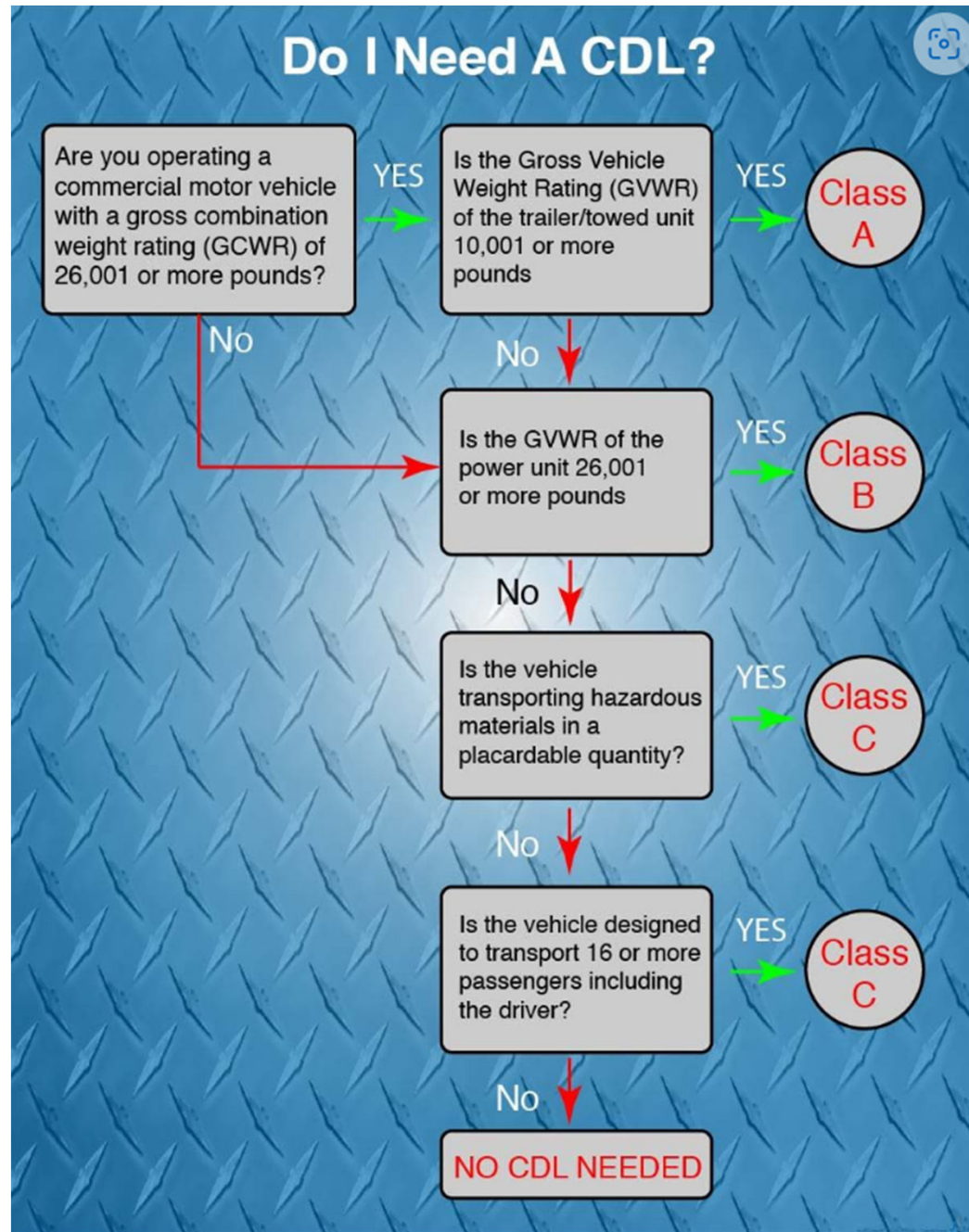
391.11 General qualifications of drivers.

(a) A person shall not drive a commercial motor vehicle unless he/she is qualified to drive a commercial motor vehicle.—

- (1) Is at least 21 years old; (age exception qualified apprentice drivers approved under the SDAP)
- (2) Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;
- (3) Can, by reason of experience, training, or both, safely operate the type of commercial motor vehicle he/she drives;
- (4) Is physically qualified to drive a commercial motor vehicle in accordance with subpart E—Physical Qualifications and Examinations of this part;
- (5) Has a currently valid commercial motor vehicle operator's license issued only by one State or jurisdiction;
- (6) Is not disqualified to drive a commercial motor vehicle under the rules in § 391.15; and
- (7) Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with § 391.31, or has presented an operator's license or a certificate of road test which the motor carrier that employs him/her has accepted as equivalent to a road test in accordance with § 391.33.



DO YOU NEED A CDL?



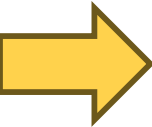
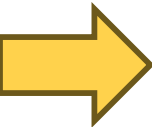
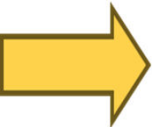
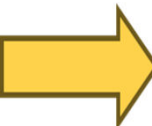
DOES YOUR DRIVER NEED A DQ FILE?

- ***Driver means any person who operates a commercial motor vehicle.***

- This includes, but is not limited to: Full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers; and independent owner-operator contractors.
- *Owner-Operators running under your DOT#*
- *Mechanics*
- *Dispatchers*
- Drivers who operate vehicles or combinations with a GVWR, GCWR, or gross weight of 10,001 lbs. or more;
- Drivers who operate vehicles designed or used to transport more than 8 passengers (including the driver) for compensation or more than 15 passengers (including the driver) not for compensation; and
- Drivers who operate vehicles used in transporting placardable quantities of hazardous materials.

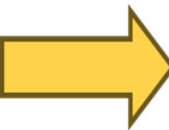
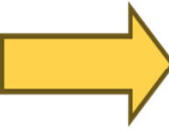


DRIVER QUALIFICATION FILE CONTENTS REQUIRED DOCUMENTS

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




INITIAL DRIVER QUALIFICATION FILE CONTENTS REQUIRED DOCUMENTS

	Form/Inquiry/Note to Include	Must Retain Document For
	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.



INITIAL DRIVER QUALIFICATION FILE CONTENTS REQUIRED DOCUMENTS SPECIFIC SITUATIONS

 Initial DQ File Documents	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



ONGOING UPDATES

	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)(ii) 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



KEY AREAS: FACTOR 3 OPERATIONAL-PARTS 392 AND 395 (DRIVING AND HOS)

Operational – Parts 392

- State and local laws (§392.2)
- Fatigued or under the influence (§392.3, §392.4, §392.5)
- **Scheduling runs that cannot be completed legally (§392.6)**

No motor carrier shall schedule a run, nor permit or require the operation of any commercial motor vehicle, between points in a period of time that would necessitate the commercial motor vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the commercial motor vehicle is being operated.



KEY AREAS: FACTOR 3 OPERATIONAL -PARTS 392 AND 395 (DRIVING AND HOS)

Hours of Service – Part 395

- Not using an exemption correctly (§395.1)
- Drivers exceeding the HOS limits (§395.3, §395.5)
- No logs or improper logs (§395.8)
- Form and manner errors (§395.8)
- False logs (§395.8)
- Supporting documents (§395.11)



FACTOR 3- §392.7 DRIVING OF COMMERCIAL MOTOR VEHICLES

- **§392.7 Equipment, Inspection, and Use.** No commercial motor vehicle shall be driven unless the driver is satisfied that the following parts and accessories are in good working order. Furthermore, no driver shall fail to use or make use of such parts and accessories when and as needed.
- **Question 1: Must a driver prepare a written report of a pre-trip inspection performed in accordance with §392.7?**
- **Guidance:** No.





Which HOS regulation is the most difficult to explain to drivers?

KEY AREAS: FACTOR 3 OPERATIONAL = PARTS 392 AND 395 (DRIVING AND HOS)

Controlling Hours of Service

- Nominal violations should not be ignored.
- Review Personal Conveyance.
- 30 Minute Break. Are they using it correctly?
- **Carrier controlled violations. Instruction card, graph log supply, ELD mount.**
- Adverse Driving.
- Split Sleeper.
- Unassigned driving.
- Check “Edit” Reports.
- Verify against Random drug testing, roadside inspections, and DOT recordable accidents.
- Start with the most severe and frequent violations. (Low-hanging fruit)



KEY AREAS: FACTOR 4 VEHICLE -PARTS 393 AND 396 (PARTS AND ACCESSORIES, INSPECTION AND MAINTENANCE)

Vehicles – Parts 393 and 396

- Part 393 requires that no employer shall operate a CMV or cause it to be operated unless it is equipped in accordance with the requirements and specifications of this part, (additional equipment and accessories).
- (§396.3) Every motor carrier must systematically inspect, repair, and maintain all motor vehicles subject to its control.
- Maintenance files and records for all vehicles (trucks, trailers, etc., §396.3).
- DVIRs submitted when required and acted on (§396.11).
- Periodic (annual) inspections.
- Qualified inspectors.

****If vehicle OOS is 34% or more, Conditional in Factor 4 before records are checked.**



ANNUAL INSPECTOR QUALIFICATIONS §396.19

- Motor carriers must ensure that persons performing inspections:
 - Understands the inspection standards;
 - Able to identify defective components;
 - Have knowledge and proficiency in methods, procedures, and tools.
- Evidence on file mechanic's duration with employer plus one year thereafter.

INSPECTOR QUALIFICATIONS	
Certification – 49 CFR – Part 396.19	
Motor carriers are responsible for ensuring that individual(s) performing an annual inspection under 396.19 are qualified as follows:	
<input type="checkbox"/> Understands the inspection criteria set forth in Part 393 and Appendix G and can identify defective components	
<input type="checkbox"/> Is knowledgeable of and has mastered the methods, procedures, tools and equipment used when performing an inspection	
<input type="checkbox"/> Is capable of performing an inspection by reason of experience, training, or both, and qualifies in one of the following categories (check all that apply):	
I. <input type="checkbox"/> Successfully completed a State or Federal training program or has certificate from a State or Canadian Province which qualifies the person to perform commercial vehicle safety inspections. Specify:	

or	
II. <input type="checkbox"/> Have a combination of training or experience totaling at least one year as follows (check all that apply):	
A. <input type="checkbox"/> Participation in a truck manufacturer-sponsored training program or similar commercial training program designed to train students in truck operation and maintenance. Where and Date:	

B. <input type="checkbox"/> _____ (years) experience as a mechanic or inspector in a motor carrier maintenance program. Name and Date:	

C. <input type="checkbox"/> _____ (years) experience as a mechanic or inspector in truck maintenance at a commercial garage, fleet leasing company, or similar facility. Name of Facility and Dates:	

D. <input type="checkbox"/> _____ (years) experience as a commercial vehicle inspector for a State, Provincial, or Federal Government. Where and Dates:	

I certify the above information is true and accurate to the best of my knowledge.	
Employee _____	_____
Signature of Mechanic/Inspector	Date
Motor Carrier/Company _____	_____
Signature of Employer/Supervisor	Date
Evidence of Inspector Qualifications are on file at:	



BRAKE INSPECTOR QUALIFICATIONS §396.25

- Employee of a motor carrier;
- Understand & able to perform brake service & inspections;
- Know methods, tools, procedures, and equipment;
- Qualified by training and/or experience;
- Evidence on file: mechanic's duration with employer, plus one year thereafter.

BRAKE INSPECTOR QUALIFICATIONS	
Certification – 49 CFR – Part 396.25	
<p>“Brake Inspector” means any employee of a motor carrier who is responsible for ensuring all brake inspections, maintenance, service, or repairs to any commercial motor vehicle, subject to the motor carrier’s control, meet the applicable Standards.</p> <p>No motor carrier shall require or permit any employee who does not meet minimum brake inspector qualifications to be responsible for the inspection, maintenance, service or repairs of any brakes on its commercial motor vehicles.</p>	
Minimum Qualifications	
<input type="checkbox"/> Understands and can perform brake service and inspection	
<input type="checkbox"/> Is knowledgeable of and has mastered the methods, procedures, tools and equipment necessary to perform brake service and inspection	
<input type="checkbox"/> Is capable of performing brake service or inspection by reason of experience, training, or both, and qualifies in one of the following categories (check all that apply):	
I. <input type="checkbox"/> Has successfully completed an apprenticeship program sponsored or approved by a State, Canadian Province, a Federal agency or labor union, or has a certificate from a State or Canadian Province which qualifies the person to perform brake service or inspections. Specify:	

or	
II. <input type="checkbox"/> Has brake-related training or experience or a combination thereof totaling at least one year as follows (check all that apply):	
A. <input type="checkbox"/> Participation in a brake maintenance or inspection training program sponsored by a brake or vehicle manufacturer or similar commercial training program. Where and Date:	

B. <input type="checkbox"/> _____ (years) experience performing brake maintenance or inspection in a motor carrier maintenance program. Name and Date:	

C. <input type="checkbox"/> _____ (years) experience performing brake maintenance or inspection at a commercial garage, fleet leasing company, or similar facility. Name of Facility and Dates:	

I certify the above information is true and accurate to the best of my knowledge.	
Employee _____	_____
Signature of Mechanic/Inspector	Date
Motor Carrier/Company _____	_____
Signature of Employer/Supervisor	Date
Evidence of Inspector Qualifications are on file at:	





**Do you send your
maintenance technicians for
outside training and
certification?**

KEY AREAS: FACTOR 5 HAZARDOUS MATERIALS-PARTS 397 (TRANSPORTATION OF HM, REQUIREMENTS, 171 GENERAL, 177 HIGHWAY, AND 180 CONTINUING QUALIFICATION

- HM Permits
- HM Training documentation – drivers & all associated employees- 3 years and within 90 days of hire.
- Shipping papers for each hazard class hauled.
- Security plan. Is it required?



KEY AREAS: FACTOR 5 HAZARDOUS MATERIALS-PARTS 397 (TRANSPORTATION OF HM, REQUIREMENTS, 171 GENERAL, 177 HIGHWAY, AND 180 CONTINUING QUALIFICATION

- **HM Registration Type**

Does carrier meet Hazmat Threshold definition? Yes	Meets Criteria	Details
Meets all HM placardable Inspection Criteria	Yes	
a. At least 2 HM placardable vehicle inspections in the past 24 months AND	✓	# HM Placardable insp. in 24 mo.: 111
b. At least 1 HM placardable vehicle inspections in the past 12 months AND	✓	# HM Placardable insp. in 12 mo.: 57
c. At least 5% of vehicle inspections are HM placardable inspections	✓	% of total insp. as HM placardable inspections: 64.5%

- **MCS-150B-Needed before applying for Hazardous Materials Safety Permit**
- **Hazardous Materials Safety Permit (HMSP)**
- **Examples of materials requiring HMSP: Radioactive, Explosives, Toxic by Inhalation, Methane**



Security Plan: Only required for specific classes of Hazardous Materials.

- The purpose of these requirements is to enhance the security of hazardous materials transported in commerce.
- Each employee must receive training on the security plan and its implementation.

<https://www.fmcsa.dot.gov/regulations/hazardous-materials/how-comply-federal-hazardous-materials-regulations>



KEY AREAS: FACTOR 5 HAZARDOUS MATERIALS -PARTS 397 (TRANSPORTATION OF HM, REQUIREMENTS, 171 GENERAL, 177 HIGHWAY, AND 180 CONTINUING QUALIFICATION

HM Training documentation – drivers & all associated employees-Every 3 years and within 90 days of hire.

- General Awareness
 - Function Specific
 - Safety Training
 - Security Training
 - Modal Specific
-
- **Recordkeeping of Training:** Retained by each hazmat employer for each hazmat employee for as long as that employee is employed by that employer as a hazmat employee and for 90 days thereafter.



KEY AREAS: FACTOR 5 HAZARDOUS MATERIALS -PARTS 397 (TRANSPORTATION OF HM, REQUIREMENTS, 171 GENERAL, 177 HIGHWAY, AND 180 CONTINUING QUALIFICATION

Shipping Paper requirements are contained in 49 CFR Part 172 Subpart C.

Retention: Hazardous materials shipping papers for 1 year for carrier, 3 years for hazardous waste.

Common shipping paper violations:

- Incorrect Basic Description.

I: ID Number

S: Proper Shipping Name

H: Hazard Class

P: Packing Group

- Missing Emergency Phone Number.
- Missing shipper certification.

STRAIGHT BILL OF LADING
ORIGINAL - NOT NEGOTIABLE

Shipper No. _____
Carrier No. _____
Date _____

Page _____ of _____ (Name of carrier) (SCAC)

On Collect or Delivery shipments, the letters "DDP" must appear before consignee's name or an otherwise provided to him 408, Sec. 5.

TO: Consignee _____
FROM: Shipper _____
Street _____
City _____ State _____ Zip Code _____
City _____ State _____ Zip Code _____

24 Hr. Emergency Contact Tel. No. **800-555-1234**

Route _____ Vehicle Number _____

No. of Units & Container Type	HM	BASIC DESCRIPTION Proper Shipping Name, Hazard Class, Identification Number (UN or NA), Packing Group, per 172.101, 172.202, 172.203	TOTAL QUANTITY (Weight, Volume, Gallons, etc.)	WEIGHT (Subject to Correction)	RATE	CHARGES (Per Carrier Use Only)
③ 4 Drums	X	I S H P UN1805, Phosphoric acid solution, 8, PGIII	④ 4 gal			



FACTOR 6 ACCIDENT FACTOR-RECORDABLE RATE

Recordable Accident Rate Calculation

*# DOT Recordable Accidents x 1,000,000/# Miles Driven
During Past 12 Months*

- Rate of 1.5 DOT recordable accidents per million miles or less = **Satisfactory**

- Over 1.5 DOT recordable accidents per million miles = **Unsatisfactory**

**Fleets can request that non-preventable crashes reviewed under the CPDP not be used in the calculation.*



CARRIER #1 FINDINGS

Violations

1. Primary: 383.37(b)

Allowing, requiring, permitting, or authorizing an employee to operate a CMV during any period in which the driver has a CLP or CDL disqualified by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV.



Acute

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
20		20

BASIC Impacted
Driver Fitness

Rating Factor 2:
Driver = Part 383

2. Primary: 391.51(b)(2)

Failing to maintain inquiries into driver's driving record in driver's qualification file.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
3		3

Checked

Fed	State	Total
20		20

BASIC Impacted
Driver Fitness

Rating Factor 2:
Driver = Part 391



CARRIER #1 FINDINGS

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory	0	0
Factor 2: Driver = Parts 382, 383 and, 391	Unsatisfactory	1	1
Factor 3: Operational = Parts 392 and 395	Satisfactory	0	0
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 4 Number of Vehicles Inspected (MCMIS): 20 OOS Rate: 20%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	N/A	N/A	N/A
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 8,573,501 Recordable Accidents: 2 Recordable Accidents/Million Miles: 0.23	Satisfactory	N/A	N/A





What is Carrier #1's proposed safety rating?

 The Slido app must be installed on every computer you're presenting from

WHAT IS CARRIER #1'S PROPOSED SAFETY RATING?

Safety Fitness Rating

Your proposed safety rating is: **CONDITIONAL** 1 UNSATISFACTORY rating factor and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory	0	0
Factor 2: Driver = Parts 382, 383 and, 391	Unsatisfactory	1	1
Factor 3: Operational = Parts 392 and 395	Satisfactory	0	0
Factor 4: Vehicle = Parts 393 and 396 OOS Vehicles (CR): 0 Number of Vehicles Inspected (CR): 0 OOS Vehicles (MCMIS): 4 Number of Vehicles Inspected (MCMIS): 20 OOS Rate: 20%	Satisfactory		
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	N/A	N/A	N/A
Factor 6: Accident Factor = Recordable Rate Total Miles Operated: 8,573,501 Recordable Accidents: 2 Recordable Accidents/Million Miles: 0.23	Satisfactory	N/A	N/A

Table 1—Current SFD Rating Table

Factor Ratings		Overall Safety Rating
Unsatisfactory	Conditional	
0	2 or fewer	Satisfactory
0	More than 2	Conditional
1	2 or fewer	Conditional
1	More than 2	Unsatisfactory
2 or more	0 or more	Unsatisfactory



CARRIER #2 FINDINGS

Violations

1. Primary: 396.17(a)

Using a commercial motor vehicle not periodically inspected.



Critical

At least 10% of the number checked had violations

Violations Discovered

Fed	State	Total
3		3

Checked

Fed	State	Total
12		12

BASIC Impacted
Vehicle Maintenance

Rating Factor 4:
Vehicle = Part 396

4. Primary: 396.3(a)

Failing to systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles and intermodal equipment subject to your control

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
1		1

Example/Notes:

05/13/2023 - The FMCSA and State partners have identified violations across multiple inspections at the roadside over the previous 24 months that are reflected in the Vehicle Maintenance BASIC of the Carrier Safety Measurement System, including: 10 Level 1 and Level 2 inspection with 9 inspections resulted in vehicles being placed out of service. The vehicle OOS rate is 90%.

Drivers/Vehicles in Violation

Fed	State	Total

Checked

Fed	State	Total



WHAT IS CARRIER #2'S PROPOSED SAFETY RATING?

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 4: Vehicle = Parts 393 and 396	Unsatisfactory	0	1
OOS Vehicles (CR): 0			
Number of Vehicles Inspected (CR): 0			
OOS Vehicles (MCMIS): 9			
Number of Vehicles Inspected (MCMIS): 10			
OOS Rate: 90%			



What is Carrier #2's proposed safety rating?

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WHAT IS CARRIER #2'S PROPOSED SAFETY RATING?

Safety Fitness Rating

Your proposed safety rating is: **CONDITIONAL**. 1 UNSATISFACTORY rating factor and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 4: Vehicle = Parts 393 and 396	Unsatisfactory	0	1
OOS Vehicles (CR): 0			
Number of Vehicles Inspected (CR): 0			
OOS Vehicles (MCMIS): 9			
Number of Vehicles Inspected (MCMIS): 10			
OOS Rate: 90%			

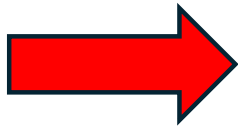
1. If a motor carrier has three or more roadside vehicle inspections in the twelve months prior to the carrier review, or three vehicles inspected at the time of the review, or a combination of the two totaling three or more, and the vehicle **OOS rate is 34 percent or greater, the initial factor rating will be *conditional***. The requirements of **Part 396**, Inspection, Repair, and Maintenance, will be examined during each review. **The results of the examination could lower the factor rating to *unsatisfactory* if noncompliance with an acute regulation or a pattern of noncompliance with a critical regulation is discovered**

WHAT IS CARRIER #2'S PROPOSED SAFETY RATING?

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 4: Vehicle = Parts 393 and 396	Unsatisfactory	0	1
OOS Vehicles (CR): 0			
Number of Vehicles Inspected (CR): 0			
OOS Vehicles (MCMIS): 9			
Number of Vehicles Inspected (MCMIS): 10			
OOS Rate: 90%			

Table 1—Current SFD Rating Table

Factor Ratings		Overall Safety Rating
Unsatisfactory	Conditional	
0	2 or fewer	Satisfactory
0	More than 2	Conditional
1	2 or fewer	Conditional
1	More than 2	Unsatisfactory
2 or more	0 or more	Unsatisfactory



Safety

***“What is adequacy?
Adequacy is no standard at all.”
–Winston S. Churchill***

***“Mediocrity pays accordingly.”
-SK***



What is one of the main roles of your insurance broker?

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ANNUAL TRANSPORTATION SAFETY ASSESSMENT



Prepared For:	ABC 123 TRUCKING, LLC.		
Safety Contact:	JOHN SMITH	Date:	August 8, 2024
Prepared By:	Anne-Marie Naples, CDS		
The member's safety program was audited according to the criteria outlined in this report. Used properly and tactfully, audits provide useful results.			
They:	<ul style="list-style-type: none">• Maintain standard by ensuring that all members follow standardized rules and procedures.• Indicate strengths of a member's safety and health program. It will also reveal those areas that need additional information.• Motivate site management teams by providing the results of their safety efforts in a clear, measurable form.• Promote the sharing of "best practices" and increase safety awareness.		
PY 2024 TSA Score		0%	



SAMPLE - DRIVING HIRING STANDARDS

- Minimum age of 23, unless in a 4-week documented training program.
- Minimum of one year of verifiable (CMV) driving experience in similar equipment, unless in a 4-week documented training program.
- No more than four moving violations combined in the past three years and no more than two in the past 12 months, as listed on the MVR/PSP.
- No “serious” violations in the past three years as listed on the MVR/PSP.
- No DWIs, drug or alcohol convictions, and/or reckless driving violations in the past five years as listed on the MVR/PSP.
- No serious preventable crashes in the past three years as listed on the PSP; MVR and/or driver application. Serious crashes may include large losses over 25k, at-fault rear-end collision, rollover, jackknife, head-on collision, and DOT recordable/preventable involving injury/fatality.
- Not have had more than three jobs in the past twelve months.
- No violations/prohibitions noted in the Drug and Alcohol Clearinghouse.



DRIVER RISK BASED ON AGE AND DRIVING EXPERIENCE

Commercial Motor Vehicle Driver Risk Based on Age and Driving Experience

Naomi Dunn • Susan Soccolich • Jeffrey Hickman

Submitted: April 17, 2020

"In almost all age categories, the driver groups with 6 months or less or 7 months to 1 year of CMV driving experience showed higher proportions of crash involvement than groups with longer CMV driving experience."



Housed at the Virginia Tech Transportation Institute
3500 Transportation Research Plaza • Blacksburg, Virginia 24061



2022 ATRI STUDY PREDICTING CRASH INVOLVEMENT



Predicting Truck Crash Involvement: 2022 Update

October 2022

Abbigail Markus
Research Analyst
American Transportation Research Institute
Minneapolis, MN

Dan Murray
Senior Vice President
American Transportation Research Institute
Minneapolis, MN



Atlanta, GA • Minneapolis, MN • New York, NY • Sacramento, CA
TruckingResearch.org

Table 12: CSA BASIC vs. ATRI Crash Likelihood Model

Violations	SMS Violation Severity Weight	Increase in Crash Likelihood
Unsafe Driving BASIC		
Reckless Driving violation	10	104%
Failure to Yield Right-of-Way violation	5	141%
Speeding violation	5	47%
Following Too Close violation	5	44%
Improper Lane Change violation	5	39%
Failure to Obey Traffic Control Device violation	5	34%
Improper Passing violation	5	ns
Improper Turns violation	5	ns
Crash Indicator BASIC		
Past Crash	*	113%
HOS Compliance BASIC		
False or No Log Book violation	7	49%
HOS violation	7	47%
Driver Fitness BASIC		
Disqualified Driver violation	8	53%

ns Not Significant

* Weights are assigned to crashes contingent on crash severity (fatal, injury and towaway)



UNDER INVESTIGATION



NTSB Investigator, *"We will also be looking into the truck driver's employment history as a commercial driver, his entire driving history to include crash history and traffic violations, as well as his medical history for factors that may have influenced his driving."*

Killed 5, injured 11

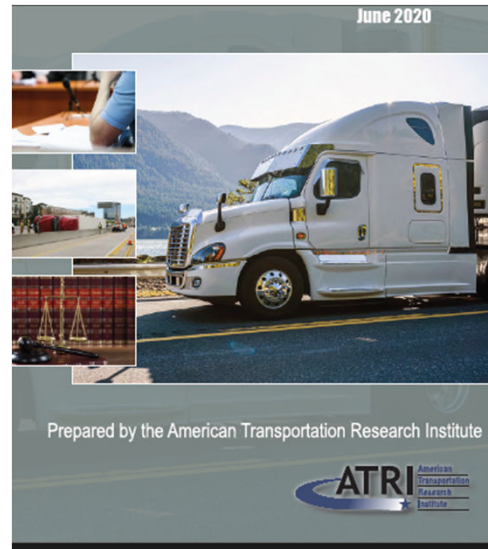
Failed to slow for traffic

Numerous HOS violations in the previous 7 days before the crash



ATRI- UNDERSTANDING THE IMPACT OF NUCLEAR VERDICTS ON THE TRUCKING INDUSTRY

- *"DQ files represent a portion of that risk exposure. When an incident occurs, attorneys are going to dig into a carrier's files, looking for any lax enforcement of policies or substandard practices."*



Understanding the Impact of Nuclear Verdicts on the Trucking Industry

June 2020

Dan Murray
Senior Vice President
American Transportation Research Institute
Minneapolis, MN

Nathan Williams
Research Analyst
American Transportation Research Institute
Minneapolis, MN

Erin Speltz
Research Analyst
American Transportation Research Institute
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550 N. Glebe Road, Suite 210
Arlington, Virginia 22203
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"...The defense intends to focus on the 30 seconds before the crash. And when I handle a case, I look long before that. I look at how he was hired, how he was trained, and how he was supervised..."

A Plaintiff Attorney

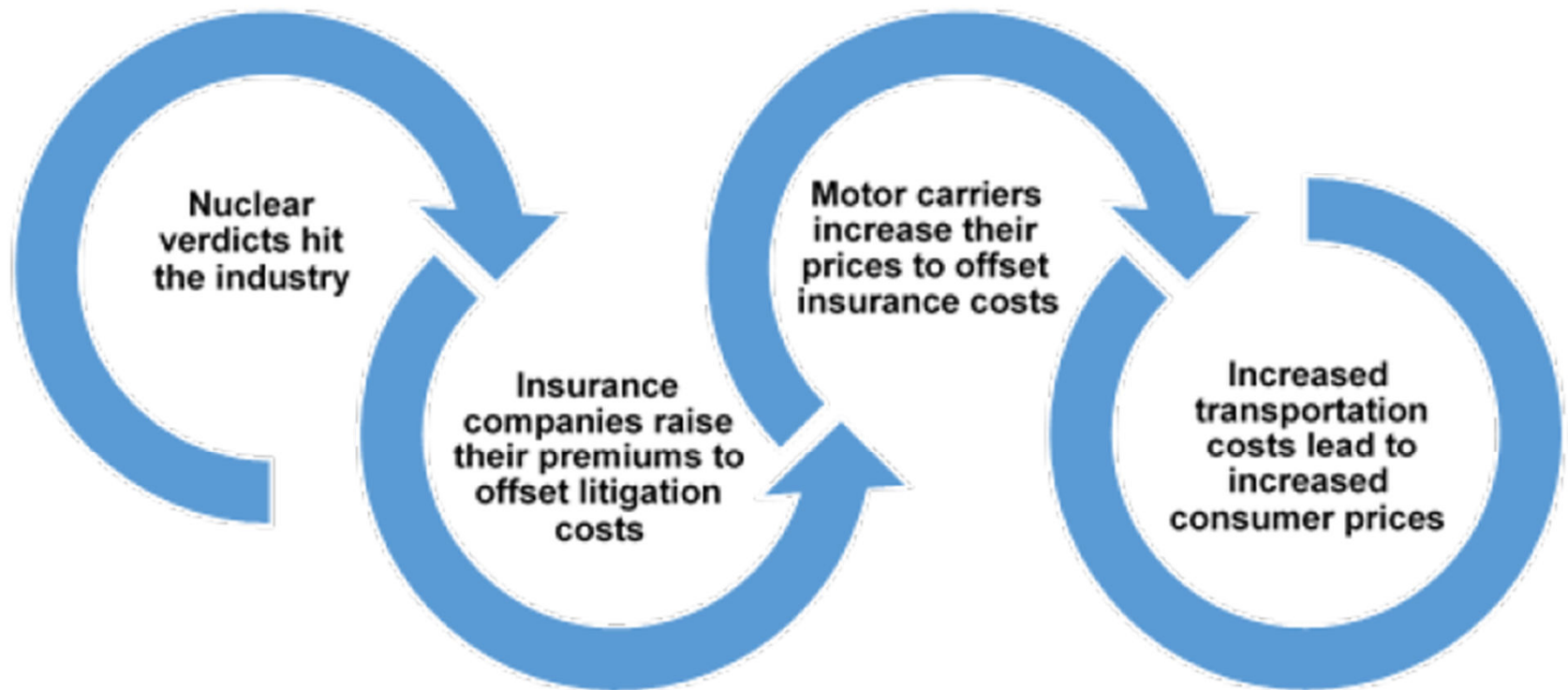
NUCLEAR VERDICT PREVENTION

- *“the only way to prevent nuclear verdicts is to prevent the crash from happening in the first place.”*



- *Juries are less forgiving of trucking companies when plaintiffs can document that additional reasonable steps to prevent a crash could have been taken, regardless of compliance with FMCSRs. Most plaintiff attorneys frame FMCSRs as minimum standards. The ability of defense attorneys to document safety activities that exceed FMCSRs carries great weight with juries.*

Figure 15. Relationship between Nuclear Verdicts and Higher Consumer Costs



PLAYING DETECTIVE



Employment / Unemployment	
Unemployment	
Start Date	01-2024
End Date	06-2024
Comment	None
Instate Delivery Services of Arizona LLC (CONTRACTOR)	
Company	Instate Delivery Services of Arizona LLC (CONTRACTOR)
Start Date	01-2023
End Date	01-2024
Address	8111 E. Main St
City, State/Province Zip/Postal	Joplin, MO 64801
Country	United States
Phone	817-555-1555
Position Held	Truck Driver
Reason for leaving?	To try day trading the stock market.
Were you terminated/discharged/laid off?	No
Is this your current employer?	No
May we contact this employer at this time?	Yes
Did you operate a commercial motor vehicle?	Yes
Were you subject to the Federal Motor Carrier or Transport Canada Safety Regulations while employed/contracted by this employer/contractor?	Yes

Application
dated
6/30/24

Over 12
years of
CMV
driving
experience

Only 2
“jobs” in
the past 12
years

PSP
showed no
violations

NEEDS FURTHER INVESTIGATION?

Are you currently employed?	No
What date did your last employment end?	01-02-2023

Company	Tristate Delivery Services of Arizona LLC (CONTRACTOR)
Start Date	01-2023
End Date	01-2024

5. Have you ever been convicted of reckless driving, careless driving or careless operation of a motor vehicle, or are any charges pending?	No
---	----

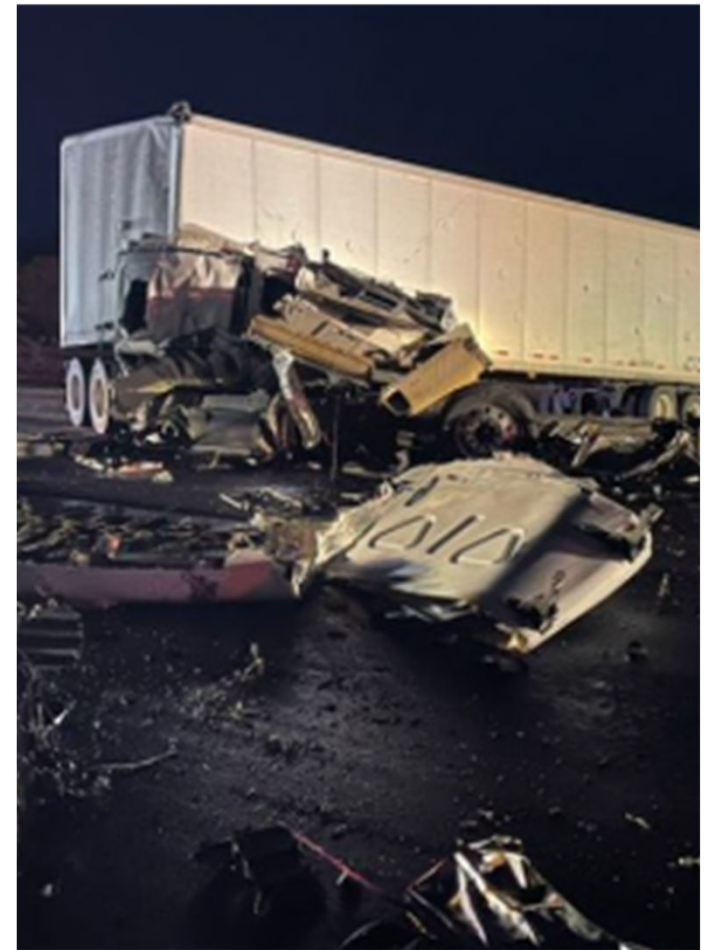
DRIVING RECORD HISTORY

TYPE	VIOL/SUS	CONV/REI	DESCRIPTION	CODE	POINTS
VIOLC	12/25/2021	01/18/2022	CARELESS OR IMPROPER DRIVING COMMERCIAL MOTOR VEHICLE DISPOSITION WAS GUILTY COUNTY COURT VIOLATION NUMBER: 1 CITATION NUMBER: 0000 STATE: TN CDL: YES ADDED TO RECORD: 09/29/2022 DISPOSITION CODE: 432		3



PRE-CRASH ACTIONS BY MOTOR CARRIERS ARE CRITICAL

- **Crash avoidance is everything.** It starts at driver hiring and strictly adhering to safety and operational policies is essential to staying out of court and/or reducing award sizes.
- Failure to adhere to Federal Motor Carrier Safety Regulations (FMCSRs) and company safety policies will be the focus of plaintiff arguments.
- From a litigation standpoint, motor carriers need to consider the FMCSRs as minimum standards that can and should be exceeded.



DOCUMENT TRANSPARENCY



Federal Motor Carrier Safety Administration
FOIA Team MC-MMI
1200 New Jersey Avenue SE
Washington, DC 20590

Re: *TIME SENSITIVE FREEDOM OF INFORMATION ACT REQUEST*

Company :
DOT Number :

To whom it concerns:

I hereby request, pursuant to the Freedom of Information Act (5 U.S.C. § 552), the following materials regarding the above-referenced motor carrier:

1. Each Form OP-1 ever executed by this carrier;
2. Each MCS-150, MCS-150A and MCS-150B ever filed by this carrier;
3. Each MCS-82 ever filed by this carrier;
4. All other documents of any kind related to the registration of this carrier;
5. All documents of any kind related to insurance policies and financial responsibility filings made by this carrier in the past 5 years;
6. All documents and materials of any kind related to a collision involving this carrier that occurred on (date of accident) in (location of accident);
7. All reports related to motor vehicle crashes involving this carrier in the past 7 years;
8. All Compliance Reviews and related documents involving this carrier in the past 10 years;
9. All enforcement actions and related documents involving this carrier in the past 7 years;
10. All documents showing fines for noncompliance involving this carrier in the past 7 years;
11. All safety interventions and related documents involving this carrier in the past 7 years;
12. All Warning Letters, Offsite Investigations, Onsite Focused Investigations, Onsite Comprehensive Investigations, Cooperative Safety Plans (CSP), Notice of Violations, Notice of Claims and Operations Out of Service Orders involving this carrier in the past 7 years;
13. All documents and supporting materials evidencing any safety rating for this carrier in the past 7 years;
14. All applications for endorsements and special permits related to this carrier;

15. All correspondence and communications (written and electronic) between this carrier and the FMCSA for any purpose in the past 5 years;
16. All inspection reports related to this carrier for the past 5 years;
17. All BASIC scores for this carrier from January 2010 to present; and
18. All other documents and materials of any kind in your possession regarding the safety and/or compliance of this carrier.

I certify that I will pay the costs associated with the search for and duplication of the requested records. If payment is required in advance, please call me and I will make immediate payment arrangements.

If you are unable to provide any of the requested materials, please so advise and provide the reason for your decision. Please forward all other materials to me at your earliest opportunity. To the extent that the materials can be sent electronically, they may be e-mailed to me at (your email address). Please call with any questions.

Yours truly,

SAMPLE PRESERVATION LETTER

Date

To: Trucking Company

**RE: Notice of Representation and Request to Preserve
Our Client:
Date of Incident/Loss:**

To whom it concerns at (name of trucking company):

Please be advised that this firm has been retained as co-counsel by (plaintiff name) relating to any and all claims arising out of a collision which occurred on or about (accident date) in (location of accident). This letter is a formal request that you preserve and not alter any and all equipment that was involved in the collision, along with photographs, video recordings, recorded audio or computer media, measurements, real evidence, documents, materials, and all other evidence and things relating to the crash which are presently in your possession or the possession of your employee or agent. This includes, but is certainly not limited to all documents, whether paper, electronic or otherwise stored, relative to the driver and truck company in general, as well as anything that shows if the company or the driver either contributed to the cause of the crash or did nothing to contribute to the cause of the crash.



The driver's complete driver qualification file, as required by 49 C.F.R. 391.51, including but not limited to:

- a) Application for employment
- b) CDL license
- c) Driver's certification of prior traffic violations
- d) Driver's certification of prior collisions
- e) Driver's employment history
- f) Pre-employment MVR
- g) Annual MVR
- h) Annual review of driver history
- i) Certification of road test
- j) Medical examiner's certificate
- k) HAZMAT or other training documents

In addition please also preserve:

- l) All drug and alcohol testing records of the driver
- m) All inquiries and responses regarding the driver's employment history

The entire personnel, discipline, and training files of the driver involved in this collision.

All existing driver vehicle inspection reports required under 49 C.F.R. 396.11 for the vehicle involved in the above collision, to include all existing daily inspection reports for the tractor and trailer involved in this collision.

All existing maintenance, inspection and repair records or work orders on the tractor and trailer involved in the above collision.

All annual inspection reports for the tractor and trailer involved in the above collision, covering the date of the collision.

DON'T JUST CHECK THE BOXES





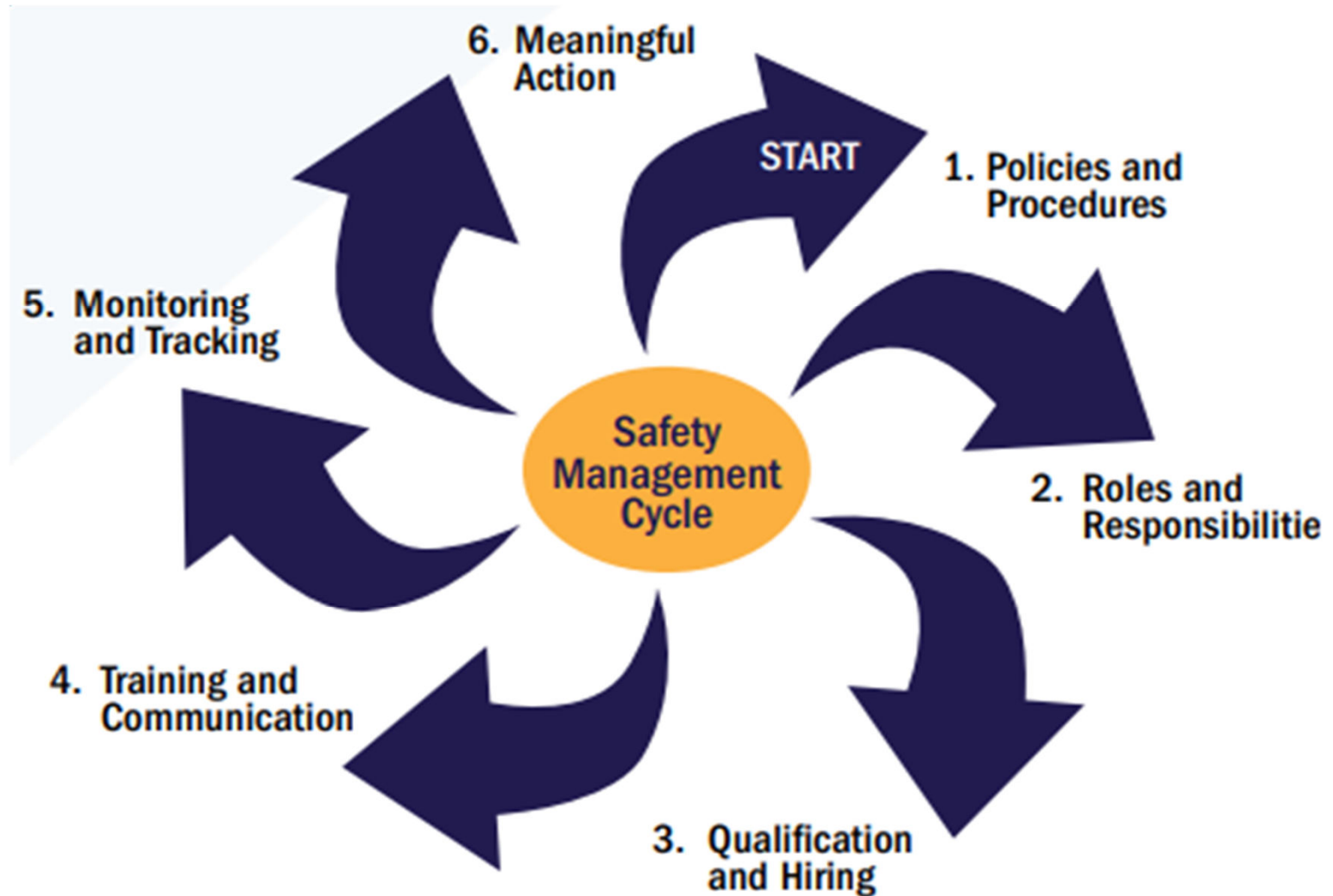
What resources do you currently use for safety management?

 The Slido app must be installed on every computer you're presenting from

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ADDITIONAL RESOURCES

SAFETY MANAGEMENT CYCLE



https://csa.fmcsa.dot.gov/Documents/FMC_CS_A_12_002_SMC_Overview.pdf



CARRIER COMPLIANCE QUESTIONNAIRE CARRIER SAFETY PLANNER

https://csa.fmcsa.dot.gov/safetyplanner/documents/Forms/Carrier%20Compliance%20Questionnaire_508.pdf

Drivers	Related Regulations
Hiring and Qualification	
17. Do you have a written policy describing your hiring and re-hiring criteria and practices?	49 CFR Part 391
18. Do all of your drivers meet the general qualification requirements? Are reviewing these requirements with the driver part of your application process?	49 CFR 391.11
19. Using FMCSA's Pre-employment Screening Program can help you review driver safety records and make well-informed hiring decisions.	
20. Do you have a list of all your current drivers, including first and last name, date of birth, date of hire, license number, and license issuing State?	49 CFR Part 391
21. Do all drivers hold valid CDL licenses (as needed) with the proper endorsements based on the vehicle size and commodity transported?	49 CFR Part 391
22. Do you have a current and complete driver qualification file for every driver?	49 CFR 391.51
23. Do you have an employment application for every driver?	49 CFR 391.21
24. Do driver qualification files show a complete investigation of the past employment history of drivers?	49 CFR 391.53(b)(1)
25. Do you have a documented road test certificate or equivalent for all drivers?	49 CFR 391.31(e)
26. For longer combination vehicle drivers: Do you have an LCV Driver-Training Certificate or LCV Certificate of Grandfathering in each driver's qualification file verifying completion of an LCV driver training course?	49 CFR 380.107
27. Can you produce a motor vehicle record (MVR) obtained within the last 12 months for each driver?	49 CFR 391.25 (a) and (c).
28. Do you have a documented process for reviewing the MVR and all moving violations with the driver once a year and documenting that you did so?	49 CFR 391.25 (c) (2)
29. Do you have a current medical certificate for every driver? Do all non-CDL drivers have their medical certificates with them at all times? Medical certificates for CDL drivers are electronically linked with their CDLs.	49 CFR 391.43
30. Do you have a note in each driver's file indicating that you verified that the medical examiner listed is on the National Registry of Certified Medical Examiners?	Non-CDL drivers: 49 CFR 391.51(b)(9)(i) CDL drivers: 49 CFR 391.51(b)(9)(ii)
31. Do you have a documented system for ensuring that driver's licenses and medical certificates (physicals) are current and valid?	
32. Do you have a written process to identify drivers that should be disqualified, and a process for reinstatement?	49 CFR 383.37



AFTER YOU HAVE BEEN NOTIFIED

- Driver list for all drivers operating under your DOT# active/inactive in the last 365 days.



Driver List

Driver First Name	Driver Last Name	Date of Birth (MM/DD/YYYY)	License #	License State	CDL (Y/N)	Phone Number	Date of Hire (MM/DD/YYYY)	Date of Termination (MM/DD/YYYY)



Investigation Questionnaire

1. Legal Business Name
2. Doing Business as Name
3. Address/Principal Place of Business
4. Secondary Address/Place of Business
5. Primary Phone
6. Secondary Phone
7. Fax
8. E-mail

Carrier Information

9.	Corporate Officer(s) Names	Corporate Titles

10. Gross Revenue (last complete fiscal year): \$

11. Period End Date:

12. Carrier's Total Fleet Mileage (last 12 months):

Fleets into Mexico or Canada? ☐ Yes / No ☐

If yes, please specify Mexico, Canada, or both:

13. Do you have an ELD or are you exempt? (Check one)

☐

ELD

☐

Exempt

If you have an ELD, please provide the vendor name:

If you have an ELD, please provide the implementation date:

If no ELD, provide the exemption description:

14.

Carrier's Insurance Information	
Insurance Company	
Agent/Contact Person	
Policy Number	
Telephone Number	
Public Liability Coverage	
PHMSA Registration Number	

Driver Information:

15.

Table 1	Interstate (# of drivers)	Intrastate (# of drivers)	Total
CDL drivers within 100 air-mile radius			
CDL drivers beyond 100 air-mile radius			
Total CDL Drivers:			
Non-CDL drivers within 150 air-mile radius			
Non-CDL drivers beyond 150 air-mile radius			
Total Non-CDL Drivers:			
Total Drivers:			

16.

Table 2	
As of:	Total Number of Drivers
January 1	
April 1	
July 1	
October 1	

Vehicle Information:

17. Table 3	Straight Trucks	Truck Tractors	Trailers	Hazmat Cargo Tank Trucks	Hazmat Cargo Tank Trailers	Motor- coach	Number of vehicles carrying number of passengers (including the driver)								
							School Bus			Bus 16+	Passenger Van		Limousine		
							1-8	9-15	16+		1-8	9-15	1-8	9-15	16+
Owned															
Term Leased															
Trip Leased															

18. Controlled Substances and Alcohol Testing Information:

Controlled Substances and Alcohol Testing Information	Controlled Substances and Alcohol Testing Consortium (if any)
<u>Name of MRO:</u> <u>Phone Number:</u> <u>Address:</u>	<u>Name of the Random Testing Center:</u> <u>Phone Number:</u> <u>Address:</u>

19.

Who filled out this form?
<u>Signature:</u>
<u>Printed Name:</u>
<u>Title:</u>

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
	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)(ii); 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
	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(i)(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

✓	Form/Inquiry/Note to Include	Must Retain Document For
	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(i); 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

POST-ACCIDENT ALCOHOL AND DRUG TEST DOCUMENTATION FORM

Use this form to document information regarding when and where post-accident tests were performed.

_____ was involved in a commercial motor vehicle accident
name of driver
on _____ requiring the administration of post-accident
month, day, year
alcohol and drug tests pursuant to 49 CFR § 382.303. The company was first notified of the
accident at _____ a.m./p.m. on _____, by
time, time zone month, day, year
_____. The accident occurred at or near _____
name of driver/police officer/other city, state

The following efforts were undertaken to have the driver tested as required by the regulations:

ALCOHOL TESTING (check all that apply and fill in details)

- ☐ An alcohol test was completed at _____ a.m./p.m. _____
time time zone
- ☐ An alcohol test (breath) was administered within two hours that demonstrated a BAC concentration of _____.
- ☐ An alcohol test could not be administered within two hours of the accident because:

- ☐ An alcohol test was administered after _____ hours (but not more than eight), that demonstrated a blood alcohol concentration of _____.
- ☐ An alcohol test was not administered within eight hours of the accident because:

- ☐ If an alcohol test was not administered within eight hours, list any facility (name, address, phone) that could have performed a breath alcohol test:

DRUG TESTING (check all that apply and fill in details)

- ☐ A drug test was completed at _____ a.m./p.m. _____
time time zone
- ☐ A drug test (check one) ☐ was ☒ ~~was not~~ administered within 32 hours.
- ☐ A drug test was not administered within 32 hours because:

Company Representative

date



SMSC

SAFETY MANAGEMENT SERVICES COMPANY

DOCUMENT RETENTION REQUIREMENTS

DRIVER QUALIFICATION

Life of Employment + 3 Years

- Driver application
- Previous employer inquiries
- Original inquiry to State agencies
- Driver's road test

3 Years

- Medical examiner's certificate
- National registry verification
- Annual review of qualification

Life of Employment + 1 Year

- Entry-level driver training records

DRUG AND ALCOHOL TESTING

5 Years

- Alcohol tests .02 or greater
- Verified positive controlled substance test results
- Documentation of refusals
- Driver evaluations and referrals
- Calibration documents
- Administration records related to drug and alcohol testing, including violations
- Annual summaries

2 Years

- Drug and alcohol collection process records

1 Year

- Negative and cancelled drug and alcohol testing results

Indefinite

(and 2 years after individual no longer performs function)

- Records related to education and training of Breath Alcohol Technicians (BAT), Screening Test Technicians (STT), Supervisors and drivers

VEHICLE MAINTENANCE

1 Year

(and 6 months after the vehicle leaves the motor carrier's control)

- Maintenance files required by part 396.3

90 Days

- Driver Vehicle Inspection Reports (DVIRs) completed daily, when required by 49 CFR 396.11(a)

14 Months

- Periodic inspections completed at least once every 12 months

HOURS OF SERVICE

6 Months

Carrier Requirements

- Records of Duty status
- Timecards
- Electronic Logging Devices (ELDs)
- Supporting documents

*There are some documents used as HOS supporting documents which have longer record retention periods, such as payroll records, insurance records, etc. See Part 379 Appendix A for Schedule of Records and Periods of Retention.

8 Days

Driver Requirements

- On-duty for inspection



U.S. DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM

Calendar Year Covered by this Report: _____

OMB No. 2105-0529
Form DOT F 1385 (Rev. 4/2019)

DOT # _____

Address As (DBA) Name (if applicable): _____

E-mail: _____

Certifying Official: _____ Signature: _____

Name: () Date Certified: _____

Issued by (if different): _____ Telephone: () _____

Name and Telephone (if applicable): _____ () _____

DOT agency for which you are reporting MIS data; and complete the information on that same line as appropriate:

SA – Motor Carrier: DOT #: _____ Owner-operator: (circle one) YES or NO Exempt (Circle One) YES or NO

A – Aviation: Certificate # (if applicable): _____ Plan / Registration # (if applicable): _____

MSA – Pipeline: (Check) Gas Gathering _____ Gas Transmission _____ Gas Distribution _____ Transport Hazardous Liquids _____ Transport Carbon Dioxide _____

RA – Railroad: Total Number of observed/documentated Part 219 "Rule G" Observations for covered employees: _____

SCG – Maritime: Vessel ID # (USCG- or State-Issued): _____ (If more than one vessel, list separately.)

TA – Transit

Covered Employees: (A) Enter Total Number Safety-Sensitive Employees In All Employee Categories: _____

Enter Total Number of Employee Categories: _____

Employee Category	Total Number of Employees in this Category

If you have multiple employee categories, complete Sections I and II (A) & (B). Take that filled-in form and make one copy for each employee category and complete Sections II (C), III, and IV for each separate employee category.

II. Drug Testing Data:

	1	2	3	4	5	6	7	8	9	10	11	12	13
Type of Test	Total Number Of Test Results [Should equal the sum of Columns 2, 3, 9, 10, 11, and 12]	Verified Negative Results	Verified Positive Results - For One Or More Drugs	Positive For Marijuana	Positive For Cocaine	Positive For PCP	Positive For Opioids	Positive For Amphetamines	Refusal Results				Canceled Results
									Adulterated	Substituted	"Shy Bladder" - With No Medical Explanation	Other Refusals To Submit To Testing	
Pre-Employment													
Random													
Post-Accident													
Reasonable Susp./Cause													
Return-to-Duty													
Follow-Up													
TOTAL													

IV. Alcohol Testing Data:

	1	2	3	4	5	6	7	8	9
Type of Test	Total Number Of Screening Test Results [Should equal the sum of Columns 2, 3, 7, and 8]	Screening Tests With Results Below 0.02	Screening Tests With Results 0.02 Or Greater	Number Of Confirmation Tests Results	Confirmation Tests With Results 0.02 Through 0.039	Confirmation Tests With Results 0.04 Or Greater	Refusal Results		Canceled Results
							"Shy Lung" - With No Medical Explanation	Other Refusals To Submit To Testing	
Pre-Employment									
Random									
Post-Accident									
Reasonable Susp./Cause									
Return-to-Duty									
Follow-Up									
TOTAL									

- DOT Drug and Alcohol Testing Management Information System (MIS)

<https://www.transportation.gov/odapc/Part40/Appendix>

QUESTIONS?



SAFETY | CULTURE | COMPLIANCE
CAPTIVE CONNECTIONS
— TRANSPORTATION SAFETY CONFERENCE —

PLEASE MAKE YOUR WAY TO YOUR BREAKOUT SESSION B ROOM

THE NEXT SESSION WILL BEGIN AT 2:15 PM

- **Safety Director 101 Round Table – North Coast A**
- **Filing Successful DataQ's and CPDP – Rail Yard A**
- **Distracted Driving: Chat Storyboard – Railhead**
- **Hours of Service/Personal Conveyance Round Table – Rail Yard BC**
- **Behind the Iron Curtain: Understanding How Claim Decisions Determine Reserves – North Coast B**



SAFETY | CULTURE | COMPLIANCE
CAPTIVE CONNECTIONS
— TRANSPORTATION SAFETY CONFERENCE —

**PLEASE MAKE YOUR WAY BACK TO THE
SUMMIT BALLROOM
FOR THE NEXT PRESENTATION AT 3:30 PM**