

TO: **MOTOR CARRIER**
US DOT #(insert); ICC #(insert)

FROM:

This is to notify you I have been retained as counsel to represent * due to the injuries/death sustained by him/her/them in a traffic accident ***(insert date) on *(insert specific location of accident, using police accident report).**

A commercial motor vehicle ***insert description of vehicle(s) with company ID # & Vehicle Identification Number (VIN) if available** operated by your company and your driver, ***(insert driver name)** was reportedly involved.

Pursuant to our investigation into this matter, certain physical items and routine records should be retained by your company in anticipation of possible litigation into this matter.

Our investigation indicates certain documents are routinely maintained in accordance with State and Federal regulations and in the routine course of the business of a commercial vehicle operation. **As of the date of the writing of this letter, your company is within the routine and required minimum retention period for those records.** You are herein notified of the possibility of litigation in this matter and notice of our request for retention of these records pursuant to the legal discovery process. Failure to maintain these records pursuant to our reasonable request as well as routine record retention common to your course of business will be assumed to be an effort to suppress, secrete or destroy relevant items which may be of issue in this case.

Items of specific interest include, but are not limited to:

1. All driver's files to include but not limited to those maintained pursuant to the application, qualification file, background and character investigation, driver investigation history (DIH) file, FMCSA Pre-employment Screening Program (PSP), training, testing, annual reviews of driver record, property damage reports, injury accident reports, reportable traffic accident reports, controlled substance/alcohol testing (49 CFR §382) and periodic review of subject driver, ***(insert Driver name)** which are routinely maintained by your company and required as a course of industry standard as well as compliance with the Controlled Substance and Alcohol Use and Testing standards (49 CFR, §382), Commercial Driver's License Standards (49 CFR §383) and Federal Motor Carrier Safety Regulations (49 CFR §391).
2. All files to include but not limited to training and qualification of person(s) conducting and reviewing driver qualification files, applications, background and character files for your company. This includes identification of any second party or outsourced investigation files your company relies upon in conducting such driver qualification and periodic review process.

3. All records pertaining to the routine course of business for dispatching, trip monitoring, dispatch progress reports, communications with the driver or the subject vehicle, pay records and bills of lading of subject driver, ***(insert Driver name)**, for the subject accident date and all such documents for a period six (6) months preceding the subject accident. The records to include identification and contact information of dispatcher(s) assigning the driver loads, trip monitoring, dispatch progress reports and conducting communications with the driver or the subject motor carrier's assigned vehicle to this driver.
4. All wireless telephone or electronic device records of driver's personal and company wireless communication devices (49 CFR §390.5, §392.80 & §392.82) for a period six (6) months preceding the subject accident (49 CFR §395.8(k)).
5. All records pertaining to the routine course of business, dispatch logs, driver call-in logs, telephone records of driver, dispatch communications, text messages and identification of person(s) initiating or receiving these communications.
6. All fuel receipts, toll receipts, Pre-Pass, Fast-Pass, vehicle tracking reports (electronic or written), hotel/motel receipts, meal receipts of subject driver and vehicle for a period six (6) months preceding the subject accident (49 CFR §395.8(k)). These include but are not limited to IFTA (International Fuel Tax Agreement) detailed mileage and fuel records for the subject vehicle which must be maintained in the routine course of business.
7. All driver's daily logs maintained pursuant to 49 CFR Part 395.8 (Hours of Service of Drivers), and if applicable, 49 CFR §395.15, §395.16, §395.18 & Appendix A to Part 395 (Electronic On-Board Recorder- EOBR-if so equipped) of the Federal Motor Carrier Safety Regulations AND **SUPPORTING DOCUMENTS** (49 CFR §395.8(k)(1)) for subject driver, ***(insert Driver name) and supporting documents.**

These include but are not limited to records including electronic records: Bills of lading, carrier pros, freight bills, dispatch records, repower reports, driver call-in records, gate record receipts, weight/scale tickets, fuel receipts, fuel billing statements, toll receipts, Toll Tag records, Pre-Pass® records, PrePass® Plus records, Pre-Pass® e-Log records, Pre-Pass® Gates records, Pre-Pass® Ground Traffic Control (GTC) records, international registration plan receipts, international fuel tax agreement receipts/reports, trip permits, port of entry receipts, cash advance receipts, T-Check records, delivery receipts, lumper receipts, interchange and inspection reports, lessor settlement sheets, driver settlement sheets, over/short and damage reports, agricultural inspection reports, law enforcement Driver/Vehicle Inspection reports, accident reports, telephone billing statements, cell phone records, wireless communications device records, "smart phone" text messages, smart phone photographs & video, cell phone photographs, credit card receipts,

- driver fax reports, on-board computer reports, border crossing reports, custom declarations, traffic citations, overweight/oversize reports and citations, and/or other documents directly related to the motor carrier's operation. Include hotel, motel, truck parking fee, or other similar receipts where the driver or vehicle and driver stopped to obtain required rest and/or off duty periods. 1
8. All driver's daily inspection reports on these and all drivers of the vehicle(s) involved in the subject collision pursuant to 49 CFR §396.11 and §396.13.
 9. All driver's daily inspection reports on these and all drivers of your company pursuant to 49 CFR §396.11 and §396.13.
 10. All mechanical or electronic records to include but not limited to vehicle tracking history reports, vehicle location reports and communication reports by any on-board recording device, Event Data Recorder (EDR), Electronic Control Modules (ECM), satellite or other communication device of the subject vehicle to include but not be limited to tachographs, Tripmaster™, Highway Master®, ARGO Fleet Management System™, Cadec™, Detroit Diesel IRIS® Infrared Information System, Triplogger®, QualComm™ Trip Reports, OmniTrac®, QTRACS®, OmniOne™, PeopleNet®, TruckMAIL™, OmniExpress®, TrailerTRACS®, SensorTRACS®, DataTrax/GPS®, AMSC® (American Mobile Satellite Corp.), Peoplenet®, Detroit Diesel Electronic Controls (DDEC® Reports), Daily Engine Usage Reports, Hard Brake Reports, Last Stop Record, any and all satellite locator records, any vehicle tracking records or any similar device (if your vehicles or fleet are so equipped).
 11. Any and all maintenance records on vehicles subject to your control to include but not be limited to the truck tractor and semi-trailer involved in this accident (49 CFR 396.3).
 12. Records of vehicle inspections as well as training and qualifications of persons conducting Commercial Motor Vehicle inspections and brake inspections to comply with 49 CFR §396.17, § 396.19, §396.21, §396.23 & §396.25)
 13. Any and all vehicle maintenance, records maintained pursuant to 49 CFR §396.1 thru 396.25 of the Federal Motor Carrier Safety Regulations. These include but are not limited to any and all records of daily, periodic and annual vehicle inspections as well as inspector and brake mechanic training and certification(s).

14. Any and all records produced or received pursuant to inspections by State or Federal officials to include but not limited to, "Compliance Reviews", Safety Audits, (49 CFR §385.3) "Driver / Vehicle Inspection Reports" and/or "Out of Service" reports produced under the Motor Carrier Safety Assistance Program (MCSAP), CSA 2010 records, or any related state inspection program pursuant to 49 CFR §396.9(a) to (d)(ii).
15. Any and all Federal Motor Carrier Safety Administration (FMCSA) Safety Measurement System (SMS), Compliance, Safety & Accountability program (CSA 2010) Behavior Analysis and Safety Improvement Categories (BASiCs)," evaluations and "Intervention Level" notices and correspondence of this motor carrier's monthly safety performance categories:
 1. Unsafe Driving
 2. Hours of Service (HOS) Compliance
 3. Driver Fitness
 4. Controlled Substances and Alcohol
 5. Vehicle Maintenance
 6. Hazardous Materials
 7. Crash Indicator
16. Any and all records maintained on your vehicles identified by Unit Numbers *(insert identification VIN and/or unit # for tractor) and * (insert identification VIN and/or unit # for trailer).
17. Any notes, records, or statements produced to facilitate completion of the accident register pursuant to compliance with 49 CFR §390.15 of the Federal Motor Carrier Safety Regulations.
18. A copy of the accident register and reports filed pursuant to 49 CFR §390.15 of the Federal Motor Carrier Safety Regulations.
19. Any records of the weighing of any vehicles subject to your control pursuant to a bill of lading or any weighing of vehicles subject to your control by State or Federal officials pursuant to weight control and enforcement.
20. Any and all records that adequately support financial and operational data required by the U.S. Department of Transportation pursuant to 49 CFR §379, "Preservation of Records," and Appendix A to this part.
21. All IFTA (International Fuel Tax Agreement) reports of the subject vehicle for the annual quarter of the collision and the proceeding 3 quarters.
22. Print and / or preserve all mechanical or electronic records, Audit Trail(s), Trip Reports, Life to Date History Reports, Fault Codes, Hard Brake Incident(s), Last Stop Record or similar data collected by any on-board recording Electronic Control Module (ECM) or Motor Vehicle Event Data Recorder

- (MVEDR) commonly known as a “black box” of the subject vehicle to include but not be limited to devices such as Cummins Celect™, Cummins Quik-Link®, Cummins INFORM™, Cummins INSPEC™, Cummins RoadRelay™, NEXIQ Pro-Link®, Detroit Diesel Pro Driver®, Detroit Diesel DDEC III® & DDEC IV®, Caterpillar (FIS) Fleet Information System®, Caterpillar ADEM®, Volvo Truck VCADS®, Eaton VORAD® or any similar device (if your vehicles or fleet are so equipped). In the event of data retrieval, record the ECM date and time as well as the actual date and time of any download or retrieval and printing of any data retrieval and identification of any person(s) conducting the data retrieval.
23. Original and periodic Motor Carrier Identification Report(s) filed pursuant to 49 CFR §390.19 (Form MCS-150, MCS-150B or MCS-150C) as well as any filing of operating authority to the Surface Transportation Board.
 24. Applications, filings and records of financial responsibility pursuant to 49 CFR §387.

Our preliminary investigation indicates that these records are maintained in the routine course of business, which are required and routinely maintained by lawfully operated motor carriers to comply with the Federal Motor Carrier Safety Regulations, may be extremely relevant to this matter. As the records are required to be retained in the normal course of business and must be produced within 48 hours, excluding Saturdays, Sundays and holidays if requested by a representative of the FMCSA (49 CFR §390.29, §390.31), this will require no unusual or burdensome efforts. The request herein is formal notification to insure no spoliation of these records and that they are not lost or destroyed.

Attached is the official interpretation of “Supporting documents” by the Federal Motor Carrier Safety Administration (Formerly the USDOT/ Office of Motor Carrier Safety):

49 CFR §395.8 (k) **Retention of driver's record of duty status.** (1) Each motor carrier shall maintain records of duty status and all supporting documents for each driver it employs for a period of six months from the date of receipt.

Question: What regulation, interpretation, and/or administrative ruling requires a motor carrier to retain supporting documents and what are those documents?

Guidance: [§395.8\(k\)\(1\)](#) requires motor carriers to retain all supporting documents at their principal places of business for a period of 6 months from date of receipt.

Supporting documents are the records of the motor carrier which are maintained in the ordinary course of business and used by the motor carrier to verify the information recorded on the driver's record of duty status. Examples are: Bills of lading, carrier pros, freight bills, dispatch records, driver call-in records, gate record receipts, weight/scale tickets, fuel receipts, fuel billing statements, toll receipts, international registration plan

receipts, international fuel tax agreement receipts, trip permits, port of entry receipts, cash advance receipts, delivery receipts, lumber receipts, interchange and inspection reports, lessor settlement sheets, over/short and damage reports, agricultural inspection reports, [CVSA](#) reports, accident reports, telephone billing statements, credit card receipts, driver fax reports, on-board computer reports, border crossing reports, custom declarations, traffic citations, overweight/oversize reports and citations, and/or other documents directly related to the motor carrier's operation, which are retained by the motor carrier in connection with the operation of its transportation business. Supporting documents may include other documents which the motor carrier maintains and can be used to verify information on the driver's records of duty status. If these records are maintained at locations other than the principal place of business but are not used by the motor carrier for verification purposes, they must be forwarded to the principal place of business upon a request by an authorized representative of the [FHWA](#) or State official within 2 business days.

Supporting References:

CFR 49 PART 379 — PRESERVATION OF RECORDS

AUTHORITY: 49 U.S.C. 13301, 14122 and 14123; 49 CFR 1.73.

§379.1 Applicability.

(a) The preservation of record rules contained in this part shall apply to the following:

(a)(1) Motor carriers and brokers

(a)(2) Water carriers; and

(a)(3) Household goods freight forwarders

(b) This part applies also to the preservation of accounts, records and memoranda of traffic associations, weighing and inspection bureaus, and other joint activities maintained by or on behalf of companies listed in the above paragraph [\(a\)](#) of this section.

49 CFR §379.3 Records required to be retained.

Companies subject to this Part shall retain records for the minimum retention periods provided in Appendix A to this part. After the required retention periods, the records may be destroyed at the discretion of each company's management. It shall be the obligation of the subject company to maintain records that adequately support financial and operational data required by the Secretary. The company may request a ruling from the Secretary on the retention of any record. The provisions of this part shall not be construed as excusing compliance with the lawful requirements of any other governmental body prescribing longer retention periods for any category of records.

49 CFR §379.5 Protection and storage of records.

(a) The company shall protect records subject to this part from fires, floods, and other hazards, and safeguard the records from unnecessary exposure to deterioration from excessive humidity, dryness, or lack of ventilation.

(b) The company shall notify the Secretary if prescribed records are substantially destroyed or damaged before the term of the prescribed retention periods.

49 CFR §379.7 Preservation of records.

(a) All records may be preserved by any technology that is immune to alteration, modification, or erasure of the underlying data and will enable production of an accurate and unaltered paper copy.

(b) Records not originally preserved on hard copy shall be accompanied by a statement executed by a person having personal knowledge of the facts indicating the type of data included within the records. One comprehensive statement may be executed in lieu of individual statements for multiple records if the type of data included in the multiple records is common to all such records. The records shall be indexed and retained in such a manner as will render them readily accessible. The company shall have facilities available to locate, identify and produce legible paper copies of the records.

(c) Any significant characteristic, feature, or other attribute that a particular medium will not preserve shall be clearly indicated at the beginning of the applicable records as appropriate.

(d) The printed side of forms, such as instructions, need not be preserved for each record as long as the printed matter is common to all such forms and an identified specimen of the form is maintained on the medium for reference.

49 CFR §379.9 Companies going out of business.

The records referred to in these regulations may be destroyed after business is discontinued and the company is completely liquidated. The records may not be destroyed until dissolution is final and all pending transactions and claims are completed. When a company is merged with another company under jurisdiction of the Secretary, the successor company shall preserve records of the merged company in accordance with the regulations in this part.

49 CFR §379.11 Waiver of requirements of the regulations in this part.

A waiver from any provision of these regulations may be made by the Secretary upon his/her own initiative or upon submission of a written request by the company. Each request for waiver shall demonstrate that unusual circumstances warrant a departure

from prescribed retention periods, procedures, or techniques, or that compliance with such prescribed requirements would impose an unreasonable burden on the company.

49 CFR §379.13 Disposition and retention of records.

The schedule in Appendix A of this part shows periods that designated records shall be preserved. The descriptions specified under the various general headings are for convenient reference and identification, and are intended to apply to the items named regardless of what the records are called in individual companies and regardless of the record media. The retention periods represent the prescribed number of years from the date of the document and not calendar years. Records not listed in Appendix A to this part shall be retained as determined by the management of each company.

Appendix A to Part 379
SCHEDULE OF RECORDS AND PERIODS OF RETENTION

Item and category of records

Retention period

A. CORPORATE AND GENERAL

- | | |
|---|-----------------------------------|
| 1. Incorporation and reorganization: | |
| (a) Charter or certificate of incorporation and amendments | Note A. |
| (b) Legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company. | Note A. |
| 2. Minutes of Directors, Executive Committees, Stockholders and other corporate meetings | Note A. |
| 3. Titles, franchises and authorities: | |
| (a) Certificates of public convenience and necessity issued by regulating bodies | Until expiration or cancellation. |
| (b) Operating authorizations and exemptions to operate | Until expiration or cancellation. |
| (c) Copies of formal orders of regulatory bodies served upon the company | Note A. |
| (d) Deeds, charters, and other title papers | Until disposition of property. |
| (e) Patents and patent records | Note A. |
| 4. Annual reports or statement to stockholders | 3 years. |

5. Contracts and agreements:

- | | |
|--|---|
| (a) Service contracts, such as for operational management, accounting, financial or legal services, and agreements with agents. | Until expiration or termination plus 3 years. |
| (b) Contracts and other agreements relating to the construction, acquisition or sale of real property and equipment except as otherwise provided in (a) above. | Until expiration or termination plus 3 years. |
| (c) Contracts for the purchase or sale of material and supplies except as provided in (a) above. | Until expiration. |
| (d) Shipping contracts for transportation or caretakers of freight | Until expiration. |
| (e) Contracts with employees and employee bargaining groups | Until expiration. |
| (f) Contracts, leases and agreements, not specifically provided for in this section | Until expiration or termination plus 1 year. |

6. Accountant's auditor's, and inspector's reports:

- | | |
|--|----------|
| (a) Certifications and reports of examinations and audits conducted by public accountants | 3 years. |
| (b) Reports of examinations and audits conducted by internal auditors, time inspectors, and others | 3 years. |

7. Other:

Note A.

B. TREASURY

1. Capital stock records:

- | | |
|--|---------|
| (a) Capital stock ledger | Note A. |
| (b) Capital stock certificates, records of or stubs of | Note A. |
| (c) Stock transfer register | Note A. |

2. Long-term debt records:

- | | |
|--|--------------------------------|
| (a) Bond indentures, underwritings, mortgages, and other long-term credit agreements | Until redemption plus 3 years. |
| (b) Registered bonds and debenture ledgers | Until redemption plus 3 years. |
| (c) Stubs or similar records of bonds or other long-term debt issued | Note A. |

3. Authorizations from regulatory bodies for issuance of securities including applications, reports, and supporting papers

Note A.

4. Records of securities owned, in treasury, or held by custodians, detailed ledgers and journals, or their equivalent

Until the securities are sold, redeemed or otherwise disposed of.

5. Other: Note A.

C. FINANCIAL AND ACCOUNTING

1. Ledgers:
 - (a) General and subsidiary ledgers with indexes Until discontinuance of use plus 3 years.
 - (b) Balance sheets and trial balance sheets of general and subsidiary ledgers 3 years.
2. Journals:
 - (a) General journals Until discontinuance of use plus 3 years.
 - (b) Subsidiary journals and any supporting data, except as otherwise provided for, necessary to explain journal entries 3 years.
3. Cash books:
 - (a) General cash books Until discontinuance of use plus 3 years.
 - (b) Subsidiary cash books 3 years.
4. Vouchers:
 - (a) Voucher registers, indexes, or equivalent 3 years.
 - (b) Paid and canceled vouchers, expenditure authorizations, detailed distribution sheets and other supporting data including original bills and invoices, if not provided for elsewhere. 3 years.
 - (c) Paid drafts, paid checks, and receipts for cash paid out 3 years.
5. Accounts receivable:
 - (a) Record or register of accounts receivable, indexes thereto, and summaries of distribution 3 years after settlement.
 - (b) Bills issued for collection and supporting data 3 years after settlement.
 - (c) Authorization for writing off receivables 1 year.
 - (d) Reports and statements showing age and status of receivables 1 year.
6. Records of accounting codes and instructions 3 years after discontinuance.
7. Other: Note A.

D. PROPERTY AND EQUIPMENT

NOTE: All accounts, records, and memoranda necessary for making a complete analysis of the cost or value of property shall be retained for the periods shown. If any of the records elsewhere provided for in this schedule are of this character, they shall be retained for the periods shown below, regardless of any lesser retention period assigned.

1. Property records:

- | | |
|--|--|
| (a) Records which maintain complete information on cost or other value of all real and personal property or equipment. | 3 years after disposition of property. |
| (b) Records of additions and betterments made to property and equipment | 3 years after disposition of property. |
| (c) Records pertaining to retirements and replacements of property and equipment | 3 years after disposition of property. |
| (d) Records pertaining to depreciation | 3 years after disposition of property. |
| (e) Records of equipment number changes | 3 years after disposition of property. |
| (f) Records of motor and engine changes | 3 years after disposition of property. |
| (g) Records of equipment lightweighed and stenciled | Only current or latest records. |

2. Engineering records of property changes actually made

3 years after disposition of property.

3. Other:

Note A.

E. PERSONNEL AND PAYROLL

1. Personnel and payroll records

1 year.

F. INSURANCE AND CLAIMS

1. Insurance records:

- | | |
|--|---|
| (a) Schedules of insurance against fire, storms, and other hazards and records of premium payments | Until expiration plus 1 year. |
| (b) Records of losses and recoveries from insurance companies and supporting papers | 1 year after settlement. |
| (c) Insurance policies | Until expiration of coverage plus 1 year. |
| 2. Claims records: | |
| (a) Claim registers, card or book indexes, and other records which record personal injury, fire and other claims against the company, together with all supporting data. | 1 year after settlement |
| (b) Claims registers, card or book indexes, and other records which record overcharges, damages, and other claims filed by the company against others together with all supporting data. | 1 year after settlement |
| (c) Records giving the details of authorities issued to agents, carriers, and others for participation in freight claims | 3 years. |
| (d) Reports, statements and other data pertaining to personal injuries or damage to property when not necessary to support claims or vouchers. | 3 years. |
| (e) Reports, statements, tracers, and other data pertaining to unclaimed, over, short, damaged, and refused freight, when not necessary to support claims or vouchers. | 1 year. |
| (f) Authorities for disposal of unclaimed, damaged and refused freight | 3 years. |
| 3. Other: | Note A. |

G. TAXES

- | | |
|----------|---------|
| 1. Taxes | Note A. |
|----------|---------|

H. PURCHASES AND STORES

- | | |
|--------------------------|---------|
| 1. Purchases and stores. | Note A. |
|--------------------------|---------|

I. SHIPPING AND AGENCY DOCUMENTS

- | | |
|--|---------|
| 1. Bills of lading and releases: | |
| (a) Consignors' shipping orders, consignors' shipping tickets, and copies of bills of lading, freight bills from other carriers and other similar documents furnished the carrier for movement of freight. | 1 year. |
| (b) Shippers' order-to-notify bills of lading taken up and cancelled. | 1 year. |

2. Freight waybills:
 - (a) Local waybills 1 year.
 - (b) Interline waybills received from and made to other carriers 1 year.
 - (c) Company freight waybills 1 year.
 - (d) Express waybills 1 year.
3. Freight bills and settlements:
 - (a) Paid copy of freight bill retained to support receipt of freight charges:
 - (1) Bus express freight bills provided no claim has been filed 1 year.
 - (2) All other freight bills 1 year.
 - (b) Paid copy of freight bill retained to support payment of freight charges to other carriers:
 - (1) Bus express freight bills provided no claim has been filed 1 year.
 - (2) All other freight bills 1 year.
 - (c) Records of unsettled freight bills and supporting papers 1 year after disposition.
 - (d) Records and reports of correction notices 1 year.
4. Other freight records:
 - (a) Records of freight received, forwarded, and delivered 1 year.
 - (b) Notice to consignees of arrival of freight, tender of delivery 1 year.
5. Agency records (to include conductors, pursers, stewards, and others):
 - (a) Cash books 1 year.
 - (b) Remittance records, bank deposit slips and supporting papers 1 year.
 - (c) Balance sheets and supporting papers 1 year.
 - (d) Statements of corrections in agents' accounts 1 year.
 - (e) Other records and reports pertaining to ticket sales, baggage handled, miscellaneous collections, refunds, adjustments, etc. 1 year.

1. Records pertaining to transportation of household goods:
 - (a) Estimate of charges 1 year.
 - (b) Order for service 1 year.
 - (c) Vehicle-load manifest 1 year.
 - (d) Descriptive inventory 1 year.
2. Records and reports pertaining to operation of marine and floating equipment:
 - (a) Ship log 3 years.
 - (b) Ship articles 3 years.
 - (c) Passenger and room list 3 years.
 - (d) Floatmen's barge, lighter, and escrow captain's reports, demurrage records, towing reports and checks sheets 2 years.
3. Dispatchers' sheets, registers, and other records pertaining to movement of transportation equipment 3 years.
4. Import and export records including bonded freight and steamship engagements 2 years.
5. Records, reports, orders and tickets pertaining to weighting of freight 3 years.
6. Records of loading and unloading of transportation equipment 2 years.
7. Records pertaining to the diversion or reconsignment of freight, including requests, tracers, and correspondence 2 years.
8. Other: Note A.

K. SUPPORTING DATA FOR REPORTS AND STATISTICS

1. Supporting data for reports filed with the Federal Motor Carrier Safety Administration, the Surface Transportation Board, the Department of Transportation's Bureau of Transportation Statistics and regulatory bodies:
 - (a) Supporting data for annual financial, operating and statistical reports 3 years.
 - (b) Supporting data for periodical reports of operating revenues, expenses, and income 3 years.
 - (c) Supporting data for reports detailing use of proceeds from issuance or sale of company securities 3 years.

- (d) Supporting data for valuation inventory reports and records. This includes related notes, maps and sketches, underlying engineering, land, and accounting reports, pricing schedules, summary or collection sheets, yearly reports of changes and other miscellaneous data, all relating to the valuation of the company's property by the Federal Motor Carrier Safety Administration, the Surface Transportation Board, the Department of Transportation's Bureau of Transportation Statistics or other regulatory body. 3 years after disposition of the property.
2. Supporting data for periodical reports of accidents, inspections, tests, hours of service, repairs, etc. 3 years.
3. Supporting data for periodical statistics of operating results or performance by tonnage, mileage, passengers carried, piggyback traffic, commodities, costs, analyses of increases and decreases, or otherwise. 3 years.

M. MISCELLANEOUS

1. Index of records Until revised as record structure changes.
2. Statement listing records prematurely destroyed or lost For the remainder of the period as prescribed for records destroyed.

NOTE A: Records referenced to this note shall be maintained as determined by the designated records supervisory official. Companies should be mindful of the record retention requirements of the Internal Revenue Service, Securities and Exchange Commission, state and local jurisdictions and other regulatory agencies. Companies shall exercise reasonable care in choosing retention periods, and the choice of retention periods shall reflect past experiences, company needs, pending litigation, and regulatory requirements.

[66 FR 49871, Oct. 1, 2001]

PART 382 — CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Authority: 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; 49 CFR 1.73.

[66 FR 43103, Aug. 17, 2001]

a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol for each of its surviving drivers:

(a)(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(a)(2) 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:

(a)(2)(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(a)(2)(ii) 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.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers:

(b)(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(b)(2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(b)(2)(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(b)(2)(ii) 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.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs [\(a\)\(1\)](#), [\(a\)\(2\)](#), [\(b\)\(1\)](#), and [\(b\)\(2\)](#) of this section:

TABLE FOR §382.303(A) and (B)

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
	YES	YES
	NO	YES
	YES	YES
	NO	NO
	YES	YES
	NO	NO

(d)(1) *Alcohol tests.* If a test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(d)(2) *Controlled substance tests.* If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(f) An employer shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g)(1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the employer.

(g)(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.

(h) *Exception.* This section does not apply to:

(h)(1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or

(h)(2) An occurrence involving only the loading or unloading of cargo; or

(h)(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in [§571.3](#) of this title) by an employer unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity

that require the motor vehicle to be marked or placarded in accordance with [§177.823](#) of this title.

[66 FR 43107 August 17, 2001]

PART 383 — COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

Authority: 49 U.S.C. 31136, 31301 *et seq.*, and 31502; and 49 CFR 1.73.

Subpart C — Notification Requirements and Employer Responsibilities

§383.31 Notification of convictions for driver violations.

(a) Each person who operates a commercial motor vehicle, who has a commercial driver's license issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation) in a State or jurisdiction other than the one which issued his/her license, shall notify an official designated by the State or jurisdiction which issued such license, of such conviction. The notification must be made within 30 days after the date that person has been convicted.

(b) Each person who operates a commercial motor vehicle, who has a commercial driver's license issued by a State or jurisdiction, and who is convicted of violating, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation), shall notify his/her current employer of such conviction. The notification must be made within 30 days after the date that the person has been convicted. If the driver is not currently employed, he/she must notify the State or jurisdiction which issued the license according to [§383.31\(a\)](#).

(c) **Notification.** The notification to the State official and employer must be made in writing and contain the following information:

(c)(1) Driver's full name;

(c)(2) Driver's license number;

(c)(3) Date of conviction;

(c)(4) The specific criminal or other offense(s), serious traffic violation(s), and other violation(s) of State or local law relating to motor vehicle traffic control, for which the

person was convicted and any suspension, revocation, or cancellation of certain driving privileges which resulted from such conviction(s);

(c)(5) Indication whether the violation was in a commercial motor vehicle;

(c)(6) Location of offense; and

(c)(7) Driver's signature.

[52 FR 20587, June 1, 1987, as amended at 54 FR 40787, Oct. 3, 1989].

§383.33 Notification of driver's license suspensions.

Each employee who has a driver's license suspended, revoked, or canceled by a State or jurisdiction, who loses the right to operate a commercial motor vehicle in a State or jurisdiction for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his/her current employer of such suspension, revocation, cancellation, lost privilege, or disqualification. The notification must be made before the end of the business day following the day the employee received notice of suspension, revocation, cancellation, lost privilege, or disqualification.

[54 FR 40788, Oct. 3, 1989].

§383.35 Notification of previous employment.

(a) Any person applying for employment as an operator of a commercial motor vehicle shall provide at the time of application for employment, the information specified in paragraph (c) of this section.

(b) All employers shall request the information specified in paragraph (c) of this section from all persons applying for employment as a commercial motor vehicle operator. The request shall be made at the time of application for employment.

(c) The following employment history information for the 10 years preceding the date the application is submitted shall be presented to the prospective employer by the applicant:

(c)(1) A list of the names and addresses of the applicant's previous employers for which the applicant was an operator of a commercial motor vehicle;

(c)(2) The dates the applicant was employed by these employers; and

(c)(3) The reason for leaving such employment.

(d) The applicant shall certify that all information furnished is true and complete.

(e) An employer may require an applicant to provide additional information.

(f) Before an application is submitted, the employer shall inform the applicant that the information he/she provides in accordance with paragraph (c) of this section may be used, and the applicant's previous employers may be contacted for the purpose of investigating the applicant's work history.

§383.37 Employer responsibilities.

No employer may knowingly allow, require, permit, or authorize a driver to operate a CMV in the United States:

- (a) During any period in which the driver has a CMV driver's license suspended, revoked, or canceled by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV;
- (b) During any period in which the driver has more than one CMV driver's license;
- (c) During any period in which the driver, or the CMV he or she is driving, or the motor carrier operation, is subject to an out-of-service order; or
- (d) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

[52 FR 20587, June 1, 1987; 52 FR 32926, Sept. 1, 1987, as amended at 59 FR 26028, May 18, 1994; 64 FR 48110, Sept. 2, 1999].

PART 390 — GENERAL

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, and 31504; and sec. 204, Pub. L. 104-88, 109 Stat. 803, 941 (49 U.S.C. 701 note); and 49 CFR 1.73.

49 CFR §390.19 Motor carrier identification report.

(a) Each motor carrier that conducts operations in interstate commerce must file a Motor Carrier Identification Report, Form MCS-150 at the following times:

- (a)(1) Before it begins operations; and
- (a)(2) Every 24 months, according to the following schedule:

USDOT Number ending in:	Must file by last day of:
1.....	January.
2.....	February.
3.....	March.
4.....	April.
5.....	May.

6.....	June.
7.....	July.
8.....	August.
9.....	September.
0.....	October.

(a)(3) If the next-to-last digit of its USDOT number is odd, the motor carrier shall file its update in every odd-numbered calendar year. If the next-to-last digit of the USDOT number is even, the motor carrier shall file its update in every even-numbered calendar year.

(b) The Motor Carrier Information Report, Form MCS-150, with complete instructions, is available from the FMCSA's web site at: <http://www.fmcsa.dot.gov> (keyword "MCS-150"), from all FMCSA Service Centers and Division offices nationwide, or by calling 1-800-832-5660.

(c) The completed Motor Carrier Identification Report, Form MCS- 150, shall be filed with the FMCSA's Office of Data Analysis and Information Systems.

(c)(1) The form may be filed electronically according to the instructions at the agency's web site, or it may be sent to Federal Motor Carrier Safety Administration, Data Analysis and Information Systems, MC-RIS, 400 Seventh Street, SW, Washington, DC 20590.

(c)(2) A for-hire motor carrier should submit the Form MCS-150 along with its application for operating authority (Form OP-1 or OP-2) to the appropriate address referenced on that form, or may submit it electronically or by mail separately to the address mentioned in this section.

(d) Only the legal name or a single trade name of the motor carrier may be used on the motor carrier identification report (Form MCS-150).

(e) A motor carrier that fails to file a Motor Carrier Identification Report, Form MCS-150, or furnishes misleading information or makes false statements upon Form MCS-150, is subject to the penalties prescribed in 49 U.S.C. 521(b)(2)(B).

(f) Upon receipt and processing of the Motor Carrier Identification Report, Form MCS-150, the FMCSA will issue the motor carrier an identification number (USDOT number). The motor carrier must display the number on each self-propelled CMV, as defined in §390.5, along with the additional information required by §390.21.

(g) A motor carrier that registers its vehicles in a State that participates in the Performance and Registration Information Systems Management (PRISM) program (authorized under section 4004 of the Transportation Equity Act for the 21st Century [(Public Law 105-178, 112 Stat. 107)]) is exempt from the requirements of this section, provided it files all the required information with the appropriate State office.

[Approved by the Office of Management and Budget under control number 2126-0013]

[53 FR 18052, May 19, 1988, as amended at 60 FR 38744, July 28, 1995; 65 FR 35296, June 2, 2000; 65 FR 70514, November 24, 2000; 66 FR 49873, Oct. 1, 2001; 67 FR 41, March 1, 2002]

49 CFR §390.29 Location of records or documents.

(a) A motor carrier with multiple offices or terminals may maintain the records and documents required by this subchapter at its principal place of business, a regional office, or driver work-reporting location unless otherwise specified in this subchapter.

(b) All records and documents required by this subchapter which are maintained at a regional office or driver work-reporting location shall be made available for inspection upon request by a special agent or authorized representative of the Federal Motor Carrier Safety Administration at the motor carrier's principal place of business or other location specified by the agent or representative **within 48 hours after a request is made**. Saturdays, Sundays, and Federal holidays are excluded from the computation of the 48-hour period of time.

[63 FR 33276, June 18, 1998; 66 FR 49873, Oct. 1, 2001]

49 CFR §390.31 Copies of records or documents.

(a) All records and documents required to be maintained under this subchapter must be preserved in their original form for the periods specified, unless the records and documents are suitably photographed and the microfilm is retained in lieu of the original record for the required retention period.

(b) To be acceptable in lieu of original records, photographic copies of records must meet the following minimum requirements:

(b)(1) Photographic copies shall be no less readily accessible than the original record or document as normally filed or preserved would be and suitable means or facilities shall be available to locate, identify, read, and reproduce such photographic copies.

(b)(2) Any significant characteristic, feature or other attribute of the original record or document, which photography in black and white will not preserve, shall be clearly indicated before the photograph is made.

(b)(3) The reverse side of printed forms need not be copied if nothing has been added to the printed matter common to all such forms, but an identified specimen of each form shall be on the film for reference.

(b)(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all

processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

(b)(5) Each roll of film shall include a microfilm of a certificate or certificates stating that the photographs are direct or facsimile reproductions of the original records. Such certificate(s) shall be executed by a person or persons having personal knowledge of the material covered thereby.

(c) All records and documents required to be maintained under this subchapter may be destroyed after they have been suitably photographed for preservation.

(d) Exception. All records except those requiring a signature may be maintained through the use of computer technology provided the motor carrier can produce, upon demand, a computer printout of the required data.

49 CFR §390.35 Certificates, reports, and records: falsification, reproduction, or alteration.

No motor carrier, its agents, officers, representatives, or employees shall make or cause to make —

(a) A fraudulent or intentionally false statement on any application, certificate, report, or record required by [Part 325](#) of subchapter A or this subchapter;

(b) A fraudulent or intentionally false entry on any application, certificate, report, or record required to be used, completed, or retained, to comply with any requirement of this subchapter or [Part 325](#) of Subchapter A; or

(c) A reproduction, for fraudulent purposes, of any application, certificate, report, or record required by this subchapter or [Part 325](#) of Subchapter A.

49 CFR §390.37 Violation and penalty.

Any person who violates the rules set forth in this subchapter or [Part 325](#) of Subchapter A may be subject to civil or criminal penalties.

PART 391 — QUALIFICATIONS OF DRIVERS

Authority: 49 U.S.C. 322, 504, 31133, 31136, and 31502; and 49 CFR 1.73.

49 CFR §391.1 Scope of the rules in this part; additional qualifications; duties of carrier drivers.

(a) The rules in this part establish minimum qualifications for persons who drive commercial motor vehicles as, for, or on behalf of motor carriers. The rules in this part

also establish minimum duties of motor carriers with respect to the qualifications of their drivers.

(b) A motor carrier who employs himself/herself as a driver must comply with both the rules in this part that apply to motor carriers and the rules in this part that apply to drivers.

[35 FR 6460, Apr. 22, 1970, as amended at 53 FR 18057, May 19, 1988; 60 FR 38744, July 28, 1995].

Subpart F — Files and Record

§391.51 General requirements for driver qualification files.

(a) Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his/her personnel file.

(b) The qualification file for a driver must include:

(b)(1) The driver's application for employment completed in accordance with [§391.21](#);

(b)(2) A written record with respect to each past employer who was contacted and a copy of the response by each State agency, pursuant to [§391.23](#) involving investigation and inquiries;

(b)(3) The certificate of driver's road test issued to the driver pursuant to [§391.31\(e\)](#), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to [§391.33](#);

(b)(4) The response of each State agency to the annual driver record inquiry required by [§391.25\(a\)](#);

(b)(5) A note relating to the annual review of the driver's driving record as required by [§391.25\(c\)\(2\)](#);

(b)(6) A list or certificate relating to violations of motor vehicle laws and ordinances required by [§391.27](#);

(b)(7) The medical examiner's certificate of his/her physical qualification to drive a commercial motor vehicle as required by [§391.43\(f\)](#) or a legible photographic copy of the certificate; and

(b)(8) A letter from the Field Administrator, Division Administrator, or State Director granting a waiver of a physical disqualification, if a waiver was issued under [§391.49](#).

(c) Except as provided in paragraph (d) of this section, each driver's qualification file shall be retained for as long as a driver is employed by that motor carrier and for three years thereafter.

(d) The following records may be removed from a driver's qualification file three years after the date of execution:

(d)(1) The response of each State agency to the annual driver record inquiry required by [§391.25\(a\)](#);

(d)(2) The note relating to the annual review of the driver's driving record as required by [§391.25\(c\)\(2\)](#);

(d)(3) The list or certificate relating to violations of motor vehicle laws and ordinances required by [§391.27](#);

(d)(4) The medical examiner's certificate of the driver's physical qualification to drive a commercial motor vehicle or the photographic copy of the certificate as required by [§391.43\(f\)](#); and

(d)(5) The letter issued under [§391.49](#) granting a waiver of a physical disqualification.

(Approved by the Office of Management and Budget under control number 2125-0065)

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970; 41 FR 36656, Aug. 31, 1976; 42 FR 37370, July 21, 1977; 45 FR 46424, July 10, 1980; 53 FR 18057, May 19, 1988; 59 FR 8752, Feb. 23, 1994; 59 FR 60323, Nov. 23, 1994; 60 FR 38745, July 28, 1995; 63 FR 33277, June 18, 1998; 66 FR 49874, Oct. 1, 2001]

49 CFR §391.53 Driver Investigation History File.

(a) After October 29, 2004, each motor carrier must maintain records relating to the investigation into the safety performance history of a new or prospective driver pursuant to paragraphs (d) and (e) of §391.23. This file must be maintained in a secure location with controlled access.

(a)(1) The motor carrier must ensure that access to this data is limited to those who are involved in the hiring decision or who control access to the data. In addition, the motor carrier's insurer may have access to the data, except the alcohol and controlled substances data.

(a)(2) This data must only be used for the hiring decision.

(b) The file must include:

(b)(1) A copy of the driver's written authorization for the motor carrier to seek

information about a driver's alcohol and controlled substances history as required under §391.23(d).

(b)(2) A copy of the response(s) received for investigations required by paragraphs (d) and (e) of §391.23 from each previous employer, or documentation of good faith efforts to contact them. The record must include the previous employer's name and address, the date the previous employer was contacted, and the information received about the driver from the previous employer. Failures to contact a previous employer, or of them to provide the required safety performance history information, must be documented.

(c) The safety performance histories received from previous employers for a driver who is hired must be retained for as long as the driver is employed by that motor carrier and for three years thereafter.

(d) A motor carrier must make all records and information in this file available to an authorized representative or special agent of the Federal Motor Carrier Safety Administration, an authorized State or local enforcement agency representative, or an authorized third party, upon request or as part of any inquiry within the time period specified by the requesting representative.

[69 FR 16684 March 30, 2004]

PART 396 — INSPECTION, REPAIR, AND MAINTENANCE

Authority: 49 U.S.C. 31133, 31136, and 31502; 49 CFR 1.73.

49 CFR §396.3 Inspection, repair and maintenance.

(a) **General** — Every motor carrier shall systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles subject to its control.

(a)(1) Parts and accessories shall be in safe and proper operating condition at all times. These include those specified in [Part 393](#) of this subchapter and any additional parts and accessories which may affect safety of operation, including but not limited to, frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems.

(a)(2) Pushout windows, emergency doors, and emergency door marking lights in buses shall be inspected at least every 90 days.

(b) **Required records** — For vehicles controlled for 30 consecutive days or more, except for a private motor carrier of passengers (nonbusiness), the motor carriers shall maintain, or cause to be maintained, the following record for each vehicle:

(b)(1) An identification of the vehicle including company number, if so marked, make, serial number, year, and tire size. In addition, if the motor vehicle is not owned by the motor carrier, the record shall identify the name of the person furnishing the vehicle;

(b)(2) A means to indicate the nature and due date of the various inspection and maintenance operations to be performed;

(b)(3) A record of inspection, repairs and maintenance indicating their date and nature; and

(b)(4) A record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses.

(c) **Record retention** — The records required by this section shall be retained where the vehicle is either housed or maintained for a period of 1 year and for 6 months after the motor vehicle leaves the motor carrier's control.

[44 FR 38526, July 2, 1979, as amended at 48 FR 55868, Dec. 16, 1983; 53 FR 18058, May 19, 1988; 59 FR 8753, Feb. 23, 1994; 59 FR 60324, Nov. 23, 1994].

49 CFR §396.11 Driver vehicle inspection report(s).

(a) **Report required.** Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day's work on each vehicle operated and the report shall cover at least the following parts and accessories:

Service brakes including trailer brake connections

Parking (hand) brake

Steering mechanism

Lighting devices and reflectors

Tires

Horn

Windshield wipers

Rear vision mirrors

Coupling devices

Wheels and rims

Emergency equipment

(b) **Report content.** The report shall identify the vehicle and list any defect or deficiency discovered by or reported to the driver which would affect the safety of operation of the vehicle or result in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report shall so indicate. In all instances, the driver shall sign the report. On two-driver operations, only one driver needs to sign the driver vehicle inspection report, provided both drivers agree as to the defects or deficiencies identified. If a driver operates more than one vehicle during the day, a report shall be prepared for each vehicle operated.

(c) **Corrective action.** Prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent shall repair any defect or deficiency listed on the driver vehicle inspection report which would be likely to affect the safety of operation of the vehicle.

(1) Every motor carrier or its agent shall certify on the original driver vehicle inspection report which lists any defect or deficiency that the defect or deficiency has been repaired or that repair is unnecessary before the vehicle is operated again.

(2) Every motor carrier shall maintain the original driver vehicle inspection report, the certification of repairs, and the certification of the driver's review for three months from the date the written report was prepared.

(d) **Exceptions.** The rules in this section shall not apply to a private motor carrier of passengers (nonbusiness), a driveaway-towaway operation, or any motor carrier operating only one commercial motor vehicle.

[44 FR 38526, July 2, 1979, as amended at 45 FR 46425, July 10, 1980; 53 FR 18058, May 19, 1988; 59 FR 8753, Feb. 23, 1994; 63 FR 33279, June 18, 1998].

49 CFR §396.13 Driver inspection.

Before driving a motor vehicle, the driver shall:

(a) Be satisfied that the motor vehicle is in safe operating condition;

(b) Review the last driver vehicle inspection report; and

(c) Sign the report, only if defects or deficiencies were noted by the driver who prepared the report, to acknowledge that the driver has reviewed it and that there is a certification that the required repairs have been performed. The signature requirement does not apply to listed defects on a towed unit which is no longer part of the vehicle combination.

[44 FR 76526, Dec. 27, 1979, as amended at 48 FR 55868, Dec. 16, 1983; 63 FR 33280, June 18, 1998].

49 CFR §396.17 Periodic inspection.

(a) Every commercial motor vehicle shall be inspected as required by this section. The inspection shall include, at a minimum, the parts and accessories set forth in [Appendix G](#) of this subchapter.

Note: The term commercial motor vehicle includes each vehicle in a combination vehicle. For example, for a tractor semitrailer, fulltrailer combination, the tractor, semitrailer, and the fulltrailer (including the converter dolly if so equipped) shall each be inspected.

(b) Except as provided in [§396.23](#), a motor carrier shall inspect or cause to be inspected all motor vehicles subject to its control.

(c) A motor carrier shall not use a commercial motor vehicle unless each component identified in Appendix G has passed an inspection in accordance with the terms of this section at least once during the preceding 12 months and documentation of such inspection is on the vehicle. The documentation may be:

(c)(1) The inspection report prepared in accordance with paragraph [§396.21\(a\)](#), or

(c)(2) Other forms of documentation, based on the inspection report (e.g., sticker or decal), which contains the following information:

(c)(2)(i) The date of inspection;

(c)(2)(ii) Name and address of the motor carrier or other entity where the inspection report is maintained;

(c)(2)(iii) Information uniquely identifying the vehicle inspected if not clearly marked on the motor vehicle; and

(c)(2)(iv) A certification that the vehicle has passed an inspection in accordance with [§396.17](#).

(d) A motor carrier may perform the required annual inspection for vehicles under the carrier's control which are not subject to an inspection under [§396.23\(b\)\(1\)](#).

(e) In lieu of the self inspection provided for in paragraph [\(d\)](#) of this section, a motor carrier may choose to have a commercial garage, fleet leasing company, truck stop, or other similar commercial business perform the inspection as its agent, provided that business operates and maintains facilities appropriate for commercial vehicle inspections and it employs qualified inspectors, as required by [§396.19](#).

(f) Vehicles passing roadside or periodic inspections performed under the auspices of any State government or equivalent jurisdiction or the FMCSA, meeting the minimum standards contained in Appendix G of this subchapter, will be considered to have met the requirements of an annual inspection for a period of 12 months commencing from the last day of the month in which the inspection was performed, except as provided in [§396.23\(b\)\(1\)](#).

(g) It shall be the responsibility of the motor carrier to ensure that all parts and accessories not meeting the minimum standards set forth in Appendix G to this subchapter are repaired promptly.

(h) Failure to perform properly the annual inspection set forth in this section shall cause the motor carrier to be subject to the penalty provisions provided by 49 U.S.C.521(b).

[53 FR 49410, Dec. 7, 1988; 53 FR 49968, Dec. 12, 1988, as amended at 54 FR 50725, Dec. 8, 1989; 66 FR 49874, Oct. 1, 2001]

49 CFR §396.19 Inspector qualifications.

(a) It shall be the motor carrier's responsibility to ensure that the individual(s) performing an annual inspection under [§396.17\(d\)](#) or [\(e\)](#) is qualified as follows:

(a)(1) Understands the inspection criteria set forth in 49 CFR [Part 393](#) and Appendix G of this subchapter and can identify defective components;

(a)(2) Is knowledgeable of and has mastered the methods, procedures, tools and equipment used when performing an inspection; and

(a)(3) Is capable of performing an inspection by reason of experience, training, or both as follows:

(a)(3)(i) Successfully completed a State or Federal sponsored training program or has a certificate from a State or Canadian Province which qualifies the person to perform commercial motor vehicle safety inspections, or

(a)(3)(ii) Have a combination of training and/or experience totaling at least 1 year. Such training and/or experience may consist of:

(a)(3)(ii)(A) Participation in a truck manufacturer sponsored training program or similar commercial training program designed to train students in truck operation and maintenance;

(a)(3)(ii)(B) Experience as a mechanic or inspector in a motor carrier maintenance program;

(a)(3)(ii)(C) Experience as a mechanic or inspector in truck maintenance at a commercial garage, fleet leasing company, or similar facility; or

(a)(3)(ii)(D) Experience as a commercial vehicle inspector for a State, Provincial or Federal Government.

(b) Evidence of that individual's qualifications under this section shall be retained by the motor carrier for the period during which that individual is performing annual motor vehicle inspections for the motor carrier, and for one year thereafter. However, motor carriers do not have to maintain documentation of inspector qualifications for those inspections performed either as part of a State periodic inspection program or at the roadside as part of a random roadside inspection program.

[53 FR 49410, Dec. 7, 1988; 53 FR 49968, Dec. 12, 1988].

49 CFR §396.25 Qualifications of brake inspectors.

(a) The motor carrier shall ensure that all inspections, maintenance, repairs or service to the brakes of its commercial motor vehicles, are performed in compliance with the requirements of this section.

(b) For purposes of this section, "brake inspector" means any employee of a motor carrier who is responsible for ensuring all brake inspections, maintenance, service, or repairs to any commercial motor vehicle, subject to the motor carrier's control, meet the applicable Federal standards.

(c) No motor carrier shall require or permit any employee who does not meet the minimum brake inspector qualifications of [§396.25\(d\)](#) to be responsible for the inspection, maintenance, service or repairs of any brakes on its commercial motor vehicles.

(d) The motor carrier shall ensure that each brake inspector is qualified as follows:

(d)(1) Understands the brake service or inspection task to be accomplished and can perform that task; and

(d)(2) Is knowledgeable of and has mastered the methods, procedures, tools and equipment used when performing an assigned brake service or inspection task; and

(d)(3) Is capable of performing the assigned brake service or inspection by reason of experience, training or both as follows:

(d)(3)(i) Has successfully completed an apprenticeship program sponsored by a State, a Canadian Province, a Federal agency or a labor union, or a training program approved by a State, Provincial or Federal agency, or has a certificate from a State or Canadian Province which qualifies the person to perform the assigned brake service or inspection

task (including passage of Commercial Driver's License air brake tests in the case of a brake inspection); or

(d)(3)(ii) Has brake related training or experience or a combination thereof totaling at least one year. Such training or experience may consist of:

(d)(3)(ii)(A) Participation in a training program sponsored by a brake or vehicle manufacturer or similar commercial training program designed to train students in brake maintenance or inspection similar to the assigned brake service or inspection tasks; or

(d)(3)(ii)(B) Experience performing brake maintenance or inspection similar to the assigned brake service or inspection task in a motor carrier maintenance program; or

(d)(3)(ii)(C) Experience performing brake maintenance or inspection similar to the assigned brake service or inspection task at a commercial garage, fleet leasing company, or similar facility.

(e) No motor carrier shall employ any person as a brake inspector unless the evidence of the inspector's qualifications, required under this section is maintained by the motor carrier at its principal place of business, or at the location at which the brake inspector is employed. The evidence must be maintained for the period during which the brake inspector is employed in that capacity and for one year thereafter. However, motor carriers do not have to maintain evidence of qualifications to inspect air brake systems for such inspections performed by persons who have passed the air brake knowledge and skills test for a Commercial Driver's License.

[56 FR 491, Jan. 7, 1991].

49 CFR §390.5 Definitions.

Unless specifically defined elsewhere, in this subchapter:

Accident means—

(1) Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:

(i) A fatality;

(ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

(2) The term accident does not include:

(i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or

(ii) An occurrence involving only the loading or unloading of cargo.

Alcohol concentration (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Bus means any motor vehicle designed, constructed, and or used for the transportation of passengers, including taxicabs.

Business district means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Charter transportation of passengers means transportation, using a bus, of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin.

Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

(1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or

(2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding

under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

Direct Assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel). It does not include transportation related to long term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

(1) Inclusions. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

(2) Exclusions.

(i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

(ii) Tire disablement without other damage even if no spare tire is available.

(iii) Headlamp or taillight damage.

(iv) Damage to turn signals, horn, or windshield wipers which makes them inoperative.

Driveaway-towaway operation means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the motor vehicle being transported are on the surface of the roadway during transportation.

Driver means any person who operates any commercial motor vehicle.

Driving a commercial motor vehicle while under the influence of alcohol means committing any one or more of the following acts in a CMV: Driving a CMV while the person's alcohol concentration is 0.04 or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of Table 1 to [§383.51](#) or [§392.5\(a\)\(2\)](#) of this

subchapter.

Emergency means any hurricane, tornado, storm (e.g. thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado or other event results in:

(1) A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by the FMCSA Field Administrator Director of Motor Carriers for the geographical area in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies; or

(2) A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

Emergency relief means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this section.

Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle), a mechanic, and a freight handler. Such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment.

Employer means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a State, or an agency established under a compact between States approved by the Congress of the United States.

Exempt intracity zone means the geographic area of a municipality or the commercial zone of that municipality described in Appendix F to Subchapter B of this Chapter. The term "exempt intracity zone" does not include any municipality or commercial zone in the State of Hawaii. For purposes of [§391.62](#), a driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to

or from a point without such zone.

Exempt motor carrier means a person engaged in transportation exempt from economic regulation by the Federal Motor Carrier Safety Administration (FMCSA) under 49 U.S.C. 13506, "Exempt motor carriers" are subject to the safety regulations set forth in this subchapter.

Farm vehicle driver means a person who drives only a commercial motor vehicle that is —

- (a) Controlled and operated by a farmer as a private motor carrier of property;
- (b) Being used to transport either —
 - (1) Agricultural products, or
 - (2) Farm machinery, farm supplies, or both, to or from a farm;
- (c) Not being used in the operation of a for-hire motor carrier;
- (d) Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with §177.823 of this subtitle; and
- (e) Being used within 150 air miles of the farmer's farm.

Farmer means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which —

- (a) Are owned by that person; or
- (b) Are under the direct control of that person.

Fatality means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident.

Federal Motor Carrier Safety Administrator means the chief executive of the Federal Motor Carrier Safety Administration, an agency within the Department of Transportation.

FMCSA Field Administrator means the Field Administrator, Federal Motor Carrier Safety Administration, for a given geographical area of the United States.

For-hire motor carrier means a person engaged in the transportation of goods or passengers for compensation.

Gross combination weight rating (GCWR) means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the

absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

Hazardous material means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

Hazardous substance means a material, and its mixtures or solutions, that is identified in the appendix to §172.101, List of Hazardous Substances and Reportable Quantities, of this title when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in §171.8 of this title, based on the reportable quantity (RQ) specified for the materials listed in the Appendix to §172.101.

Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR Part 123, Subpart F.

Highway means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

Interstate commerce means trade, traffic, or transportation in the United States—

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

Intrastate commerce means any trade, traffic, or transportation in any State which is not described in the term "interstate commerce."

Medical examiner means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.

Motor carrier means a for hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms **employer** and **exempt motor carrier**.

Motor vehicle means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

Multiple-employer driver means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier.

Operator— See driver.

Other terms— Any other term used in this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this subchapter. In that event, the definition therein given shall apply.

Out-of-service order means a declaration by an authorized enforcement officer of a Federal, State, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out of service pursuant to [§§386.72](#), [§392.5](#), [§395.13](#), [§396.9](#), or compatible laws, or the North American Uniform Out-of-Service Criteria.

Person means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

Principal place of business means the single location designated by the motor carrier, normally its headquarters, for purposes of identification under this subchapter. The motor carrier must make records required by [parts 382](#), [387](#), [390](#), [391](#), [395](#), [396](#), and [397](#) of this subchapter available for inspection at this location within 48 hours (Saturdays, Sundays, and Federal holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Motor Carrier Safety Administration.

Private motor carrier means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier.

Private motor carrier of passengers (business) means a private motor carrier engaged in the interstate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large.

Private motor carrier of passengers (nonbusiness) means private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business).

Radar detector means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

- (1) Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the driver's compartment of a passenger carrying CMV shall include all space designed to accommodate both the driver and the passengers; and
- (2) Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle.

Residential district means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences.

School bus means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students to such schools from home or from such schools to home.

School bus operation means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.

Secretary means the Secretary of Transportation.

Single-employer driver means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis.

Special agent: See Appendix B to Subchapter B — Special agents.

State means a State of the United States and the District of Columbia and includes a political subdivision of a State.

Trailer includes:

(a) **Full trailer** means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self propelled towing motor vehicle. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer.

(b) **Pole trailer** means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing motor vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing motor vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.

(c) **Semitrailer** means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self propelled towing motor vehicle.

Truck means any self propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property.

Truck tractor means a self propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles.

United States means the 50 States and the District of Columbia.

[53 FR 18052, May 19, 1988, as amended at 53 FR 39051, Oct. 4, 1988; 53 FR 47543, Nov. 23, 1988; 55 FR 32916, Aug. 13, 1990; 55 FR 35435, Aug. 27, 1990; 57 FR 33278, July 28, 1992; 57 FR 33646, July 30, 1992; 58 FR 6729, Feb. 2, 1993; 58 FR 33777, June 21, 1993; 58 FR 59196, Nov. 8, 1993; 58 FR 67375, Dec. 21, 1993; 59 FR 8752, Feb. 23, 1994; 59 FR 26028, May 18, 1994; 59 FR 60323, Nov. 23, 1994; 60 FR 38743, July 28, 1995; 60 FR 44440, Aug. 28, 1995; 62 FR 16709, Apr. 8, 1997; 62 FR 49942, Sept. 24, 1997; 63 FR 33276, June 18, 1998; 64 FR 48516, Sept 3, 1999; 66 FR 2766, January 11, 2001; 66 FR 49873, Oct. 1, 2001; 67 fr 49764, Jul. 31, 2002]

**If requesting examination of the vehicle:
Recordkeeping Requirements of the Federal Motor Carrier Safety Regulations**

The following table summarizes the recordkeeping requirements of the Federal Motor Carrier Safety Regulations under 49 CFR Parts 40, 382, 383, 387, and 390-399. See also §390.29 for general recordkeeping requirements, and §390.31 for information

concerning photocopies.

DOCUMENT(S) TO BE RETAINED	RETENTION PERIOD	RETENTION LOCATION
Drugs & Alcohol (Parts 40 and 382)		
<p>Records related to the education and training of:</p> <ul style="list-style-type: none"> • breath alcohol technicians (BATs), • screening test technicians (STTs), • supervisors, and • drivers. <p>Required documentation includes:</p> <ul style="list-style-type: none"> • Materials on drug and alcohol awareness, including a copy of company policy; • Documentation of compliance with requirement to provide drivers with educational material, including driver's signed receipt of materials; • Documentation of supervisor training; • Documentation of BAT training (§40.51(a)); and • Certification that training complies with the rules. <p>See §40.333 and §382.401.</p>	<p>2 years after the individual ceases to perform those functions</p>	
<ol style="list-style-type: none"> 1. Alcohol test results* with concentration of 0.02 or more; 2. Verified positive drug test results*; 3. Documentation of refusals; 4. Calibration documentation; 5. Evaluation and referral records, including: <ul style="list-style-type: none"> ○ Records pertaining to SAP's determination of a need for assistance, and ○ Records concerning a driver's compliance with SAP's recommendations; and 6. Records related to program administration, including: <ul style="list-style-type: none"> ○ Agreements with collection sites, labs, BATs, MROs, and consortia; ○ Names and positions of officials and their role in the employer's testing program; ○ Semiannual laboratory statistical summaries of urinalysis (§40.111(a)); and ○ Company testing policy and procedures; and 	<p>5 years</p>	

<p>7. Annual calendar year summary.</p> <p>*“Test results” includes:</p> <ul style="list-style-type: none">• Copy of alcohol test form, with results;• Copy of drug test chain of custody form;• Documents sent to the employer by the MRO;• Documentation of any refusal to submit;• Documents provided by a driver to dispute results; and• Previous employer test results (see §§<u>382.301(c) 40.25</u>, and <u>391.23</u>). <p>See §<u>40.333</u> and §<u>382.401</u>.</p>		
<p>Records related to the collection process (except EBT calibration records):</p> <ul style="list-style-type: none">• Collection logbooks (if used);• Documents related to the random selection process;• Documentation of BAT training;• Documentation of reasoning for reasonable suspicion testing;• Documentation of reasoning for post–accident testing;• Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing; and• Consolidated annual calendar year summaries. <p>See §<u>40.333</u> and §<u>382.401</u>.</p>	2 years	
<p>1. Negative and cancelled drug test results*, and 2. Alcohol test results* with concentration less than 0.02.</p> <p>*“Test results” includes:</p> <ul style="list-style-type: none">• Copy of alcohol test form, with results;• Copy of drug test chain of custody form;• Documents sent to the employer by the MRO;• Documentation of any refusal to submit;• Documents provided by a driver to dispute results; and• Previous employer test results (see §§<u>382.301(c) 40.25</u>, and <u>391.23</u>)	1 year	

See <u>§40.333</u> and <u>§382.401</u> .		
<p>For employers using the exception to pre-employment testing in <u>§382.301(b)</u>:</p> <ul style="list-style-type: none"> • Names and addresses of the testing programs in which the prospective employee participated; • Verification that the driver participates or participated in the program(s); • Verification that the program(s) conforms to <u>Part 40</u>; • Verification that the driver is qualified under the rules of Part 40, including that the driver has not refused to be tested for controlled substances; • The date the driver was last tested for controlled substances; and • The results of any tests taken within the previous six months and any other violations of <u>Subpart B</u>. <p>Note: An employer who uses but does not employ a driver more than once per year to operate CMVs must obtain the above information at least once every six months.</p> <p>See <u>§382.301(c)</u>.</p>	5 years for any positive results, 1 year for negative results	
Driver Training (Part 380)		
Entry-level driver training certificate (<u>§380.509</u>).	Employment + 1 year	Personnel or Driver Qualification file
Longer Combination Vehicle (LCV) Driver-Training Certificate (<u>§380.401</u>) or Certificate of Grandfathering (<u>§380.111</u>).	Unspecified	Driver Qualification file
<p>LCV driver-instructor qualification file, including:</p> <ul style="list-style-type: none"> • Evidence that the instructor has met the requirements of <u>§380.301</u> or <u>§380.303</u>; and • A copy of the individual's currently valid CDL with the appropriate endorsements. (<u>§391.55</u>) 	For as long as the company employs or uses the instructor	LCV Driver-Instructor Qualification file or personnel file
CDLs (Part 383)		
Notification for conviction for driver violations. Must include the information listed in <u>§383.31(c)</u> .	3 years	Driver Qualification file
Note: Notifications of CDL suspensions (<u>§383.33</u>) have		

<p>no recordkeeping requirements.</p> <p>See <u>§383.31</u> and the interpretations to <u>§391.27</u>.</p>		
<p>Financial Responsibility (Part 387)</p>		
<ol style="list-style-type: none"> 1. Current Form MCS-90 or MCS-82, or an FMCSA document authorizing self-insurance, for motor carriers. 2. Current Form MCS-90B or MCS-82B for passenger carriers. <p>See <u>§387.7(d)</u> and <u>§387.31(d)</u>.</p>	<p>Unspecified</p>	<p>Principal place of business</p>
<p>Accidents (Part 390)</p>		
<ol style="list-style-type: none"> 1. Accident register. 2. Copies of accident reports required by states, other governmental entities, or insurers. <p>See <u>§390.15(b)</u>.</p>	<p>3 years (or one year for accidents occurring on or before 4/29/03)</p>	<p>Unspecified</p>
<p>Driver Qualification (Part 391)</p>		
<ol style="list-style-type: none"> 1. Application for employment (<u>§391.21</u>), 2. Initial 3-year motor vehicle record from state(s) (<u>§391.23(a)(1)</u>) (must be obtained within 30 days of employment), 3. Road test form and certificate (<u>§391.31(g)</u>), or license or certificate accepted in lieu of road test (<u>§391.33</u>), 4. Medical exam certificate (original or a copy)* (<u>§391.43(g)</u>), 5. Any letter granting a waiver of a physical disqualification*, 6. Annual driving record* (<u>§391.25(a)</u>), 7. Note relating to annual review* (<u>§391.25(c)(2)</u>), 8. Drivers' list of violations* (<u>§391.27</u>), 9. Previous-employer inquiries for drivers hired before October 30, 2004 (<u>§391.23</u>), 10. Certificate of training, for drivers transporting highway route controlled Class 7 (radioactive) materials (<u>§397.101(e)</u>), and 11. Any other matter relating to a driver's qualifications or ability to drive a motor vehicle safely. <p>*The following may be removed 3 years after execution:</p>	<p>Employment + 3 years</p>	<p>Driver Qualification file</p> <p>Note: May be combined with personnel file.</p> <p>Note: The long medical exam form is to be kept in the office of the medical examiner (see Medical Qualification, below).</p>

<ul style="list-style-type: none"> • Medical examiner's certificate, • Annual motor vehicle record from state(s), • Note relating to annual review of driving record, • Annual list of violations (prepared by the driver), and • Letter granting a waiver of a physical disqualification. <p>See <u>§391.51</u>.</p>		
<p>Safety performance history of driver/applicants (i.e., previous employer information), including name and address, date of contact (or attempts made), and information received about a driver/applicant (<u>§391.23</u>) (must be placed into file within 30 days of hire).</p> <p>A copy of the driver's written authorization for the motor carrier to seek information about a driver's alcohol and controlled substances history as required under <u>§391.23(d)</u>.</p> <p>Corrections or rebuttals received from former or current drivers concerning their safety performance histories (<u>§391.23(j)</u>) (should be placed in appropriate file where corrected or rebutted information is stored).</p> <p>NOTE: Drug/alcohol inquiries sent to a driver's former employer(s) in compliance with <u>§391.23</u> are deemed to be in compliance with the inquiries required under <u>§40.25(b)</u>.</p>	<p>Employment + 3 years</p>	<p>Driver Investigation History File in a secure location with controlled access</p> <p>Note: May be combined with personnel file, Driver Qualification file, Drug/Alcohol file, etc., but must be in a secure location with limited access.</p>
<p>A record of each inquiry received from other employers concerning a driver's safety performance history, and the response, including the date, the party to whom it was released, and a summary identifying what was provided (<u>§391.23(g)(4)</u>).</p>	<p>One year</p>	<p>Unspecified</p>
<p>Multiple-employer drivers (Part 391)</p>		
<p>Keep the following records for a multiple-employer driver:</p> <ul style="list-style-type: none"> • Medical exam certificate, original or a copy (<u>§391.43(g)</u>), • Road test form and certificate (<u>§391.31(g)</u>), or license or certificate accepted in lieu of road test (<u>§391.33</u>), • Driver's name and Social Security number, and 	<p>Employment + 3 years</p>	<p>Driver Qualification file</p>

<ul style="list-style-type: none"> • Identification number, type, and issuing state of motor vehicle operator's license. <p>See <u>§391.63</u>.</p>		
Drivers from other employers (Part 391)		
<p>For drivers furnished by other motor carriers, keep the signed certificate required in <u>§391.65(a)(2)</u>.</p> <p>See <u>§391.65</u>.</p>	<p>3 years</p>	<p>Driver Qualification file</p>
Medical Qualification (Part 391)		
<p>Driver must carry the original or a copy of the medical examiner's certificate.</p> <p>Note: The medical "long form" is not required. The long form is supposed to stay in the medical examiner's files (see the last paragraph of "Instructions for performing and Recording Physical Examinations" in <u>§391.43</u>).</p> <p>See <u>§391.41(a)</u>.</p>	<p>Continuously</p>	<p>On driver's person</p>
Hours of Service (Part 395)		
<p>For all 100-air-mile and 150-air-mile radius drivers, "accurate and true time records" showing:</p> <ul style="list-style-type: none"> • The time the driver reports for duty each day, • The time the driver is released from duty each day, • Total number of hours on duty each day, and • Total time on duty for the preceding 7 days for drivers used for the first time or intermittently. <p>See <u>§395.1(e)</u>.</p>	<p>6 months</p>	<p>Unspecified</p>
<p>For drivers used intermittently, a signed statement giving:</p> <ul style="list-style-type: none"> • The total time on duty during the immediately preceding 7 days, and • The time at which the driver was last relieved from duty. <p>See <u>§395.8(j)(2)</u>.</p>	<p>6 months</p>	<p>Unspecified</p>
<p>Records of duty status (driver logs) and all supporting documents. "Supporting documents" are listed in <u>Question 10 in the interpretations to Sec. 395.8</u>. Logs must be submitted within 13 days of completion</p>	<p>6 months from date of receipt</p>	<p>Unspecified</p>

<p>(§395.8(i)).</p> <p>See §395.8(k)(1).</p>		
<p>A copy of each log for the previous 7 consecutive days (whether hand-written or electronic)</p> <p>See §395.8(k)(2) and §395.15(b)(4).</p>	7 days	In vehicle
<p>For companies using on-board recording devices that use location codes instead of city/state information, a list of the location codes showing all possible location identifiers.</p> <p>See §395.15(d)(2).</p>	Unspecified	In vehicle and at principal place of business.
<p>For drivers using on-board recording devices:</p> <ul style="list-style-type: none"> • An instruction sheet describing in detail how data may be stored and retrieved from the automatic on board recording system; and • A supply of blank driver's records of duty status graph grids sufficient to record the driver's duty status and other related information for the duration of the current trip. <p>See §395.15(g).</p>	Unspecified	In vehicle
<p>For companies using on-board recording devices, "a certificate obtained from the manufacturer certifying that the design of the automatic on board recorder has been sufficiently tested to meet the requirements of this section and under the conditions it will be used."</p> <p>See §395.15(i)(1).</p>	Unspecified	Unspecified
<p>For companies using on-board recording devices, a second (back-up) copy of the electronic hours-of-service files, by month.</p> <p>See §395.15(i)(10).</p>	6 months	A different physical location than where the original data is stored
<p>Inspections/Maintenance (Part 396)</p>		
<p>For any motor vehicle controlled for 30 days or more:</p> <ul style="list-style-type: none"> • An identification of the vehicle including co. number (if so marked), make, serial number, year, and tire size, and vehicle owner's name if the motor carrier does not own the vehicle; 	1 year and for 6 months after the vehicle leaves your control	Where the vehicle is either housed or maintained

<ul style="list-style-type: none"> • A means to indicate the nature and due date of the various inspection and maintenance operations to be performed; • A record of inspection, repairs and maintenance indicating their date and nature; and • A record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses. <p>See <u>§396.3(b)</u>.</p>		
<p>Copy of roadside inspection form.</p> <p>See <u>§396.9(d)(3)(ii)</u>.</p>	12 months from date of inspection	Principal place of business or where vehicle is housed
<ol style="list-style-type: none"> 1. Original DVIR (driver's vehicle inspection report), 2. Certificate of repairs, and 3. Certification of driver's review. <p>Note pre-trip requirements in <u>§392.7</u> and <u>§396.13</u>. Only <u>§396.13</u> has recordkeeping requirements.</p> <p>See <u>§396.11(c)(2)</u> and <u>Question 18</u> in the interpretations.</p>	3 months	Principal place of business or where vehicle is housed or maintained
<p>Documentation of periodic inspection (a report or other document such as a sticker or decal).</p> <p>See <u>§396.17(c)</u> and <u>§396.23(a)</u>.</p>	Continuously	In or on vehicle
<p>Evidence of an individual's qualifications to conduct annual inspections.</p> <p>See <u>§396.19(b)</u>.</p>	Until 1 year after employee stops performing inspections	Unspecified
<p>Periodic inspection report (original or copy).</p> <p>See <u>§396.21(b)(1)</u>.</p>	14 months	Where the vehicle is housed or maintained
<p>Evidence of a brake inspector's qualifications.</p> <p>See <u>§396.25(e)</u>.</p>	Until 1 year after employee stops performing inspections	Principal place of business or where employee is based
<p>Hazardous Materials (Part 397)</p>		
<p>Signed receipt documenting that hazmat driver has received a copy of the regulations and emergency instructions per <u>§397.19(a)</u>. Applies to transportation of explosives only. See <u>§397.19(b)</u>.</p>	1 year	Unspecified
<p>A written route plan, for transporting highway route controlled Class 7 (radioactive) materials, per <u>§397.101(d)</u>.</p>	Unspecified.	In driver's possession, and filed with the

		FMCSA and shipper.
Certificate of training, for drivers transporting highway route controlled Class 7 (radioactive) materials, per <u>§397.101(e)</u> .	Employment + 3 years	Driver Qualification file, and in driver's immediate possession
Other (Part 379)		
Business records. See <u>Part 379</u> for details. This regulation is a "holdover" from when the Interstate Commerce Commission regulated trucking (before the FMCSA was created).	See regulation	See regulation

IF REQUESTING VEHICLE EXAMINATION:

General Non-Destructive vehicle examination

1. Provide access to the vehicle to include the ignition key and other keys or access codes as may be necessary to examine the vehicle, its mechanical components, operator area and controls to include but not limited to the exterior, interior and storage compartments.
2. Examination of mechanical or electronic on-board recording Electronic Control Module (ECM) or Motor Vehicle Event Data Recorder (MVEDR) commonly referred to as a "black box" or any other data link of the subject vehicle to include but not be limited to devices such as Cummins Celect™, Cummins Quik-Link®, NEXIQ Pro-Link®, Detroit Diesel Pro Driver®, Detroit Diesel DDEC III® & DDEC IV®, Caterpillar Fleet Information System®, Caterpillar ADEM® or any similar device (if your vehicles are so equipped). Agreement must be made in advance for protocol in the downloading of any such device. In the event downloading is to occur at a separate time and/or location, documentation shall be allowed at the time of this non-destructive examination to include cleaning of model number, serial number or similar identification number labels or plates.
3. Provide access to the vehicle to start the engine, charge the air reservoirs and allow brake system examination and testing.
4. If the vehicle's engine cannot be started or the air brake system has been compromised so it will not retain air pressure, remote air pressure supply may be used to charge the system for examination and testing.
5. Air pressure supply lines and air pressure gauges may be inserted at points that will not change adjustment of the foundation brakes of the subject vehicle.

6. The vehicle may be moved or lifted onto portable scales for the purpose of ascertaining the vehicle weight.
7. Cleaning of part number, serial number plates, stickers, imprints, date of manufacture, vehicle Federal Motor Vehicle Safety Standard certification labels, Gross Vehicle Weight Rating, Gross Axle Weight Rating, second stage manufacturer certification or similar items. Photographs of the area to be examined shall be photographed before and after cleaning of the area of interest.
8. Items of evidence to include but not limited to, documents, receipts, medications, permits, shipping papers, toll receipts, driver notes or similar items located that may be lost, contaminated, suppressed, secreted or destroyed will be identified, photographed and turned over to appropriate representatives of the parties using reasonable and accepted evidence storage practices.