

## Federal Motor Carrier Safety Regulations

After working in corporate safety and compliance for a number of years and now retired and still in the same business, I have come to a conclusion that all compliance topics are not viewed to be equally important to operation of a company. I find that Federal Motor Carrier Safety Regulations training is one that is “left out” or is incomplete. Many companies are falsely lulled into believing they are in compliance when they are not. Nothing happens, no accidents, and no one performs a thorough audit, so everything is “OK”. Ask the questions to the keeper of your driver qualification files “Are we in compliance and would we be “OK” if a Federal DOT auditor shows up to inspect files?” Or, “What if there is a DOT Reportable Accident and the company had to document Driver Qualification files with training defending the employee in a lawsuit?” Chances are, the keeper of the files really can’t answer and don’t know the regulations either. It is not unusual to not be completely familiar with FMCSR.

I will spend a little time in this article outlining topics that are commonly found to be “out of compliance” and might be found to make driver not “qualified” to operate Commercial Motor Vehicle (CMV). Whenever drivers that are “not qualified” to operate CMVs are involved in accidents, third party lawsuits could be costly to the company and the driver. Regulations require all employees, managers and supervision shall be trained in parts of FMCSR associated with driving of and operating CMVs. All training must be documented and available on request for internal or external audits.

Let’s just start with the question of “What is a Commercial Motor Vehicle (CMV)?” Many employees can’t define what a Commercial Motor Vehicle. The definition (paraphrased) is any motor vehicle or combination motor vehicle and/or towed unit (trailer) with a Gross Vehicle Weight Rating > 10,001 lbs. Any vehicle that is designed to transport 8 or more including the driver for compensation, or any vehicle that transports 16 or more including the driver, or any vehicle that transport hazardous materials in excess of Materials of Trade Exemption requiring placarding. For instance an F-150 pick up truck with a GVWR of far less than 10,001 lbs can be CMV requiring a CDL license with a Hazardous Material endorsement if the materials of trade exemption are exceeded. At 440 lbs aggregate hazardous materials the vehicle must be placarded on all sides. If 1,000 lbs of hazardous materials is transported, then a CDL with proper endorsement is required.

The really tough question is, are your drivers completely “qualified” to operate CMVs?” The answers can be found in 49 CFR Part 391 of the FMCSR. There are responsibilities that the driver and motor carrier (company) must complete to qualify drivers. All drivers are not treated the same because of “grandfathering”, depends on how long they have work for the motor carrier and if they had a CDL when hired. If the driver has a CDL license when applying for employment, back ground investigations and safe driving history investigations are required by regulations. If the company trains the CDL driver or the employee is expected to obtain a CDL within a certain time period, the records are handled somewhat differently. If the employee drives a CMV less than 26, 001 lbs GVWR, other documentation such as Road Test certificate and New Driver Entry training are required in driver qualification files.

Driver qualifications files can be a very difficult task to set up and maintain. They can be hard copied or electronic. There are companies out there can provide web based application files that will assist the records keepers in keeping files up to date and complete. If your company has large numbers of Driver Qualification Files, it can be overwhelming. All CMV drivers must have a Driver’s Qualification File to “qualify the driver”, not just the CDL drivers. It doesn’t matter if it is an F-250 pickup pulling a small trailer which is a CMV under the FMCSR. The driver must be “qualified” to operate that vehicle for the company. The only difference in the file would be the random drug test program required of CDL drivers. Health cards, training records, application of employment, Road Test, New Driver Entry training, etc. must be documented and in file. Audits will identify drivers of CMVs without a file and that could be a huge liability to the company if that driver is involved in an accident. Although, health cards are required in most states for the operation of CMVs for Interstate and Intrastate Commerce, there are exceptions. States must follow the FMCSR at a minimum, but there are states with enhancements to the state DOT rules and some

that interpret slightly different. You must check with your state DOT for clarification of any question. Your company should have a designate staff employee for a single point contact with DOT to reduce the amount of confusion caused by different individuals making rule interpretations.

Look at Driver Qualification Files to assure all documentation is present. The basic file has maintenance documents such as copies of current health card, driver's license, an MVR, copies of annual review of license. Another document in files is one that certifies any violations and is signed by supervisors when making the annual review. An annual MVR shall be requested to certify violations and assure that employee hasn't had a suspension of CMV privileges or loss of license. Also, to assure the employee has reported all citations when convicted as required by regulations. The Driver file should also contains items such as original application of employment, road test certificate, original MVR when hired, New Driver Entry training, depending on when hired, and all documented training for endorsements. If any of these documents are not available, there should be a form acknowledging the absence to indicate the carrier is aware of regulations.

Serious violations committed by drivers can result in suspension of CMV privileges by a state. The state will send the order by registered mail and the driver has duty to notify the company. Loss of CMV privileges will also appear on MVR. Erratic lane changes, aggressive driving, speeding in excess of 15 mph of the posted limit are considered to be serious violations. Serious Violations can result in 60 to 120 day suspension of CMV privileges depending on the number violations and time line the violations occur.

Employees are required to obtain a health card by taking a DOT physical. This is one of the toughest items in file to keep in compliance. It has been documented that doctors issue health cards to drivers of CMVs incorrectly. A two year card will be issued when driver is on maintenance drugs for blood pressure when in fact it should be a one year card. The driver may be diabetic, have hearing or vision problems and may not be qualified. The card will be issued in error by doctor from a lack of knowledge or misunderstanding of the regulations. The long form physical should be reviewed after each DOT physical is performed to assure that all is in compliance.

The 60/60 Drug and Alcohol Training for any employee in a supervisory position responsible and accountable for work direction for CDL drivers is a required by FMSCR. This could be one of the most overlooked compliance requirements. A DOT Accident log is another item that could be overlooked but, is also required. Any CMV involved in a DOT Reportable accident shall be logged and certain information shall be recorded on a register that might be audited by DOT auditor. By the way, the definition of a DOT Reportable accident should be known by all employees. Either vehicle towed from scene, medical treatment provided away from the scene or a fatality involved in accident. This definition is sometimes confused when a DOT required drug test is required. Similar circumstances in description but a CDL must be cited with in 8 hours of reported accident.

There are many other topics and responsibilities for the driver and motor carrier. Pre-trip inspections, warning devices, fatigued operator are just a few more topics that need to be considered by all CMV drivers and motor carriers. All information can be found in 49 CFR 380-397. Take a look at your training, operations and driver files to be sure your company and drivers are in compliance.