Passenger Carrier’s Guide for Administrative Safety Compliance

Updated December 1, 2017
NYSDOT Motor Carrier Compliance Bureau
by Martin Duffy, Supervising Motor Carrier Investigator

This guidebook is intended to assist motor carriers of passengers in New York State. Operators in the Empire State vary greatly in size and scope from new entrants with a small number of ambulettes or limousines to large fleets of school buses or motorcoaches. This guidance is not intended as a substitution for the New York State Transportation Law or Department regulations/policies, but as an education and technical assistance tool.
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Section 1.1: Passenger Carrier Authority

General Information and Types of Authority:

The Transportation Law requires a motor carrier to obtain Passenger Operating Authority from the New York State Department of Transportation (NYSDOT) before it can transport passengers wholly within New York State for compensation, also known as for-hire transportation. Applications for authority can be obtained by going to https://www.dot.ny.gov/divisions/operating/osss/bus/passenger, sending an E-mail to passengerauthority@dot.ny.gov, or calling 518-457-6512.

There are two types of passenger operating authority:

1. **Common Carrier Authority** which is issued to carriers that serve the general public and charge individual fares. Some examples are:
   - Bus Lines;
   - Ambulette or Transit Disabled Services;
   - Airport Services, and
   - Service to a correctional facility
   - Commuter Van Services

2. **Contract Carrier Authority** for which there are two sub-categories. The first is issued to carriers that have an agreement or contract with a person or organization that allows for the transportation of an individual or group at a fixed price, i.e., a contract with a health care facility to transport clients at a fixed rate. The second is issued to carriers of Charter or Special Parties to transport individuals or organizations travelling together as a group for a fixed charge and under a single contract.
Section 1.2: Exemptions from Authority

Exemptions:

There are some exemptions which allow certain types of for-hire transportation without authority from the Department. Transportation provided in sedans, station wagons, limousines or mini-vans which generally have a Manufacturer’s Rated Seating Capacity (MRSC) of less than 11 passengers including the driver does not need authority. The MRSC is listed on a tag which is generally located on the jam of the driver’s door and is the maximum seating capacity of the vehicle which may be different from the number of seats actually in a vehicle. In addition, transportation provided in vehicles larger than sedans, station wagons, limousines or minivans does not need authority when such transportation is performed:

1. Incidental to or in furtherance of any non-transportation commercial or not-for-profit enterprise of the provider of the transportation when such transportation is not open to the general public;
2. To and from schools and school-related activities;
3. In non-profit car pools;
4. On an occasional, casual or reciprocal basis by persons not engaged in transportation as a regular occupation or business;
5. As a sightseeing service conducted pursuant to the jurisdiction or regulatory control of a city, village or town when such service is operated wholly within the county in which the city, town or village is located or when such service is operated wholly within a city with a population of one million or more;
6. In ambulances that are under the jurisdiction of the New York state department of health;
7. By transportation authorities when the transportation performed is wholly within the transportation district prescribed by the public authorities law for such transportation authority;
8. By transportation systems that are wholly owned by a municipality when the transportation performed is wholly within such municipality's boundaries;
9. By bus lines operating wholly within any city having regulatory control or jurisdiction over bus line operations pursuant to subdivision four of section eighty of this chapter; and
10. By carriers operating under a contract with an employer to provide transportation for the exclusive use of employees.
11. As a taxi or livery service, except for transportation services that are designed for the transportation of transportation-disabled persons, conducted in vehicles having a seating capacity of less than fifteen passengers pursuant to the jurisdiction or regulatory control of a municipality, other than a city with a population over one million, authorized to adopt an ordinance relating to both registration and licensing pursuant to subdivision one of section one hundred eighty-one of the general municipal law, when service is conducted wholly within such municipality and when such service is available to the general public on a prearranged or demand-response basis over a non-specified or irregular route with the point or points of pick-up and discharge determined by the passenger, but such taxi or livery service shall not include van service. For the purpose of this subdivision, the term "livery service" shall include the term "limousines" as used in subdivision one of section one hundred eighty-one of the general municipal law.
12. As a taxi or livery service conducted in vehicles having a seating capacity of twenty passengers or less pursuant to the jurisdiction or regulatory control of a city with a population over one million, when such service is conducted wholly within such a city; provided, however, that vehicles having a seating capacity of fifteen or more passengers shall be subject to the provisions of section one hundred forty of this chapter.

For the purposes of this article, the term "sedan" or "sedans" as used herein shall include private passenger automobiles, but shall not include commercial motor vehicles with a seating capacity of eleven persons or more including the driver.
Section 1.3: Applying for Operating Authority

Application Process:

Completion of the application process generally takes between 6 and 16 weeks. Delays can be avoided if an applicant answers each question completely and submits all required documents.

When an application is received, it is reviewed and, if it is complete, it is published in the Department’s Weekly Bulletin of Applications. Interested parties have 30 days to file a written protest to an application with the Department and must send a copy of the protest to the applicant. A party may protest an application because the application does not meet the statutory requirements. For Charter and Special Party authority, a protest is limited to safety issues.

In determining the merits of a passenger application, NYSDOT will generally review the application and make a decision on the information that has been submitted, including any protests. In unusual or complex cases or when significant protests have been filed, NYSDOT may hold a public hearing.

If a hearing is held, the applicant will be required to appear and testify and may bring witnesses who are willing to testify and answer questions about the need for the proposed services before an Administrative Law Judge (ALJ). Interested parties may also appear, testify and present evidence to the ALJ. These hearings are similar to court trials in that testimony and exhibits are presented under oath and all testimony and exhibits are subject to cross examination. However, these hearings are less formal. At the conclusion of the hearing, a written transcript of the testimony is prepared. This transcript and the exhibits submitted form the basis for the NYSDOT decision on the application.

In order to grant passenger operating authority, NYSDOT must make specific findings that the applicant carrier is fit, willing and able to provide the service. These findings are based on the evidence submitted by an applicant and include such factors as the applicant's general background (business and personal references), experience in passenger transportation and sufficient financial resources to provide a responsive and quality service to the public.

For common carrier authority, applicants are also required to establish that there is a public need for the service. An applicant can best establish this by submitting statements in support of the proposed service from individuals and organizations who have a need for the proposed service.

For contract carrier authority, applicants are also required to demonstrate that a grant of authority would be in the public interest. To establish this, the carrier must submit signed contracts that it has with one or more organizations. Provided, however, that Charter and Special Authority do not require the submission of contracts.
Section 1.4: Approved Applications & Emergency and Temporary Authority

If the application is approved, NYSDOT will send a letter advising the applicant that it needs to comply with the following statutory and regulatory requirements:

- Evidence of Liability Insurance coverage;
- Proof of compliance with the New York State Workers' Compensation Law for both Workers' Compensation and Disability Benefits Insurance;
- Valid Vehicle Safety Inspection have been issued by NYSDOT;
- USDOT Registration Number
- Pre-authorization Compliance Review
- Acquisition of vehicle identification receipts or payment of a Unified Carrier Registration fee, and
- Filing a tariff by Common Carriers only.

NYSDOT will issue either a Certificate or Permit once an applicant complies with these requirements. If an application is denied, the applicant has a right to ask NYSDOT to reconsider the decision. The request must be in writing and received by NYSDOT within 30 days of the decision date.

Emergency Temporary Authority and Temporary Authority:

There may be times when there is an immediate or urgent need for emergency temporary operating authority or temporary authority.

Emergency Temporary Authority:

In order for Emergency Temporary Authority to be issued, the applicant must demonstrate that there is an “unforeseen emergency need” which demonstrates “that there is an immediate or urgent need” for the service that is being requested and that there is not sufficient time to process an application for temporary authority. NYSDOT may issue such authority for up to a 30-day period if the applicant presents convincing evidence that there is a true emergency situation. The applicant must also be in compliance with NYSDOT’s safety and liability insurance requirements.

Temporary Authority:

There are two common situations for which NYSDOT can issue temporary authority for up to 180 days when an applicant demonstrates that there is an immediate or urgent need;

1. For a short term or temporary operation that will not become permanent, i.e., to serve an amusement park during only the summer, or
2. When a common carrier wants to test a market in which there is no other carrier service available for a short period (i.e., up to six months) before determining if it wants to provide service on a permanent basis.

It should be noted that neither the Emergency Temporary Authority nor the Temporary Authority procedures have been established to bypass the normal application process. Both types of authority will only be issued within the above guidelines and when NYSDOT is convinced that an immediate need or emergency exits.
Section 1 Appendix A: Vehicle Identification Application

APPLICATION FOR VEHICLE IDENTIFICATION FOR
MOTOR CARRIERS WHO OPERATE SOLELY IN NEW YORK STATE

IF YOU EVER CROSS STATE LINES FOR BUSINESS PURPOSES PLEASE CALL US AT
(518) 457-6312 SO THAT WE MAY REGISTER YOUR BUSINESS IN THE APPROPRIATE
REGISTRATION PROGRAM.

IF YOU OPERATE SOLELY WITHIN NEW YORK STATE, PLEASE COMPLETE THIS
FORM AND RETURN WITH YOUR PAYMENT.

USDOT # ____________ ***  MC # ____________  NYS DOT # ____________
Carrier Name: ________________________________________________________ Phone (___ ) ________
Street __________________________________ City __________ State ______ Zip ______

Mailing address if different from above:
Street __________________________________ City __________ State ______ Zip ______

I am applying for vehicle identification receipt(s) for vehicle(s) we intend to operate within New York State.

The applicant is only operating under New York State intrastate authority and requests receipt(s) for:
Vehicles ________ at $10.00 each = $________

The applicant shall not knowingly permit any other person or organization to possess identification receipts issued
pursuant to this application.

I, the undersigned, under penalty for false statement do hereby certify that the above information is true and correct and
that I am authorized to execute and file this document as, or in behalf of the above applicant. (Federal penalties,
maximum of $10,000 or imprisonment for 5 years, or both, 18 USC 1001; State penalties, maximum $5,000 or
suspension/revocation of operating authority, or both, 17 NYCRR 145).

________________________________________________________________________
(Signature) (Title)

Complete and mail this application along with your payment to:

New York State Department of Transportation
OMSS/Vehicle Identification Unit
50 Wolf Road - POD 53
Albany, NY 12232
Section 1 Appendix B: Unified Carrier Registration Application

UNIFIED CARRIER REGISTRATION FORM - Year 2017

To register online go to WWW.UCR.IN.GOV

SECTION 1. GENERAL INFORMATION

Legal Name

Using Business Under the Following Name (DBA):

Principal Place Of Business Street Address (See Instructions)

Principal City State Zip Code

Mailing Address

Mailing City State Zip Code

SECTION 2. CLASSIFICATION – Check All That Apply

☐ Motor Carrier ☐ Motor Private Carrier ☐ Broker ☐ Leasing Company ☐ Freight Forwarder

SECTION 3. FEES DUE-BROKERS, FREIGHT FORWARDERS AND LEASING COMPANIES ONLY

Note: If your company is also a motor carrier or motor private carrier, skip this section and go to section 4.

Brokers, freight forwarders and leasing companies (not combined with a motor carrier entity), please submit the amount due of $75 in the form of payment acceptable by your base state and go to Section 7.

SECTION 4. NO. OF MOTOR VEHICLES—MOTOR CARRIER & MOTOR PRIVATE CARRIER

Check only one box:

Option A ☐ The number of vehicles shown below has been taken from section 26 of your last reported MCS-50/MCSA-1 form

Option B ☐ The number of vehicles shown below is the total number owned and operated for the 12-month period ending June 30, 2016

See Instructions for additional requirements if you select Option B.

<table>
<thead>
<tr>
<th>LINE NO.</th>
<th>NUMBER OF STRAIGHT TRUCKS AND TRACTORS (COLUMN A)</th>
<th>(COLUMN B)</th>
<th>NUMBER OF MOTOR COACHES, SCHOOL BUSES, MINI-BUSES, VANS AND LIMOUSINES (COLUMN C)</th>
<th>TOTAL (COLUMN D)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Subtract:

1. The number of vehicles on Line 1 in Column C above that has a vehicle capacity of 10 or less passengers, including the driver.

2. (Optional) The number of vehicles on Line 1 in Column A above that are used exclusively in intrastate transportation. You are required to maintain a list of vehicles excluded under this option. See Instructions for additional requirements if you select this option.

3. (Optional) Add a number of vehicles not shown on Line 1 above that are:

   A. Commercial motor vehicles operating exclusively in intrastate commerce. (See instructions for definition of commercial motor vehicle.)

   B. Used in commerce to transport passengers or property for compensation and have a GVWR or GVW of 10,000 lbs. or less, or a passenger capacity of 10 or less, including the driver.

4. Total Number of Vehicles (Line 1 minus Line 2 plus Line 3)

SECTION 5. FEE TABLE

<table>
<thead>
<tr>
<th>Number of Vehicles</th>
<th>Amount Due</th>
<th>Number of Vehicles</th>
<th>Amount Due</th>
<th>Number of Vehicles</th>
<th>Amount Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>$75</td>
<td>6-20</td>
<td>$452</td>
<td>101-1000</td>
<td>$7,511</td>
</tr>
<tr>
<td>3-5</td>
<td>$227</td>
<td>21-100</td>
<td>$1,576</td>
<td>1001 or more</td>
<td>$73,346</td>
</tr>
</tbody>
</table>

SECTION 6. FEES DUE—MOTOR CARRIER & MOTOR PRIVATE CARRIER

Using the number of vehicles in Section 4, Line 4 above, enter the Amount Due from the table above.

Note: See last page of this pamphlet for the types of payment your selected base state will accept.

$73,346

SECTION 7. CERTIFICATION

The undersigned, under penalty for false statement, certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the applicant. (Penalty provisions subject to the laws of the registration state.)

Name of Owner or Authorized Representative (Printed)

Signature

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Passenger Carrier’s Guide for Administrative Safety Compliance
Section 2.1: Passenger Carrier Safety Bureau Overview

The Passenger Carrier Safety Bureau

The Passenger Carrier Safety Bureau is committed to ensuring all school buses and authorized passenger vehicles in New York State operate at the highest safety standards in the country. Our Bus Inspectors perform more than 154,000 comprehensive bus safety inspections and re-inspections annually. To accomplish this, the Bureau uses over 120 motor vehicle inspectors assigned to one of 11 regional safety inspection teams across the state. A total of nearly 60,000 buses, vans and ambulettes are subject to the NYSDOT safety inspection review every six months and over 400 safety related factors are reviewed during each inspection.

Vehicle inspection, repair, and maintenance standards are critical to the safe operation of commercial motor vehicles. They are designed to reduce accidents, injuries, and fatalities resulting from unsafe vehicles operating on the highways.

All vehicles subject to inspection by the New York State Department of Transportation are required to be inspected at least every six months. The operator is responsible for providing an adequate inspection facility as the NYSDOT does not operate facilities for the inspection of vehicles.

NYSDOT performs semi-annual vehicle safety inspections on a wide variety of vehicles that are subject to inspections by the NYSDOT. Of approximately 154,000 inspections conducted each year, almost 80% are performed on vehicles used in school transportation service, either directly by a public or private school or by a contractor hired to provide that service. The remaining inspections are performed on vehicles used in other services regulated by NYSDOT: motor coach charter service, transit, ambulette (transit disabled) and "for hire" passenger service.

Bureau website:
www.dot.ny.gov/divisions/operating/osss/bus

Bureau contact information:
Passenger Carrier Safety Bureau
50 Wolf Road, POD 53
Albany, NY 12232
Phone: (518) 457-6512
Fax: (518) 457-6513
E-mail: passengersafety@dot.ny.gov
Section 2.2: The NYSDOT Bus Inspection Applicability

Vehicles subject to NYSDOT inspection include the following:

1. Vehicles transporting passengers under the age of 21 years, to and from schools, for hire, or owned and/or operated by school districts or any public or private school. Also included are vehicles used to transport passengers under the age of 21 years between school programs and NYSED applicable community residences.

![School Bus Image]

2. Vehicles operated in New York State, pursuant to or requiring a certificate or permit for the transportation of passengers, the U.S. Department of Transportation (USDOT) or the Commissioner of NYSDOT.

![Department of Transportation Image]

3. All buses operated pursuant to or requiring regulatory authority from any city that has adopted an ordinance, local law or charter to regulate a franchise bus line operation pursuant to the New York State Transportation Law.

![Bus Image]


![NYC Consumer Affairs Image]
Section 2.3: Key Definitions & Inspection Procedures

Key Definitions:
School - every place of academic, vocational or religious services or instruction of persons under the age of 21 years, except places of higher education. It shall include every child care center, every institution for the care or training of the mentally or physically handicapped (certain exceptions apply) and every day camp.

School Service - the transportation of persons under the age of 21 years to and/or from school or school activities, with or without adult supervisory personnel, either:
   1. In vehicles owned and/or operated by school districts or any public or private school or school district; or
   2. By others for hire except for parents who enter into a contract with a school to provide transportation exclusively for their own children.

Operator - the person, firm or corporation who has control or directs the operation of the motor vehicle, leases or otherwise.

Inspection Procedures and Criteria:

NYSDOT Motor Vehicle Inspectors (MVIs) contact the vehicle operator in advance of the inspection certificate expiration, to arrange for a date for the next inspection of the vehicle. Usually, the MVI will go to the operator's facility and conduct the inspection of the vehicles that were previously scheduled for inspection with the operator. Normally an inspection will take approximately 60-90 minutes to complete, depending on the size/type of vehicle. Initial inspections of new vehicles take somewhat longer. In addition to the actual vehicle inspection, required maintenance records, preventive maintenance program and driver reports are checked.

Inspections are conducted based on the requirements contained in Sections 720 & 721 of the NYS Transportation Regulations. Contained in these regulations are the passenger vehicle Out of Service (OOS) Criteria. Discovered defects that meet the OOS criteria will result in the following actions depending on the class of defect discovered:

- "A" rated defect - vehicle is placed Out of Service, no inspection certificate is issued until the defect(s) is repaired and a re-inspection is conducted;
- "B" rated defect - vehicle is issued an inspection certificate but defect must be corrected prior to carrying passengers;
- "C" rated defect - vehicle is issued an inspection certificate but defect must be corrected within 15 days from the date of the original inspection.

Copies of the regulations and OOS criteria may be obtained by contacting the Motor Carrier Safety Bureau at (518) 457-6512 or by visiting the Passenger Carrier Safety Bureau website listed in Section 2.1 of this guidebook.
Section 2.4: Failing an Inspection & Operator Profiles

Out of Service:

Vehicles placed out of service as a result of the discovery of a serious ("A" rated) safety defect, are not issued an inspection certificate and may not carry passengers. An out-of-service decal is affixed to the vehicle which permits the vehicle to be operated on the highway for the purpose of getting repairs, for a period of 15 days.

If the out-of-service defect can be repaired and the MVI has available time before leaving the operator's inspection facility, the OOS vehicle can be re inspected the same day. If the OOS defect(s) is properly repaired, a valid inspection certificate is issued. If repairs are not completed before the MVI leaves the facility, the operator must arrange with the MVI for a date for re inspection of the vehicle.

Vehicles that have accumulated in excess of 100 miles or 15 days or more have passed since the vehicle was placed out of service, will require a complete inspection of the vehicle rather than just a re inspection of the OOS items discovered at the original inspection.

Out-of-Service Appeal Instructions and Appeal Form:

The Department allows an operator to appeal an out of service designation on a vehicle which it feels is incorrect. The details of this process can be found in the section 2 appendix of this guidebook. Inquiries can be addressed by sending an e-mail or calling the Passenger Carrier Safety Bureau (please refer to contact information in section 2.1 of this guidebook).

Bus Safety Information Network (BUSNET):

All inspections conducted are recorded on an inspection form, a copy of which is provided to the operator at the conclusion of the inspection/re-inspection. The information from each inspection is also entered into the NYSDOT's BUSNET computer system.

The BUSNET system has the capability of generating an Operator Profile Report. This report is a summary of an operator's inspection record with the NYSDOT over a specified period and includes information such as:

- Number of inspections
- Number of inspections passed and percentage
- Number of inspections Out of Service (OOS) and percentage
- Average defects per inspection
- Average OOS defects per inspection
- Operator Profile Reports are considered public information and are therefore available by request.

To obtain an operator profile, a written request may be mailed or FAXED to the Truck and Bus Safety Section at (518) 457-6513. The request must contain the name and address of the operator for which the profile is being requested, as well as the profile period (from/to) for which data is being requested.
Section 2.5: Performance Based Inspection (PBI) Program

Performance Based Bus Safety Program Plan

NYSDOT performs comprehensive safety inspections of motor coaches, school buses, ambulettes and large passenger vans/limousines domiciled in New York every six months. This semi-annual inspection requirement exceeds the annual Federal inspection requirement. Over 150,000 safety inspections are performed each year through this program. Additionally, New York requires a brake performance test as a component of this program which is not a federal requirement. This test measures the rate of deceleration of the bus in a real world environment, i.e., measuring stopping capability while on the road.

Most of these scheduled semi-annual inspections are performed on operators who have relatively low out-of-service (OOS) rates, i.e., few vehicles that fail inspection. Further, these high performers (those with OOS rates at or below the Department’s minimum goal of 10%) receive the same level of attention as the poor performers whose vehicles are consistently presented for inspection without addressing serious safety component defects.

- 81% of current inspections are performed on operators whose vehicles meet state requirements at least 90% of the time.
- 17% of current inspections are performed on operators whose vehicles meet state requirements more than 75% of the time but less than 90%.
- 2% of current inspections are performed on operators whose vehicles meet state requirements 75% of the time or less.

Recent legislation enacted by the Legislature and the Governor allows the Department to improve this program and thereby enhance bus safety and compliance by focusing attention where it is most needed and by incentivizing good performance by operators.

Program Elements – The approach modifies the traditional semi-annual inspection process by separating the operators into three categories based on their annual compliance with state safety requirements. Compliance review efforts and associated intervention/enforcement actions would be commensurate with the operators’ performance with more attention focused on those operators with higher vehicle OOS rates or other operational deficiencies identified through compliance reviews, random inspections or roadside inspections (where applicable). The program is further described below.

Number of Scheduled Inspections – As required by State law, all operators will continue to receive at least two inspections annually (which exceeds Federal requirements) and will continue to be subject to our “on-the-road” performance brake test (also not a Federal requirement)

Performance Categories – Operators are placed into one of three performance categories based on their annual compliance with State safety requirements. The semi-annual out-of-service (OOS) rate (based on a minimum of 10 regularly scheduled inspections in the state fiscal year (SFY)) is the initial factor used to determine which operators are placed in which categories, but this can be modified based on other performance factors.
Section 2.6: Performance Categories

The Safety Performance categories are:

- **Preferred** - Operators with an OOS rate of \( \leq 10\% \)
- **Acceptable** - Operators with an OOS rate \( > 10\% \) and \( < 25\% \).
- **Unacceptable** - Operators with an OOS rate of 25% or greater.

Operators in the Unacceptable and Acceptable categories will continue to undergo a minimum of two full comprehensive inspections every twelve months.

Additionally, based on their performance relative to other factors such as poor performance resulting from compliance reviews, random inspections or roadside inspections, operators may be moved into a lower category.

**Critical Item Inspections** – The operators that fall within the Preferred category will alternate between a critical item inspection and one full comprehensive inspection every six months. These critical item inspections will focus on those vehicle components of greatest concern and will vary between walk-around and undercarriage-only inspections. Both will be conducted in accordance with the Department’s existing inspection standards, and both will include the current performance “on-road” brake test. Operators will not know in advance which type of critical item inspection will be performed by the inspector.

**Walk-around inspections** will focus primarily on only those items that can be inspected without physically getting under the vehicle. At a minimum, this bus inspection will include but not be limited to examination of all or portions of the following: brake systems (including brake performance test); exhaust systems; fuel systems; lighting devices (headlamps, tail lamps, stop lamps, turn signals and lamps); steering mechanisms; suspensions; tires; wheels, rims and hubs; mirrors; windshield wipers; frames; wheelchair lift devices (when applicable); emergency exits and/or electrical cables and systems in engine and battery compartments. This is similar to a federal Level 2 inspection.

**Undercarriage-only Inspections** will focus primarily on those components best accessed from underneath the vehicle like the brake systems (including brake performance test); exhaust systems; fuel systems; steering mechanisms; suspensions; tires; wheels, rims and hubs; and frames. It will also include an inspection of lighting devices (headlamps, tail lamps, stop lamps, turn signals and lamps); and wheelchair lift devices (when applicable).

**Inspection Schedules** - Operators in the Preferred category will continue to present the same number of vehicles on the same schedule they do now for at least the first 12 months of implementation. Roughly half of the vehicles presented each day will undergo a current full comprehensive inspection with the other half undergoing a critical item inspection. Over time, schedules may be adjusted based on the ability and consent of both the operator and the inspector to handle more vehicles per day.
Section 2.7: Evaluation, Intervention and Enforcement

Evaluation, Intervention and Enforcement Activities Commensurate with Performance

The level of review and corrective effort focused on operators will be proportionate with their overall safety and compliance performance. Low performance operators will be subject to more frequent inspections and reviews, and will face tougher corrective actions and penalties.

Compliance Reviews – (currently being performed on those holding NYSDOT and/or USDOT operating authority) are an on-site examination of required safety related records, such as driver’s hours of service (log books); driver qualification records; drug and alcohol testing records; driver license credentials and requirements; vehicle maintenance and inspection records; financial responsibility (insurance); accident register; and other safety and transportation records to determine whether a motor carrier meets current safety fitness standards. However, school bus operators will undergo a modified review since compliance requirements for these operators are different than those which apply to for-hire operators. (The basic components applicable to school bus operators are outlined in Attachment- A on page 5).

For all operators:

- Most significant in this review is the focus on driver-related compliance. Many national studies have found that human factors are the cause of almost 90% of accidents. This new look at driver fitness should improve overall bus safety in New York. It also provides an opportunity for the Department to better coordinate and leverage its efforts with those of NYS Department of Motor Vehicles and U.S. Department of Transportation to be more comprehensive and less duplicative.

- Also significant is the attention on vehicle maintenance and inspection records. This is an additional tool that will help verify the thoroughness of an operator’s preventive maintenance program. It will help identify those operators that truly have a year-round commitment to safety and effective vehicle maintenance.

Random Vehicle Inspections – may be conducted as part of compliance reviews. This inspection will focus on critical vehicle safety components. Vehicles will be selected for these reviews in a manner to minimize disruption to the operators’ service. Typically, vehicles will be selected as they come back from a run or sometimes, when an alternative vehicle is available, as they are about to go into service. Serious violations noted during these reviews will result in the vehicle being placed out-of-service, but will not typically cause the DOT inspection sticker to be removed from the vehicle. The operator will be required to correct the out-of-service condition before the vehicle is placed back in service, and to certify to the Department that the condition was corrected. These random inspections do not affect operator profiles but will affect federal Safety Measurement System (SMS) scores where applicable.
Section 2.8: Corrective Action & Safety Improvements

Corrective Actions – The Department may use several tools to improve safety and compliance among poor performing operators. These corrective actions can include:

- Additional inspections and compliance reviews.
- Loss of B & C privileges (inspection certificate will not be issued until all defects, even minor ones are corrected)
- Additional random vehicle inspections.
- Notices of Violation resulting in civil penalties.
- Suspension or revocation of intrastate operating authority.
- Removal of inspection stickers.
- Additional compliance actions.

Small Operators – Operators that undergo less than 10 regularly scheduled inspections in a SFY will be evaluated based on the past 2 SFY’s. Any operator that has under gone less than 10 regularly scheduled inspections over the past 2 SFYs will not be categorized and will continue to have their vehicles undergo at least 2 full comprehensive inspections every 12 months. However, OOS rates will be used to determine categories for the purpose of performing compliance reviews.

Safety Improvements – This strategy is intended to strengthen the bus inspection program and improve safety and compliance by focusing the most attention where there are the greatest risks, and by establishing a strong incentive for operators to improve their performance. Other specific benefits include:

- Greater vigilance and new tools will help further level the playing field for all operators.
- Increased attention through compliance reviews and additional vehicle inspections on the poorest performers will require additional resources and commitment on their part both during and as follow-up to this additional scrutiny. This disincentive should encourage better operator performance.
- Critical item inspections will streamline the effort focused on the best performers and will reduce the time they need to commit vehicles, staff and garage facilities for inspections. This incentive should also encourage better operator performance.
- Compliance reviews will generate sharper focus on operators’ overall operational and performance components. This new attention on driver related components is a significant benefit, because data shows that most accidents are driver related.
- Further improve the consistency of the bus inspection program through additional attention to procedures, training and program oversight.
- Better linkage to existing NYSDOT and other agency safety programs. Implement scheduled inspections, roadside inspections and compliance reviews in a complementary manner to provide a more comprehensive overall assessment and reduce duplicative effort by stakeholders.
- Maintain a programmatic safety net. Operators that perform poorly will be subject to the same or even more rigorous examination than currently exists.
Section 2.9: Compliance Review List for School Operators

Attachment- A
Performance Based Bus Safety Program School Bus Operator Compliance Review

Performed in Accordance with Standard Compliance Review Procedures Conducted of all Motor Carriers of Passengers Covering the Following Areas:

Driver Qualifications:

- Correct License Class
- Proper S and P Endorsements
- Check Restrictions
- 19-A (Random Review of Drivers Compared to 19-A Roster – any issues uncovered will be coordinated with and forwarded to the New York State Department of Motor Vehicles for appropriate follow-up)

Drug/Alcohol Testing Program:

- Program is in place and all drivers are enlisted

Maintenance Program:

- Review of Driver Vehicle Inspection Reports (DVIRs)
- Check for Appropriate Follow-up of Defects Noted on DVIRs
- Adherence to Preventive Maintenance (PM) Plan; PM Records and Maintenance Records on File
- MC 300s Review (Check for Trips Performed During Lapses in Inspection Coverage)

Random Compliance Review Inspections:

- Conduct Random Inspections
  - With consideration of operator scheduling & logistical issues
  - Random Compliance Review Inspection – An inspection that includes examination of brake system; exhaust system; frame; fuel system; mirrors; turn signals; brake lamps; tail lamps; head lamps; stop arm; steering mechanism; suspension; tires; wheels and rims; windshield wipers; emergency exits and wheelchair lift if applicable.

Accident Register:

- Accident Register – Exists and is Current
Section 2.10: Reportable Accidents

All operators subject to New York State Department of Transportation Inspection Program are required to notify the Department, under certain conditions when accidents occur. In most cases, the Motor Vehicle Inspector (MVI) to whom the operator is assigned will receive the initial notification that an accident has occurred. No work shall be performed on and no passengers shall be transported in the vehicle involved until it is released by the Department. The vehicle may be removed/towed from the accident scene and is under the jurisdiction of the investigating police agency until released. You may also need to report the accident to the New York State Department of Motor Vehicles (NYSDMV) and/or New York State Department of Education (NYSED).

Reportable Accident Definition for NYSDOT
From 17 NYCRR Section 722.1

(a) Any accident in any way involving a motor vehicle subject to department inspection, which results in the loss of life or injury of any passenger, employee or other person, or which was caused by mechanical failure (regardless of whether or not injuries were incurred), shall be immediately reported to the department by telephone.

(b) In addition to an incident commonly known as an accident, the following are reportable accidents within the purview of this Part:

(1) any mechanical failure;
(2) evidence of intrusion into the body of the vehicle of carbon monoxide, exhaust fumes emitted from such vehicle, or other noxious gases or smoke;
(3) smoke (other than normal exhaust) emanating from the engine or any other part of the vehicle, whether internal or external; and
(4) presence of or emission, whether internal or external, of sparks, flame or fire.

(c) No work shall be performed on and no passengers shall be transported in the vehicle involved until it is released by the Department of Transportation.
Section 2.11: Suspensions and Revocations (page 1)

Procedures for Suspension/Revocation:
From 17 NYCRR 720.32

Suspension and revocation of operating authority.

(a) Notwithstanding any regulation of the department to the contrary, pursuant to section 145 and section 156(2) of the Transportation Law, the commissioner may suspend or revoke the operating authority of any motor carrier of passengers by certificate or permit for the following safety reasons:

(1) The nature and frequency of out of service violations found in the course of roadside safety inspections leads the commissioner to conclude that the continued operation of the motor carrier of passengers poses a threat to public safety. The incidence of out of service violations that may result in action to suspend and/or revoke operating authority shall be as follows:

   (i) at least 10 driver roadside safety inspections within the preceding six month period that resulted in a driver out of service rate of 20 percent or more; or
   (ii) at least 10 vehicle roadside safety inspections within the preceding six month period that resulted in a vehicle out of service rate of 40 percent or more;

(2) for any motor carrier of passengers that has been the subject of at least 10 department vehicle inspections conducted in the preceding State fiscal year pursuant to section 140(3) of the Transportation Law, a vehicle out of service rate of 25 percent or more.

(3) an employee or agent operates a bus controlled by the motor carrier while intoxicated in violation of the Vehicle and Traffic Law;

(4) an employee or agent operates a bus controlled by the motor carrier while using or in possession of drugs in violation of the Vehicle And Traffic Law;

(5) the motor carrier directs or allows an employee or agent to operate a bus after such operator has been placed out of service in violation of the Transportation Law, Vehicle And Traffic Law or regulations adopted thereunder;

(6) the motor carrier directs or allows an employee or agent to operate a bus that has been placed out of service in violation of the Transportation Law, Vehicle And Traffic Law or regulations adopted thereunder; or

(7) the motor carrier directs or allows an employee or agent to operate a bus without a required license in violation of the Vehicle And Traffic Law.

(b) Notwithstanding any regulation of the department to the contrary, the commissioner may immediately suspend or revoke the authority of any motor carrier of passengers operating pursuant to a certificate or permit issued by the commissioner pursuant to article 6 or article 7 of the Transportation Law if such motor carrier of passengers operates concurrently under any authority issued by the United States Department of Transportation, Federal Motor Carrier Safety Administration, and such Federal operating authority has been revoked or a Federal out of service order is in effect, or if such motor carrier of passengers operates concurrently in interstate commerce without the requisite operating authority.
Section 2.11: Suspensions and Revocations (page 2)

(c) The suspension of operating authority as provided in subdivision (a) or (b) of this section shall be effective 10 business days after the date of issuance of the notice of suspension. Pending the effective date of such suspension, any motor carrier of passengers subject to this section may be heard to present proof as to why such suspension should not occur or be continued. The commissioner shall make a determination based upon a hearing of the proof whether such suspension shall become effective or continue and a hearing regarding permanent revocation shall be scheduled. For the purpose of making a determination as to whether the operating authority of a motor carrier should be suspended or revoked, or that some other action should be taken, any out of service violation occurring within the relevant period described in subdivision (a) of this section shall be considered, provided that the motor carrier did not obtain a favorable determination for such violation. For the purposes of this section, a favorable determination means that the out of service violation was contested by such motor carrier and an administrative law judge of the department determined that the motor carrier was not guilty of the violation charged. In addition to or in lieu of any suspension or revocation, the commissioner may, after a hearing, impose a civil penalty upon such motor carrier of passengers and notify the Commissioner of Motor Vehicles to suspend the vehicle registrations in accordance with the provisions of article 6 of the Transportation Law.

(d) Whenever the commissioner determines that the operations of a motor carrier of passengers pose a danger to public safety or the welfare of the people of the State of New York, the commissioner may serve such motor carrier with a notice or order requiring certain action or the cessation of certain activities immediately or within a specified period, and the commissioner shall provide such motor carrier with an opportunity to be heard within a period specified in such notice or order.

(e) Service may be made personally or by certified mail, return receipt requested, and a hearing shall be conducted pursuant to the provisions of section 503.2 of this Title, except that notice shall be provided in accordance with the provisions of this section.
Section 2.12: Bureau Enforcement Policy

In 2002 a Notice of Violation (NOV) enforcement policy was initiated in order to provide a continuous and structured approach to encourage and secure acceptable inspection results by all operators subject to New York State Department of Transportation (NYSDOT) semi-annual inspection.

The Department has defined a high Out of Service (OOS) rated operator as one that has an OOS rate of greater than or equal to 25% and in a continued effort to reduce the overall out of service rate, has developed a new policy which will take effect for the inspection period starting April 1, 2010. For all operators with 10 or more inspections starting in State Fiscal Year (SFY) 2010/2011, who have an unacceptable safety inspection record (i.e. 25% or greater OOS rate) over an 18 month period a NOV can be issued with penalties of $500 to $5000.

Penalties are based on a structured plan which take into consideration the number of annual inspections performed, OOS rate and if the operator received a NOV in the previous two years. The more annual inspections, the higher the OOS rate or previous NOV’s issued result in a higher penalty.

Additionally any carrier, regardless of their fleet size, who maintains a high OOS rate may be subject to a Department compliance audit at which time enforcement action may be taken.

We are pleased that this new enforcement policy will affect a very small percentage of the carriers subject to NYSDOT inspections and that the vast majority of our carriers continue to operate at the highest safety standards in the country.
NYSDOT
Semi-Annual Inspection Program

Appeal of an Out-Of-Service Determination

Occasionally, there may be instances when a bus operator (for the purposes of this part, the term “operator” shall include operator, operator representative, owner, distributor and/or manufacturer) believes that a vehicle has been placed out-of-service (OOS) in error. The purpose of this procedure is to describe the actions the operator may take to appeal a cited defect which resulted in an OOS determination. For the purposes of this appeal process, only “A” defects are defined as OOS defects. However, questions concerning non-OOS defects (“B” and “C”) should be directed to the inspector or the inspector’s supervisor for clarification or possible informal review.

The OOS Determination appeal process consists of the following two steps:

**Step 1**

**Supervisor Review**

The operator shall immediately notify the inspector that there is a disagreement concerning an OOS defect (“A” Defect) cited on the inspection form. The inspector shall clearly explain the basis for the OOS determination as the condition relates to the OOS criteria found in 17 NYCRR Part 720.11.

If the operator decides that the inspector’s explanation is not sufficient to resolve the disagreement, the operator shall have 3 business days from the date of the inspection to contact the inspector’s supervisor in writing, preferably via email, in order for the supervisor to review the matter and seek further explanation or clarification for the issuance of the defect. In the event the inspector’s supervisor is not available, the inspector will provide the operator with an alternate supervisor to contact. It is the operator’s responsibility to set forth clear and concise reasoning as to why the inspector cited the defect(s) in error. Challenges that fail to provide sufficient reasoning may be dismissed without further review.
If after a discussion with the supervisor, the matter can not be resolved, the operator may request an on-site review to examine the component(s) on the vehicle in its/their current state. The request to the supervisor shall be in writing. The operator shall make arrangements to have the vehicle available in order to allow the supervisor to conduct an on-site review within 3 business days from the first business day of the written request. If the supervisor does not conduct the on-site review within the 3 business days, the defect(s) shall be removed from the Department’s inspection records.*

The component(s) in question shall not be touched or worked on in any way until the supervisor concludes the on-site review. Altering the condition of the component(s) in any way before the supervisor has a chance to examine it (them), (even if the operator decides to correct, repair or remove the defective component(s) in order to present the vehicle for re-inspection) shall be sufficient grounds for the supervisor to dismiss the challenge, unless a mutual arrangement is made to preserve/document the component(s) until the supervisor can conduct the review.

The operator shall be apprised of the supervisor’s determination in writing within 5 business days from the first business day when the supervisor received the written challenge by the operator, if no on-site review is requested.

Operators shall be apprised of the supervisor’s determination in writing within 5 business days after the date of an on-site review.

In both cases, if a decision is not made within the time frames indicated above, the defect(s) shall be removed from the Department’s inspection record, unless otherwise authorized by the inspection program Director.*

If the supervisor determines that the defect(s) was (were) written in error, the appropriate change(s) shall be made to the Department’s inspection records regarding the defect(s) and shall notify the main office that such change has been made.

The supervisor shall forward all the pertinent information and documentation, concerning the determination of any challenge, to the main office.

If the operator is not satisfied with the results of the supervisor’s determination, the operator is then eligible to take advantage of Step 2- Main Office Appeal.
**Step 2**

**NYSDOT Main Office Appeal**

The operator shall submit an appeal to the main office by using the designated email link on the NYSDOT website (passengersafety@dot.ny.gov) or submit the appeal in writing, within **10 business days** from the date of the supervisor’s decision to:

NYSDOT  
Passenger Carrier Safety Bureau  
POD 53  
50 Wolf Road Albany,  
NY 12232

1) The appeal shall set forth clear and concise reasoning as to why the supervisor’s decision was in error. Specific detailed information should be included to support the appeal.

2) The appeal shall be reviewed and a recommendation shall be presented to the Director in order to make a final determination.

3) A final determination on the appeal shall be made within 30 days from the date the appeal was received in the main office or the defect(s) shall be removed from the Department’s inspection record.*

   There shall be no further appeal process.

4) If the appeal is upheld, the specific defect(s) shall be appropriately removed/adjusted on the operator’s inspection record.

5) Operators shall not be limited as to the number of challenges or appeals that can be filed with the Department except when:

   - An operator repeatedly abuses the appeal process by filing challenges or appeals that are repeatedly frivolous or unreasonable as determined by the Director. **These operators shall be designated as ineligible to participate in the appeal process for a minimum period of 12 months.**

*The Director may sustain the defects on an operator’s inspection record for good cause.
Section 3.1: Motor Carrier Compliance Bureau Overview

The Motor Carrier Compliance Bureau is responsible for the administration of the statewide Motor Carrier Safety Assistance Program (MCSAP). The primary goal of this federally funded program is to reduce the number and severity of crashes and hazardous material incidents involving commercial motor vehicles. This goal is accomplished through various field operations including North American Standard (NAS) Roadside Bus Inspections, New Entrant Safety Audits, Compliance Reviews, Complaint Investigations, Security Visits, and various Educational Programs.

Differences between the NYSDOT Bus Inspection Program and the NAS Inspection Program:

<table>
<thead>
<tr>
<th></th>
<th>NYSDOT Bus Inspection Program</th>
<th>Federal NAS Inspection Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection Personnel</td>
<td>NYSDOT Motor Vehicle Inspectors (MVIs)</td>
<td>NYSDOT Motor Vehicle Inspectors (MVIs), NYSDOT, Motor Carrier Investigators (MCIs), Federal Safety Investigators (SIs), and state/local police officers.</td>
</tr>
<tr>
<td>Inspection Criteria</td>
<td>17 NYCRR Parts 720 thru 723 mechanical inspections-only</td>
<td>17 NYCRR Parts 720 thru 723 &amp; 49 Code of Federal Regulations through adoption by 17 NYCRR Part 820 including driver credential inspections</td>
</tr>
<tr>
<td>Locations</td>
<td>Inspection facilities approved and scheduled by the Assigned Motor Vehicle Inspector.</td>
<td>Typically, unannounced and at passenger origin or destination locations using aluminum ramps &amp; creepers for undercarriages, or at carrier terminals for “type 5” inspections (bus lifts/pits may or may not be necessary)</td>
</tr>
</tbody>
</table>

The Compliance, Safety, Accountability (CSA) Program for interventions:

Similar to New York’s Performance Based Inspection Program, the CSA program is a Federal initiative to use a combination of NAS inspections, accident reports, and other data to prioritize motor carrier interventions and enforcement activities in categories called “Safety Measurement System” or SMS. NYSDOT Motor Carrier Investigators (MCIs) participate in the program through warning letters, compliance investigations, and civil enforcement actions against carriers with poor performance ratings. MCIs perform compliance reviews and enforcement in support of the NYS Performance Based Inspection Program as well as the Federal CSA Program.
**Section 3.2: North American Standard Inspection Program**

North American Standard roadside commercial vehicle inspections are performed by law enforcement, NYSDOT, Federal Department of Transportation, and other safety partners throughout the United States and by equivalent organizations in Canada and Mexico. These inspections are random in nature and are performed at passenger vehicle origins/destinations.

**Level 1: North American Standard Inspection**

Includes examination of driver’s license; Medical Examiner’s Certificate and Skill Performance Evaluation (SPE) Certificate (if applicable); alcohol and drugs; driver’s record of duty status, as required; hours of service; seat belt; vehicle inspection report(s) (if applicable); brake systems; cargo securement; coupling devices; driveline/driveshaft; exhaust systems; frames; fuel systems; lighting devices (headlamps, tail lamps, stop lamps, turn signals and lamps/flags on projecting loads); steering mechanisms; suspensions; tires; van and open-top trailer bodies; wheels, rims and hubs; windshield wipers; buses, motorcoaches, passenger vans or other passenger-carrying vehicles – emergency exits, electrical cables and systems in engine and battery compartments, and seating.

**Level 2: Walk-Around Driver/Vehicle Inspection**

The walk-around driver/vehicle inspection will include only those items of a North American Standard Inspection that can be inspected without physically getting under the vehicle.

**Level 3: Driver/Credential Inspection**

At a minimum, Level III Inspections must include, where required and/or applicable: examination of the driver’s license; Medical Examiner’s Certificate and Skill Performance Evaluation (SPE) Certificate; driver’s record of duty status; hours of service; seat belt; and vehicle inspection report(s).

**Level 5: Vehicle-only Inspection**

An inspection that includes each of the vehicle inspection items specified under the North American Standard Inspection (Level I), without a driver present, conducted at any location such as a carrier/operator terminal.

**Level 7: Jurisdictional Mandated Commercial Vehicle Inspection**

An example will include inspection programs such as, but not limited to, school buses, limousines, taxis, shared-ride transportation, hotel courtesy shuttles and other intrastate operations.
Section 3.3: NAS Inspection Program Procedures (1 of 2)

Inspection Procedure
North American Standard Passenger Carrier Vehicle

For Levels II and V, omit steps that do not apply.
For more detailed information, see the written procedures contained in the CVSA Operations Manual.

1. Inspection Preparation (Team Leader)
   - Select vehicle and direct it to the inspection location.
   - Gather preliminary information from the vehicle for the inspection report, including the license plate number and state/province/territory and country, company name as shown on the vehicle, company number, appropriate DOT, PUC/PSRC identifiers, etc., and the time the inspection began. Verify the company operator, not the tour company or leasing company.
   
   Note: Communication is paramount between the inspector(s) and the driver.

2. Collect Driver's Documents (Team Leader)
   - Collect commercial driver's license (CDL) and record of duty status.
   - Collect Medical Examiner's Certificate and Skill Performance Evaluation (SPE) Certificate (if applicable).
   - Collect periodic inspection certificates, CPR.
   - Collect supporting documents: bills of lading, receipts, other documents used to verify record of duty status, trip information, tour itinerary, trip envelope and charter order.

3. Examine Commercial Driver's License (Team Leader)
   - Check the expiration date, class, endorsements, restrictions, and status.

4. Check Medical Examiner's Certificate and Skills Performance Evaluation (SPE) Certificate (if Applicable) (Team Leader)
   - Check certificate(s) date, which may be valid for up to 24 months.
   - Check corrective lens requirement.
   - Check hearing aid requirement.
   - Check physical limitations.
   
   Note: The medical qualifications may be contained in the driver's license. Proper class indicates adequate medical requirements.

5. Interview the Driver (Team Leader)
   - Ask the driver for starting location, final destination, load description, time traveled, most recent stop and fueling location(s).
   - Ask the driver what other jobs he/she has worked in the past week (many drivers are part time).
   - Check for presence of hazardous materials/dangerous goods.

6. Check Record of Duty Status (Team Leader)
   - Check hours of service verification.
   - Check accuracy of record.

7. Review Vehicle Inspection Reports (Team Leader)
   - Check driver's daily vehicle inspection report (if applicable).
   - Review the vehicle inspection report to verify that listed safety defects have been certified as corrected.

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Section 3.3: NAS Inspection Program Procedures (2 of 2)

10 Check Passenger Area (Team Leader)
- Check windows, emergency doors and emergency exits.
- Check for fire extinguisher.
- Check seats and floor and look for unacceptable items being used for temporary seating.
- Ensure the aisle is clear of obstructions.

11 Check Driver’s Compartment (Team Leader)
- Check driver’s seat, seat belt, low air pressure warning device, ABS malfunction lamp, and steering wheel lash and column.
- Inspect the brake pedal (valve and treadle assembly).

12 Inspect Front Outside of Vehicle (Other Inspector(s))
- Check headlamps, turn signals, emergency flashers, windshield, windshield wipers, suspension and brake components.
- Inspect bumper and spare tire.

13 Inspect Left Side of Vehicle (Other Inspector(s))
- Check wheels, rims, hubs and tires.
- Check fuel cap(s) (if applicable).
- Check battery compartment (if applicable).
- Check for body damage.
- Check cargo bays and reflective warning devices.

14 Inspect Rear of Vehicle (Other Inspector(s))
- Check for presence of hazardous materials/dangerous goods.

15 Inspect Right Side of Vehicle (Other Inspector(s))
- Check wheels, rims, hubs, tires, fuel caps and exterior condition as described in step 13.

16 Place Inspection Ramps (All Inspector(s))
- Place ramps either in front of or behind the wheels, as appropriate.
- Direct the driver to drive carefully up the ramps and stop at the top. Insert check blocks at the front and rear of the right drive wheels. Instruct the driver to release the brakes and turn off the engine.
- Ensure air pressure is at maximum.

17 Inspect the Front Undercarriage (Other Inspector(s))
- Check the steering system, front suspension, front brakes and frame.

18 Inspect the Rear Undercarriage (Other Inspector(s))
- Check rear suspension, rear brakes, frame, fuel tank, tag axle and driveline/driveshaft.

19 Check for the Presence of Hazardous Materials/Dangerous Goods (All Inspector(s))
- Commercial motor vehicles carrying passengers or transporting hazardous materials are subject to the same regulations as a truck, plus additional requirements and restrictions.

20 Check Air Loss Rate (Team Leader)
- When an air leak is discovered, conduct an air loss rate test.
- With the parking brakes released, the governor cut-in, the reservoir pressure between 80-90 psi (551-620 kPa), and the engine at idle, have the driver apply the service brakes and hold.
- Ensure the air pressure maintains or builds upon application and release.

21 Complete the Inspection (Team Leader)
- Complete all paperwork.
- Check the North American Standard Out of Service Criteria (OOSC) to determine if the driver or vehicle is out of service.
- Return documents to driver.
- Explain violations to driver.

22 Take Appropriate Enforcement Action (Team Leader)
- Refer to the OOSC when placing the vehicle or driver out of service.
- Inform the driver of the reasons for the out of service action.
- Inform passengers of the necessary action and arrangements.
- Re-inspect repaired vehicle.

23 Apply CVSA Decal (Team Leader)
- If the vehicle passes inspection, apply a CVSA decal on the glass portion (window) of the passenger door as close to inspector’s eye level as possible.

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Section 3.4: Requesting Review of NAS inspection findings/data

Carriers may request a review of FMCSA-issued data by logging into the DataQs systems at:

http://dataqs.fmcsa.dot.gov/

Questions or feedback may be directed to the DataQs technical support team at (877) 688-2984.

As a motor carrier or an owner-operator, you should be familiar with your crash, inspection, and registration data for two reasons: First, FMCSA uses the data to prioritize enforcement activities. Second, the public can view much of it in FMCSA systems. For more information on how to view your data in FMCSA systems, go to the relevant Frequently Asked Question in the DataQs Help Center:
https://dataqs.fmcsa.dot.gov/HelpCenter/HelpCenter.aspx

If you believe any data listed on FMCSA websites is inaccurate, submit a Request for Data Review (RDR) in DataQs. Use the step-by-step process to help gather necessary details and submit your request. DataQs allows you to upload supporting documents, automatically routes the request to the correct agency for review, and helps you track the request. You can even request copies of inspection reports from some States.

When submitting a Request for Data Review (RDR) keep in mind the following:

It is vitally important to provide detailed information that pertains to the carrier, driver, vehicle, or event data in the Motor Carrier Management Information System (MCMIS) that is being disputed in the Request for Data Review (RDR). This applies to both the original RDR filing and afterward when submitting supplemental information. Possible sources of information include: State inspection reports; State crash reports; the Federal Motor Carrier Safety Administration’s (FMCSA) Driver Information Resource (DIR) (a web-based tool that provides easy access to individual driver safety performance and compliance history and is available to FMCSA and State enforcement personnel via A&I Online); State Department of Motor Vehicles (DMV) databases; commercial motor vehicle registration and driver's licensing databases; etc. Another comprehensive source of information is “A Motor Carrier's Guide to Improving Highway Safety,” a product of FMCSA's Educational and Technical Assistance Program. Other relevant information may be obtained from the motor carrier or driver, including shipping papers, leases, and other relevant records.

States make a determination on a case-by-case basis as to whether a requestor submitted sufficient documentation to support his/her RDR. This determination should be based on all evidence presented by the requestor, and/or documentation provided by the inspector or officer who recorded the crash or inspection data. The State should exercise good judgment and discretion in making determinations. A letter to the State from the driver or the carrier simply claiming the data reported are in error, or requesting that data be removed from his/her profile, are examples of insufficient supporting documentation. To help close this information gap, DataQs analysts are encouraged to request additional information from RDR filers.

Any documentation provided by the RDR filer and/or the inspector or officer who recorded the inspection or crash data should be sufficient to allow the DataQs analyst to accurately assess the issue and render an informed judgment on the filer's claim. This will expedite the review process and lessen the likelihood that the RDR filer will need to request reconsideration of the claim.

A requestor may dispute the same data in DataQs twice. RDR filers are encouraged to provide sufficient detail and documentation to support their concern when they submit their RDR.

Supporting documentation can be faxed into DataQs or electronic files can be uploaded directly into the system. Documents may be uploaded while entering the Request for Data Review or at a later time. To help expedite the review process, the Federal Motor Carrier Safety Administration encourages users to submit documentation as soon as possible.
Section 3.5: The Compliance, Safety, Accountability Program (CSA)

CSA stands for Compliance, Safety, Accountability. It is the safety compliance and enforcement program of the Federal Motor Carrier Safety Administration (FMCSA) that holds motor carriers and drivers accountable for their role in safety management. CSA affects motor carriers, including owner-operators, by identifying those with safety problems to prioritize them for interventions such as warning letters and investigations. CSA affects drivers because their safety performance and compliance impact their safety records and, while working for a carrier, will impact their carrier’s safety record.

The Federal Motor Carrier Safety Administration’s CSA program uses the Safety Measurement System (SMS) to analyze data from roadside inspections, including driver and vehicle violations; crash reports from the last two years; and investigation results. The data is updated once a month and organized into seven BASICs:

The SMS groups carriers by BASIC with other carriers that have a similar number of safety events (e.g., crashes, inspections, or violations) and then ranks carriers and assigns a percentile from 0 to 100 (the higher the percentile, the worse the performance) to prioritize them for interventions.

Examples of Interventions

**Warning Letters:** Warning letters alert motor carriers early on to safety performance and compliance problems and the consequences of not improving, which may include either Offsite or Onsite Investigations.

**Investigations:** Safety Investigators (SIs) conduct three types of investigations on motor carriers, listed below. Investigations take place at the carrier’s place of business or remotely. During the investigation, SIs use FMCSA’s Safety Management Cycle to diagnose safety performance and compliance problems and identify actions a carrier can take to improve safety.

**Offsite**

An SI requests copies of documents from a carrier for review remotely, to identify specific safety performance and compliance problems.

**Onsite Focused**

An SI focuses on specific safety performance and compliance problems at the carrier’s place of business and may interview employees and perform vehicle inspections.

**Onsite Comprehensive**

An SI reviews the entire safety operation at the carrier’s place of business and may interview employees and perform vehicle inspections.

To review your safety record and learn how to improve safety performance and compliance, visit [http://csa.fmcsa.dot.gov/getroadsmart](http://csa.fmcsa.dot.gov/getroadsmart)
Section 4.1: NYSDOT Driver Qualification File

IN ADDITION TO THE DOCUMENTS FOUND IN THE APPENDICES OF SECTION 4 OF THIS GUIDEBOOK, THE FOLLOWING ITEMS NEED TO BE REVIEWED AND CONTAINED IN THE DRIVER QUALIFICATION FILE:

- COPY OF CURRENT DRIVER LICENSE.
- ABSTRACT OF DRIVING RECORD MUST BE OBTAINED UPON HIRE AND KEPT IN THE FILE.
- ABSTRACT OF DRIVING RECORD MUST BE OBTAINED ANNUALLY AND KEPT IN THE FILE.
- Drug/Alcohol Testing Prior Employer Check Data
- Driver Investigation History File §391.53

(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.
Section 4.2: NYSDMV Article 19-A

Article 19-A (of New York State Vehicle & Traffic Law) requires you to establish and maintain, for a period of three years plus the current year, a paper file for each driver you employ. Your driver file must contain form DS-870 (Article 19-A Bus Driver Application), the pre-employment documents, and the documentation from the annual (due at least once every 12 months) and biennial (due at least once every 24 months) safety procedures that must be conducted. Your driver file should also contain all correspondence sent to you by the DMV regarding your driver’s license record and/or 19-A qualification. DMV’s Testing and Investigation Unit will periodically audit your files for compliance under the law.

- Excerpt from New York State Department of Motor Vehicles Article 19-A Guide for Motor Carriers. *(Form #CDL-15)*

New York State Department of Transportation (NYSDOT) will not evaluate or provide guidance for your Article 19-A files or compliances. NYSDOT will only verify that all drivers are 19-A active with the NYSDMV, and that annual affidavits of compliances (NYS DMV form DS-3) are on file.

Available Resources for Article 19-A compliance:

1: NYSDMV Form # CDL-15
2: NYSDMV Website
3: NYSDMV Bus Driver Unit Staff

- 1: http://dmv.ny.gov/org/motor-carriers/information-and-forms-article-19
Section 4 Appendix A: Driver Application (Page 1)

**DRIVER APPLICATION**  
Fmcsr Part 391.21

<table>
<thead>
<tr>
<th>Motor Carrier Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Motor Carrier Address:</td>
<td></td>
</tr>
</tbody>
</table>

391.21 (d) Before an application is submitted, the motor carrier must inform the applicant that the information he/she provides in accordance with paragraph 391.21 (b)(10) of this section may be used, and the applicant's previous employers will be contacted, for the purpose of investigating the applicant's safety performance history information as required by paragraphs (d) and (e) of §391.23. The prospective employer must also notify the driver in writing of his/her due process rights as specified in §391.23(i) regarding information received as a result of these investigations. All required disclosures are contained in this document and can also be found by reviewing the Federal Motor Carrier Safety Regulations @ www.fmcsa.dot.gov

<table>
<thead>
<tr>
<th>Applicant Name:</th>
<th>Social Security #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Address:</td>
<td></td>
</tr>
<tr>
<td>City:</td>
<td>St. Zip</td>
</tr>
</tbody>
</table>

### Residence Past 3 Years

<table>
<thead>
<tr>
<th>Address:</th>
<th>St. Zip</th>
<th>How Long?</th>
</tr>
</thead>
<tbody>
<tr>
<td>City:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Experience and Qualifications

MAKE A PHOTO COPY OF THE DRIVERS LICENSE AND MEDICAL CERTIFICATE AND PLACE IN DRIVER FILE.

Applicant list the states and license numbers of all licenses held for the past 3 years.

<table>
<thead>
<tr>
<th>STATE</th>
<th>LICENSE #</th>
<th>EXPIRATION DATE</th>
<th>CLASS A, B</th>
<th>ENDorseMENTS</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>DRIVING EXPERIENCE</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Equipment Class</th>
<th>Type of Equipment Van,Flat,Tank,etc</th>
<th>DATES From</th>
<th>To</th>
<th>Approx # of Miles Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Straight Truck</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tractor Semi</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trailer</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tractor with</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Doubles</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tractor with</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Triples</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tractor with</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tank</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Accidents/Crashes for the past 3 years or more

<table>
<thead>
<tr>
<th>DATE</th>
<th>Nature of Accident (Backing, Head-on, Rollover, Turning)</th>
<th>Fatalities</th>
<th>Injuries</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Moving Traffic Convictions and Forfeitures for the past 3 years.

<table>
<thead>
<tr>
<th>Date of Conviction</th>
<th>Offense</th>
<th>Location</th>
<th>Type of Motor Vehicle Operated</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

A. Have you ever been denied a license, permit or privilege to operate a motor vehicle?
[ ] Yes [ ] No

B. Has any license, permit or privilege ever been revoked?
[ ] Yes [ ] No

If yes, Explain in Detail:

This company requires all Drivers who drive Commercial Motor Vehicles (CMV) which require a Commercial Drivers License (CDL), to be controlled substances tested with a negative result prior to driving.

Do you consent to such Testing?  [ ] Yes [ ] No
Driver Pre-Employment Verification of Testing Results

<table>
<thead>
<tr>
<th>In the past 2 years have you:</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tested positive for any Controlled Substances pre-employment test for any other company?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tested above .04 on any Alcohol pre-employment test for any other company?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refused to be tested for any pre-employment test for any other company?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If you answer “yes” to any of the above questions, provide the following information on the Substance Abuse Professional (SAP) you consulted.

<table>
<thead>
<tr>
<th>Name of SAP:</th>
<th>Street Address:</th>
<th>City:</th>
<th>State:</th>
<th>Zip Code:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Telephone Number:</th>
<th>Date(s) Visited:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**SIGNED:**

<table>
<thead>
<tr>
<th>DATE:</th>
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<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

**EMPLOYMENT RECORD 391.21(b10) 391.23(d) (e)**

All jobs for past 3 years and Commercial Driving Experience for the past 10 years

<table>
<thead>
<tr>
<th>Last Employer:</th>
<th>Position held:</th>
<th>From:</th>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<table>
<thead>
<tr>
<th>Address:</th>
<th>City:</th>
<th>ST:</th>
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<table>
<thead>
<tr>
<th>Telephone #:</th>
</tr>
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<tbody>
<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Reason For Leaving:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

Were you subject to the FMCSRs while employed by that previous employer? Yes No

<table>
<thead>
<tr>
<th>Last Employer:</th>
<th>Position held:</th>
<th>From:</th>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Address:</th>
<th>City:</th>
<th>ST:</th>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Telephone #:</th>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Reason For Leaving:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

Were you subject to the FMCSRs while employed by that previous employer? Yes No

<table>
<thead>
<tr>
<th>Last Employer:</th>
<th>Position held:</th>
<th>From:</th>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Address:</th>
<th>City:</th>
<th>ST:</th>
</tr>
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<tbody>
<tr>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Telephone #:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Reason For Leaving:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

Were you subject to the FMCSRs while employed by that previous employer? Yes No
Section 4 Appendix A: Driver Application (Page 4)

<table>
<thead>
<tr>
<th>Last Employer:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Position held:</td>
<td></td>
</tr>
<tr>
<td>From:</td>
<td>To:</td>
</tr>
<tr>
<td>Address:</td>
<td>City:</td>
</tr>
<tr>
<td>Telephone #:</td>
<td></td>
</tr>
<tr>
<td>Reason For Leaving:</td>
<td></td>
</tr>
<tr>
<td>Were you subject to the FMCSRs while employed by that previous employer? Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

391.23(i)(1) The prospective employer must expressly notify drivers with Department of Transportation regulated employment during the preceding three years—via the application form or other written document prior to any hiring decision—that he or she has the following rights regarding the investigative information that will be provided to the prospective employer pursuant to paragraphs (d) and (e) of this section:

(i)(1)(i) The right to review information provided by previous employers;

(i)(1)(ii) The right to have errors in the information corrected by the previous employer and for that previous employer to re-send the corrected information to the prospective employer;

(i)(1)(iii) The right to have a rebuttal statement attached to the alleged erroneous information, if the previous employer and the driver cannot agree on the accuracy of the information.

(i)(2) Drivers who have previous Department of Transportation regulated employment history in the preceding three years, and wish to review previous employer-provided investigative information must submit a written request to the prospective employer, which may be done at any time, including when applying, or as late as 30 days after being employed or being notified of denial of employment. The prospective employer must provide this information to the applicant within five (5) business days of receiving the written request. If the prospective employer has not yet received the requested information from the previous employer(s), then the five-business days deadline will begin when the prospective employer receives the requested safety performance history information. If the driver has not arranged to pick up or receive the requested records within thirty (30) days of the prospective employer making them available, the prospective motor carrier may consider the driver to have waived his/her request to review the records. Visit [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) to review the regulations.

This certifies that this application was completed by me, and that all entries on it and information in it are true to the best of my knowledge.

| Applicant’s Signature | DATE |
## Prior Employer Check Form

<table>
<thead>
<tr>
<th>Your Company Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Address:</td>
<td></td>
</tr>
<tr>
<td>City:</td>
<td></td>
</tr>
<tr>
<td>State:</td>
<td></td>
</tr>
<tr>
<td>Telephone#:</td>
<td></td>
</tr>
<tr>
<td>Fax#:</td>
<td></td>
</tr>
<tr>
<td>Email Address:</td>
<td></td>
</tr>
</tbody>
</table>

### Driver Applicant Name:

I hereby authorize and request (Enter Prior Employer Company Name and Address, Telephone & Fax number)

... to release any and all information pertaining to my employment records as required by 49 CFR Section 391.23 and Section 40.25(b) to the above named company. You are released from any and all liability which may result from releasing such information. The Federal Motor Carrier Safety Regulation require that this information be released as part of Driver Qualification Process. Per 49 CFR Section 40.25(h), you are required to immediately release this information.

391.23f) A prospective motor carrier employer must provide to the previous employer the driver's written consent meeting the requirements of §40.321(b) for the release of the information in paragraph (e) of this section. If the driver refuses to provide this written consent, the prospective motor carrier employer must not permit the driver to operate a commercial motor vehicle for that motor carrier.

(g) After October 29, 2004, previous employers must:

(g)(1) Respond to each request for the DOT defined information in paragraphs (d) and (e) of this section within 30 days after the request is received (Drug and Alcohol Testing Information must be immediately released). If there is no safety performance history information to report for that driver, previous motor carrier employers are nonetheless required to send a response confirming the non-existence of any such data, including the driver identification information and dates of employment.

(g)(2) Take all precautions reasonably necessary to ensure the accuracy of the records.

(g)(3) Provide specific contact information in case a driver chooses to contact the previous employer regarding correction or rebuttal of the data.

(g)(4) Keep a record of each request and the response for one year, including the date, the party to whom it was released, and a summary identifying what was provided.

### Driver Signature: ________________________________

### Date: ________________________________

### Witnessed by: ________________________________
The above applicant states that he/she worked for you. Employment dates from ___________ to ___________.

1. Type of equipment driven [ ] Straight truck [ ] Tractor semi-trailer [ ] Bus
   Trailer used [ ] Van [ ] Flatbed [ ] Refrigerated [ ] Cargo Tank [ ] Triples [ ] Doubles

2. Was the applicant safe and efficient? [ ] Yes [ ] No
   Remarks:

3. Did the applicant have any accidents? [ ] Yes [ ] No
   Date: ___________ Location: ___________ City: ___________ ST: ___________
   Towed: ___________ Injury: ___________ Fatal: ___________

4. Reason for leaving your employ. [ ] Discharged [ ] Laid off [ ] Resigned
   [ ] Other:
   How was the driver in: EXCELLENT GOOD POOR
   Quality of work
   Cooperation with others
   Safety Habits
   Personal Habits
   Driving Skills
   Attitude

Required information from Section 382.413 and 40.259b)

<table>
<thead>
<tr>
<th>Controlled Substance and Alcohol Testing Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Has the above named individual had an alcohol test with a breath alcohol concentration of 0.04 or greater while in your employ? ( ) Yes ( ) No</td>
</tr>
<tr>
<td>2. Has the above named individual had a controlled substance test with a positive result while in your employ? ( ) Yes ( ) No</td>
</tr>
<tr>
<td>3. Has the above individual refused a controlled substance test or alcohol test while in your employ? ( ) Yes ( ) No</td>
</tr>
<tr>
<td>4. Other violations of DOT Agency Drug and Alcohol testing regulations? ( ) Yes ( ) No</td>
</tr>
<tr>
<td>( ) Attached ( ) Not Attached</td>
</tr>
<tr>
<td>5. Do you have documentation of the employee’s successful completion of the 49 CFR Subpart O return to duty requirements? ( ) Yes ( ) No ( ) Attached ( ) Not Attached</td>
</tr>
</tbody>
</table>

Signed by: ___________ Date: ___________

By Prior Employer Official Title:

With Reference to question number 5, please identify the Substance Abuse Professional you referred the driver to if he/she tested positive or refused testing.

Name: ___________
Street Address: ___________
City: ___________ State: ___________
Phone#: ___________
NOTE: Failure to furnish information as required by 49 CRF 382.413 & 40.25 will result in the above named individual being removed from any CDL driving position.

You are required to release this information immediately per 49 CFR 382.405(f) & 40.25(h). Fines and penalties for not releasing this information is found in 49 CFR 382.507 under 49 USC 521(b).

Fines and penalties for not releasing this information is found in 49 CFR 382.507 under 49 USC 521(b).

We reserve the right to notify the US DOT Federal Motor Carrier Safety Administration in the event the above information is not received.

<table>
<thead>
<tr>
<th>Mailed On:</th>
<th>Faxed On:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verified by Phone-Talked to:</td>
<td></td>
</tr>
<tr>
<td>Signature:</td>
<td>Date:</td>
</tr>
</tbody>
</table>
## Section 4 Appendix C: Prior Employer Good Faith Effort Report

### PRIOR EMPLOYER CHECK 49 CFR 382.413/40.25 GOOD FAITH EFFORT

<table>
<thead>
<tr>
<th>COMPANY NAME:</th>
<th>STREET ADDRESS:</th>
<th>CITY:</th>
<th>STATE:</th>
<th>ZIP:</th>
<th>TELEPHONE#:</th>
<th>FAX#:</th>
</tr>
</thead>
</table>

### PRIOR EMPLOYER CHECK 49 CFR 382.413/40.25 GOOD FAITH EFFORT

1. Call the company and record date, name and telephone number of who contacted. Fax the required Release with driver’s signature. Wait 3 days, then go to step 2.

2. Call the company and record date, name, and telephone number of who contacted. Ask if they received the fax. If they say “Yes”, ask for the information that is required. If they say “No”, then go back to step 1. Wait 3 days, then go to step 3.

3. Send a certified letter containing the required Release with the driver’s signature asking for the information that is required. Wait 10 days, then go to step 4.

4. If the company refuses to release the information, record it and send a copy of the driver’s Release with the company’s name on the form and a copy of this documentation to the US DOT-FMCSA NY Division, Leo W. O’Brien Federal Building, Room 815, Clinton Ave. & N. Pearl St., Albany, NY 12207, Tel: 518-431-4145, Fax: 518-431-4140.

### DRIVER NAME:

<table>
<thead>
<tr>
<th>Date:</th>
<th>Tel:</th>
<th>Fax:</th>
<th>Who Contacted</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Notes:

2. Notes:

3. Notes:

Conducted By: ____________________________
Date Completed (Info received or sent to USDOT): ____________________________
391.31 Road test requirement.

Any person operating a commercial motor vehicle shall must first successfully completed a road test and receive a certificate of driver's road test. The road test must be given by the motor carrier or a person designated by it. An owner/operator must be given the test by a person other than himself/herself. The test has to be given by a person who is competent to evaluate and determine that the driver is capable of operating the type of commercial motor vehicle the driver will ultimately operate.

At minimum, the following must be tested:

1) The pretrip inspection process
2) Coupling and uncoupling of combination units (if applicable)
3) Placing the commercial motor vehicle in operation
4) Use of the commercial motor vehicle's controls and emergency equipment
5) Operating the commercial motor vehicle in traffic and while passing other motor vehicles
6) Turning the commercial motor vehicle
7) Braking, and slowing the commercial motor vehicle by means other than braking
8) Backing and parking the commercial motor vehicle.

The motor carrier has to provide a road test form on which the person who gives the test rates the performance of the person who takes it. After the tester completes the form, they have to sign it.

When the road test is successfully completed, the person who gave it shall complete a certificate of driver's road test. The form for the certificate of driver's road test is substantially as follows:

<table>
<thead>
<tr>
<th>Certification of Road Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driver's name</td>
</tr>
<tr>
<td>Social Security No</td>
</tr>
<tr>
<td>Operator's or Chauffeur's License No</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Type of power unit</td>
</tr>
<tr>
<td>Type of trailer(s)</td>
</tr>
<tr>
<td>If passenger carrier, type of bus</td>
</tr>
</tbody>
</table>

This is to certify that the above-named driver was given a road test under my supervision on ______, 20____, consisting of approximately ____ miles of driving. It is my considered opinion that this driver possesses sufficient driving skill to operate safely the type of commercial motor vehicle listed above.

__________________________  ____________  ______________________
(Signature of examiner)    (Title)      (Organization and address of examiner)

A copy of the certificate required shall be given to the person who was examined. The motor carrier shall retain the test form and the test certificate in the driver qualification file of the person who was examined.
# Annual Certificate & Annual Review

## Annual Certificate of Violations

**Driver Name:**

**License #:**

**St.:**

**Annual Certificate of Violations**

I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months. [ ] Violations are as listed below [ ] I have had no violations.

<table>
<thead>
<tr>
<th>Date of Conviction</th>
<th>Offense</th>
<th>Location</th>
<th>Type of Motor Vehicle operated</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.

**Date of Certification:**

**Driver Signature:**

**Reviewed By:**

**Title:**

## Annual Review of Driving Record

The motor carrier must consider any evidence that the driver has violated any applicable Federal Motor Carrier Safety Regulations in this subchapter or Hazardous Materials Regulations (49 CFR chapter I, subchapter C).

The motor carrier must consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public.

In accordance with 49 Code of Federal Regulations Section 391.25, (Federal Motor Carrier Safety Regulations), all information pertinent to the above driver’s safety of operation, including the list of violations furnished by him in accordance with 49 CFR Section 391.27, has been reviewed for the past 12 months.

**Reviewer:**

**Date:**
Section 4 Appendix F: Medical Examination Certificate

- The MEC form must be carried by non-CDL intrastate passenger carrier vehicle drivers during roadside inspections. **Exception:** drivers who obtained their first license prior to 1/1/2004.
- The MEC forms OR the MER forms must be in driver qualification files at the motor carrier physical address when NYSDOT performs audits.

Further resources:


Important information for drivers with missing or impaired limbs: [https://www.fmcsa.dot.gov/medical/driver-medical-requirements/skill-performance-evaluation-certificate-program](https://www.fmcsa.dot.gov/medical/driver-medical-requirements/skill-performance-evaluation-certificate-program)

Important information for drivers with diabetes, hearing/vision loss, and/or seizures: [https://www.fmcsa.dot.gov/medical/driver-medical-requirements/driver-exemption-programs](https://www.fmcsa.dot.gov/medical/driver-medical-requirements/driver-exemption-programs)
The following is excerpted from the New York State Department of Motor Vehicles website http://dmv.ny.gov. Please contact NYSDMV for assistance with CDL licensing medical certification requirements:

Mailing address:
NYS Department of Motor Vehicles
Medical Certification Unit
PO Box 2601
Albany, NY  12228-0601
Fax: (518) 486-4421 / (518) 486-3260
e-mail:  dmv.sm.CDLMedCertUnit@dmv.ny.gov
Phone from area codes 212, 347, 646, 718, 917 and 929:
1-212-645-5550 or 1-718-966-6155
Phone from area codes 516, 631, 845 and 914:
1-718-477-4820
Phone from area codes 315, 518, 585, 607 and 716:
1-518-486-9786

New Federal Requirement for Medical Examiner's Certificates

Beginning May 21, 2014, commercial drivers must obtain their US DOT Medical Examiner’s Certificate from a “certified” medical examiner that is listed on the Federal Motor Carrier Safety Administration’s (FMCSA) National Registry of Certified Medical Examiners (National Registry).

All US DOT Medical Examiner’s Certificates issued on or after May 21, 2014 must include the certified medical examiner’s National Registry number. DMV will not accept a Medical Examiner Certificate issued on or after this date without a National Registry number. DMV will reject Medical Examiner’s Certificates received without a National Registry number. This will delay a driver’s medical certification information being updated with DMV.
Drivers with a current, valid, unexpired US DOT Medical Examiner’s Certificate on file with DMV ARE NOT required to replace the Medical Examiner’s Certificate with one that has a National Registry number until their next required physical qualification exam.
FMCSA established the National Registry to help commercial drivers find trained and qualified medical examiners to perform physical qualification exams. As of May 21, 2014, the doctors listed on this registry are the ONLY doctors allowed to perform a US DOT physical examination. The list of certified medical examiners includes physicians, nurse practitioners, and physician assistants. It is available on the National Registry website.
Commercial license downgrades will begin on March 26th, 2014 for any driver who did not respond to the DMVs request for self-certification or medical certification information, or who did not keep their medical certificate information on file current with us.
Section 4 Appendix G: Medical Certification & NYSDMV (Page 2)

What must I do if I get a NOTICE OF NON-COMPLIANCE AND LICENSE DOWNGRADE?

• If the cause is "Failed to comply with Commissioners request to submit acceptable self-certification of driving type and medical documentation"
  o You must immediately submit a Medical Certification Requirements for Commercial Drivers [1] form (MC-11A) and a copy of your USDOT Medical Examiners Certificate (if you choose NA or NI as your driving type).

• If the cause is "Your US DOT Medical Examiners certificate has expired"
  o You must immediately submit an updated copy of your USDOT Medical Examiners Certificate.

• If the cause is "Your Medical Variance has expired, or your USDOT Medical Examiners Certificate or your Medical Variance has been rescinded or revoked"
  o You must contact the Federal Motor Carrier Safety Administration (FMCSA) or your Medical Examiner to have this issue resolved.

You can send the required documents to DMV by mail, fax or e-mail:
Mailing address:
NYS Department of Motor Vehicles
Medical Certification Unit
PO Box 2601
Albany, NY  12228-0601
Fax: (518) 486-4421 / (518) 486-3260
e-mail: dmv.sm.CDLMedCertUnit@dmv.ny.gov

You can monitor your medical certification status by creating an account through our MyDMV service. There is no fee to check your Medical Certification Status through MyDMV.

• What will happen if I don't respond to the NOTICE OF NON-COMPLIANCE AND LICENSE DOWNGRADE?
  o Failure to respond to the NOTICE OF NON-COMPLIANCE AND LICENSE DOWNGRADE will result in your license automatically being downgraded to a Non-CDL class as of the effective date on the notice. It is strongly recommended that you submit your required information to the Medical Certification Unit at least 20 days prior to the effective date of the downgrade, to allow for receipt and processing time.

If your license becomes downgraded to a non-CDL class, and you want to amend back to a CDL, you will need to visit your local DMV office to complete the transaction. This cannot be done by the Medical Certification Unit at the Central Office. Any self-certification and/or medical certification requirements must be satisfied prior to the upgrade of the license.

If your license becomes downgraded to a non-CDL class, and you do not want to amend back to a CDL, you may obtain a new non-CDL driver license document by applying for a duplicate license online. The commercial class license document in your possession will no longer be valid.
Section 5.1: Hours of Service

Drivers of Motor Buses are required to avoid allowing fatigued drivers to operate on the roads. Within New York State, maximum driving and on-duty time can be found in Section 820.6 of Title 17 of the New York Code of Rules and Regulations (17 NYCRR). Note that the regulations are not applicable to school districts or transit systems operating within their jurisdiction.

The maximum driving/on-duty times (17 NYCRR 820.6 Referencing 49 CFR Part 395):

- **10 hour rule**: 10 hour driving limit after 8 consecutive hours off duty.
- **15 hour rule**: Prohibited from driving beyond 15 hours on-duty (for any labor) after 8 consecutive hours off duty.
- **60/70 hour rule**: Prohibited from driving beyond 60 or 70 hours on-duty (for any labor) during a 7 or 8 consecutive day period. Use the 70 hour rule only if business is open 7 days a week.

The driver’s daily log:

- When hiring a new driver or using an intermittent driver, the driver needs to complete an intermittent driver statement with TOTAL ON-DUTY HOURS for seven prior days and END TIME of their last ON-DUTY period.
- **For drivers operating within a 100 air mile radius of their garage or terminal**, log books aren’t required if timesheets are kept that show the driver’s starting and ending time for all labor (driving & on-duty time) each day as well as “total hours” labored. See exemption below.
- **Logbook/record of duty status must be retained for 6 months.**
- **Keep all supporting documents for 6 months** – fuel receipts, ezpass records, charters, etc.

Private Schools or School Contractors:

- Operating school-to-home and home-to-school only do not require records of duty status. Drivers performing transportation for field trips, sporting events, concerts, etc., however, must comply with hours of service requirements.

Short-haul operations exemption:

A passenger-carrying CMV driver is exempt from the requirements of 49 CFR 395.8 if:

1) Driver operates within a 100 air-mile radius of the normal work reporting location
2) Driver returns to the work reporting location and is released from work within 12 consecutive hours.
3) Driver has at least 8 consecutive hours off duty separating each 12 hours on duty
4) Driver does not exceed 10 hours maximum driving time following 8 consecutive hours off duty.
5) The carrier employing the driver maintains and retains for a period of 6 months accurate and true time records showing time driver reports for duty each day; total number of hours the driver is on duty each day; time the driver is released from duty each day; total time for the preceding 7 days for drivers used the first time or intermittently.
Section 5.2: Electronic Logging Device Mandate

Electronic logging devices (ELDs) are congressionally mandated as a part of the MAP-21 Act of 2012. An ELD synchronizes with the vehicle engine control module to automatically record driving time. ELDs differ from currently deployed e-logs and automatic on board recording devices (AOBRDs) because they have technical specifications and standardizations that include provisions to help prevent data tampering and harassment of drives and also creates standard data displays and a standard data transfer process to ease demonstrating compliant records of duty status to roadside and investigative safety officials.

What do I need to know?

- The one-stop resource for information and updates on ELDs is [http://fmcsa.dot.gov/ELDS](http://fmcsa.dot.gov/ELDS)
- A comprehensive list of registered devices and manufactures available from vendors to comply with the mandate can be found here: [https://csa.fmcsa.dot.gov/ELD/List](https://csa.fmcsa.dot.gov/ELD/List)
- A guidebook is available from Federal Motor Carrier Safety Administration with “Frequently Asked Questions” at the following link: [https://www.fmcsa.dot.gov/hours-service/elds/faqs](https://www.fmcsa.dot.gov/hours-service/elds/faqs)
- Further questions or concerns about the mandate may be forwarded to ELD@dot.gov or by phone 800-832-5660

Key Deadlines:

- ELD Violations will be documented by roadside enforcement beginning December 18, 2017
- Compliant automatic onboard recording devices will be permissible until December 16, 2019
- The Commercial Vehicle Safety Alliance (CVSA) announced on 8/28/17 that the effective date for out-of-service criteria related to the ELD Rule will be April 1, 2018

Exemptions and Waivers:

The following local and long-distance drivers are not required to use ELDs:
- Drivers who use paper logs no more than 8 days during any 30-day period
- Driveaway-towaway drivers (transporting a vehicle for sale, lease, or repair)
- Drivers of vehicles manufactured before model year 2000

And for local drivers only:
- Drivers operating within 100-air mile radius from work reporting location may use time cards (SEE SECTION 4 APPENDIX A) instead of ELDs

WAIVERS:
- On 10/20/17 FMCSA granted a 5-year waiver allows that drivers using compliant mobile device-based ELDs (running on a phone or tablet) to change duty status outside of and away from their vehicle.
- On 10/20/17 FMCSA granted a 5-year waiver allowing carriers to perform multiple yard moves without having to re-enter “yard move” on the ELD every time the truck is turned off and on again.
Section 5 Appendix A: Short-haul Operations Driver Time Sheet

100 air-mile radius driver time Sheet

<table>
<thead>
<tr>
<th>Date</th>
<th>Labor Start time</th>
<th>Labor End time</th>
<th>Total Hours Labored</th>
<th>Bus #</th>
<th>HQ Location (City, ST)</th>
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INTERMITTENT, CASUAL OR OCCASIONAL
DRIVER’S STATEMENT OF ON-DUTY
HOURS

INSTRUCTIONS: Motor carriers when using a driver for the first time shall obtain from the driver a signed statement giving the total time on-duty during the immediately preceding 7 days and time at which such driver was last relieved from duty prior to beginning work for such carrier. Rule 395.8(i)(2) Federal Motor Carrier Safety Regulations. NOTE: Hours for any compensated work during the preceding 7 days, including work for a non-motor carrier entity, must be recorded on this form.

Driver information:
First Name: ___________________ Last Name: ___________________

Motor Vehicle Operator’s License Number ____________________________

Type of License ___________________ Issuing State ____________________________

<table>
<thead>
<tr>
<th>Day</th>
<th>1 (yesterday)</th>
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I hereby certify that the information given is correct to the best of my knowledge and belief, and that I was last relieved from work at

A.M. ___________________ P.M. ___________________

Time ___________________

Month / Day / Year ___________________

Driver’s Signature ___________________ Date ___________________

EMPLOYMENT CHECKLIST FOR INTERMITTENT, CASUAL OR OCCASIONAL DRIVER

The qualification file for an intermittent, casual or occasional driver employed under the rules in Section 391.63 must include the following forms per Section 391.51(d) Federal Motor Carrier Safety Regulations and must be retained for 3 years after the person’s employment by the motor carrier ceases.

1. Medical Examiners Certificate - The medical examiner’s certificate of his physical qualifications to drive a motor vehicle or a legible photographic copy of the certificate pursuant to Section 391.43.

2. Certificate of Driver’s Road Test - The certificate of driver's road test issued to the driver pursuant to Section 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 Section 391.31.

ALCOHOL AND CONTROLLED SUBSTANCE TESTING

A motor carrier must ensure that the intermittent, casual or occasional driver is currently subject to drug and alcohol testing programs as required by Part 382 of the Federal Motor Carrier Safety Regulations.

Verify participation in current drug and alcohol testing program for driver's regular motor carrier’s employment program.

Information regarding individual results of alcohol and controlled substance testing shall be maintained in a secure location with controlled access.
**Section 6.1: Maintenance Requirements**

**Maintenance Documentation Requirements by Operation Type:**

- **Operators requiring a USDOT#:**
  - Subject to 820.7 & 49 CFR Part 396
  - Subject to Part 721

- **Operators not requiring a USDOT#:**
  - Subject to Part 721

**Requirements of 49 CFR Part 396:**
- Systematic repair and maintenance program.
- Driver vehicle inspection reports
- Periodic/annual inspection
- Inspector qualification record
- Brake inspector qualification record

**Requirements of 17 NYCRR Part 721:**
- Preventative Maintenance interval certification (721.2a)
- Driver pre trip inspection and post trip review reports (721.2b)
- Operator maintenance examination (721.2d)
- Article 19 a & b affidavit of compliance (721.2f)
## Driver Vehicle Inspection Report

<table>
<thead>
<tr>
<th>Carrier Name</th>
<th>Terminal Address</th>
<th>Check Any Defective Equipment</th>
<th>Pre-Trip Safety and Road Worthiness Check</th>
<th>Post-Trip Safety and Road Worthiness Check</th>
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**Condition of the above vehicle is satisfactory.**

### REMARKS/OTHER:

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<tr>
<th>Air Compressor</th>
<th>Heater/Air Conditioner</th>
<th>Engine Coolant</th>
<th>Front Hub Components</th>
<th>Engine Bearings</th>
<th>Drive Shaft</th>
<th>Front Axle</th>
<th>Oil Pressure</th>
<th>Brake Accessories</th>
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**Above defects need not be corrected for safe operation of bus.**

<table>
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<tr>
<th>Date</th>
<th>Mechanic's Signature</th>
<th>Driver Signature</th>
<th>Condition of the above vehicle is satisfactory.</th>
<th>REMARKS/OTHER:</th>
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<td>Brake Accessories</td>
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</table>

**Above defects not corrected.**

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<tr>
<th>Date</th>
<th>Mechanic's Signature</th>
<th>Driver Signature</th>
<th>Condition of the above vehicle is satisfactory.</th>
<th>REMARKS/OTHER:</th>
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<td>Brake Accessories</td>
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**Above defects need not be corrected for safe operation of bus.**
**Section 6 Appendix B: Vehicle Maintenance Record**

**VEHICLE MAINTENANCE RECORD**

<table>
<thead>
<tr>
<th>YEAR &amp; MAKE</th>
<th>MODEL #</th>
<th>SERIAL #</th>
<th>TIRE SIZE</th>
<th>COMPANY #</th>
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</table>

**INSPECTION RECORD**

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<tr>
<th>DATE</th>
<th>ODOMETER</th>
<th>LUBE</th>
<th>OIL</th>
<th>INSPECTIONS</th>
<th>DESCRIPTION OF WORK COMPLETED</th>
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Section 6 Appendix C: Inspector and Brake Inspector Qualifications

VEHICLE INSPECTOR QUALIFICATIONS

I, ___________________________, am qualified to perform annual vehicle inspections pursuant to Part 396.19 for the following reason(s):

[ ] 1. Successfully completed a state or federally sponsored training program. [ 
[ ] 2. Have at least one year training or experience in the following:
   [ ] a. Participation in a truck/bus operation and maintenance training program. [ 
   [ ] b. Experience as a mechanic or inspector in a motor carrier maintenance program.
   [ ] c. Experience as a mechanic or inspector in truck or bus maintenance at a commercial garage, leasing company, or similar facility.
   [ ] d. Experience as a trained inspector for a state or the federal government.

INSPECTOR’S SIGNATURE: ____________________________________________

BRAKE INSPECTOR QUALIFICATIONS

I, ___________________________, am qualified to perform BRAKE INSPECTIONS pursuant to Part 396.25 for the following reason(s):

[ ] 1. Successfully completed a state or federally sponsored training program. [ 
[ ] 2. Have at least one year training or experience in the following:
   [ ] a. Participation in a truck/bus operation and maintenance training program. [ 
   [ ] b. Experience as a mechanic or inspector in a motor carrier maintenance program.
   [ ] c. Experience as a mechanic or inspector in truck or bus maintenance at a commercial garage, leasing company, or similar facility.

INSPECTOR’S SIGNATURE: ____________________________________________
Section 7.1: NYSDOT Abridgement of USDOT Drug and Alcohol Guidance Manual (Page 1)

Employee and Supervisor Education and Training

*What educational materials do I need to give to my employees?*

You must provide employees who perform DOT safety-sensitive functions materials that explain the DOT requirements. You must document that they received the materials. At the very least, you should include:

- The name and contact information of persons assigned to answer questions about the program.
- The duties of the employees who are subject to the program.
- Employee conduct that is prohibited by the regulations.
- The requirement that employees must be tested for drugs and alcohol.
- When and under what circumstances employees will be tested.
- The testing procedures that will be used.
- An explanation of what constitutes a refusal to test.
- An explanation of the consequences of refusing a test.
- The consequences of violating the DOT rules.
- Information on the effects of drugs and alcohol on a person’s health, work, and personal life.
- The signs and symptoms of drug use and alcohol misuse.
- The name and contact information of an individual or organization that can provide counseling and access to treatment programs.

There are also training requirements for supervisors and other officials about reasonable suspicion and reasonable cause testing:

<table>
<thead>
<tr>
<th>Type of Training</th>
<th>Duration</th>
<th>Documentation of training required?</th>
<th>Recurring training required?</th>
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</thead>
<tbody>
<tr>
<td>Indicators of Probable Drug Use</td>
<td>1 Hour</td>
<td>Yes</td>
<td>Recommended as Best Practice</td>
</tr>
<tr>
<td>Indicators of Probable Alcohol Use</td>
<td>1 Hour</td>
<td>Yes</td>
<td>Recommended as Best Practice</td>
</tr>
</tbody>
</table>

*What types of DOT tests must I conduct?*

You must give employees the following kinds of tests, when called for by DOT Agency rules:

- Pre-employment
- Random
- Reasonable Suspicion / Reasonable Cause
- Post-Accident
- Return-to-Duty (required to use a driver who refuses testing or is found positive)
- Follow-up (required to use a driver who refuses testing or is found positive)

Here are explanations about each type of test:

**PRE-EMPLOYMENT**

**Drug Tests:** You are required to: (1) Conduct a pre-employment drug test; and (2) Receive from the MRO a negative test result on the pre-employment drug test for a person prior to hiring or prior to using that person in a safety-sensitive position for the first time. This requirement also applies when a current employee is transferring from a non-safety sensitive position to a safety-sensitive job for the first time.

**Alcohol Tests:** Unless you are regulated by the USCG, you may conduct pre-employment alcohol testing under DOT authority, but only if two conditions are met: (1) The pre-employment alcohol testing must be accomplished for all applicants [and transfers], not just some; and (2) The testing must be conducted as a post-offer requirement – meaning you must inform the applicant that he or she has the job if he or she passes a DOT alcohol test.
RANDOM

Random tests are the key part of your program since they deter employees from using drugs and misusing alcohol. It is a good idea for you to have a written plan to help you to objectively and consistently apply your program.

You can choose to set higher random testing rates for your company.

The Federal Motor Carrier Safety Administration requires a drug testing rate of 25% and an alcohol testing rate of 10%, and so an employer with 100 safety-sensitive employees would have to ensure that 25 or more random drug tests and 10 or more random alcohol tests were conducted during the calendar year.

This doesn’t mean that you necessarily will give random drug tests to 50 different employees or random alcohol tests to 10 different employees. Some might be picked and tested more than once, and others not at all. It’s just that each time there is a random selection; all employees have an equal chance to be selected and tested.

What makes random testing so effective is the element of surprise. While employees know they will be tested, they are never quite sure of when. Random selections and testing should be performed at least quarterly. Some employers are selecting and testing more frequently. We think that is a good idea.

Employers and C/TPAs subject to more than one DOT Agency drug and alcohol testing rule may combine covered DOT safety-sensitive employees into a single random pool (for example, train engineers and truck drivers). However, companies doing so must test at or above the highest minimum annual random testing rates established by the DOT Agencies involved.


The Federal Drug Testing Custody and Control Form must be used for DOT drug tests and the Department of Transportation Alcohol Testing Form must be used for DOT alcohol tests. There are various vendors that supply these forms to employers, collectors, and STTs and BATs. Laboratories and C/TPAs usually provide forms to collection sites and manufacturers of alcohol testing devices usually provide forms to STTs and BATs – of course, there is a cost associated with printing the forms.

REASONABLE SUSPICION / REASONABLE CAUSE

You are required to conduct a test for drugs or alcohol [or both] if a trained supervisor or trained company official believes or suspects an employee is under the influence of drugs or alcohol [or both]. The supervisor or company official must have been trained to recognize the signs and symptoms of drug and alcohol use. Testing cannot be required based solely on a guess or hunch or complaint from another person or phone call tip. The suspicion must be based on specific observations by the supervisor or company official concerning the employee’s current appearance, behavior, speech, and smell that are usually associated with drug or alcohol use.

The reasonable suspicion / reasonable cause observations of the supervisor or company official must be documented.

POST-ACCIDENT

You are required by the DOT Agencies and USCG to conduct drug and alcohol tests following qualifying accidents. The following table summarizes post-accident time-frames and specimens that must be collected:

<table>
<thead>
<tr>
<th>DOT Agency</th>
<th>Specimen Type</th>
<th>Time Frame for Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>FMCSA</td>
<td>Urine for drug testing.</td>
<td>Up to 32 hours from time of event.</td>
</tr>
<tr>
<td>FMCSA</td>
<td>Saliva or breath for alcohol</td>
<td>Within 2 hours, but cannot exceed 8 hours from time of event.</td>
</tr>
</tbody>
</table>
Section 7.2: Drug & Alcohol Records Review (Page 1)

These represent most of the records a DOT Agency auditor, inspector, or investigator will usually request and review during a program review. Keep in mind, that a given DOT Agency may have additional and more specific record review requirements.

**Policies, Plans, and Reports**

- Alcohol and drug testing policies and instructions for implementing your program.
- Previous two MIS annual reports either submitted to DOT, or prepared and retained.
- Copies of written consent forms you sent to obtain 40.25 drug and alcohol information from previous employers, and the responses received from those employers.
- Copies of written consent forms you received from prospective employers for 40.25 information, and documentation of your responses.
- Semi-annual statistical summary reports from laboratories.
- Records of blind specimens sent to laboratories for the previous two years.
- List of all employees hired or transferred into safety-sensitive service for the past two years, including documentation of previous employer records check.
- List of all employees with a non-negative test result in the last five years.

**Employee and Supervisor Training Records**

- Educational materials for employees.
- Documentation showing how education materials were made available to employees.
- List of supervisors responsible for making reasonable suspicion and reasonable cause determinations.
- Supervisory training lesson plans and course materials.
- Attendance lists for supervisors who received this training.
- Under FRA, supervisor post-accident training lesson plans, course materials, and attendance lists.

**Random Testing Records**

- Information about the type of method used to select employees for testing.
- Names of all employees in the random testing pool for each selection period that the DOT Agency or USCG will review.
- Names of all employees selected for testing.
- Names of all employees actually tested.
- CCFs and ATFs showing employees were tested within the selection period.
- For each selected employee not tested, documentation showing why the collection did not occur.
- Records of collections by location, by date (or day of the week), and by time of the day (or shift).
- Proof that testing occurred throughout all shifts and all workdays, in other words – testing was unpredictable.
- For railroads, your approved Drug and Alcohol Random Testing Plan.
Section 7.2: Drug & Alcohol Records Review (Page 2)

**Drug Testing Custody and Control Forms for All DOT Tests**

- Pre-employment.
- Random.
- Reasonable suspicion, including supervisor justification documentation.
- Reasonable cause, under FAA, FRA, and PHMSA, including supervisor justification documentation.
- Post-accident, including documentation showing criteria were met.
- Return-to-duty.
- Follow-up.

**MRO Records**

- Laboratory confirmed results reports sent to MROs.
- MRO CCFs.
- MRO results reports sent to employers.
- MRO records of review of CCFs.
- MRO medical review notes and records.
- MRO downgrades.
- Split request records.
- Correctable and non-correctable flaw documentation.

**Alcohol Testing Forms for All DOT Tests**

- Pre-employment, if applicable.
- Random, under FMCSA, FAA, FRA, and FTA.
- Reasonable suspicion, including supervisor justification documentation.
- Reasonable cause under FRA, including supervisor justification documentation.
- Post-accident, including documentation showing criteria were met.
- Return-to-duty.
- Follow-up.
- Correctable and non-correctable flaw documentation.

**Employee Return to Duty Records**

- SAP Initial Evaluation reports.
- SAP Follow-up Evaluation reports, including follow-up testing plans.
- Employee —Return to Duty and —Last Chance Agreements, l when applicable.
- Return-to-duty and Follow-up testing compliance documentation.
- Lists of qualified SAPs that you give to those who violate the regulations.

**Service Agent Documentation**

- Lists of service agents and their contact information.
- Written agreements and contracts with service agents, if applicable.
- Credentials, training, and examination or proficiency documentation.
Section 7.3: Drug & Alcohol Employer Policy

Motor Carrier drug an alcohol policies must comply with 49 CFR 382.601 as follows:

(a) **General requirements.** Each employer shall provide educational materials that explain the requirements of this part and the employer's policies and procedures with respect to meeting these requirements.
   (1) The employer shall ensure that a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this part and to each driver subsequently hired or transferred into a position requiring driving a commercial motor vehicle.
   (2) Each employer shall provide written notice to representatives of employee organizations of the availability of this information.

(b) **Required content.** The materials to be made available to drivers shall include detailed discussion of at least the following:
   (1) The identity of the person designated by the employer to answer driver questions about the materials;
   (2) The categories of drivers who are subject to the provisions of this part;
   (3) Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the work day the driver is required to be in compliance with this part;
   (4) Specific information concerning driver conduct that is prohibited by this part;
   (5) The circumstances under which a driver will be tested for alcohol and/or controlled substances under this part, including post-accident testing under §382.303(d);
   (6) The procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver, including post-accident information, procedures and instructions required by §382.303(d);
   (7) The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this part;
   (8) An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;
   (9) The consequences for drivers found to have violated subpart B of this part, including the requirement that the driver be removed immediately from safety-sensitive functions, and the procedures under part 40, subpart O, of this title;
   (10) The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04;
   (11) Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem (the driver's or a co-worker's); and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.

(c) **Optional provision.** The materials supplied to drivers may also include information on additional employer policies with respect to the use of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level, that are based on the employer's authority independent of this part. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(d) **Certificate of receipt.** Each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section. Each employer shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver.
Section 7.4: D&A Consortia Guidance

What Are Consortium/Third-Party Administrators?

Consortium/Third-Party Administrators (C/TPAs) manage all, or part, of an employer’s DOT drug and alcohol testing program, sometimes including maintaining required testing records. They perform tasks as agreed to by the employer to assist in implementing the drug and alcohol testing program and to help keep the employer compliant with the DOT/FMCSA Drug and Alcohol Testing rules and regulations.

A consortium will often manage the DOT random testing programs of several employers, including those of owner-operators who are not permitted to manage random testing themselves. Consortiums that manage owner-operator programs play a very unique service agent role. While 540.355(k) prohibits service agents from serving as “designated employer representatives” (DER), the consortium is authorized to perform a number of employer functions in cases of owner-operators, and single driver employers.

While there are no DOT qualification requirements for a consortium or third-party administrator, the expectation is that they know all of the employer requirements and responsibilities under 49 CFR Part 40 and Part 382, including the related requirements of Part 383 (CDL Licensing), Part 391 (Driver Qualifications), and Part 392 (Driving of Commercial Motor Vehicles). Employers hire C/TPAs to keep them safe and in regulatory compliance.

Employers can be held responsible for service agent, including C/TPA, errors and resulting civil penalty actions for noncompliance. C/TPA and other service agent violations may be directly addressed under the public interest exclusion (PIE) as described in 49 CFR Part 40 Subpart R. Additionally under the Safe Roads Act of 2012, Congress provided authority for civil penalty actions against service agents (49 USC 31306a) [Moving Ahead for Progress in the 21st Century Act ("MAP-21"); P.L. 112-141].

In addition to knowing the employer requirements, C/TPAs are responsible for knowing the following:

- 540.341 – Must service agents comply with DOT drug and alcohol testing requirements?
- 540.343 – What tasks may a service agent perform for an employer?
- 540.345 – In what circumstances may a C/TPA act as an intermediary in the transmission of drug and alcohol testing information to employers?
- 540.347 – What functions may C/TPAs perform with respect to administering testing?
- 540.349 – What records may a service agent receive and maintain?
- 540.351 – What confidentiality requirements apply to service agents?
- 540.352 – What principles govern the interaction between medical review officers and other service agents?
- 540.355 – What limitations apply to the activities of service agents? Of particular importance are the exceptions afforded C/TPAs regarding owner-operators and other self-employed individuals in:
  - 540.355(f) – Concerning the transmission of substance abuse professional reports;
  - 540.355(h) – Concerning reasonable suspicion, post-accident, return-to-duty, and follow up testing; and,
  - 540.355(i)(1) – Concerning driver refusals for owner-operators and other self-employed individuals who fail to test after being scheduled and notified.

If an employer uses C/TPAs, the rules do not require a written contract, but having a written contract makes good business sense. Due to the number and complexity of drug and alcohol testing program requirements, written contracts or agreements between C/TPAs and employer clients are important to ensure each party understands who is responsible for each program requirement and provides evidence of regulatory compliance. The U.S. Department of Transportation Office of Drug and Alcohol Policy and Compliance publication “What Employers Need to Know About DOT Drug and Alcohol Testing” provides considerations about entering into contracts with service agents. Keep in mind, however, 5382.105 requires that each employer ensure that all alcohol or controlled substances testing conducted under this part complies with the procedures set forth in Part 40, and 540.11 provides that employers are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations.
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James Leonard, ITS1  
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Albany, NY 12232  
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E-mail: passengersafety@dot.ny.gov

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Rochester, NY 14623  
(585) 478-6350  
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Kevin.Zakes@dot.ny.gov

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Kenneth.Eady@dot.ny.gov
Section 8.2: Public Transportation Safety Board Contact Information

Public Transportation Safety Board (PTSB)

Jonathan Nicastro, Chief Investigator  
Jonathan.nicastro@dot.ny.gov

Metro NY PTSB

John Sheehan, Investigator – Metro, NY  
718-482-4577  
John.sheehan@dot.ny.gov

PTSB Bus Accident Notification (after hours, weekends and holidays):  
(518) 457-3765  
Fax: (718) 482-6421

Upstate PTSB

Gregory Buff, Investigator – Upstate  
Gregory.Buff@dot.ny.gov

PTSB Bus Accident Notification:  
(518) 485-2448  
(518) 457-3765  
Fax: (518) 485-5217
Section 8.3: Internet Links & Resources

DMV
http://www.dmv.ny.gov/

19-a requirements

Medical Examiners Certificate
http://www.dmv.ny.gov/cdl-medcert.htm

Vehicle registration
http://www.dmv.ny.gov/register.htm

CDL Licensing
https://www.dot.ny.gov/divisions/operating/osss/repository/Driver%20License%20Classes.pdf

NYS Laws
http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS

Hours of Service Rules for Bus Drivers
https://www.dot.ny.gov/divisions/operating/osss/bus-repository/PART%20723.pdf

Pre-trip inspections
https://www.dot.ny.gov/divisions/operating/osss/bus#inspection

Passenger Safety Regulations (driver and vehicle)

Passenger Safety Regulation Interpretations

Passenger Vehicle out of service criteria (New York State)

School bus safety inspection manual

Weekly bulletin passenger authority applications:

NYS Department of Health
http://www.health.ny.gov

NYC Department of Transportation

Federal Motor Carrier Safety Administration
http://www.fmcsa.dot.gov/

Federal Highway Administration
http://www.fhwa.dot.gov/

NYS Education Department
http://www.nysed.gov/

NYC Department of Education
http://www.nycenet.edu/

NY School bus contractors association
http://www.nysbca.com/

NY Head Mechanic’s association
http://www.nyhma.org/

NY Association for pupil transportation
http://www.nyapt.org/

American Bus Association
http://www.buses.org/

Bus Industry Safety Council
http://www.buses.org/?q=node/115

International Motor Coach Group
http://www.imgcoach.com/

National Association for Pupil Transportation
http://www.napt.org/

National Association of State Directors of Pupil Transportation Service
http://www.nasdpts.org/

United Motorcoach Association
http://www.uma.org/