

2025 UPDATE

THE BIG 5

Your Road Map for
a Strong FMCSA
Compliance Program



FLEET LEGALIZATION

DRIVER QUALIFICATION

DRUG & ALCOHOL TESTING

HOURS OF SERVICE

MAINTENANCE & INSPECTIONS



CHARTING YOUR COMPLIANCE PATH

One key to a carrier’s longevity is the consistent detection and correction of non-compliant and unsafe behaviors, which can minimize potential liability, violations, and out-of-service orders and keep you off FMCSA’s radar.



A plaintiff’s attorney will attempt to prove carrier negligence if you fail to follow the regulations and your policies and procedures.

You’re already aware of the daily challenge to stay compliant while keeping your eye on productivity, profitability, and retaining a skilled team. Yet, your attention to a safety program minimizes risk to your company’s viability and keeps your drivers and the motoring public safe.

Conversely, the cost of not keeping your fleet compliant for roadside inspections, compliance reviews, and audits can escalate quickly. Here are a few risks of non-compliance that ultimately affect your bottom-line profitability:

THE BIG 5

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HIGHER CSA BASIC SCORES

When Compliance, Safety, and Accountability (CSA) Behavioral Analysis Safety Improvement Categories (BASIC) scores surpass established [thresholds](#), interventions — such as warning letters and on-site or off-site investigations — are triggered, which may result in significant fines.

HIGHER INDEPENDENT SELECTION SYSTEM (ISS) SCORE

A higher score means more inspections. The [ISS](#) takes data from the Safety Measurement System (SMS) and packages it into an easy-to-use decision-making tool for enforcement officials to select vehicles and drivers for a roadside inspection.

OUT-OF-SERVICE ORDERS

Drivers put out-of-service (OOS) due to failing roadside inspections are a significant loss to productive time, which can lead to service failures and lost business. Roadside repairs may cost three to four times more than repairs conducted at a company shop or preferred vendor.

COSTLY LITIGATION AND HIGHER INSURANCE RATES

A pattern of violations is one of the main tools that a plaintiff attorney may use to prove you were negligent, disregard the safety regulations, and should pay a “nuclear-sized” settlement. Your insurability and insurance rates depend on your safety record.

Your return on investment in compliance and safety practices is significant to ongoing risk management, cost reductions, and minimization of potential liability.

FLEET LEGALIZATION

Fleet legalization is more complicated than most carriers think. But if you understand and follow the requirements, you'll avoid fines and violations that could stall your operation.

Fleet legalization involves:

- Getting your operation registered with the Federal Motor Carrier Safety Administration (FMCSA),
- Getting your operation registered with the state *if applicable*,
- Obtaining for-hire authority *if applicable*,
- Securing proof of insurance, and
- Paying the necessary taxes and fees.



But first, there are three key questions to answer before you can execute these foundational steps and operate:

- Do you operate in interstate or intrastate commerce?
- Are you for-hire or private?
- Are your vehicles considered commercial motor vehicles (CMVs)?

These questions will help you determine what regulations you need to comply with. See [Addendum 1](#) for definitions and guidance. Once you determine the type of carrier you are, you can commence carrier registration with federal and state agencies.

DOT NUMBER, AUTHORITY, INSURANCE, & REGISTRATION

If you operate CMVs in interstate commerce, you must obtain a USDOT number by completing the MCSA-1 form via the Unified Registration System website. FMCSA and many states use your DOT number to track your safety record.

Once you have your DOT number, you must:

- Maintain public liability and property damage insurance levels (\$387.9).
- Obtain authority and an MC number via the MCSA-1 if you're a for-hire motor carrier.

TOP 3

FLEET LEGALIZATION VIOLATIONS

- 1 Failing to provide a biennial update §390.19(b)(2)
- 2 Furnishing false or misleading info on MCS-150 §390.19(g)
- 3 State vehicle registration or License Plate violation §392.2 (RG)

2024 FMCSA Safety Investigation Violations



- Mark your vehicles with the DOT number and carrier name (§390.21), if applicable.
- Designate a BOC-3 agent to receive legal documents in each state where you operate as a for-hire carrier (§366).
- Register in the Unified Carrier Registration (UCR) program. The annual fees depend on the number of vehicles operated in interstate commerce on your MCS-150.
- Update your Motor Carrier Identification Report (MCS-150) once every two years, but more often if details in your operation change.

NOTE: Strictly intrastate carriers are exempt from participation, and interstate carriers can deduct from their CMV vehicle counts units that are never engaged in interstate transportation.

FUEL TAXES AND REGISTRATION FEES

The International Fuel Tax Agreement (IFTA) is an agreement among member jurisdictions for base states to collect and distribute fuel tax revenues. It allows you to travel in all jurisdictions with one license. Trip mileage reports, which track miles traveled in states, can be completed manually, or you can get that information from a vehicle tracker or an electronic logging device's (ELDs) global positioning system (GPS). Fuel receipts and purchases must also be tracked.

IFTA and the International Registration Plan (IRP) apply to vehicles transporting persons or property in interstate commerce and have:

- Two axles and a gross vehicle weight (GVW) or registered GVW exceeding 26,000 pounds; or
- Three or more axles regardless of weight; or
- Operate in combination and exceed 26,000 pounds GVW.

IFTA requires motor carriers to:

- Obtain one license from the base state,
- File one quarterly tax return and pay taxes to your base state,
- Track the total gallons of fuel burned in each state, and
- Maintain fuel-purchase records to take credit for taxes already paid.

An IRP-apportioned plate, like IFTA, is intended for interstate vehicles and allows travel in all jurisdictions with one valid plate and cab card.

AUTOMATED FUEL TAX REPORTING

J. J. Keller® [vehicle trackers](#) and [ELDs](#) offer automated fuel tax reporting.

Call 855.693.5338 to learn more.



[Encompass® Vehicle Tracking](#)



[Encompass® ELD](#)

All CMVs must be legally registered and have one of the following plates affixed to the vehicle:

- State base plate,
- Restricted plate (dealer plate, manufacturer plate, farm plate, etc.), or
- IRP-apportioned plate valid in multiple states.

NOTE: State and restricted plates are only valid in the state of issuance. If you want to cross state lines, you need an apportioned plate.

★ BEST PRACTICE ★

Automating IFTA and IRP reporting with distance records from a vehicle-tracking system, including an ELD, can significantly reduce errors and labor costs. Automating reporting also eliminates the need for Individual Vehicle Mileage Reports (IVMRs) or driver-prepared trip reports. However, the tracking equipment must meet the specifications in the IFTA Procedures Manual.

FLEET LEGALIZATION CHECKPOINT

COMPLIANCE EVENTS	<u>Obtaining your USDOT number and marking vehicles.</u>	Proper registration of vehicles used in interstate commerce.	Failure to obtain the required level of public liability insurance.	Appropriate payment for IFTA taxes and IRP fees.
RISKS	<ul style="list-style-type: none"> • Incorrectly classifying vehicles as a non-CMV and failing to obtain a USDOT number. 	<ul style="list-style-type: none"> • Assuming your vehicles operate under more lenient state regulations when FMCSA rules apply. • Vehicles could be shut down, and fines may be levied. 	<ul style="list-style-type: none"> • An acute violation during a compliance review. • Vehicles could be shut down. 	<ul style="list-style-type: none"> • Penalties can be assessed for under-reporting miles traveled in respective states.
SOLUTIONS	<ul style="list-style-type: none"> • Review a list of every fleet vehicle's weight rating, trailer weight rating, and rated passenger capacity. 	<ul style="list-style-type: none"> • Scrutinize the nature of your hauls or services offered to ensure which rules and registration processes apply, state or federal. 	<ul style="list-style-type: none"> • Meet with your insurance carrier to help them understand your operation, especially if there are passengers or hazardous materials hauled at any time. 	<ul style="list-style-type: none"> • Automate IFTA and IRP mileage reporting to save labor costs and increase the accuracy of your reports.

DRIVER QUALIFICATION

You vet drivers when you hire them, but you need to make sure they stay qualified — by FMCSA requirements and company standards.

Failing to do so opens the door to plaintiff lawyers who may use the FMCSRs and your policies and procedures in an attempt to prove negligent hiring or negligent retention.

QUALIFYING DRIVERS

Each CMV driver you hire, non-CDL or CDL-vehicle drivers, must have a driver qualification (DQ) file that you are required to retain for the length of employment plus three years.

The definition of a “driver” includes more than full-time drivers. A file is required for occasional drivers, such as a “mechanic” or “dispatcher,” as well as staffing service drivers and leased owner-operators working under your DOT number. You are responsible for compliance with these drivers, even if you’re not an Internal Revenue Service (IRS)-defined employer of them.

The following documents need to be in the DQ file or a secure location with limited access by people central to the hiring process. See [Addendum 2](#) for details on each document.

- DOT [driver application](#)*
- [Initial motor vehicle records](#) (MVRs)
- Certificate of driver’s road test*
- Medical examiner’s certificate or proof of medical certification*
- Medical variance/Skills Performance Evaluation (SPE)*
- Verification that medical examiner was on the National Registry of Certified Medical Examiners (NRCME)*
- [Safety performance history](#) (SPH) inquiries
- Longer combination vehicles (LCV) training

**Indicates form/s must be in the DQ file before the driver operates a CMV in commerce.*



★ BEST PRACTICE ★

While not required, and at the time of hire only, carriers can run a report that provides the prior five years of crashes and three years of violations using the FMCSA's Pre-employment Screening Program (PSP) — with driver's consent. When using the PSP, carriers have 17 percent fewer out-of-service (OOS) violations and eight percent fewer crashes overall.

PSP SAFETY STUDY RESULTS ¹		
DRIVER CLASS SIZE	CRASH REDUCTION RATE	DRIVER OOS REDUCTION RATE
1-5	12.4%	18.3%
6-20	20.6%	12.0%
21-100	12.1%	10.1%
>100	3.7%	12.8%
ALL SIZES	8.0%	17.2%

TOP 3

DQ VIOLATIONS

- 1 Inquiries into driving record not kept in driver qualification file §391.51(b)(2) – critical violation
- 2 Failing to maintain a driver qualification file on each driver §391.51(a) – acute violation
- 3 Using an unqualified driver (positive or refused drug test) §391.11(a) – acute violation

2024 FMCSA Safety Investigation Violations (Acute and Critical)

DRIVER QUALIFICATION RETENTION PERIODS

DQ REQUIREMENTS	RETENTION
Driver's application	Employment + 3 years
Initial driving records (MVRs)	Employment + 3 years
Safety Performance History	Employment + 3 years
ELDT certificate (Not required for CDL hires with less than 1 year of CDL experience on and after February 7, 2022)	Employment + 3 years
LCV training	Employment + 3 years
Certificate of Road Test or copy of CDL	Employment + 3 years
Medical card, medical variance (SPE), and National Registry Verification	3 years
Annual list of driver convictions (Not required on and after May 9, 2022)	3 years
Annual MVR and review notes	3 years

WORK SMARTER — NOT HARDER.

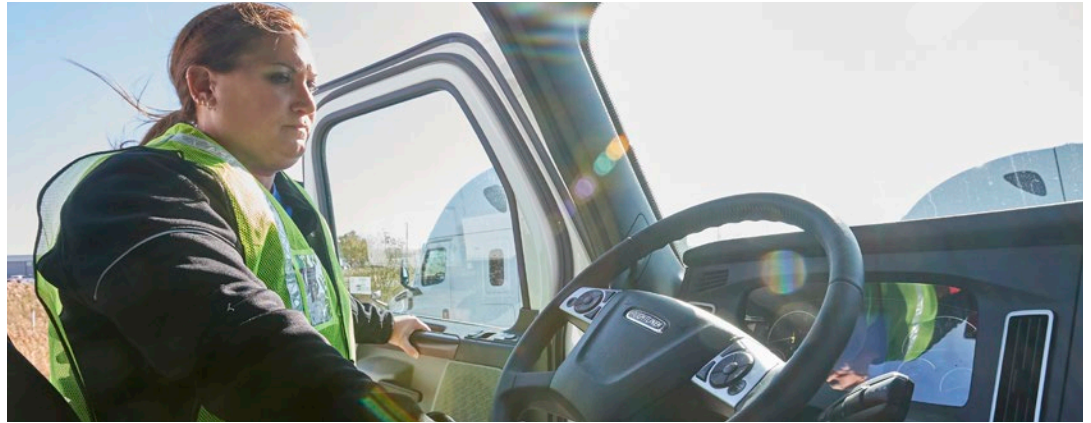
Watch how the Encompass® Fleet Safety & Compliance Platform can help you to proactively manage your fleet.

Call 855.693.5338 to talk with a compliance specialist.



[Encompass® Fleet Management Platform](#)

¹FMCSA Analysis Brief: Safety Analysis and Industry Impacts of the PreEmployment Screening Program (PSP) <https://www.psp.fmcsa.dot.gov/pspApi/Documents/PSP-Safety-Impact-analysis-brief.pdf>



KEEPING DRIVERS QUALIFIED

You must have processes that keep your drivers qualified. There are minimums set by FMCSA, which leave you open to changes in between the minimum checks.

Obtain at least annually the following records and place them in the DQ file:

Driving Records — Run MVRs for each licensing authority in which the driver held a license no later than the driver’s first anniversary. Check that their license is still valid and has the required endorsements.

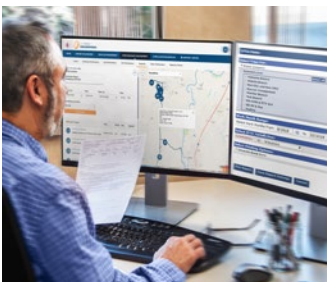
Review of Annual Driving Records — A supervisor must review the MVR(s) and company performance issues for:

- Disqualifications or downgrades to a license and the medical certification of CDL drivers,
- Violations of FMCSRs and hazardous material regulations,
- Accident record and traffic convictions in any kind of vehicle, and
- Any other safety performance issues that determine if the driver meets FMCSA and company criteria.

★ BEST PRACTICE ★

Continuous MVR monitoring, instead of pulling an MVR once per year, can guard against the surprise of a disqualified driver due to a licensing downgrade or disqualification or lapse in medical certification. Continuous MVR monitoring also meets the annual requirement to pull MVRs.

Maintaining driver qualifications, even if you have only a handful of regulated drivers, can be challenging. It requires keeping current on regulations and monitoring and tracking a volume of records. For those who wear many hats, this task may slip through the cracks, but the consequences of having an incomplete file can be severe, especially after an accident.



DITCH THE SPREADSHEETS

Sixty-five percent of all critical violations found during 2024 audits related to recordkeeping – including 7 out of the top 10.

Tracking renewal dates, paperwork, outgoing and incoming documentation, and requests for information is exhausting and time-consuming.

Never miss a renewal date or lose paperwork with the Encompass® Platform.

[Schedule a demo](#) to learn more.

DIRTY DOZEN DQ VIOLATIONS SAFETY INVESTIGATION

- 1 Inquiries into driving record not kept in DQ file.
- 2 Incomplete or no employment application.
- 3 Failing to maintain driver qualification file on each driver.
- 4 Using an unqualified driver (positive or refused drug test).
- 5 Employment application not maintained in qualification file.
- 6 No letter of physical waiver in qualification file.
- 7 Inquiries into driving record not kept in qualification file.
- 8 Failing to maintain notation of annual review.
- 9 Failing to investigate driver’s background.
- 10 Failing to obtain driver’s driving record each 12 months.
- 11 Road test certificate/license/equivalence not kept in qualification file.
- 12 Failing to maintain a list or certificate relating to violations of motor vehicles.

DQ CHECKPOINT	COMPLIANCE EVENTS	Safety Investigation	Pulling MVRs and reviewing the driver’s record once per year.	Medical or other qualifications of a CDL driver lapse without your knowledge.
	RISKS	<ul style="list-style-type: none"> Unqualified or unsafe drivers are operating CMVs. 	<ul style="list-style-type: none"> Violations or disqualification can occur at any time. Drivers can be unqualified per FMCSA or your standards. 	<ul style="list-style-type: none"> The driver did not certify the latest physical with the DMV, resulting in an incorrect certification date in enforcement’s system.
	SOLUTIONS	<ul style="list-style-type: none"> Do more than the minimum required qualification requirements. Conduct annual mock audits and run PSPs at the time of hire. Utilize a third-party service to qualify drivers and keep them qualified. 	<ul style="list-style-type: none"> Use a continuous MVR monitoring service or run MVRs at least twice per year. 	<ul style="list-style-type: none"> Use continuous MVR monitoring to detect any change in CDL or license status. Follow-up process to verify each CDL-driver self-certified at the DMV. Check that the current medical card is on file for non-CDL drivers.

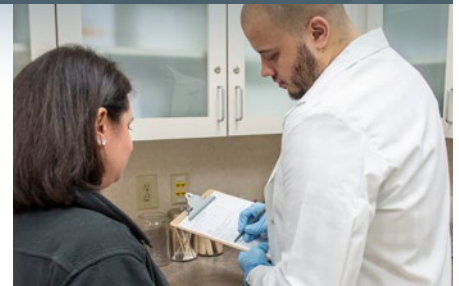
DRUG & ALCOHOL TESTING

Setting up a DOT testing program is key. It involves putting the right drivers in a compliant program and testing only when required.

Anyone who could operate a CDL vehicle for you is subject to DOT testing.

Ensure that you're not placing non-CDL CMV drivers in the pool. Keep out of the testing pool any CDL holders operating non-CDL CMVs who will never be called upon to drive a CDL CMV.

Part 40 of the regulations addresses the collection site, training of collectors, approved equipment and forms, where specimens are processed, and the like. You must make sure the program, third-party or self-administered, meets Part 40 requirements.



SUBJECT TO DOT TESTING

- Anyone who could drive a CMV that requires a CDL
- Mechanic who road tests CDL vehicles
- Dispatcher who takes a load in a CDL vehicle
- Leased or temporary drivers that operate a CDL vehicle under the carrier's DOT number*
- Owner-operator with CDL vehicle leased to and operating under the carrier's DOT number*

*A temp driver can remain in a compliant temp agency DOT testing program if they are expected to work for the carrier for less than 30-consecutive days.

NOT SUBJECT TO DOT TESTING

- Drivers of non-CDL CMVs, even if a CDL-holder
- Employees who do not drive CDL CMVs

Let's briefly review the six DOT test types that FMCSA requires.

TESTING

PRE-EMPLOYMENT (§382.301)

A pre-employment drug test is only required before a new hire or a person transferring into a CDL-vehicle driving position from elsewhere in the company can perform any safety-sensitive functions. An alcohol test is not required. A driver may

not perform any safety-sensitive functions until the motor carrier receives a verified negative test result, except for a road test.

A full query in the Drug & Alcohol Clearinghouse must be run and have no disqualifying items present before operating in commerce.

POST-ACCIDENT (§382.303)

Post-accident testing under DOT and FMCSA requirements is only relevant if a CDL-driver has a DOT accident in a CDL-vehicle. If a CDL-holding driver has a DOT accident in a non-CDL vehicle, you will not test under DOT requirements, and this would be a company policy-driven decision. The following table shows when you would test your driver under DOT testing procedures:

DOT ACCIDENT	DOT TEST REQUIRED WHEN
Fatality	Always
Injury with treatment away from the scene	A citation is issued to your driver
Vehicle towed due to disabling damage	A citation is issued to your driver

Post-accident alcohol tests should be done within 2 hours of the accident. If the test cannot be performed within 2 hours, you must document why you didn't test. If the test cannot be completed within 8 hours, don't test the driver and document why you didn't test at all.

If the drug test cannot be performed within 32 hours, you should not test and document the circumstances.

RANDOM (§382.305)

The FMCSA requires — by the end of the calendar year — that you complete tests on a certain percentage of the annual number of CDL drivers you have. In 2024, random drug testing is 50 percent, and for alcohol, 10 percent. The tests need to be evenly spread throughout the year, using “testing cycles.”

When you make a random selection, the drivers need to be tested by the end of the testing cycle. For instance, if you test quarterly, you have those three months to complete the tests. The driver cannot know ahead of time they are selected, the names must be kept confidential.

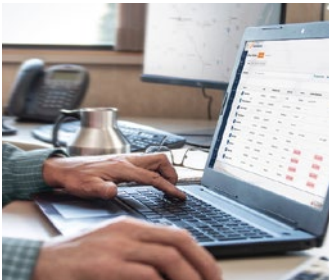
Once notified, the driver must immediately proceed to the collection site. Giving advance notice, such as telling someone to “go when it’s convenient” or “at the end of your shift” is a violation. The one to two-hour leeway is a myth. Drivers are only allowed reasonable travel time from where they were notified to the collection site.

Drivers from multiple smaller carriers can be pooled together to make a consortium. The consortium must meet the 50 percent and 10 percent numbers by the end of the year. And whether your drivers are selected during a test cycle is the luck of the draw.

TOP 3 ALCOHOL & DRUG TESTING VIOLATIONS

- 1 Using a driver before receiving a pre-employment result §382.31(a) – critical violation
- 2 Failing to do random drug tests at applicable annual rate §382.305(b) – critical violation
- 3 Failing to implement an alcohol and/or drug testing program §382.115(a) – acute violation

2024 FMCSA Safety Investigation Violations



DOT ALCOHOL & DRUG PROGRAM COMPLIANCE

Keeping track of your drivers' test results is tough. Requests, results, deadlines — you need to stay on top of it all.

The Encompass® Fleet Safety & Compliance Platform can help. Easily import and upload documents, track tests, medical review officer (MRO) information, and return-to-work status.

Encompass requires and supports user roles to protect safety-sensitive information.

[Schedule a demo](#) to learn more.

REASONABLE SUSPICION (§382.307)

Reasonable suspicion testing requires a trained supervisor to observe a driver's behavior and physical appearance before requesting the test. The CDL driver's supervisor must have completed a 2-hour training session on both drugs and alcohol. Anyone who has not taken the training can't be the party to observe. They can alert the trained supervisor, who then must see it for themselves.

RETURN-TO-DUTY (§382.309)

After a refusal or positive test, the driver must complete a substance abuse professional's treatment program. Upon completing the program, a test result with an alcohol concentration of less than 0.02 and/or a negative drug test is required to return to safety-sensitive functions. The drug test is under direct observation.

FOLLOW-UP TESTING (§382.311)

Follow-up testing is required for drivers who tested positive for drugs, failed an alcohol test, refused to take a drug or alcohol test, and completed the return-to-duty process. The regulations call for a minimum of six tests during the first year back in a safety-sensitive position. However, follow-up testing can continue for up to a total of five years. All follow-up drug tests must be under direct observation.

DRUG AND ALCOHOL TESTING POLICY

Per §382.601, carriers must have specific information within a DOT testing policy and a driver-signed receipt of the policy on file. The policy must include:

- Which drivers are subject to DOT testing,
- Reasons for testing and when drivers are subject to testing,
- Procedures for testing and a point of contact for questions,
- What constitutes a refusal,
- Consequences for violating rules,
- How drugs and alcohol affect health, work, etc., and
- Driver information provided to the Clearinghouse.

Finally, any company-specific policies must be communicated — such as any zero-tolerance or a second-chance program — and proof retained that each driver received a policy copy.



CLEARINGHOUSE HIGHLIGHTS

The Drug & Alcohol Clearinghouse contains Part 382 violations committed by drivers and return-to-duty and follow-up test results conducted on and after January 6, 2020.

Motor carriers, or their designated third-party administrator, need to report violations that are not covered by the medical review officer (MRO) or the substance abuse professional (SAP), including:

- Failed alcohol tests of 0.04 or greater;
- Refusals to test, including shy lung or inability to provide adequate saliva without a valid medical explanation;
- Refusals to go to the collection site, showing up late, or not cooperating with the collection process;
- Having “actual knowledge” of a violation such as a citation for operating a CMV with a breath alcohol content of 0.04 or higher, which should appear on the driver’s MVR, a driver’s admission to drug use, or alcohol use while on duty or within the 4 hours of going on duty; and
- Completion of final follow-up tests.

Also, carriers are required to purchase queries from the Clearinghouse for themselves or a designated third-party administrator (TPA) to use on the carrier’s behalf.

A **full query** provides the details on a Clearinghouse item. Carriers must run a full query on all prospective CDL-vehicle drivers before using them in a safety-sensitive function, including a road test. A driver must have a Clearinghouse account and grant consent for the full query.

An **annual query** can be a limited query (just shows there is something on the driver) and must be run for all CDL drivers to see if a driver might have tested positive for another employer. Drivers can sign a limited-query consent form (outside of the Clearinghouse) that can be effective for the duration of employment.

If there is a record indicated by a limited query, such as the driver tested positive and didn’t complete an SAP treatment program, you have to do a full query within 24 hours to confirm if the driver is prohibited from driving. If you cannot run the query within 24 hours or the driver is prohibited, you must immediately remove them from safety-sensitive functions.

★ BEST PRACTICE ★

The annual query can be a limited query, but many carriers request a full annual query to prevent backtracking in case something turns up on the limited query.

Once a driver has a violation, the SAP must report the driver’s completion of evaluation and treatment. After that, a motor carrier would report the driver’s negative return-to-duty drug and/or alcohol test, which is when the driver can return to driving. And, when the driver completes the very **last** follow-up test, the motor carrier reports that to the Clearinghouse as well.

For owner-operators not operating under lease to a carrier, the driver would be in a consortium, and the consortium has to report the data that would have typically been reported to the Clearinghouse by a larger carrier.

DRUG & ALCOHOL TESTING CHECKPOINT	COMPLIANCE EVENTS	<u>Non-compliant or no testing program in place.</u>	Refusals to test may not be captured as a positive result.	<u>Clearinghouse reporting of carrier-required items and queries not completed.</u>
	RISKS	<ul style="list-style-type: none"> ● An unqualified or unsafe driver may be on the road. ● An acute violation may occur in an audit or compliance review. ● Penalties may be levied. 	<ul style="list-style-type: none"> ● Contract with a reputable TPA. 	<ul style="list-style-type: none"> ● Unqualified or unsafe drivers on the road. ● Audit or compliance review violations and penalties.
	SOLUTIONS	<ul style="list-style-type: none"> ● <u>Hire a third-party administrator</u> to manage your drug and alcohol testing program. ● Mock audit to review your self-administered program. 	<ul style="list-style-type: none"> ● Recurring training of personnel involved in administering tests and driver notifications. 	<ul style="list-style-type: none"> ● Use a TPA to report and run queries. ● Mock audit to review your current practices.

HOURS OF SERVICE

It's your responsibility to ensure your drivers comply with the limits that apply to them, whether they are driving property-carrying vehicles and subject to §395.3 or passenger-carrying vehicle and subject to §395.5.

The HOS rules include many exceptions found in section §395.1. If your drivers are using any kind of exception, you should:

- Verify that they are eligible for it,
- Coach them to annotate their log with the exception used and any details,
- Audit for proper use, and
- Ensure that they are carrying the required documentation to use the exception or are knowledgeable enough to explain the exception to an enforcement officer.



TOP 3

HOS VIOLATIONS

- 1 False report of records of duty status §395.8(e)(1) – critical violation
- 2 Not using the appropriate method to record hours of service §395.8(a)(1) – critical violation
- 3 Requiring or permitting driver to drive after 14 hours on duty §395.3(a)(2) – critical violation

2024 FMCSA Safety Investigation Violations (Acute and Critical)

Drivers who use ELDs must be knowledgeable about the requirements for form and manner, edits, logging in and out, unassigned events, and data transfers. ELDs are mandatory unless the driver is exempt, and they need to explain why they are exempt.

We will provide an overview of core hours-of-service items, including ELD requirements, and key audit items to detect falsification.

FORM AND MANNER

“Form & manner” violations continue to be a top hours-of-service violation at the roadside² — 33,343 violations in 2024 — and many of those violations are due to the driver using the wrong logging method. Another reason is drivers failing to fill in all required information on their electronic logs, such as trailer number(s) use and shipping document numbers, all required when using an ELD.

ELDS

When logs are required, drivers need to present any supporting documents, such as receipts and shipping documents in their possession, as required in section 395.11.

²https://ai.fmcsa.dot.gov/EnforcementPrograms/Inspections?type=AllViolations&time_period_id=2&report_date=2024&vehicle_type=1´_critical=0&state=NAT&domicile=ALL

If [using ELDs](#), drivers also need to show:

- The ELD user’s manual,
- The instructions for transferring data,
- The ELD’s malfunction instructions, and
- At least eight blank paper logs, in case the ELD malfunctions.

Drivers must be logged into the ELD when they are on-duty and are required to log, unless otherwise exempt from logging. If drivers aren’t logged into the ELD while driving, unassigned events are created, which can be an administrative nightmare and become a common method for your drivers to falsify logs. That said, carriers must keep up with the task of:

- Assigning the time to the correct driver, or
- Annotating any event with the reason why it can’t be assigned.

There isn’t a third option for unassigned drive time.

★ BEST PRACTICE ★

Managing unassigned drive time:

- Monitor and assign or annotate **daily**,
- Require all drivers and company mechanics to log into the ELD,
- If company mechanics or local drivers don’t log into the ELD, keep a vehicle move log,
- Create an “Exempt” account for drivers not required to use an ELD, and
- Annotate vendor/repair shop mechanic moves with details.



J. J. KELLER® ELOGS

The patented technology behind J. J. Keller® ELogs audits 100% of drivers’ logs and works seamlessly with the Encompass® Fleet Safety & Compliance Platform. It offers [E-DVIRs](#), geofencing, and [driver performance management](#) — resulting in a comprehensive hours-of-service compliance solution for your fleet.

[Schedule a demo](#) to learn more.

There are **exceptions** regarding the requirement to use an ELD. A driver doesn’t have to use an ELD and can use paper logs on any day when:

- Eligible for a short-haul exception,
- Driving a pre-2000 model year vehicle or a vehicle with a pre-2000 model year engine,
- Engaged in certain driveaway-towaway operations where the vehicle being driven is the cargo being delivered,
- Required to use logs on eight or fewer days within any 30 consecutive days, or
- Operating a CMV rented for a contractual period of 8 days or less. (Driver must carry a copy of the exception.)

Occasional and new drivers must complete a **Statement of the Last Seven Days’ Hours** form when you don’t have a detailed time record of their previous seven days’ hours and the time they last went off duty.

Drivers also need to turn in their logs and supporting documents within 13 days, and you need to retain them for six months. However, drivers must certify their logs (electronic or paper) daily.

SUPPORTING DOCUMENTS

You can reference §395.11 for details on the supporting documents you have to keep. There are five types of supporting documents that an enforcement officer, investigator, or plaintiff's attorney could use to audit a driver's log for falsification. Each document needs to have four pieces of information:

- Driver's ID
- Location
- Date
- Time

You must keep no more than eight documents per day per driver, and drivers must present their supporting documents for inspection at the roadside, at least until they submit them to the carrier.

PERSONAL CONVEYANCE

[Personal conveyance](#), also known as PC or personal use, occurs when a driver uses a carrier's CMV for an authorized personal trip. This option is available only if the carrier allows PC. Also, a driver may not be fatigued, and a carrier can be held liable in the event of a crash while using PC.

Each personal conveyance scenario will be reviewed by enforcement based on at least these primary questions:

- Is the driver ill or fatigued? Does the driver's condition allow them to drive the vehicle safely?
- Is the driver off-duty? See the definition of on-duty in §395.2, which includes any work supporting the business or time involved in business activities. Unless the driver is completely released from duty and free to pursue their choice of activity, the driver must log on-duty.
- Is the move purely personal with no benefit to the business? A move benefiting the company would include moving closer to the driver's next pick up or delivery or a maintenance move performed to support the business.
- Is the move to strictly seek the closest, safe place to park after being ordered to move the vehicle by a shipper, receiver, or officer when on break or out of hours, even if a driver has moved along the route line to the next business-related location? The move can be along the route line if the location to which the driver moved is the closest, reasonable, safe location to park.



HOURS-OF-SERVICE EXPERTS

One of the biggest challenges fleets face today is hours of service.

We understand.

Watch how Encompass with ELogs helped Valvoline manage their hours-of-service compliance.

AUDITS FOR FALSIFICATION

Let's transition to incorrect logging of on-duty time. A primary focus of the hours-of-service portion of an FMCSA audit is to find all types of falsification. Your policy and procedures for auditing must find and correct intentional falsification to purposely conceal working or driving time to exceed a limit, as well as unintentional errors.

TOP ITEMS TO AUDIT FOR FALSIFICATION

- 1 Recording drive time as personal conveyance or a yard move that should be on-duty driving
- 2 Recording or editing off-duty time as on-duty time
- 3 Recording or editing on-duty time as off-duty time
- 4 Using an exception for which the driver wasn't qualified
- 5 Logging out or not logging into an ELD to hide duty status
- 6 Not accepting or assigning an unassigned event when appropriate
- 7 Forcing a malfunction to switch to paper logs
- 8 Unplugging an ELD which creates mileage gaps and location jumps
- 9 The use of generic or group accounts such as "mechanic"
- 10 The use of "ghost" accounts for drivers who are not actively driving or are injured

Let's recap some of the top hours-of-service regulation challenges that small fleets face. The first is auditing for compliance and taking steps to stop non-compliance before it escalates or creates a significant liability.

We talked about exceptions and the importance of making sure they're being used and documented correctly. A key element of control is clear hours-of-service policies and procedures that are written and enforced. The focus is on catching violations and coaching drivers as quickly as possible; that can be hard in a small fleet, especially, but having documentation of your compliance efforts is vital in an audit.

HOURS OF SERVICE CHECKPOINT	COMPLIANCE EVENTS	Detect falsification and verify drivers operate within limits.		Proper use of exceptions.
	RISKS	<ul style="list-style-type: none"> ● Fatigued drivers may be on the road. ● Audit violations and penalties. ● Large verdict lawsuit for failing to or allowing falsification. 	<ul style="list-style-type: none"> ● Drivers unknowingly operating in violation. ● Out-of-service orders. 	
	SOLUTIONS	<ul style="list-style-type: none"> ● Use an ELD system that audits and provides exception reporting and tracks key driver performance items. ● Mock audit of your policies and procedures and HOS records. 	<ul style="list-style-type: none"> ● Mock audits of current HOS safety management controls. ● Use an ELD that automatically audits the use of exceptions. 	

ENCOMPASS® PLATFORM

J. J. Keller's Encompass® Fleet Safety & Compliance Platform is a best-in-class solution that solves challenges related to compliance and fleet operations. It's responsive to your needs, offering multiple feature profiles and add-on hardware, like [ELDs](#), [dash cams](#), and [vehicle trackers](#), allowing you to improve safety through intelligent and efficient management of FMCSA tasks, including:

- [Hours of service](#)
- [Driver qualification](#) and [hiring](#)
- [Alcohol & Drug](#) Testing Program Management
- [IFTA and IRP](#) reporting
- MVR monitoring
- Accident tracking and reporting
- [Training](#)
- Roadside inspections
- CSA tracking
- [eDVIRs](#) and [maintenance](#), and more.



Visibility to driver and vehicle data are provided through analytics and reporting helping your leadership team to run a safer, smarter, and more compliant business.

- **Automate recordkeeping** of complex driver and vehicle compliance tasks
- **Reduce risk** with insights from actionable driver and vehicle data
- **Standardize compliance** processes and ensure adherence to regulatory and company-specific guidelines
- **Stay informed** with support from J. J. Keller regulatory and technical experts

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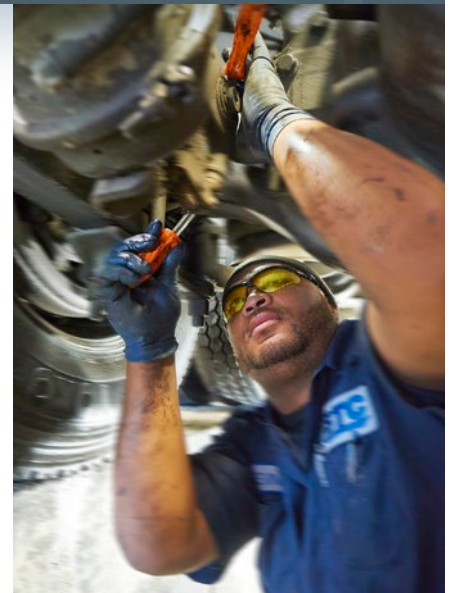
ELDs | Dash Cams | Vehicle Trackers | EDVIRs

MAINTENANCE & INSPECTIONS

The regulations require motor carriers to have a systematic inspection and maintenance program, but they leave it up to you to decide what that program looks like to ensure safe vehicles are on the road.

Establishing a [preventive maintenance program](#) that includes your vehicles undergoing [regular inspection](#) and maintenance — typically after a certain amount of time or a certain number of miles, and usually starting with the vehicle manufacturer's preventive maintenance schedule — will help you achieve full regulatory compliance. The important thing is that you document your systematic program and then follow it, keeping records to prove that you did.

The required vehicle inspections and inspector certifications will be reviewed, along with roadside inspection basics.



TOP 3

MAINTENANCE & INSPECTIONS VIOLATIONS

- 1 Using a CMV not periodically inspected §396.17(a) - acute violation
- 2 Brake out of adjustment - 393.47(e) - acute
- 3 Failing to keep minimum records of inspection and maintenance §396.3(b) - acute violation

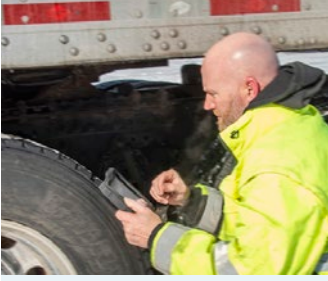
2024 FMCSA Safety Investigation Violations (Acute and Critical)

PRE- AND POST-TRIP INSPECTIONS

As well as the federal regulations requiring the carrier to have a systematic program to ensure vehicles are in compliance and safe, they also require daily driver inspections.

The federal rules require drivers to be satisfied that the vehicle is safe before driving, which means a pre-trip inspection is needed per §392.7-§392.9 and §396.13. Still, no documentation is required unless companies require that in their policies.

At the post-trip stage, an inspection is required per §396.11. However, truck drivers and passenger-carrying vehicle drivers must complete a Driver Vehicle Inspection Report (DVIR) only when there's a defect to report unless company policy requires a DVIR regardless of defects. Single-vehicle operations are exempt from DVIRs.



ENCOMPASS® DVIR MOBILE APP

The [Encompass® DVIR mobile app](#) provides a driver-friendly tool for automating the DVIR recordkeeping process.

With it, drivers can take and share photos of defects. Office personnel can customize inspection criteria to improve vehicle efficiency.

[Talk with a compliance specialist](#) about how the Encompass® DVIR mobile app can streamline your defect resolution process.

A DVIR with a defect on it should end up with three signatures:

- The first driver,
- The mechanic or company official certifying that the repair was completed or not needed, and
- The next driver.

DVIRs must be retained for at least three months.

★ BEST PRACTICE ★

Many companies require DVIRs every day for every vehicle operated — even if there are no defects — to document that inspections are taking place. DVIRs, especially electronic DVIRs, are a tool to hold drivers and maintenance personnel accountable for the timely reporting and repair of safety defects.

EN ROUTE INSPECTIONS

Truck drivers also have to do en route inspections to make sure their cargo is secure. An inspection is needed within the first 50 miles and then at every stop or every 3 hours or every 150 miles, whichever comes first. The only exception is if the trailer is sealed, preventing a cargo inspection.



BRAKE WORK & ANNUAL INSPECTIONS

You also need to document that the people doing your brake work and annual inspections are qualified.

Annual inspections must be kept for 14 months, and on each vehicle, you can keep a copy of the form, or more typically, you would have an inspection sticker.

If your state has a mandatory inspection program, then you'd need whatever documentation they require. Your general inspection and maintenance records need to be kept for one year.

ROADSIDE INSPECTIONS

Roadside inspections generally occur when the officer spots a problem requiring further investigation, such as a broken light or a hot wheel hub. If your driver has a roadside inspection, you must keep the roadside inspection reports for 12 months.

The best way to avoid a roadside inspection is to have a systematic inspection program and comprehensive daily inspections to catch and fix problems before an officer sees them. When drivers send inspections to you, be sure to certify violations were corrected. Sign and return inspection reports with violations to the state in 15 days.

Roadside inspection and investigation data are used to score your company and drivers in the seven compliance categories of the CSA enforcement program.

★ BEST PRACTICE ★

It's a good idea to review your CSA data every month to scrutinize your roadside inspection results and your CSA scores. Vehicle violations are usually the hardest to keep to a minimum. This makes it even more important to review the data for "bad" data impacting your scores, such as a violation that isn't accurate or an inspection that doesn't belong to you. You can challenge incorrect data with the [online DataQs system](#) to get it off your record. That's especially important for small fleets as each inspection will weigh more heavily on your scores.

To keep vehicles safe and compliant every day, you need to set up a systematic program that is proactive. Focus on rigorous inspections and replace components before a failure or being below specification.

Drivers and mechanics need to seek out any minor problems before they can balloon into major ones, rather than just reacting to the latest issue that surfaces. Of course, keep all required records that we talked about and then get rid of them when the retention period expires.

MAINTENANCE & INSPECTIONS CHECKPOINT	COMPLIANCE EVENTS	Vehicle inspections are completed on time.	Post-trip inspection defects are not reported or repaired promptly.
	RISKS	<ul style="list-style-type: none"> ● Audit violations and penalties. ● High CSA/ISS scores and out-of-service orders. ● Costly litigation if a crash occurs, and mechanical defects or missing inspections found. 	<ul style="list-style-type: none"> ● Audit or compliance review violations and penalties. ● Costly litigation if a crash occurs, and mechanical defects or missing inspections are found.
	SOLUTIONS	<ul style="list-style-type: none"> ● Use a system to track all vehicles and required inspections with auto-generated lists of vehicles coming due and for which inspection. ● Mock audit to review your current program. 	<ul style="list-style-type: none"> ● Electronic DVIRs (eDVIRs) used daily even if no defects are found to drive accountability for mechanics and drivers.



WRAP UP

Non-compliance events from roadside inspections can affect your CSA scores and lead to citations and fines. As those scores worsen, it can lead to various interventions from the FMCSA, including audits and additional penalties.

Poor CSA scores are usually the trigger for audits. During an audit, violations found can result in fines that can easily reach six figures if you've got enough violations. If enough violations are found, it can result in a downgraded safety rating for the company. The ultimate penalty is an OOS order against the company.

Let's recap. The results of failing to comply in the five key areas discussed include:

Roadside inspections with violations, fines, or out-of-service orders

- Poor CSA scores could lead to intervention (warning letter, audit, fine, OOS order)

Acute/critical violations during an audit or compliance review

- Drug/alcohol, unqualified drivers, unsafe vehicles
- Downgraded safety rating

Civil penalties:

- Missing/incomplete record: Over \$1,500 per day
- Falsification: over \$15,000 each
- Safety violation: over \$19,000 each

Complying is only half the battle. You must systematically keep documentation that shows that you comply. It's the one way you prove to enforcement officials, auditors, insurance companies, and attorneys that you follow the rules.

No matter the size of your fleet, safety management controls can be consistently utilized to avoid negative consequences that affect your ability to operate.

There are three key questions to answer before you can execute these foundational steps and operate:

1. Do you operate in interstate or intrastate commerce?

If you answer “Yes” to either of the following questions, you operate in interstate commerce:

- Did any portion of your movements involve crossing a state or national border?
- Did the shipper intend for any of your shipments to cross state lines?

If you are involved in interstate commerce on your trips, the FMCSA has the authority to enforce its safety regulations.

Intrastate commerce is when your shipment or service begins and ends in one state and isn't a link in an interstate shipment. When intrastate, a regulated vehicle may differ from FMCSA's definition, and the state may have adopted its version of the safety rules. However, the issuance of CDLs and DOT drug and alcohol testing applies to both intrastate and interstate commerce.

2. Are you for-hire or private?

A for-hire carrier is a motor carrier that hauls freight or passengers for someone under its authority for compensation. For-hire authority is required in order for a motor carrier to make even a single compensated move.

If you only haul only your own passengers, cargo, tools, or equipment, you are a private carrier.

3. Are my vehicles considered CMVs?

There are two different definitions of CMVs in the FMCSA safety regulations. The definition in §390.5 is the most widely used:

A vehicle is a CMV if it operates on a highway (any area open to public travel) in interstate commerce with:

- *A weight or rating of 10,001 pounds or more (rated or actual and alone or in combination with a trailer);*
- *A manufacturer's rating of or is used to haul more than eight passengers for compensation, including the driver; or more than 15 passengers, including the driver whether compensated or not, or*
- *Any size vehicle carrying placardable hazardous materials.*

In short, if you're operating at least one CMV, then you must comply with rules for driver qualification, hours of service, vehicle inspection and maintenance, equipment specifications, vehicle marking, insurance, and cargo securement unless otherwise exempt.

The second definition of a CMV is in §383.5, and these vehicles require a CDL to operate and triggers compliance with DOT testing and driver training. This definition applies to any kind of commerce, interstate or intrastate.

A vehicle requires a CDL to operate when:

- *In combination, the gross combined weight rating (GCWR) is $\geq 26,001$ pounds, and the trailer(s) has a gross vehicle weight rating (GVWR) or gross vehicle weight (GVW) $> 10,000$ pounds,*
- *The vehicle has a GVWR/GVW $\geq 26,001$ pounds,*
- *It hauls 16 or more passengers, including the driver regardless of compensation, or*
- *It's placarded for hazardous materials.*

ENCOMPASS CAN HELP YOU PREVENT AN AUDIT!



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- **DOT driver application** — The application must have all items in §391.21 but can have more if the items are job-related.
- **Initial motor vehicle records (MVRs)** — At hire, you must request MVRs from each licensing authority where the driver was licensed in the last three years. They must be placed in the file within 30 days for non-CDL vehicle drivers. A CDL-vehicle driver's MVR must be in the DQ file within 15 days of the last medical certification, which means before operating if you accept the current physical.
- **Certificate of driver's road test** — Perform the road test in a vehicle like the one that the driver will operate. One exception to this is that you can get a copy of the driver's CDL license in place of doing a road test, but this doesn't apply to drivers assigned to double/triple trailers or tank vehicles or drivers using the alternative vision standard (§391.44) for the first time. Retain the test scoring sheet as well.
- **Medical examiner's certificate or proof of medical certification** — Proof of medical certification is required at the time of hire and whenever the driver is medically recertified. For a non-CDL driver, this is the medical card. As mentioned, for a CDL driver, you need an MVR with the medical certification status within 15 days of the last medical exam. Until June 2025, a copy of the CDL driver's medical card is needed before operating a CMV if the exam was in the previous 15 days.
- **Medical variance/Skills Performance Evaluation (SPE)** — A variance is required when a driver has a missing limb. The process is located in §391.49.
- **Verification that medical examiner was on the National Registry of Certified Medical Examiners (NRCME)** — Document with a note or screenshot from the registry web page, that the examiner was certified on the date of the exam.
- **Safety performance history (SPH) inquiries** — Send inquiries to former DOT-regulated employers from the past three years and receive responses within 30 days from the date of hire per §391.23. Document good-faith efforts to obtain the required information from each employer. SPH information must be kept in a secure location with limited access.
- **Entry-level driver's certificate (applies to drivers with less than 1 year of CDL-vehicle driving experience hired before February 7, 2022)** — This document is proof of training for drivers with less than one year of CDL driving experience at the time of hire in the areas of driver qualification, hours of service, driver wellness, and whistleblower protection. You must either get that certificate from the driver or perform the required training and issue it yourself.
- **Longer combination vehicles (LCV) training** — Retain all LCV training certificates or grandfathering certificates in the employee's DQ file.

ADDENDUM 3

CSA BASIC THRESHOLD

BASIC	Most Carriers	Passenger Carriers	Hazmat Carriers
Unsafe Driving, HOS Compliance, Crash Indicator	65%	50%	60%
Driver Fitness, Controlled Substances/Alcohol, Vehicle Maintenance	80%	65%	75%
HM Compliance	80%	80%	80%

ADDENDUM 4

INDEPENDENT SELECTION SYSTEM (ISS) SCORE



Inspect: Carriers with an ISS score of **75 to 100**.
These carriers are designated highest priority.



Optional: Carriers with an ISS score from **50 to 74**.



Pass: Carriers with a score **under 50**.



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