

EDUCATION & TECHNICAL ASSISTANCE PROGRAM

A MOTOR CARRIER'S  
GUIDE TO

# IMPROVING HIGHWAY SAFETY

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



# EDUCATION & TECHNICAL ASSISTANCE PROGRAM

## A Motor Carrier's Guide to Improving Highway Safety

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**T**he Federal Motor Carrier Safety Administration (FMCSA) was established as a separate administration within the U.S. Department of Transportation on January 1, 2000, as a result of the Motor Carrier Safety Improvement Act of 1999. FMCSA's primary mission is to reduce crashes, injuries, and fatalities involving large trucks and buses on our Nation's highways. We accomplish this through a coordinated effort of Federal, State, and industry organizations to reduce fatalities, injuries, property damage and hazardous materials incidents. We implement our safety and compliance program through a national network of fifty-two field offices, including the District of Columbia and Puerto Rico.

FMCSA has produced "A Motor Carrier's Guide to Improving Highway Safety". This guide is intended to provide educational and technical assistance to the motor carrier industry and provide basic guidance on the Federal Motor Carrier Safety Regulations (FMCSRs). It is not intended to be a substitute for the regulations. To purchase a complete copy of the FMCSRs, Parts 300-399, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, telephone number: (866) 512-1800 (in the Washington, DC Metro area (202) 512-1800) or at [www.access.gpo.gov](http://www.access.gpo.gov).

This guide is comprised of eleven parts, each containing a specific safety regulation topic that is covered in the FMCSRs. These parts are listed in the Table of Contents. Each part contains information sheets that cover the highlights of that section. Some sections contain sample forms and we encourage you to reproduce any or all material in this package and to distribute copies as needed. You may also obtain this information on our website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

It is the responsibility of motor carrier operators and drivers to know and comply with all applicable FMCSRs. Safety compliance and safe operations translate into saved lives and property. We believe the information in this package, when effectively applied, will contribute to safer motor carrier operations and highways.



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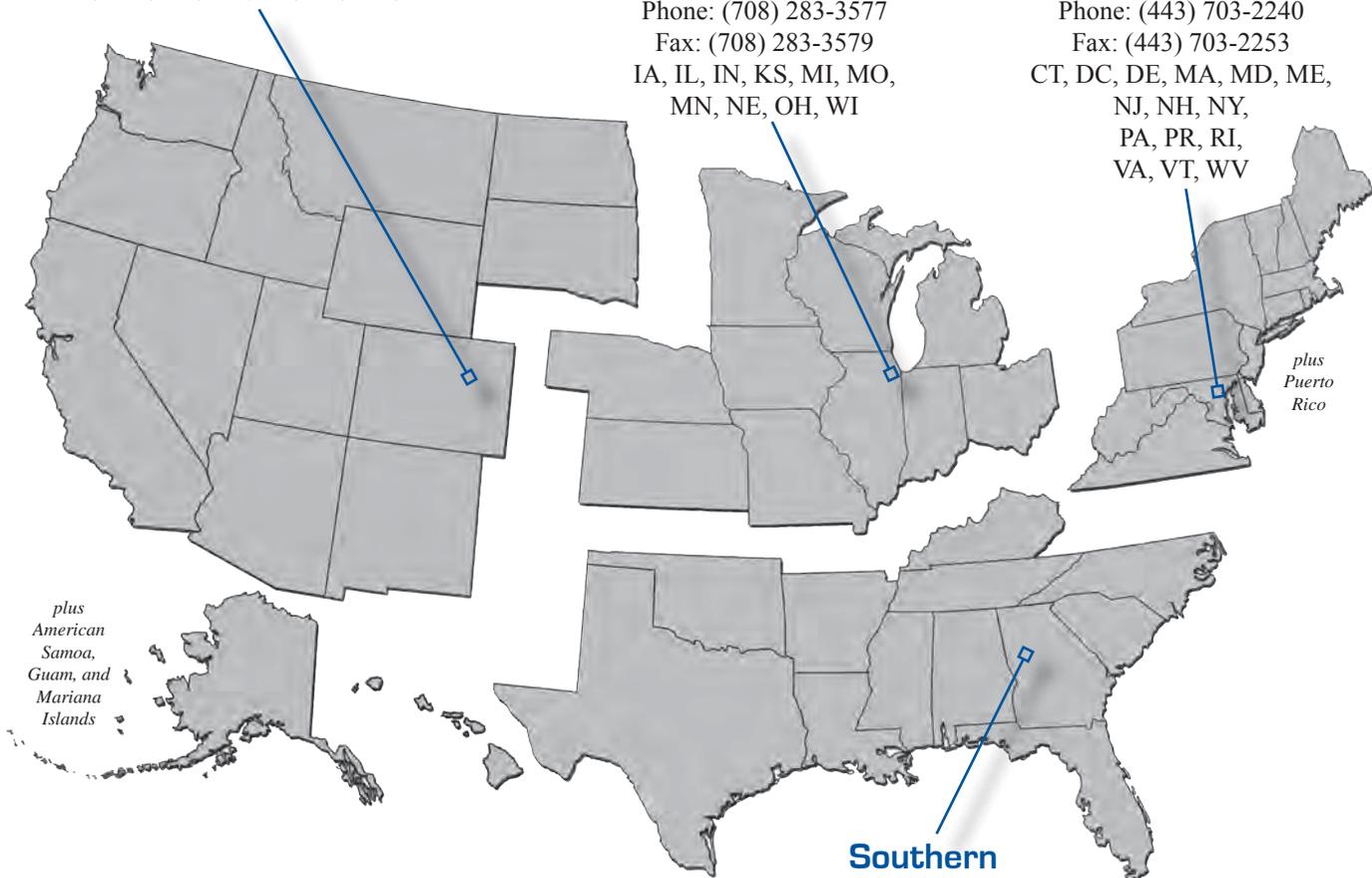
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# Section 1

## PART 380

### Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements

#### Applicability (380.103)

The rules in Part 380, Subpart A through Subpart D apply to all operators of LCVs in interstate commerce, employers of such persons, and LCV driver-instructors.

#### Definition (380.105)

*Longer combination vehicle (LCV)* means any combination of a truck tractor and two or more trailers or semi trailers which operate on the National System of Interstate and Defense Highways with a gross vehicle weight of more than 80,000 pounds (36,288 kilograms).

#### General LCV Driver Training Requirements (380.107)

A driver who wishes to operate a Longer Combination Vehicle (LCV) shall first take and successfully complete a LCV driver-training program that provides the knowledge and skills necessary to operate an LCV.

Before a driver receives training, the driver shall present evidence to the LCV driver-instructor showing that they successfully completed the Driver Training Program requirements, set forth in subpart B of Part 380 in the Federal Motor Carrier Safety Regulations, for the specific type of LCV training required. Also, before a driver receives training, the LCV driver-instructor shall verify that each LCV trainee-driver applicant meets the general requirements for the specific type of LCV training to be completed.

#### Employer Requirements (380.113)

Employers are prohibited from allowing drivers to operate LCVs unless those drivers can produce either:

- ▶ An LCV Driver-Training Certificate as evidence of successful completion of an LCV driver training course; or

- ▶ An LCV Driver-Training Certificate of **Grandfathering**, showing that the driver is exempt from the training requirements based on experience. As a note, drivers may be grandfathered June 01, 2004 to May 01, 2005 only.

#### Driver-Instructor Qualification Requirements (380.301)

There are two types of LCV driver-instructors: classroom instructors and skills instructors.

To qualify as a LCV **Classroom** Instructor, a person shall have audited the driver-training course they intend to instruct and if employed at a training institution, meet **all State** requirements for a vocational instructor.

To qualify as a LCV **Skills** Instructor, a person shall

- ▶ provide evidence of successful completion of the Driver Training Program requirements, set forth in subpart B of Part 380 in the Federal Motor Carrier Safety Regulations, during a compliance review;
- ▶ meet **all State** requirements for a vocational instructor if employed by a training institution;
- ▶ possess a valid CDL with all applicable endorsements necessary to operate the CMVs applicable to the subject matter being taught; and
- ▶ have a minimum of 2 years of CMV driving experience in a vehicle representative of the type of LCV training to be provided.

Part 380.303 of 49 CFR notes the provisions to substitute the instructor requirements.

#### Recordkeeping Requirements (380.401)

A driver who successfully completes the LCV training or has met the requirements of 49 CFR section

380.111 concerning the grandfathering clause must be issued a Driver-Training Certificate or Certificate of Grandfathering. A copy of the certificate must be maintained in the driver's qualification file.

## ■ Entry-Level Driver Training Requirements

### Applicability (380.501)

All entry-level drivers who drive in interstate commerce and are subject to the Commercial drivers license (CDL) requirements of 49 CFR Part 383 must comply with the rules of Entry-Level Driver Training Requirements of 49 CFR Part 380, except drivers who are subject to the jurisdiction of the Federal Transit Administration or who are otherwise exempt under 49 CFR section 390.3(f).

### Definition (380.502)

An entry-level driver is a driver who has less than one year of experience operating a Commercial Motor Vehicle (CMV) with a CDL in interstate commerce.

### Entry-Level Driver Training Requirements (380.503)

A driver or potential driver, with less than one-year experience, must receive training before operating a CMV (as defined in 383.5) in interstate commerce.

## ■ Training required for CDL drivers, in addition to passing the CDL test.

### A. Driver Qualification Requirements

- Medical certification
- Medical examination procedures
- General qualifications
- Responsibilities
- Disqualifications

### B. Hours of Service of Drivers

- Driving hours limitations
- Off-duty requirements
- Record of duty status preparation
- Part 395 exceptions
- Fatigue countermeasures

### C. Driver Wellness

Basic health maintenance, including diet and exercise; the importance of avoiding excessive alcohol use.

### D. Whistleblower Protection

Employee's right to question safety practices without risk of losing their job or become subject to any reprisals.

### Employer Requirement (380.509)

Each employer must ensure each entry-level driver who first began operating a CMV requiring a CDL in interstate commerce after July 20, 2003, receives the required training as noted in 49 CFR section 380.503.

### Recordkeeping Requirements (380.513, 380.509, 380.111)

- The training provider must provide a certificate/diploma to an entry-level driver upon completion of training. (380.513)
- A certificate/diploma must be placed in the driver's personnel/qualification file. (380.509)
- The employer must keep these records for as long as the driver is employed and for one year thereafter. (380.111)

*(Sample certificate shown on next page)*



# Certificate of Training for Entry Level Commercial Drivers

---

Driver's first name, middle initial, last name

I certify that the above named driver has completed the training requirements set forth in the Federal Motor Carrier Safety Regulations for entry level driver training in accordance with 49 CFR 380.503

- Driver Qualification Requirements (49 CFR 391)
- Hours of Service of Drivers (49 CFR 395)
- Driver Wellness
- Whistleblower Protection (29 CFR 1978)

---

Name of Director of Safety

---

Certificate Issuance Date

Organization Name

Organization Address



## PART 382

### Controlled Substances and Alcohol Use and Testing

#### Applicability (382.103)

Drivers required to have a commercial drivers license (CDL), who operate a CMV as defined in Part 382 are subject to the controlled substance and alcohol testing rules. This requirement extends to those drivers currently covered by the rule, including interstate and intrastate truck and motor coach operations. This includes commercial motor vehicles operated by:

- For-hire and private companies
- Federal, State, local, and tribal governments
- Church and civic organizations
- Apiarian (bee) industries

#### Exemptions (382.103)

- Drivers who are required to comply with the Federal Transit Administration's (FTA) alcohol and controlled substance testing (49 CFR Parts 653 and 654)
- Drivers exempt from commercial driver's license requirements by their issuing State
- Active duty military personnel

#### Definitions (382.107)

*Commercial motor vehicle* means a motor vehicle or combination of motor vehicles used in interstate, intrastate, or foreign commerce to transport passengers or property if the vehicle:

- Has a gross combination weight rating of 26,001 pounds or more (11,794 kilograms or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 10,000 pounds (4,536 kilograms); or
- Has a gross vehicle weight rating of 26,001 pounds or more (11,794 kilograms or more); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of hazardous materials requiring placarding.

*Safety-sensitive function* means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.

*Alcohol* means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

#### ■ Types of Controlled Substances and Alcohol Tests (Part 382, Subpart C-Tests Required)

#### Pre-Employment (382.301 – Controlled Substances Only)

No employer shall allow a driver to perform a safety-sensitive function until they have received the negative controlled substance test result.

#### Post-Accident (382.303)

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol (within 8 hours) and controlled substances (within 32 hours) for each of its surviving drivers:

- Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
- Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:
  - Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
  - One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

**Post-Accident:  
Table for §382.303(a) and (b)**

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
Human fatality	Yes	Yes
	No	Yes
Bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
Disabling damage to any motor vehicle requiring tow away	Yes	Yes
	No	No

### Random (382.305)

Companies are to randomly test drivers at a minimum annual percentage rate of 10% of the number of drivers for alcohol testing, and 50% for controlled substances testing. The random alcohol tests must be performed immediately prior, during or immediately after a driver has performed a safety-sensitive function as defined in 49 CFR section 382.107. All drivers must have an equal chance of being tested.

### Reasonable Suspicion (382.307)

An employer shall require a driver to submit to an alcohol and/or controlled substance test when the employer has reasonable suspicion to believe that the driver has violated the prohibitions concerning alcohol and/or controlled substances. The employer's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, coincidental, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The required observations shall be made by a supervisor or company official who is trained in accordance with 49 CFR section 382.603.

### Return-to-Duty (382.309)

Each employer shall ensure that before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by Subpart B (Prohibitions) of Part 382 concerning alcohol or controlled substances, the driver shall undergo a return-to-duty alcohol test with a result

indicating an alcohol concentration of less than 0.02 and/or the driver shall undergo a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.

### Follow-Up (382.311)

The Substance Abuse Professional (SAP) will establish a follow-up testing plan. The employer must ensure that the follow-up testing plan is carried out. A minimum of six tests must be conducted in the first 12 months, and the driver may also be subject to follow-up tests during the 48 months of safety-sensitive duty following the first 12-month period.

### Driver Awareness (382.601)

Every motor carrier shall provide educational materials explaining the requirements of the regulations as well as the employer's policies regarding alcohol misuse and controlled substances abuse. At a minimum, detailed discussions should include:

- The identity of the person designated to answer drug and alcohol questions.
- Which drivers are subject to these requirements, what behavior is prohibited, and clarification of what a "safety-sensitive function" is.
- The circumstances under which a driver will be tested, and the procedures that will be used for testing.
- Explanations of the requirement that a driver submit to the testing, as well as what constitutes a driver's refusal to submit to testing.

- The consequences for drivers who have violated the testing requirements.
- Information concerning the effects of alcohol misuse, and controlled substances abuse on health, work, and personal life.

### ■ What is required of the Motor Carrier if a driver tests positive?

#### Controlled Substance (382.501, 40.23)

When an employer receives notification of a verified positive controlled substance test result or a verified adulterated or substituted controlled substance test result, the employer must **immediately** remove the employee involved from any safety-sensitive functions. Do not wait to receive written verification confirming the test results or the result of a split specimen test.

#### Alcohol (382.501, 40.23)

When an employer receives an alcohol test result of 0.04 or higher alcohol concentration, the employer must **immediately** remove the employee involved from any safety-sensitive functions. Do not wait to receive written verification confirming the test results.

When the motor carrier receives an employee's alcohol test result showing an alcohol concentration of .02 to .039, the employer must **immediately** remove the employee from any safety-sensitive functions until the start of the employee's next regularly scheduled duty period; but not less than 24 hours following administration of the test.

#### General (382.309, 40.305)

Before an employer allows a driver to return to duty to perform a safety-sensitive function following certain prohibited conduct such as:

- a verified positive controlled substances test result;
- an alcohol result of 0.04 or greater;
- a refusal to submit to a test; or
- any other activity that violates provisions of the Prohibitions (Part 382, Subpart B) that driver must first be evaluated by a SAP, participate in any treatment program prescribed, and pass a controlled substances and/or alcohol return-to-duty test.

It is the motor carrier's responsibility to provide to the employee a list, including the names,

addresses, and telephone numbers, of qualified SAPs as required by 49 CFR section 40.287.

As an employer, you may not alter a drug or alcohol test result transmitted to you by a Medical Review Officer (MRO), Breath Alcohol Technician (BAT), or Consortium/Third Party Administrator (C/TPA) as noted in 49 CFR section 40.23.

#### Drug and Alcohol Convictions While Operating a Noncommercial Vehicle (391.51)

Drivers should be made aware that certain drug and alcohol convictions in a noncommercial vehicle may affect their commercial driver's license status. See Part 383 of this CD-ROM or review 49 CFR section 383.51.

#### Recordkeeping Requirements (382.401)

##### ■ General requirements.

Each employer must maintain records of its alcohol misuse and controlled substances use prevention programs in a secure location with controlled access. When requested by an authorized representative of FMCSA, the records must be made available at the principal place of business within two business days. See 49 CFR section 383.51.

If a record is required to be prepared, it must be retained. The following records must be maintained for a minimum of:

##### Five Years

- Records of alcohol test results indicating an alcohol concentration of 0.02 or greater;
- Records of verified positive controlled substances test results;
- Documentation of refusals to take required alcohol and/or controlled substances tests;
- Driver evaluation and referrals; or
- Calibration documentation of Evidential Breath Testing (EBT) devices;
- Records related to the administration of the alcohol and controlled substances testing program; and
- A copy of each annual calendar year summary if required by 49 CFR section 382.403.

## Two Years

Records related to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices) including:

- Random selection process records;
- Reasonable suspicion testing documentation;
- Post accident testing documentation; and
- Medical explanation for a driver's inability to provide adequate sample.

## One Year

- Records of negative and cancelled substances test results; and
- Alcohol test results with a concentration of less than 0.02.

## Indefinite Period

Records must be maintained by the employer while the individual performs the functions which require the training and for **two years** after ceasing to perform those functions.

- All records related to the training and education of drivers, supervisors, breath alcohol technicians, and screening technicians;
- Employer's testing policy; and
- Driver's signed receipt for educational materials and policy received.

For more information, reference: "Implementation Guidelines for Alcohol and Drug Regulations in Highway Transportation" at <http://www.fmcsa.dot.gov/safety-security/safety-initiatives/drugs/drug-guidelines.htm>.



## Form to Use

19 ..... U.S. Department of Transportation (DOT) Alcohol Testing Form



# U.S. Department of Transportation (DOT) Alcohol Testing Form

(The instructions for completing this form are on the back of Copy 3)

**Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN**

A: Employee Name \_\_\_\_\_  
(Print) (First, M.I., Last)

B: SSN or Employee ID No. \_\_\_\_\_

C: Employer Name \_\_\_\_\_  
Street \_\_\_\_\_  
City, ST ZIP \_\_\_\_\_

DER Name and Telephone No. \_\_\_\_\_  
DER Name \_\_\_\_\_ DER Phone Number \_\_\_\_\_

D: Reason for Test:  Random  Reasonable Susp  Post-Accident  Return to Duty  Follow-up  Pre-employment

Affix  
Or  
Print  
Screening Results  
Here

Affix  
With  
Tamper-Evident  
Tape

**STEP 2: TO BE COMPLETED BY EMPLOYEE**

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Signature of Employee Date Month Day Year

Affix  
Or  
Print  
Confirmation Results  
Here

**STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN**

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN:  BAT  STT DEVICE:  SALIVA  BREATH\* 15-Minute Wait:  Yes  No

SCREENING TEST: (For BREATH DEVICE\* write in the space below only if the testing device is not designed to prim.)

Test #	Testing Device Name	Device Serial # OR Lot # & Exp Date	Activation Time	Reading Time	Result

CONFIRMATION TEST: Results MUST be affixed to each copy of this form or printed directly onto the form.

REMARKS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Alcohol Technician's Company \_\_\_\_\_ Company Street Address \_\_\_\_\_  
(PRINT) Alcohol Technician's Name (First, M.I., Last) \_\_\_\_\_ Company City, State, Zip \_\_\_\_\_ Phone Number \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Signature of Alcohol Technician Date Month Day Year

Affix  
With  
Tamper-Evident  
Tape

Affix  
Or  
Print  
Additional Results  
Here

Affix  
With  
Tamper-Evident  
Tape

**STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER**

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Signature of Employee Date Month Day Year



## PART 383

### Commercial Driver's License (CDL) Standards: Requirements and Penalties

The licensing provisions in Part 383 are intended to help reduce accidents by setting standards that:

- Require commercial drivers to be properly qualified and to hold a single valid commercial driver's license (CDL); and
- Disqualify drivers who do not operate commercial motor vehicles (CMVs) safely.

Because the CDL is a State-issued license, you should check with appropriate State officials regarding particular license classes and specific exemptions. Drivers must hold CDLs if they operate in interstate, intrastate, or foreign *commerce* and drive a CMV.

#### Applicability (383.3)

The rules in 49 CFR Part 383 apply to every person who operates a commercial motor vehicle (CMV), as defined below, in interstate, foreign, or intrastate commerce, to all employers of such persons, and to all States. Exceptions and Restrictions are stated in 49 CFR section 383.3.

#### Definitions (383.5)

*Commercial Driver's License Information System (CDLIS)* means the CDLIS established by FMCSA pursuant to section 12007 of the Commercial Motor Vehicle Safety Act of 1986. CDLIS enables the States to exchange information about the driving records and driver's licenses of CMV drivers. This helps ensure that only one license is issued to a driver and that drivers currently disqualified are prevented from obtaining a CDL.

*Commercial motor vehicle (CMV)* means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 26,001 pounds or more (11,794 kilograms or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 10,000 pounds (4,536 kilograms); or
- Has a gross vehicle weight rating of 26,001 pounds or more (11,794 kilograms or more); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of hazardous materials requiring placarding.

*Disqualification* means any of the following three actions:

- The suspension, revocation, or cancellation of a CDL by the State or jurisdiction of issuance.
- Any withdrawal of a person's privileges to drive a CMV by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control (other than parking, vehicle weight, or vehicle defect violations).
- A determination by the FMCSA that a person is not qualified to operate a commercial motor vehicle under 49 CFR Part 391.

#### Notification to Employer and Licensing State (383.31)

Upon *conviction* for *any* State or local traffic violation, a driver must notify his/her employer(s) within 30 days. This notification must be in writing and must include the following information:

- Driver's full name;
- Driver's license number;
- Date of conviction;
- Details about the offense, including any resulting suspension, revocation, or cancellation of driving privileges;
- Indication of whether the violation happened in a CMV;
- Location of offense; and
- Driver's signature.

## Disqualification of Drivers (383.51)

No employer shall knowingly allow, require, permit, or authorize a disqualified driver to drive a CMV. The period of time which a driver must be disqualified depends on the offense and the type of vehicle the driver is operating at the time of the violation.

Recent changes in driver's license regulations require driver disqualification for some violations that occur while driving non-commercial vehicles. See 49 CFR section 383.51 for details.

### Disqualifying Offenses Include:

- Driving a CMV while *under the influence of alcohol*.
- Driving a CMV while *under the influence of a disqualifying drug or other controlled substance*.
- Leaving the scene of an accident that involves a CMV.
- Using a CMV to commit a *felony*.
- Using a CMV to commit *serious traffic violations*.
- Using a CMV to violate an *Out-of-Service Order*.
- Using a CMV to violate *the Railroad-Highway Grade Crossing rule*.

### ■ Suspensions for traffic violations:

#### 60-Day Suspension

A 60-day suspension will be imposed following conviction for a *second serious traffic violation* in a separate incident within three years while driving a CMV.

#### These violations include:

- Excessive speeding (15 miles per hour or more above the posted speed limit in a single offense);
- Reckless driving, improper or erratic lane changes, or following the vehicle ahead too closely;
- Traffic offenses involving a fatal accident; and
- Driving a CMV without a CDL, proper class of CDL, and/or proper endorsement.

#### 120-Day Suspension

A 120-day suspension will be imposed following three convictions of any serious violations within three years.

## Disqualification for Major Offenses:

A driver will be disqualified for 1 year to life if convicted of the offenses contained in Table 1 of 49 CFR section 383.51. These violations include:

- Being under the influence of alcohol
- Being under the influence of a controlled substance
- Having an alcohol concentration of 0.04 or greater while operating a CMV
- Refusing to take an alcohol test
- Leaving the scene of an accident
- Using a CMV to commit a felony
- Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV
- Causing a fatality through the negligent operation of a CMV
- Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance

## Implied Consent (383.72)

Any CDL holder is automatically considered to have consented to alcohol testing by any State or jurisdiction.

### *Disqualification for serious traffic violations.*

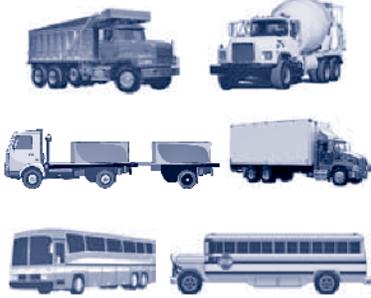
Table on page 23 contains a list of the offenses and the periods for which a driver must be disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

If the driver operates a motor vehicle and is convicted of:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for:	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation or suspension of the CDL holder's license for non-CMV driving privileges, for:	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CDL and a CDL holder must be disqualified from operating a CMV for:	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation or suspension of the CDL holder's license for non-CMV driving privileges, for:
1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the posted speed limit.	60 days	60 days	120 days	120 days
2) Driving recklessly, as defined by State or local law or regulation, including but, not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property.	60 days	60 days	120 days	120 days
3) Making improper or erratic traffic lane changes.	60 days	60 days	120 days	120 days
4) Following the vehicle ahead too closely.	60 days	60 days	120 days	120 days
5) Violating State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident.	60 days	60 days	120 days	120 days
6) Driving a CMV without obtaining a CDL.	60 days	Not applicable	120 days	Not applicable
7) Driving a CMV without a CDL in the driver's possession.	60 days	Not applicable	120 days	Not applicable
8) Driving a CMV without the proper class of CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.	60 days	Not applicable	120 days	Not applicable

## Commercial motor vehicle groups (383.91)

# Commercial Driver's License (CDL)

### COMMERCIAL MOTOR VEHICLE GROUPS

<p><b>Group A (Combination Vehicle)</b> Any combination of vehicles with a gross combination weight rating (GCWR) of 26,001 pounds or more, provided the gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of 10,000 pounds.</p> 	<p><b>Group B (Heavy Straight Vehicle)</b> Any single vehicle with a GVWR of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds GVWR.</p> 	<p><b>Group C (Small Vehicle)</b> Any single vehicle, or combination of vehicles, that meets neither the definition of Group A nor Group B, but is designed to transport 16 or more passengers including the driver, or is used in the transportation of materials found to be hazardous which require the motor vehicle to be placarded. This includes any quantity of chemical or biological material or agent posing a threat to national security, including toxins.</p> 
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Revised 01/06

## Endorsements (383.93)

In addition to general knowledge and skills tests, drivers who operate specialized commercial motor vehicles must pass additional tests and obtain endorsements on their CDLs, as follows:

- T** — Double/triple trailers (knowledge test only)
- P** — Passenger (knowledge and skills tests)
- N** — Tank vehicle (knowledge test only)
- H** — Hazardous materials (knowledge test only)
- X** — Combination of tank vehicle and hazardous materials (knowledge tests)
- S** — School Bus (knowledge and skills test)

# Commercial Driver's License (CDL)

### CDL ENDORSEMENTS

<p><b>Double/Triple Trailers (T)</b></p> 	<p><b>Passenger Vehicles (P)</b></p> 	<p><b>Tank Vehicles (N)</b></p> 
<p><b>Hazardous Materials (H) (any size vehicle)</b></p> 	<p><b>School Buses (S)</b></p> 	<p><b>Tank &amp; Hazardous Materials (X)</b></p> 

Federal Motor Carrier Safety Administration
U.S. Department of Transportation  
www.fmcsa.dot.gov

### Air Brake Restrictions (383.95)

If an applicant fails the air brake section of the knowledge test, or performs the skills test in a vehicle not equipped with air brakes, his/her CDL, if issued, will indicate that the license holder may not operate any CMV (requiring a CDL) equipped with air brakes.

**NOTE:** For the purposes of the skills test and the license restriction, air brakes include any braking system that operates fully or partially on the air brake principle.

### Hazardous Materials Endorsement Requirements (383.141)

- ▶ A State may not issue, renew, upgrade, or transfer a HM endorsement for a CDL to any individual unless the Transportation Security Administration (TSA) has determined that the individual does not pose a security risk warranting denial of the endorsement.
- ▶ At least 60 days prior to the expiration date of the CDL or HM endorsement, a State must notify the holder of a CDL with an HM endorsement that the individual must pass a TSA security threat assessment. An individual who does not successfully complete the TSA security assessment process may not be issued a HM endorsement.
- ▶ Each State must require that HM endorsements be renewed every 5 years or less.

*(Sample application shown on next page)*





**Transportation  
Security  
Administration**

**APPLICATION FOR A  
HAZARDOUS MATERIALS  
ENDORSEMENT**

For Department Use Only	
CDL #:	_____
Type of Endorsement (H or X):	_____

NAME (Last, First, Middle, Suffix)				SOCIAL SECURITY NUMBER	
PREVIOUS NAMES USED (Last, First, Middle, Suffix)				DRIVER LICENSE NUMBER	
SEX (Check one) <input type="checkbox"/> Male <input type="checkbox"/> Female	DOB (mm/dd/yyyy)	HEIGHT	WEIGHT	HAIR COLOR	EYE COLOR
CURRENT RESIDENTIAL ADDRESS					
CITY		STATE	ZIP		
CURRENT MAILING ADDRESS (If different than residential)					
CITY		STATE	ZIP		
PREVIOUS RESIDENTIAL ADDRESS					
CITY		STATE	ZIP		
RESIDENCY STATUS I comply with the immigration requirements described in Section 2 of the back of this form <span style="float:right"><input type="checkbox"/> True <input type="checkbox"/> False</span>					
COUNTRY OF CITIZENSHIP		NATURALIZATION DATE		ALIEN REGISTRATION NUMBER	
CITY OF BIRTH		STATE OF BIRTH		COUNTRY OF BIRTH	
MILITARY SERVICE I have served in the United States military <span style="float:right"><input type="checkbox"/> Yes <input type="checkbox"/> No</span>			BRANCH	DISCHARGE (mm/dd/yy)	TYPE OF DISCHARGE
CURRENT EMPLOYER NAME				CURRENT EMPLOYER PHONE (include area code)	
CURRENT EMPLOYER ADDRESS					
CITY		STATE	ZIP		
CURRENT EMPLOYER NAME (If More than One)				CURRENT EMPLOYER PHONE (include area code)	
CURRENT EMPLOYER ADDRESS (If more than one)					
CITY		STATE	ZIP		
1. I have not been convicted, or found not guilty by reason of insanity, of any disqualifying crime listed in Section 1, Part A, in any jurisdiction, military or civilian, during the 7 years before the date of this application..... <span style="float:right"><input type="checkbox"/> True <input type="checkbox"/> False</span>					
2. I have not been released from incarceration in any jurisdiction, military or civilian, for committing any disqualifying crime listed in Section 1, Part A, in during the 5 years before the date of this application..... <span style="float:right"><input type="checkbox"/> True <input type="checkbox"/> False</span>					
3. I have not been convicted, or found not guilty by reason of insanity, of any disqualifying crime listed in Section 1, Part B, in any jurisdiction, military or civilian..... <span style="float:right"><input type="checkbox"/> True <input type="checkbox"/> False</span>					
4. I am not wanted or under indictment for any disqualifying crime listed in Section 1, Part C..... <span style="float:right"><input type="checkbox"/> True <input type="checkbox"/> False</span>					
5. I have not been adjudicated as lacking mental capacity or involuntary committed to a mental institution..... <span style="float:right"><input type="checkbox"/> True <input type="checkbox"/> False</span>					

I have disclosed any and all information with this application related to disqualifying crimes committed and as required by Federal regulation 49 CFR 1572.5(b) I understand my continuing obligation to disclose to TSA within 24 hours if I am convicted or found not guilty by reason of insanity of any disqualifying crime, or adjudicated as a mental defective or committed to a mental institution, while I have a hazardous materials endorsement for a CDL.

The information I have provided on this application is true, complete, and correct to the best of my knowledge and belief and is provided in good faith. I understand that a knowing and willful false statement, or an omission of a material fact, on this application can be punished by fine or imprisonment or both (see section 1001 of Title 18 United States Code), and may be grounds for denial of a hazardous materials endorsement.

**Applicant Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Applicant: Review Notices on Second Page prior to Signature**

OMB No. 1652-0027  
(Exp. 01/31/2008)

## **Section 1. List of Disqualifying Criminal Offenses for Hazardous Materials Endorsement**

### **Part A: Interim Disqualifying Offenses**

A driver will be disqualified from holding a hazmat endorsement on a CDL if he or she was convicted or found not guilty by reason of insanity within the previous seven years or was released from prison in the last five years for any of the following crimes:

- a) Assault with intent to murder
- b) Kidnapping or hostage taking
- c) Rape or aggravated sexual abuse
- d) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon
- e) Extortion
- f) Dishonesty, fraud, or misrepresentation, including identity fraud
- g) Bribery
- h) Smuggling
- i) Immigration violations
- j) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et seq., or a State law that is comparable, other than the violations listed in paragraph (j) of Part B: Permanently Disqualifying Criminal Offenses
- k) Robbery
- l) Distribution of, intent to distribute, or importation of a controlled substance
- m) Arson
- n) Conspiracy or attempt to commit the any of these crimes

### **Part B: Permanently Disqualifying Criminal Offenses:**

A driver will be permanently disqualified from holding a hazmat endorsement on a CDL if he or she was convicted or found not guilty by reason of insanity for any of the following crimes:

- a) Espionage
- b) Sedition
- c) Treason
- d) A crime listed in 18 U.S.C. Chapter 113B—Terrorism, or a State law that is comparable
- e) A crime involving a transportation security incident
- f) Improper transportation of a hazardous material under 49 U.S.C. 5124 or a State law that is comparable
- g) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device
- h) Murder
- i) Conspiracy or attempt to commit any of these crimes
- j) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et seq., or a State law that is comparable, where one of the predicate acts found by a jury or admitted by the defendant, consists of one of the offenses listed in paragraphs (d) or (h) of this section

### **Part C: Under Want or Warrant:**

A driver will be disqualified from holding a hazmat endorsement on a CDL if he or she is wanted or under indictment in any civilian or military jurisdiction for a felony listed under Part A or Part B until the want or warrant is released.

## **Section 2: Permissible Immigration Status to Hold Hazardous Materials Endorsement**

An applicant for an HME must be one of the following:

- a) A citizen of the U.S. who has not renounced his/her U.S. citizenship
- b) A lawful permanent resident of the U.S. as defined in section 101(a)(20) of the Immigration and Nationality Act
- c) A lawful nonimmigrant in possession of valid, unrestricted employment authorization
- d) A refugee admitted under section 8 U.S.C. 1157 in possession of valid, unrestricted employment authorization
- e) In asylum status under section 8 U.S.C. 1158 in possession of valid, unrestricted employment authorization

## **Section 3: Privacy Act and Paperwork Reduction Act Notices**

**Authority:** The authority for collecting this information is 49 U.S.C. 114, 40113, and 49 U.S.C. 5103a.

**Purpose:** This information is needed to verify your identity and to conduct a security threat assessment to evaluate your suitability for a hazardous materials endorsement for a commercial drivers license. Furnishing this information, including your SSN or alien registration number, is voluntary; however, failure to provide it will prevent the completion of your security threat assessment, without which you cannot be granted a hazardous materials endorsement.

**Routine Uses:** Routine uses of this information include disclosure to the FBI to retrieve your criminal history record; to TSA contractors or other agents who are providing services relating to the security threat assessments; to appropriate governmental agencies for licensing, law enforcement, or security purposes, or in the interests of national security; and to foreign and international governmental authorities in accordance with law and international agreement. For additional details, see TSA's system of records notice for DHS/TSA 002, published in the Federal Register at 69 Fed. Reg. 57348 (September 24, 2004).

**Public Burden:** It is estimated that the time to complete this form is approximately 30 minutes. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The control number for this collection is OMB 1652-0027.



# PART 385

## Safety Fitness Procedures

### Purpose and Scope (385.1)

49 CFR Part 385 establishes the FMCSA's procedures to determine:

- Safety fitness of motor carriers, to assign safety ratings, to direct motor carriers to take remedial action when required, and to prohibit motor carriers receiving a safety rating of "unsatisfactory" from operating a CMV;
- Safety assurance program for a new entrant motor carrier initially seeking to register with FMCSA to conduct interstate operations. It also describes the consequences that will occur if the new entrant fails to maintain adequate basic safety management controls; and
- Safety permit program for a motor carrier to transport the types and quantities of hazardous materials listed in 49 CFR section 385.403.

### Definitions (385.3)

*Compliance review* means an on-site examination of motor carrier operations, such as drivers' hours of service, maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints, or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action.

*Safety Audit* means an examination of a motor carrier's operations to provide educational and technical assistance on safety and the operational requirements of the FMCSRs and applicable HMRs and to gather critical safety data needed to make an assessment of the carrier's safety performance and basic safety management controls. Safety audits do not result in safety ratings.

*Safety management controls* means the systems, policy programs, practices, and procedures used by a motor carrier to ensure compliance

with applicable safety and hazardous materials regulations, which ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage.

### ■ Safety ratings:

*Satisfactory safety rating* means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in 49 CFR section 385.5. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.

*Conditional safety rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in 49 CFR sections 385.5(a) through (k).

*Unsatisfactory safety rating* means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which **has** resulted in occurrences listed in 49 CFR sections 385.5(a) through (k).

### Safety Fitness Standard (385.5 (a) - (k))

The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, the motor carrier shall demonstrate that it has adequate safety management controls in place that function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with:

- a. Commercial driver's license standard violations (Part 383)
- b. Inadequate levels of financial responsibility (Part 387)
- c. The use of unqualified drivers (Part 391)
- d. Improper use and driving of motor vehicles (Part 392)
- e. Unsafe vehicles operating on the highways (Part 393)

- f. Failure to maintain accident registers and copies of accident reports (Part 390)
- g. The use of fatigued drivers (Part 395)
- h. Inadequate inspection, repair, and maintenance of vehicles (Part 396)
- i. Transportation of hazardous materials, driving and parking rule violations (Part 397)
- j. Violation of hazardous materials regulations (Parts 170 through 177), and
- k. Motor vehicle accidents and hazardous materials incidents.

### Notification of Safety Fitness Determination (385.11)

The motor carrier will receive written notice of the safety rating from FMCSA within 30 days after the review.

A motor carrier transporting placardable quantities of hazardous materials, or operating a vehicle designed to transport more than 15 passengers including the driver that has received an “unsatisfactory” safety rating from FMCSA will have 45 calendar days from the effective date of that rating, or from the date of the notice, whichever is later, to improve the safety rating to “conditional” or “satisfactory”. Other motor carriers that have received an “unsatisfactory” safety rating will have 60 days to improve the safety rating to “conditional” or “satisfactory”. If this improvement does not occur, the carrier is prohibited from operating commercial motor vehicles in interstate commerce. Also, a motor carrier with an “unsatisfactory” safety rating is ineligible to contract or subcontract transportation services with Federal agencies.

### Change of Safety Rating Based Upon Corrective Action (385.17)

A motor carrier that has taken action to correct the deficiencies that resulted in a proposed or final rating of “conditional” or “unsatisfactory” may request a rating change at any time.

### ■ Safety Monitoring System for Mexico-Domiciled Carriers

#### Definitions (385.101)

*Provisional operating authority* means the registration under 49 CFR section 365.507 that the FMCSA

grants to a Mexico-domiciled motor carrier to provide interstate transportation within the United States beyond the municipalities along the United States-Mexico border and the commercial zones of such municipalities. It is provisional because it will be revoked if the registrant is not assigned a satisfactory safety rating following a compliance review conducted during the safety monitoring period.

*Provisional certificate of registration* means the registration under 49 CFR section 368.6 that the FMCSA grants to a Mexico-domiciled motor carrier to provide interstate transportation of property within the United States solely within the municipalities along the United States-Mexico border and the commercial zones of such municipalities. It is provisional because it will be revoked if the registrant does not demonstrate that it is exercising basic safety management controls during the safety monitoring period.

### Safety Monitoring System (385.103)

- ▶ Each Mexico-domiciled carrier operating in the United States will be subject to an oversight program to monitor its compliance with applicable Federal Motor Carrier Safety Regulations (FMCSRs), Federal Motor Vehicle Safety Standards (FMVSSs), and Hazardous Materials Regulations (HMRs).
- ▶ Each Mexico-domiciled carrier granted provisional operating authority must have on every commercial motor vehicle it operates in the United States a current decal attesting to a satisfactory inspection by a Commercial Vehicle Safety Alliance (CVSA) inspector.
- ▶ The FMCSA will conduct a safety audit on a Mexico-domiciled carrier within 18 months after the FMCSA issues the carrier a provisional Certificate of Registration.
- ▶ The FMCSA will conduct a compliance review on a Mexico-domiciled carrier within 18 months after the FMCSA issues the carrier provisional operating authority.

Each Mexico-domiciled carrier that receives provisional operating authority or a provisional Certificate of Registration will be subject to intensified monitoring through frequent roadside inspections.

## Expedited Action (385.105)

A Mexico-domiciled motor carrier committing any 49 CFR section 385.105 violations identified through roadside inspections or by any other means, may be subjected to an expedited safety audit or compliance review, or may be required to submit a written response demonstrating corrective action:

Failure to respond to an agency demand for a written response demonstrating corrective action within 30 days will result in the suspension of the carrier's provisional operating authority or provisional Certificate of Registration until the required showing of corrective action is submitted to the FMCSA.

A satisfactory response to a written demand for corrective action does not excuse a carrier from the requirement that it undergo a safety audit or compliance review, as appropriate, during the provisional registration period.

## ■ New Entrant Safety Assurance Program

Beginning February 17, 2009, all new motor carriers (private and for-hire) domiciled in the United States and Canada **and** operating in interstate commerce must apply for registration (U.S. DOT Number) as a "new entrant".

*Non-business private motor carriers of passengers are not subject to the new entrant program requirements.*

## New Entrant Program Requirements (385.301)

All new entrant motor carriers must complete an application package consisting of a MCS-150. This application may be completed online at <http://safer.fmcsa.dot.gov> or by contacting our headquarters office at (800) 832-5660 and requesting an application by mail. For-hire motor carriers must complete an OP-1, or OP-1(P), the BOC-3, and pay a \$300.00 filing fee to obtain operating authority. A motor carrier may not transport for-hire loads before being granted operating authority. Private and exempt for-hire carriers will not be required to pay any fee. Once the application package is completed, the carrier will be granted temporary new entrant registration (U. S. DOT number).

## New Entrant Pre-Operational Requirements (385.307)

After a new entrant satisfies all applicable pre-operational requirements, it will be subject to the new entrant safety monitoring procedures for a period of 18 months. During this 18-month period:

- ▶ The new entrant's roadside safety performance will be closely monitored to ensure the new entrant has basic safety management controls that are operating effectively.
- ▶ A safety audit will be conducted on the new entrant, once it has been in operation for enough time to have sufficient records to allow the agency to evaluate the adequacy of its basic safety management controls.
- ▶ Failure to demonstrate basic safety management controls may result in the carrier having their new entrant registration revoked.

## Expedited Action (385.308)

A new entrant that commits any of the following actions, identified through roadside inspections or by any other means, may be subjected to an expedited safety audit or a compliance review or may be required to submit a written response demonstrating corrective action:

- ▶ Using a driver not possessing a valid commercial driver's license to operate a commercial vehicle as defined under § 383.5 of this chapter. An invalid commercial driver's license includes one that is falsified, revoked, expired, or missing a required endorsement.
- ▶ Operating a vehicle placed out of service for violations of the Federal Motor Carrier Safety Regulations or compatible State laws and regulations without taking necessary corrective action.
- ▶ Being involved in, through action or omission, a hazardous materials reportable incident, as described under 49 CFR 171.15 or 171.16, involving—
  - (i) A highway route controlled quantity of certain radioactive materials (Class 7).
  - (ii) Any quantity of certain explosives (Class 1, Division 1.1, 1.2, or 1.3).
  - (iii) Any quantity of certain poison inhalation hazard materials (Zone A or B).

- Being involved in, through action or omission, two or more hazardous materials reportable incidents as described under 49 CFR 171.15 or 171.16, involving hazardous materials other than those listed above.
- Using a driver who tests positive for controlled substances or alcohol or who refuses to submit to required controlled substances or alcohol tests.
- Operating a commercial motor vehicle without the levels of financial responsibility required under part 387 of this subchapter.
- Having a driver or vehicle out-of-service rate of 50 percent or more based upon at least three inspections occurring within a consecutive 90-day period.

### **Purpose of the Safety Audit (385.309)**

The purpose of the safety audit is to provide the new entrant motor carrier with educational and technical assistance and to gather safety data needed to make an assessment of the motor carrier's safety performance and adequacy of your basic safety management controls.

### **Safety Audit (385.311)**

An individual certified under the FMCSA regulations to perform safety audits will conduct the safety audit.

The safety audit will consist of a review of the carrier's safety management system. The areas of review include, but are not limited to, the following:

- Driver Qualifications;
- Driver Record of Duty Status;
- Vehicle Maintenance;
- Accident Register;
- Controlled Substances and Alcohol Use and Testing Requirements; and
- Hazardous Materials.

### **Completion of Safety Audit (385.319)**

Upon completion of the safety audit, the auditor will review the findings with the new entrant.

**Pass.** If FMCSA determines the safety audit discloses the new entrant has adequate basic safety management controls, the Agency will provide the new entrant written notice as soon as practicable, but not later than 45 days after completion of the safety audit, that it has adequate basic safety management

controls. The new entrant's safety performance will continue to be closely monitored for the remainder of the 18-month period of new entrant registration.

**Fail.** If FMCSA determines the safety audit discloses the new entrant's basic safety management controls are inadequate, the Agency will provide the new entrant written notice, as soon as practicable, but not later than 45 days after the completion of the safety audit, that its USDOT new entrant registration will be revoked and its operations placed out-of-service unless it takes the actions specified in the notice to remedy its safety management practices.

### **60-day corrective action requirement.**

All new entrants, except those specified in paragraph (c) (2) of this section, must take the specified actions to remedy inadequate safety management practices within 60 days of the date of the notice.

### **45-day corrective action requirement.**

The new entrants listed below must take the specified actions to remedy inadequate safety management practices within 45 days of the date of the notice:

- A new entrant that transports passengers in a CMV designed or used to transport between 9 and 15 passengers (including the driver) for direct compensation.
- A new entrant that transports passengers in a CMV designed or used to transport more than 15 passengers (including the driver).

### **What Failures of Safety Management Practices Disclosed by the Safety Audit will Result in a Notice to a New Entrant that its USDOT New Entrant Registration Will Be Revoked? (385.321)**

**General.** The failures of safety management practices consist of a lack of basic safety management controls will result in a notice to a new entrant that its USDOT new entrant registration will be revoked.

**Automatic failure of the audit.** A new entrant will automatically fail a safety audit if found in violation of any one of the following 16 regulations:

Table to § 385.321

## Violations That Will Result in Automatic Failure of the New Entrant Safety Audit

Violation	Guidelines for Determining Automatic Failure of the Safety Audit
1. § 382.115(a)/§ 382.115(b)—Failing to implement an alcohol and/or controlled substances testing program (domestic and foreign motor carriers, respectively).	Single occurrence.
2. § 382.201—Using a driver known to have an alcohol content of 0.04 or greater to perform a safety-sensitive function.	Single occurrence.
3. § 382.211—Using a driver who has refused to submit to an alcohol or controlled substances test required under part 382.	Single occurrence.
4. § 382.215—Using a driver known to have tested positive for a controlled substance.	Single occurrence.
5. § 382.305—Failing to implement a random controlled substances and/or alcohol testing program.	Single occurrence.
6. § 383.3(a)/§ 383.23(a)—Knowingly using a driver who does not possess a valid CDL.	Single occurrence.
7. § 383.37(a)—Knowingly allowing, requiring, permitting, or authorizing an employee with a commercial driver’s license which is suspended, revoked, or canceled by a State or who is disqualified to operate a commercial motor vehicle.	Single occurrence.
8. § 383.51(a)—Knowingly allowing, requiring, permitting, or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle.	Single occurrence. This violation refers to a driver operating a CMV as defined under § 383.5.
9. § 387.7(a)—Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.	Single occurrence.
10. § 387.31(a)—Operating a passenger carrying vehicle without having in effect the required minimum levels of financial responsibility.	Single occurrence.
11. § 391.15(a)—Knowingly using a disqualified driver.	Single occurrence.
12. § 391.11(b)(4)—Knowingly using a physically unqualified driver.	Single occurrence. This violation refers to a driver operating a CMV as defined under § 390.5
13. § 395.8(a)—Failing to require a driver to make a record of duty status.	Requires a violation threshold (51% or more of examined records) to trigger automatic failure.
14. § 396.9(c)(2)—Requiring or permitting the operation of a commercial motor vehicle declared “out-of-service” before repairs are made.	Single occurrence.
15. § 396.11(c)—Failing to correct out-of-service defects listed by driver in a driver vehicle inspection report before the vehicle is operated again.	Single occurrence.
16. § 396.17(a)—Using a commercial motor vehicle not periodically inspected.	Requires a violation threshold (51% or more of examined records) to trigger automatic failure.

## After the 18-month New Entrant Safety Monitoring Period (383.33)

The carrier will be notified in writing that the new entrant registration designation will be removed and their registration has become permanent at the end of the 18 – month safety – monitoring period, if the carrier meets the following requirements:

- The new entrant has passed a safety audit and has not failed as a result of expedited action or automatic failure.
- The new entrant is not currently under an order placing its operations out of service.
- The new entrant does not have any outstanding civil penalties.

## ■ Hazardous Materials Safety Permits Program

### Applicability (385.401)

No one may transport the materials listed in 49 CFR section 385.403 without a safety permit.

### Definitions (385.402)

*HM safety permit* means a document issued by FMCSA that contains a permit number and confers authority to transport in commerce the hazardous materials listed in 49 CFR section 385.403.

### Carrier's HM Safety Permit Program (385.403)

On January 1, 2005, the FMCSA began to phase in the Federal Hazardous Materials Safety (HMSP) Program for intrastate, interstate, and foreign motor carriers transporting certain types and amounts of hazardous materials. These carriers must maintain a certain level of safety in their operations and certify they have programs in place as required by the Hazardous Materials Regulations and the HMSP regulations.

Motor carriers will be required to apply for an HMSP by completing Form MCS-150B. HMSPs remain valid for up to two years and must be renewed according to the schedule in 49 CFR section 390.19.

The following hazardous materials carried in these quantity amounts will require an HMSP:

- Radioactive Materials: A highway route-controlled quantity of Class 7 material, as defined in 49 CFR section 173.403.
- Explosives: More than 25kg (55 pounds) of a Division 1.1, 1.2 or 1.3 material, or an amount of a Division 1.5 material requiring a placard under 49 CFR Part 172, subpart F.
- Material Poisonous by Inhalation:
  - *Hazard Zone A*: More than one liter (1.08 quarts) per package of a “material poisonous by inhalation,” as defined in 49 CFR section 171.8, that meets the criteria for “hazard zone A,” as specified in 49 CFR section 173.116(a) or 173.133(a).
  - *Hazard Zone B*: A “material poisonous by inhalation,” as defined in 171.8 of this title, that meets the criteria for “hazard zone B,” as specified in 49 CFR section 173.116(a) or 173.133(a) in a bulk packaging (capacity greater than 450 L [119 gallons]).
  - *Hazard Zone C & D*: A “material poisonous by inhalation,” as defined in 171.8 of this title, that meets the criteria for “hazard zone C,” or “hazard zone D,” as specified in 173.116(a) of this title, in a packaging having a capacity equal to or greater than 13,248 L (3,500 gallons).
- Methane: A shipment of compressed or refrigerated liquefied methane or liquefied natural gas or other liquefied gas with a methane content of at least 85% in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases.

## ■ Carrier's Requirement to Obtain and Maintain an HMSP

The detailed requirements for obtaining and maintaining a permit are found in 49 CFR Part 385.

These requirements include:

- Maintain a “satisfactory” safety rating in order to obtain and hold a safety permit.
- Maintain their crash rating, and their driver, vehicle, hazardous materials or out-of service

rating so they are not in the worse 30 percent of the national average as indicated in FMCSA's Motor Carrier Management Information System (MCMIS). For calendar years 2007 and 2008, the HMSP OOS and crash rate thresholds are:

- a. HMSP Crash Rate Threshold – 0.125%
  - b. HMSP Driver OOS Threshold – 9.52%
  - c. HMSP Vehicle OOS Threshold – 33.3%
  - d. HMSP Hazardous Materials OOS Threshold – 6.06%
- Have a satisfactory security program (and associated training) according to 49 CFR section 172.800 in place.
  - Maintain registration with Pipeline and Hazardous Materials Safety Administration.
  - Develop a system of communication that will enable the vehicle operator to contact the motor carrier during the course of transportation and maintain records of these communications.
  - Have written route plan required for radioactive materials set forth in 49 CFR section 397.101 and for explosives in 49 CFR section 397.19 (currently required).
  - Perform a pre-trip inspection (North American Standard (NAS) Level VI Inspection for Radioactive Shipments) for shipments containing highway route controlled Class 7 (radioactive) materials.
  - Provide proof of adequate financial responsibility in the form of a properly executed copy of Form MCS-90 (Endorsement) or Form MCS-82 (Surety Bond).

If a carrier meets all the above criteria, but does not have a safety rating, FMCSA may issue a Temporary Hazardous Materials Safety Permit (THMSP). The THMSP is valid for 6 months in which time a FMCSA compliance review will be conducted and a safety rating issued to the carrier.

The HMSP program continually monitors the safety performance of HMSP carriers. Violations to the HMSP regulations may lead to suspension or revocation of the carrier's HMSP laid out in 49 CFR

section 385.421. Denials, suspensions and revocations of the HM Safety Permit may be appealed through the process laid out in 49 CFR section 385.423.

### Applying for an HMSP (385.405)

The forms and instructions for completing the forms may be obtained on the internet at [http://li-public.fmcsa.dot.gov/liview/pkg\\_registration](http://li-public.fmcsa.dot.gov/liview/pkg_registration) or by contacting FMCSA at Federal Motor Carrier Safety Administration, MC-RIS, Room W65-206, 1200 New Jersey Avenue SE, Washington, DC 20590, Telephone: 1-800-832-5660.

*(A list of frequently cited violations on next page)*



## List of Frequently Cited Violations

VIOLATION DESCRIPTION	SECTION OR CITE	BASELINE ASSESSMENT
<b>General Requirements</b>		
A. Registration Requirements: Failure to register as an offeror or carrier of hazardous material and pay registration fee.	107.608 107.612	\$1,000 + \$500 each additional year.
B. Training Requirements:	172.702	\$450 and up each area
		\$500 and up or \$800 and up
C. Security Plans	172.704	\$3,000 and up
D. Notification to a Foreign Shipper: Failure to provide information of HMR requirements applicable to a shipment of hazardous materials within the United States, to a foreign offeror or forwarding agent at the place of entry into the U.S.	171.12(a)	\$1,500 to \$7,500 (corresponding to violations by foreign offeror or forwarding agent).
E. Expired Exemption or Special Permit: Offering or transporting a hazardous material, or otherwise performing a function covered by an exemption or special permit, after expiration of the exemption or special permit	171.2(a), (b), (c), Various	\$1,000 + \$500 each additional year.
<b>Offeror Requirements—All hazardous materials</b>		
A. Undeclared Shipment:		
Offering for transportation a hazardous material without shipping papers, package markings, labels, or placards	172.200, 172.300, 172.400 172.500	\$15,000 and up
B. Shipping Papers:	172.201 172.201(a)(1) 172.201(e), 172.202 172.202(c) 172.203(a) 172.203(b) 172.203(k) 172.203(c)(2) 172.204 174.24(b), 175.30(a), 176.24(b), 177.817(f)	\$500-\$6,000
C. Emergency Response Information Requirements:	172.602 172.604	\$800-\$6,000
D. Package Marking Requirements:	172.301(a) 172.303(a) 172.301(c) 172.304(a)(4) 172.312 172.324(b)	\$500-\$6,000
E. Package Labeling Requirements:	172.400 172.401(a) 172.402 172.406(a) 172.407(c) 172.407(d) 172.411	\$800-\$5,000
F. Placarding Requirements:	172.504	\$800-\$9,000
G. Packaging Requirements:	178.503(a) 178.601 173.22(a)(4) 173.24(b) 171.14 173.25(a)(4) 173.32(a), 180.352, 180.605 173.32(f)(6) 173.471(a). 173.416 Various	\$2,000-\$12,000
12. Offering any Type B, Type B(U), Type B(M) packaging that failed to meet the approved DOT, NRC or DOE design, as applicable		\$9,000.
a. Failure to have the required radiation survey record		\$5,000.

## PART 387

### Minimum Levels of Financial Responsibility for Motor Carriers

#### Applicability (387.3)

49 CFR Part 387 applies to for hire motor carriers operating motor vehicles transporting property or passengers in interstate or foreign commerce as well as motor carriers operating motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes in interstate, foreign, or intrastate commerce.

#### Definitions (387.5)

*Financial responsibility* means having insurance policies or surety bonds sufficient to satisfy the minimum public liability requirements.

*For hire carriage* means the business of transporting, for compensation, the goods or property of another.

*Freight forwarder* means a person holding itself out to the general public (other than as an express, pipeline, rail, sleeping car, motor, or water carrier) to provide transportation of property for compensation in interstate commerce, and in the ordinary course of its business:

- Performs or provides for assembling, consolidating, break-bulk, and distribution of shipments;
- Assumes responsibility for transportation from place of receipt to destination; and
- Uses for any part of the transportation a carrier subject to Commission jurisdiction.

*Household goods freight forwarder (HHGFF)* means a freight forwarder of household goods, unaccompanied baggage, or used automobiles.

*Motor carrier* means a for hire motor carrier or a private motor carrier. The term includes, but is not limited to, a motor carrier's agent, officer, or representative; an employee responsible for hiring, supervising, training, assigning, or dispatching a driver; or an employee concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories.

*Motor vehicle* means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used to transport property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. The following combinations will be regarded as one motor vehicle:

- A tractor that draws a trailer or semitrailer; and
- A truck and trailer bearing a single load.

*Public liability* means liability for bodily injury, property damage, and environmental restoration.



## Requirements for Financial Responsibility (387.7)

Motor carriers of property operating commercial motor vehicles in interstate, foreign, or intrastate commerce, and for hire carriers of passengers operating in interstate or foreign commerce must have at least the minimum amount of insurance required by law.

On the following pages is the Schedule of Limits for minimum levels of financial responsibility.

### ■ Proof

The motor carrier must have proof of the minimum level of insurance at the company's principal place of business. Proof may be shown by any of the following:

- Endorsements for Motor Carriers policies of insurance for public liability under sections 29 and 30 of the Motor Carrier Act of 1980 (Form MCS-90) issued by an insurer.
- Endorsements for Motor Carriers of Passengers policies of insurance for public liability under section 18 of the Bus Regulatory Reform Act of 1982 (Form MCS-90B) issued by an insurer.
- A Motor Carrier Surety Bond for public liability under section 30 of the Motor Carrier Act of 1980 (Form MCS-82) issued by an insurer.
- A Motor Carrier of Passengers Surety Bond for public liability under section 18 of the Bus Regulatory Reform Act of 1982 (Form MCS-82B) issued by an insurer.
- A written decision, order or authorization of the Federal Motor Carrier Safety Administration authorizing the motor carrier to self-insure under 49 CFR section 387.309.



## Forms to Use

Shown on following pages and available at Web address: [http://www.fmcsa.dot.gov/documents/forms/part\\_387.pdf](http://www.fmcsa.dot.gov/documents/forms/part_387.pdf)

- 39** .....MCS-82 –  
Motor Carrier Public Liability Surety Bond Under Sections 29 and 30 of the Motor Carrier Act of 1980.
- 40** .....MCS-82B –  
Motor Carrier Public Liability Surety Bond Under Section 18 of the Bus Regulatory Reform Act of 1982.
- 41** .....BMC-90 –  
Endorsement For Motor Carrier Policies of Insurance For Automobile Bodily Injury and Property Damage Liability Under Section 13906, Title 49 of the United States Code.
- 42, 43** .....MCS-90B –  
Endorsement for Motor Carrier Policies of Insurance for Public Liability Under Section 18 of the Bus Regulatory reform Act of 1982.

Public Burden Statement

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 average 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 voluntary. 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 Office, Federal Motor Carrier Safety Administration, MC-AMM, Washington, D.C. 20590.



**MOTOR CARRIER PUBLIC LIABILITY SURETY BOND  
UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980**

**PARTIES**

Surety Company and Principal  
Place of Business Address

Motor Carrier Principal, FMCSA Docket No.,  
And Principal Place of Business Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PURPOSE**

This is an agreement between the Surety and the Principal under which the Surety, its successors and assignees, agree to be responsible for the payment of any final judgment or judgments against the Principal for public liability, property damage, and environmental restoration liability claims in the sums prescribed herein; subject to the governing provisions and the following conditions.

**GOVERNING PROVISIONS**

- (1) Sections 29 and 30 of the Motor Carrier Act of 1980 (49 U.S.C. 31139).
- (2) Rules and regulations of the Federal Motor Carrier Safety Administration (FMCSA)

**CONDITIONS**

The Principal is or intends to become a motor carrier of property subject to the applicable governing provisions relating to financial responsibility for the protection of the public.

This bond assures compliance by the Principal with the applicable governing provisions, and shall insure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for public liability, property damage, or environmental restoration liability claims (excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the principal, and the cargo transported by the Principal). If any final judgment shall be paid for such claims resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to the applicable governing provisions, then this obligation shall be void, otherwise it will remain in full effect.

Within the limits described herein, the Surety extends to such losses regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

The liability of the Surety on each motor vehicle subject to the financial responsibility requirements of Section's 29 and 30 of the Motor Carrier Act of 1980 for each accident shall not exceed \$ \_\_\_\_\_, and shall be a continuing one notwithstanding any recovery hereunder.

The surety agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the surety bond is in force as of a particular date. The telephone number to call is: \_\_\_\_\_

This bond is effective from \_\_\_\_\_ (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as described herein. The principal or the Surety may at any time terminate this bond by giving (1) thirty (30) days notice in writing to the other party (said 30 day notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the Principal is subject to the FMCSA's registration requirements, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date notice is received by the FMCSA at its office in Washington, D.C.). The Surety shall not be liable for the payment of any judgment or judgments against the Principal for public liability, property damage, or environmental restoration claims resulting from accidents which occur after the termination of this bond as described herein, but such termination shall not affect the liability of the Surety for the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

\_\_\_\_\_  
Date

(AFFIX CORPORATE SEAL)

\_\_\_\_\_  
Surety

\_\_\_\_\_  
City

\_\_\_\_\_  
State

By \_\_\_\_\_

**ACKNOWLEDGMENT OF SURETY**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_; that he/she is the \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; that he/she signed his/her name thereto by like order, and he/she duly acknowledged to me that he/she executed the same for and on behalf of said corporation.

\_\_\_\_\_  
Title of official administering oath

(OFFICIAL SEAL)

Surety Company File No. \_\_\_\_\_

This 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 Project unless the collection of information displays a control with OMB Form # 2126-0008. Public reporting burden for this collection of information is estimated to average 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 voluntary. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Office, Federal Motor Carrier Safety Administration, DOT, Washington, D.C. 20590.



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

**MOTOR CARRIER PUBLIC LIABILITY SURETY BOND  
UNDER SECTION 18 OF THE BUS REGULATORY REFORM ACT OF 1982**

**PARTIES**

Surety Company and Principal  
Place of Business Address

Motor Carrier Principal, FMCSA Docket No.,  
And Principal Place of Business Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PURPOSE**

This is an agreement between the Surety and the Principal under which the Surety, its successors and assignees, agree to be responsible for the payment of any final judgment or judgments against the Principal for public liability and property damage claims in the sums prescribed herein, subject to the governing provisions and following conditions.

**GOVERNING PROVISIONS**

- (1) Section 18 of the Bus Regulatory Reform Act of 1982
- (2) Rules and regulations of the Federal Motor Carrier Safety Administration (FMCSA)

**CONDITIONS**

The Principal is or intends to become a motor carrier of passengers subject to the applicable governing provisions relating to financial responsibility for the protection of the public.

This bond assures ensures compliance by the Principal with the applicable governing provisions, and shall inure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for public liability or property damage claims (excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the Principal, and the cargo transported by the Principal). If every final judgment shall be paid for such claims resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to the applicable governing provisions, then this obligation shall be void, otherwise it will remain in full effect.

Within the limits described herein, the Surety extends to such losses regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

The liability of the Surety for each motor vehicle subject to the applicable governing provisions for each accident shall not exceed \$ \_\_\_\_\_, and shall be a continuing one notwithstanding any recovery thereunder.

The surety agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the surety bond is in force as of a particular date. The telephone number to call is \_\_\_\_\_.

This bond is effective from \_\_\_\_\_ (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as described herein. The Principal or the Surety may at any time terminate this bond 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 Principal is subject to the FMCSA's registration requirements, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date notice is received by the FMCSA at its office in Washington, D.C.). The Surety shall not be liable for the payment of any judgment or judgments against the Principal for public liability or property damage claims resulting from accidents which occur after the termination of this bond as described herein, but such termination shall not affect the liability of the Surety from the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

Date

Surety

City

State

By \_\_\_\_\_

(AFFIX CORPORATE SEAL)

**ACKNOWLEDGMENT OF SURETY**

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_; that he/she is \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; that he signed his name thereto by like order, and he duly acknowledged to me that he executed the same for and on behalf of said corporation.

\_\_\_\_\_  
Title of official administering oath

(OFFICIAL SEAL)

Surety Company File No. \_\_\_\_\_

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. It is estimated that an average of 10 minutes per response is required to complete this collection of information. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments concerning the accuracy of this burden estimate or suggestions for reducing this burden should be directed to the Federal Motor Carrier Safety Administration, 400 7th St., SW, Washington, DC 20590

Form BMC-90

Approved by OMB

2126-0017

Expires: 02/28/2009

ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR  
AUTOMOBILE BODILY INJURY AND PROPERTY DAMAGE LIABILITY UNDER  
SECTION 13906, TITLE 49 OF THE UNITED STATES CODE

The policy to which this endorsement is attached is an automobile bodily injury and property damage liability policy and is amended to assure compliance by the insured as a motor carrier of passengers or property, with Section 13906, Title 49 of the United States Code and the pertinent rules and regulations of the Federal Motor Carrier Safety Administration.

In consideration of the premium stated in the policy to which this endorsement is attached, the Company agrees to pay, within the limits of liability prescribed herein, any final judgment recovered against the insured for bodily injury to or death of any person, or loss of or damage to property of others (excluding injury to or death of the insured's employees while engaged in the course of their employment, and property transported by the insured, designated as cargo), resulting from negligence in the operation, maintenance, or use of motor vehicles under certificate or permit issued to the insured by the Federal Motor Carrier Safety Administration, or otherwise in interstate or foreign commerce subject to Chapter 139 of Title 49 of the United States Code, regardless of whether or not such motor vehicles are specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized by the Federal Motor Carrier Safety Administration to be served by the insured or elsewhere.

It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, or any other endorsement thereon or violation thereof, or of this endorsement, by the insured, shall relieve the Company from liability or from the payment of any final judgment, irrespective of the financial responsibility or lack thereof or insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which this endorsement is attached are to remain in full force and effect as binding between the insured and the Company, and the insured agrees to reimburse the Company for any payment made by the Company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the Company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is understood and agreed that, upon failure of the Company to pay any final judgment recovered against the insured as prescribed herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the Company to compel such payment.

The Company's liability for the amounts provided in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the Company for the payment of final judgments resulting from any other accident.

The liability of the Company on each motor vehicle shall be the limits prescribed in 49 CFR 387.303(b)(1), governing minimum amounts of insurance.

This endorsement may not be canceled without notification to the Federal Motor Carrier Safety Administration. Such cancellation may be effected by the Company or the insured giving thirty (30) days notice in writing to the Federal Motor Carrier Safety Administration at its office in Washington, D.C., said thirty (30) days notice commencing from the date notice is received by the FMCSA.

Issued to: \_\_\_\_\_ of \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Amending Policy No. \_\_\_\_\_ Effective Date \_\_\_\_\_

Name of Insurance Company \_\_\_\_\_

Countersigned by \_\_\_\_\_

*Authorized Company Representative*

Public Burden Statement

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 average 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 the burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-NM, Washington, D.C. 20590.



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

ENDORSEMENT FOR  
MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY  
UNDER SECTION 18 OF THE BUS REGULATORY REFORM ACT OF 1982

Issued to \_\_\_\_\_ of \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Amending Policy No. \_\_\_\_\_ 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 by "[X]" for the limits shown:

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 of 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, 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, D.C.).

DEFINITIONS AS USED IN THIS ENDORSEMENT

**Accident** includes continuous or repeated exposure to conditions which result in Public Liability which the insured neither expected nor intended.  
**Bodily Injury** means injury to the body, sickness, or disease to any person, including death resulting from any of these.

**Motor Carrier** means a for-hire carrier of passengers by motor vehicle.  
**Property Damage** means damage to or loss of use of tangible property.  
**Public Liability** means liability for bodily injury or property damage.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a for-hire motor carrier of passengers with Section 18 of the Bus Regulatory Reform Act of 1982 and the rules and regulations of the Federal Motor Carrier Safety Administration.

However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment received against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to financial responsibility requirements of Section 18 of the Bus Regulatory Reform Act of 1982 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

The Bus Regulatory Reform Act of 1982 requires limits of financial responsibility according to vehicle seating capacity. It is the MOTOR CARRIER'S obligation to obtain the required limits of financial responsibility. THE SCHEDULE OF LIMITS SHOWN ON THE REVERSE SIDE DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.