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# Driving Excellence: Navigating Regulatory Compliance in the Limo Industry With FMCSA Insights

*Clifton Willey and Roger Lutz of  
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# FMCSA PASSENGER CARRIER REGULATORY UPDATE



Clifton Willey / Roger Lutz

Commercial Passenger Carrier Division  
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## §390.3 General Applicability

- Subchapter B is applicable to all employers, employees, and commercial motor vehicles, which transport property or passengers in interstate commerce.
- Commercial motor vehicle (CMV) in interstate commerce to transport passengers or property when the vehicle—
  - GVWR or GCWR of 10,001 pounds or more; or
  - Designed or used to transport more than 8 passengers (including the driver) for compensation; or
  - Designed or used to transport more than 15 passengers, including the driver, and not for compensation; or
  - Used to transport hazardous material in a quantity requiring placarding.





# Understanding Commercial Regulations

- When considering the applicability of the commercial regulations, the definition of Interstate Commerce is not restricted based on vehicle weight or passenger capacity.
  - Therefore, any for-hire passenger vehicle, including those with a capacity of 8 or less, operating in **Interstate Commerce** should comply with the Commercial Regulations unless there is an exemption for the type of service. (49 U.S.C. § 13506(a))
- 



# Minimum Levels of Financial Responsibility

Insurance levels are governed by passenger capacity, 49 CFR 387.

- \$1.5M for 15 or fewer (including the driver)
- \$5M for 16 or more (including the driver)
- Applicability Exceptions in § 387.27
- Federal Transit Administration grantees - § 387.33
  - 49 USC 5307, 5310 and/or 5311
  - Insurance levels determined by area of operation – the highest applicable State requirement





# Hours of Service: Exceptions

- School Bus Operations and Government Entities
- Emergency Declaration (390.23)
- Private Motor Carrier of Passengers Non-Business (recordkeeping)
- Passenger Carriers using the short-haul exception are not required to use a RODS or ELDs (§395.1(e)(1))
- Adverse Driving Conditions
  - Up to 2 additional hours driving
  - Up to 2 additional hours for the duty day (on-duty and driving time combined)







# Adverse Driving Conditions

- **Adverse Driving Conditions** means snow, ice, sleet, fog, or other adverse weather conditions or unusual road or traffic conditions that were not known, or could not reasonably be known, to a driver immediately prior to beginning the duty day or immediately before beginning driving after a qualifying rest break or sleeper berth period, or to a motor carrier immediately prior to dispatching the driver.
- **Allows for a driver** to complete the run **or** to reach a place offering safety for the driver and passengers.





# Hours of Service: Short-Haul Exception

## **To Use the Short-Haul Exception, the CMV Driver Must:**

- Operate within a 150 air-miles radius
  - Start and end shift in the same location/Not exceed 10 hours driving
- Not exceed a maximum duty period of 14 hours
- Have at least 8 hours off between shifts
- Include the start and end times and the total hours on-duty on a time record for the day





# Hours of Service: Short-Haul Exception

- While operating under the short-haul exception, drivers are not required to fill out a log with a graph grid or use an ELD, they can use a time record instead.
- The motor carrier must keep a time record including the driver's time in, time out, and total number of hours on duty each day.
  - Time must include the total time for the 7 preceding days (1st time/intermittently)
  - Records must be maintained for 6 months





# Hours of Service: Short-Haul Exception

- When a driver no longer meets the exception, (drives too far or works too many hours), the driver must complete a paper record of duty status or use an ELD for the day (§395.8)
  - If driver is required to complete a record of duty status:
    - 8 or fewer days within the last 30 days then the driver can use paper record of duty status with a graph grid.
    - More than 8 days within the last 30 days then the driver must use an ELD to record time for that day. (Year Model 2000 and newer)





# Passenger Hours of Service Rules

## PASSENGER-CARRYING DRIVERS

### **10-Hour Driving Limit**

May drive a maximum of 10 hours after 8 consecutive hours off duty.

### **15-Hour On-Duty Limit**

May not drive after having been on duty for 15 hours, following 8 consecutive hours off duty. Off-duty time is not included in the 15-hour period.

### **60/70-Hour On-Duty Limit**

May not drive after 60/70 hours on duty in 7/8 consecutive days.

### **Sleeper Berth Provision**

Drivers using a sleeper berth must take at least 8 hours in the sleeper berth, and may split the sleeper berth time into two periods provided neither is less than 2 hours.





# Travel Time

- 395.1(j) Travel time
- (2) When a passenger-carrying **commercial motor vehicle driver** at the direction of the motor carrier is *traveling, but not driving* or assuming any other responsibility to the carrier, such time must be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at destination, in which case he/she must be considered off duty for the entire period.
- *Traveling, but not driving...* – Driving is not limited to operating a CMV





# Personal Conveyance

## What Is Personal Conveyance?

- The movement of a commercial motor vehicle (CMV) for personal use while off-duty.
- A driver may record time operating a CMV for personal conveyance as off-duty **only when the driver is relieved from work and all responsibility for performing work by the motor carrier.**





# Personal Conveyance

## Motor Carrier's Responsibility:

- Ensure driver is in compliance with the hours-of-service regulations – not operating a vehicle while ill or fatigued – regardless of the amount of driving and working time.
- A company may have policy that is more restrictive than the regulation and guidance.
  - Time and/or distance
  - Not allow personal conveyance at anytime







# Personal Conveyance

## **Driver's Responsibility:**

- Record start and end time of personal conveyance
- Annotation or select off duty on the ELD then the Personal conveyance feature
- Comply with hours-of-service rules
- Don't drive while fatigued





# Personal Conveyance Guidance

## Proper Use of Personal Conveyance:

1. Time spent traveling to a **nearby, reasonably, safe location** to obtain required rest after loading or unloading.
2. Time spent traveling from a driver's en route lodging to restaurants and entertainment facilities. **Must allow the driver adequate time to obtain the required rest** - minimum off-duty periods under 49 CFR 395.5(a) - before returning to on-duty driving, and **the resting location must be the first such location reasonably available.**



# Personal Conveyance Guidance

3. Commuting between the driver's terminal and his or her residence, between trailer-drop lots and the driver's residence, and between work sites and his or her residence.
4. Moving a CMV at the request of a safety official during the driver's off-duty time.
5. Time spent transporting personal property while off-duty.





# Personal Conveyance Guidance

6. Authorized use of a CMV to travel home after working at an offsite location.
7. Time spent traveling in a motorcoach **without passengers** to en route lodging or to restaurants and entertainment facilities and back to the lodging.
  - In this scenario, the driver of the motorcoach can claim personal conveyance provided the driver is **off-duty**.
  - Other off-duty drivers may be on board the vehicle and are not considered passengers.



# Personal Conveyance Guidance

## Improper Use of Personal Conveyance:

1. The movement of a CMV in order to enhance the operational readiness of a motor carrier. For example, **bypassing available resting locations** in order to get closer to the next loading or unloading point or other scheduled motor carrier destination.
2. Time spent **transporting** a CMV to a facility **for vehicle maintenance**.
3. Continuation of a CMV trip in interstate commerce in order to fulfill a business purpose, including bobtailing or operating with an empty trailer in order to retrieve another load or **repositioning a CMV at the direction of the motor carrier**.





# Personal Conveyance Guidance

4. Time spent **driving a passenger-carrying CMV while passenger(s) are on board**. Off-duty drivers are not considered passengers when traveling to a common destination of their own choice within the scope of this guidance.
5. After being placed out of service for exceeding the maximum periods permitted under part 395, time spent driving to a location to obtain required rest, unless so directed by an enforcement officer at the scene.



# Personal Conveyance Guidance

6. Time spent traveling to a motor carrier's terminal after loading or unloading from a shipper or a receiver.
7. Time spent operating a motorcoach when luggage is stowed, the passengers have disembarked, and **the driver has been directed to deliver the luggage.**





# On-Duty Components

- Off duty is the opposite of “on duty” as defined in the regulations.
- “On duty” is defined in 49 CFR 395.2.
- Basic principle of “on duty”:

***“On-duty time” means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work.***





# On-Duty Components

1. All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
2. All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
3. All driving time as defined in the term driving time;



# On-Duty Components

4. All time in or on a commercial motor vehicle, *other than*:
  - Time spent resting in or on a parked vehicle, except as otherwise provided in §397.5 of this subchapter
  - Time spent resting in a sleeper berth
  
5. All time loading or unloading a CMV, supervising, or assisting in the loading or unloading, attending a CMV being loaded or unloaded, remaining in readiness to operate the CMV, or in giving or receiving receipts for shipments (groups) loaded or unloaded.



# On-Duty Components

6. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, to comply with the CST and alcohol testing required by part 382 when directed by a motor carrier;
7. All time repairing, obtaining assistance, or remaining in attendance upon a CMV;
8. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, to comply with the CST and alcohol testing required by part 382 when directed by a motor carrier;
9. Performing any other work in the capacity, employ, or service of, a motor carrier;
10. Performing any compensated work for a person who is not a motor carrier. *(example...home-to-school)*

# Who Needs to Comply with Controlled Substances and Alcohol Testing ?

**If your business operates any of the following commercial motor vehicles, you must comply with FMCSA's controlled substances and alcohol regulations:**

- Operate a van, bus or motorcoach that transports 16 or more passengers, including the driver in intrastate or interstate commerce.
- Operate a van or a bus with a G.V.W.R. in excess of 26,000 LBS.
- Operate a van or bus, pulling a trailer where the combined weight rating exceeds 26,000 LBS and the trailer's weight exceeds 10,000 LBS.



# How to Comply with FMCSA's Controlled Substances and Alcohol Regulations

**Step 1: Conduct a DOT Pre-employment Controlled Substances Test on New Hire CDL Drivers.** You must acquire a Negative test result before allowing your drivers to operate your CDL required vehicles.


**Step 2: Enroll All CDL Drivers in a DOT Random Alcohol and Controlled Substances Program.** Drivers must provide FMCSA approval prior to releasing Full Query information to your business.

- **Ensure drivers are added or removed from the random program eligibility prior to generating next quarter list.**
- **Ensure selected drivers are tested within the required timeframe.**






# Managerial Requirements

- **Identify your designated employer representative (DER).**
  - **Develop your business specific Controlled Substances and Alcohol Testing policy.**
  - **Identify key employees who need to be trained in FMCSA's Reasonable Suspicion Testing Procedures; obtain certification.**
- 



# Reasonable Suspicion Testing

- **Reasonable Suspicion trained employer with firsthand observation of an employee under the influence of alcohol or controlled substance.**
  - **Must be based on specific, articulable observations: appearance, behavior, speech, or body odors.**
  - **A written record of the specific observations must be created and signed by the trained employer within 24 hours.**
- 

# DOT Post-Accident Testing

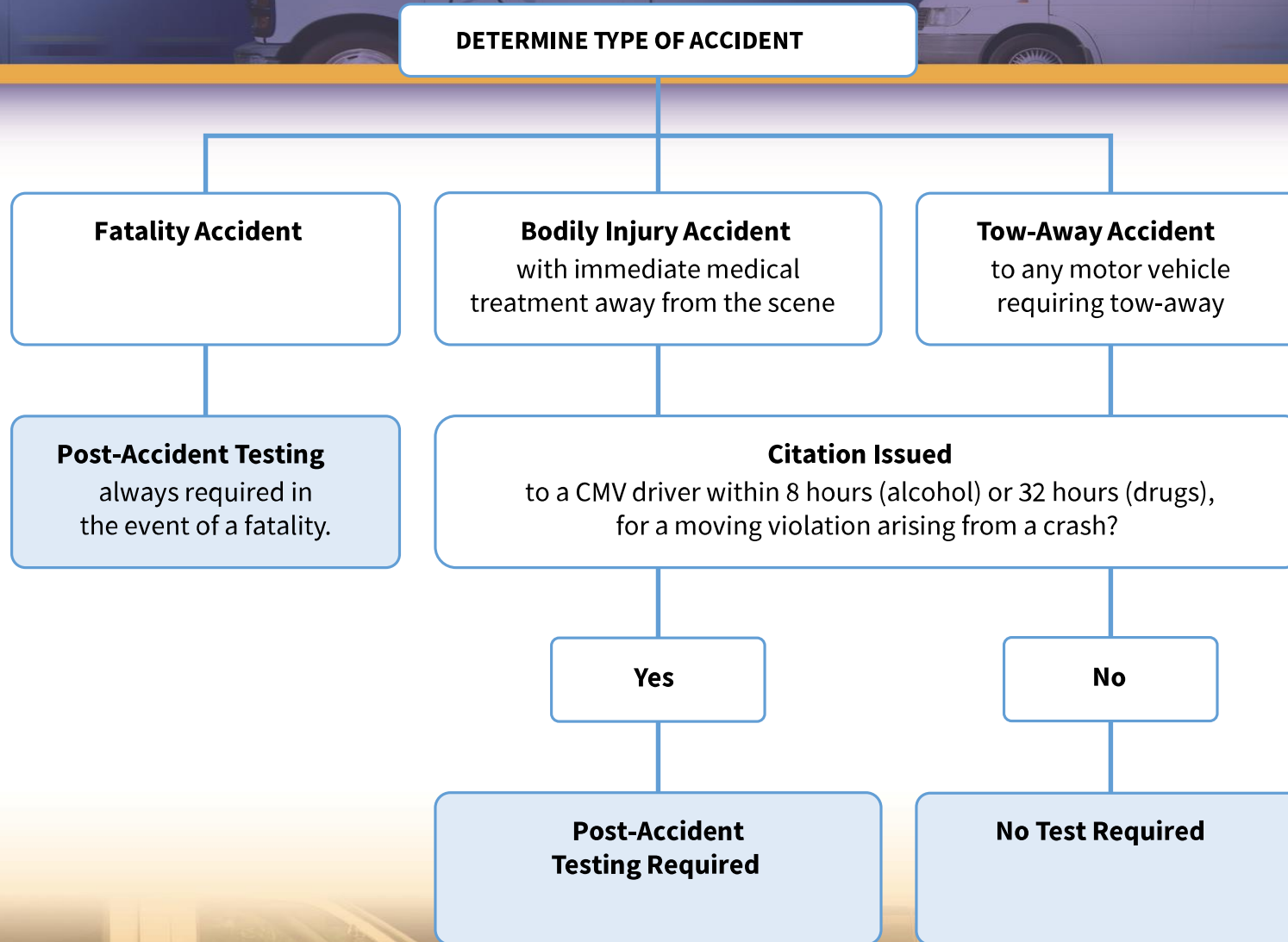



Figure 1: Post-Accident testing Flow Chart





# DOT Post-Accident Testing

- **Post-Accident Testing should be conducted as soon as practical.**
  - **If an alcohol test cannot be administered within two (2) hours, you must document why the test was delayed.**
  - **Alcohol tests cannot be conducted after eight (8) hours; you must document the reasons testing could not take place.**
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# DOT Post-Accident Testing

- **Controlled Substances cannot be conducted after thirty-two (32) hours; you must document the reasons testing could not take place.**
- **Driver is allowed to operate CMVs while awaiting test results.**



# Who Needs to Comply with FMCSA's Drug and Alcohol Clearinghouse ?

If your business operates any commercial motor vehicles where your driver is required to maintain a CDL, you must register and participate in FMCSA's Drug and Alcohol Clearinghouse:



The screenshot shows the top portion of the FMCSA website. At the top left, it says "United States Department of Transportation" and "FMCSA Federal Motor Carrier Safety Administration". To the right are "Register" and "Log In" buttons. Below this is a dark blue banner with "DRUG & ALCOHOL CLEARINGHOUSE" in white and blue text, and "Learn", "About", and "Contact" links with icons. The main content area features a large image of a white bus on a road with the URL "clearinghouse.fmcsa.dot.gov" and the date "January 6, 2020" overlaid in large, glowing blue text. A link "ABOUT THE CLEARINGHOUSE" is visible in the bottom left corner of the image area.



# How to Comply with FMCSA's Drug and Alcohol Clearinghouse Regulations

**Step 1:** Register your Business with FMCSA's Drug and Alcohol Clearinghouse.

**Step 2:** **Drivers Subject to a Pre-employment Query Must Register Themselves in the Clearinghouse.** Drivers must provide FMCSA approval prior to releasing Full Query information to your business.

**Step 3:** **Conduct Pre-employment Queries on New Hire CDL Drivers.** You must acquire a "Not Prohibited" query result before allowing your driver to operate your CDL required vehicles.





# How to Comply with FMCSA's Drug and Alcohol Clearinghouse Regulations

**Step 4: Conduct Limited, Annual Queries on all CDL Drivers, once every 365 days.** Once a query is conducted, FMCSA will send an email to your business for the **next 365 days** if information is added to a driver's Clearinghouse record.

## **Additional Clearinghouse Reporting:**

- **Return-To-Duty – Test Results**
- **Completion of an SAP Follow-up Testing Program**





## 3<sup>rd</sup> Party Mechanics Operating CMVs

- **Unless a 3<sup>rd</sup> party maintenance facility maintains a U.S.DOT Number and you have a written liability agreement, your business is liable to ensure the mechanic is properly licensed to operate the CMV.**
- **A mechanic must hold a CDL, with Passenger Endorsement, and subject to DOT Drug and Alcohol Testing while test driving your CDL bus/vehicle on a public road.**





# Proper Pre-Trip and Post-Trip Inspections

- **396.13 Requires a Driver to Inspect and Ensure a Bus/Vehicle Is in Safe Operating Condition Prior to Driving.**
  - Brakes
  - Parking (Hand) Brake
  - Steering Mechanism
  - Lighting Devices/Reflectors
  - Tires
  - Horn
  - Windshield Wipers/Fluid
  - Rear-Vision Mirrors
  - Wheels and Rims
  - Emergency Equipment
    - Fire Extinguisher
    - Safety Triangles
  - Passenger Emergency Exits





## When Is a D.V.I.R. Required?

- **396.11 Requires a Driver to Complete a Vehicle Inspection Report When:**
- A driver identifies a defect to any part or accessory on the bus/vehicle that would impact its safe operation **AND** the defect cannot be repaired prior to the end of their day or transfer of equipment.
- Bus/Vehicle must be repaired prior to next dispatch, D.V.I.R. signed off by mechanic / repairer.
- D.V.I.R.s must be maintained for no less than 90 days.





# Motor Carrier Safety Planner

**Motor Carrier Safety Planner** – Online guide making it easier to understand and comply with safety regulations. You can customize and share the Planner with your team.



[The Motor Carrier Safety Planner \(dot.gov\)](https://csa.fmcsa.dot.gov/safetyplanner/) -  
<https://csa.fmcsa.dot.gov/safetyplanner/>





# Contact Information

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