



Regulated Vehicle Guidelines

A guide to managing regulated
drivers and vehicles



Manage your risk by understanding federal regulations.

A critical component of driver and fleet safety management is understanding applicable federal requirements. Requirements for regulated vehicles may vary depending on the operations, vehicle type and vehicle weight. Noncompliance may lead to penalties, out-of-service violations, unsatisfactory safety ratings and an increased potential for motor vehicle accidents, driver and third-party injuries, liability, and negligent entrustment lawsuits. Utilize this resource to identify key concepts and elements applicable to the overall management of regulated fleet operations. This resource outlines the importance of compliance and safety efforts focused on federal requirements as of the date of this guide's publication. It does not outline state- or jurisdictional-based requirements, nor should it be used to replace legal analysis or advice on specific nuances an organization's fleet may have. CNA accepts no responsibility for the accuracy or completeness of this material and recommends consultation with competent legal counsel and/or other professional advisors before applying this material.



STEP 1

Determine how Federal Motor Carrier Safety Administration (FMCSA) Regulations apply to your company.

Safety regulations may be based on a number of factors, including the operating vehicle's state of origin, destination and route. Knowing whether your operations are classified as intrastate or interstate is an important first step in mitigating regulatory compliance risks. In addition to travel routes, vehicle configurations and weight ratings should be factored into regulatory compliance considerations. If vehicles are transporting cargo or towing material, the weight of the cargo and the trailer are also utilized in determining weight ratings.

Do you know the difference? Intrastate vs. Interstate¹

Intrastate: Trade, traffic or transportation is performed exclusively in your business's domicile state.

Interstate: Trade, traffic or transportation is one of the following:

- Between a place in a state and a place outside of such state (including places outside of the United States)
- Between two places in a state through another state or a place outside of the United States
- Between two places in a state as a part of trade, traffic or transportation originating or terminating outside the state or the United States.

¹ 49 CFR §390.5, Federal Motor Carrier Safety Regulations; General, Definitions

Do you know the difference? Weight Definitions^{2,3}

Gross Vehicle Weight (GVW): The entire weight of the vehicle – including the fuel, body (dump, box, and the like), payload, passengers, etc.

Gross Vehicle Weight Rating (GVWR): The maximum allowable weight of the fully-loaded vehicle, including fuel, cargo and similar as specified by the manufacturer.

Gross Combination Weight (GCW): The entire GVW as defined above, with the addition of the weight of the fully loaded trailer and contents.

Gross Combination Weight Rating (GCWR): The maximum allowable combined weight of the tow vehicle (tractor) and the attached towed vehicle (trailer).

Determining Subjectivity to FMCSA Requirements⁴:

Companies are subject to portions of FMCSA’s Regulations in 49 CFR, Subtitle B, Chapter III, Parts 300-399, if they operate any of the following types of commercial motor vehicles in interstate commerce:

- A vehicle with a gross vehicle weight rating or gross combination weight rating (whichever is greater) of 10,001 lbs. or more (GVWR, GCWR, GVW, GCW).

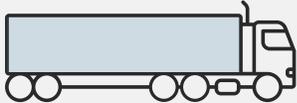
- A vehicle designed or used to transport between 9 and 15 passengers (including the driver) for compensation, whether direct or indirect.
- A vehicle designed to transport more than 15 passengers, including the driver.
- Any size vehicle used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations. This includes intrastate hazardous material carriers as well.

Commercial Driver’s License (CDL) Applicability^{5,6}:

Vehicle configurations meeting one of the criteria below generally require the operator to have and maintain a commercial driver’s license (CDL). Note that there are several types of CDLs and endorsements, which are tailored towards specific applications. Reference the FMCSA and/or discuss with counsel for more guidance on when CDLs are required, how to obtain a CDL, and the different endorsements.

Applicability of an organization’s vehicles and operations towards FMCSA provides a stepping stone for employers to understand driving criteria requirements, vehicle maintenance and fleet management, and direct oversight of regulated operations.

CDL License Types

Class A License	<ul style="list-style-type: none"> • Operators that hold a Class A CDL are authorized to operate combination vehicles (such as a truck and trailer) with a GCWR of 26,001 lbs. or more (inclusive of a towed unit with a GVWR or GVW of more than 10,000 lbs.). • These license holders are also authorized to operate vehicles that require a Class B or C designation if they have the proper endorsements. 	<p>Visual example:</p> 
Class B License	<ul style="list-style-type: none"> • A single vehicle (such as a straight truck) with a GVWR of 26,001 lbs. or more, or any such vehicle towing a trailer/vehicle with a GVWR or GVW that does not exceed 10,000 lbs. requires a Class B license to operate. 	<p>Visual example:</p> 
Class C License	<ul style="list-style-type: none"> • Class C license holders are authorized to drive vehicles designed to carry 16 people or more (including the driver). • They are also authorized to drive any size vehicle requiring federal placarding (trucks and vans carrying flammable or hazardous materials in quantities as to require placarding). • A common misunderstanding is that a CDL is not required if seats are removed to limit passenger transport size. Requirements for FMCSA are set in a manner that requires compliance based on the configuration at the time of purchase, not after modifications⁷. 	<p>Visual example:</p> 

2 49 CFR §383.5, Commercial Drivers’ License Standards Requirements and Penalties, Definitions
 3 49 CFR §390.5, Federal Motor Carrier Safety Regulations; General, Definitions
 4 49 CFR §390.3T, General Applicability
 5 49 CFR §383, Commercial Driver’s License Standards; Requirements and Penalties
 6 49 CFR §383.91, Commercial Motor Vehicle Groups
 7 FMCSA: Guidance on “designed to transport” definition

**STEP
2****Qualify and monitor your drivers.**

Driver qualification is a key element of any fleet management program, regardless of whether operations require a CDL. Comprehensive [driver performance solutions](#) include an overall understanding of your organization's driving risks and managing key risk factors, such as implementing an effective driver selection process and improving driver-related behaviors. They also include enhanced fleet management controls through the integration of telematics such as electronic tracking, GPS and camera systems. For operations requiring a CDL, it is important to understand additional regulatory requirements that require compliance. A few of these key requirements are highlighted below.

Driver Qualification Files⁸:

FMCSA outlines that motor carriers must maintain a driver qualification file (DQF) for every employed driver of an FMCSA-regulated vehicle. Driver qualification files are a standard component of regulated fleets and require review and documentation of all actions taken to ensure the organization has done due diligence in entrusting drivers to operate on their vehicle's behalf. All documents and inquiries must be obtained and filed. The items noted below are a sampling of the required documents that must be maintained for each driver as part of their DQF. Reference FMCSA's [Driver Qualification File Checklist](#) for a full list.

- Driver Application for Employment
- Drivers' past safety performance with their previous organizations. A minimum of three (3) years is required.
- Motor Vehicle Record (MVR) analysis, which includes the inquiry and review of past records.
- Driver's Road Test Certificate or Equivalent
- Current Medical Examiner's Certificate
- Drug and Alcohol Testing Results

These elements are pertinent to knowing that drivers for your organization do not have a medical condition that may cause impairment while driving, are not actively using illegal substances that can cause impairment, and do not have any serious driving violations which indicate a pattern of risky driving behaviors. FMCSA outlines the required "lookback"⁹ for various records. Consider drivers who have had licenses in multiple states and ensure that records are reviewed for those states. Proper driver management entails a thorough review of past driving history, as it is a key indicator of future driving performance.

Management of Drug & Alcohol Risks^{10,11}:

The [FMCSA Drug and Alcohol Clearinghouse](#) became effective in January 2020¹². The Clearinghouse is a database of information about drivers with CDLs and those with Commercial Learner's Permits (CLPs) included within the FMCSA's drug and alcohol program.

The Clearinghouse requires all employers of CDL and CLP drivers to register for the secure Clearinghouse database. This allows employers to report drug and alcohol violations and check that no current or prospective employee is prohibited from operating a commercial motor vehicle. The Clearinghouse contains records of drug and alcohol test results and test refusals. Information also includes when a driver completes a return-to-duty process and a follow-up testing plan.

Under the FMCSA, your company and drivers must comply with certain requirements regarding controlled substances and alcohol testing. The following is a summary of testing requirements; however, this document does not include all DOT drug and alcohol requirements.

- Pre-employment testing
- Post-accident testing
- Random testing
- Reasonable suspicion testing
- Return to duty and follow-up testing

Return to duty and follow-up testing is required for drivers who have tested positive for drugs or alcohol in the past, have refused or otherwise violated drug and alcohol testing requirements, and have completed the return-to-duty process with a DOT-qualified substance abuse professional. This test requires a negative result before the driver is approved to drive again and follow-up testing is also prescribed by the DOT-qualified substance abuse professional.

Past substance abuse/misuse records without proper management of the driver may lead to negligence on behalf of the employer in entrusting the driver with a vehicle. When employers can properly show management of drug and alcohol violations, they can better defend against negligence claims. Additionally, while some states have legalized the use of marijuana, either medically, recreationally or both, it is still classified as an illegal substance at the federal level¹³. Regulated commercial vehicle operations are federal statutes and therefore drug screening protocol must also comply with federal requirements. Positive test results for marijuana should be managed as outlined in FMCSA guidance with no consideration of state-mandated allowances.

⁸ 49 CFR §391, Qualifications of Drivers and Longer Combinations Vehicle Driver Instructions

⁹ "Lookback" is the period in which the organization reviews a driver's history or other records. A "lookback" of three (3) years would indicate that an organization would review records from a period of three (3) years before the current year.

¹⁰ 49 CFR §382, Controlled Substances and Alcohol Use and Testing

¹¹ 49 CFR §40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

¹² <https://www.fmcsa.dot.gov/newsroom/fmcsa-establishes-national-drug-and-alcohol-testing-clearinghouse-commercial-truck-and-bus>

¹³ <https://www.transportation.gov/odapc/medical-marijuana-notice>



Another key element of managing drug and alcohol risk with DOT-regulated drivers is focused on training all personnel in the proper awareness and action protocol for your organization. FMCSA outlines a minimum training requirement for all supervisors, and it is suggested that all employees, drivers and managers receive periodic training on these risks. Additional training beyond what is required by FMCSA may include how to spot someone under the influence, where to go for assistance, the impact of drug and alcohol abuse or misuse, and other topics.

Monitoring Driver Fatigue, Hours and Awareness

Lastly, driver fatigue can contribute to risky driving behaviors as drivers may doze off or engage in activities such as cell phone use in an attempt to stay awake. One way to both ensure compliance and manage driver fatigue is to adhere to the hours of service requirements outlined by FMCSA. In conjunction with electronic logging devices (ELD), these requirements allow drivers and their employers to map out driving duration, break time, off-duty status and more. When thoroughly analyzed, this data can lead to continuous routing and logistics improvement. In some instances, adverse weather conditions and emergency situations may require an individual to adjust their driving operations, including their total drive time. In these instances, communication with dispatch and logistics and a full understanding of the hours of service (HOS) requirements¹⁴ will aid in ensuring drivers remain safe while getting to their next destination.

STEP 3

Provide continual oversight and monitor the risks associated with regulated vehicle use.

Safety and Fitness Electronic Records System (SAFER):

The [SAFER website](#) is a helpful tool that can be used to increase awareness of your organization's official roadside inspection results. To enhance or maintain your company's roadway safety practices, SAFER allows access to your profile, which outlines any violations that may have been issued under your DOT number. The SAFER site does not require any username, password or account, and is a U.S. DOT FMCSA website.

Within the SAFER site, you can access your Company Snapshot, which outlines information about your DOT profile. The Company Snapshot outlines the U.S. inspection results over the last 24 months. This area outlines the number of vehicle, driver and hazmat inspections an organization has had through DOT inspections and how many inspections resulted in an Out of Service (OOS) violation. Additional details relating to one's profile can be found on the FMCSA's Safety Management System (SMS) website, linked within the Company Snapshot. This portion of the website provides details, including the inspection date, the vehicle that was inspected, and any violations resulting from the inspection. It also outlines the severity and weight of the violation compared to a national average.

OOS violations are issued for serious or heavily weighted violations. These violations must be corrected before the driver or vehicle returns to the road. Multiple violations increase your overall OOS rate, which may open the door for onsite safety audits by the DOT/FMCSA. Excessive violations may also indicate the need for fleet safety enhancements.

¹⁴ 49 CFR §305, Hours of Service of Drivers

¹⁵ 49 CFR 396.3, Inspection, Repair, and Maintenance.

¹⁶ 49 CFR §396.11, Driver Vehicle Inspection Report(s)

¹⁷ 49 CFR §396.17, Periodic Inspection; Appendix A

As an organization, reviewing your SAFER and SMS results may provide insight into how your vehicles and drivers perform on the road. Developing a proactive approach and company procedure for investigating current violations and preventing new ones is a valuable risk management resource.

Vehicle Maintenance and Inspection Requirements¹⁵

A critical component of vehicle management is ensuring all vehicles, trailers and equipment are properly maintained and repaired prior to use. This is evidenced by the requirements outlined by FMCSA around vehicle maintenance, inspections and repairs. Accountability for the operable condition of commercial motor vehicles lies with both the driver and the employer. Driver-specific requirements include performing both pre- and post-trip inspections of the CMV. These inspections review elements included in the driver vehicle inspection report (DVIR) and include visual identification of the condition of certain maintenance aspects that must be addressed before operating the vehicle. These items are critical in the safe operation of a vehicle and should be taken seriously by the driver. While the visual inspection may be completed by the driver, enforcement and accountability are the responsibility of the employer, and corrective action should be taken with each driver in the event the DVIRs are skipped or not properly completed.

Some critical elements of DVIRs¹⁶ include:

- Service brakes and trailer brake connections
- Parking brake
- Steering mechanism
- Lighting devices/reflectors
- Tires
- Horn
- Windshield wipers
- Rear vision mirror
- Coupling devices
- Wheels and rims
- Emergency equipment

In addition to daily or pre/post-trip inspections, periodic and annual vehicle inspections are also a requirement outlined by FMCSA. These inspections are more thorough, encompass the commercial motor vehicles' full systems, and require the inspection to be completed by a qualified inspector. This ensures that a competent person evaluates the vehicle and equipment and can make necessary calls on the safe operation and use of the vehicle.

[cna.com](https://www.cna.com)

Some critical elements of Annual or Periodic Inspections¹⁷ include:

- Brake systems
- Coupling devices
- Exhaust systems
- Fuel systems
- Lighting devices
- Safe loading
- Steering mechanism
- Suspension
- Frame
- Tires, wheels and rims
- Windshield glazing and wipers
- Rear impact guard

It is your organization's responsibility to conform to these inspection and maintenance requirements. Maintenance records should include VIN and the nature and date of various inspection/maintenance operations performed. CMVs should not be operated if there is a condition that is likely to cause an accident or breakdown of the vehicle.

Proper management of a fleet program requires ongoing monitoring and review of critical safety elements, including driver, vehicle and operational aspects. FMCSA outlines all regulatory items necessary for compliance and safe operations of commercial motor vehicles. Regulatory compliance, in addition to formal management of all fleet safety elements, will aid in ensuring your company operates in a safe manner.

CNA has identified industry-leading organizations that can assist organizations in implementing critical fleet safety program components, including support with MVR review. Our [Allied Vendors](#) offer a suite of services to improve your organization's overall fleet safety and driver management profile.

In addition to our Allied Vendors' services, CNA's Risk Control team has developed several fleet-safety resources that are available at [cna.com](https://www.cna.com).

Additional References:

[CDL Driver Requirements](#)

[Commercial Driver's License Program](#)

[FMCSA Drug & Alcohol Testing Program website](#)

[Clearinghouse website](#)