



DRIVER QUALIFICATION GUIDE

[Revised 8/2013]

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Introduction

Driver qualification involves much more than just driver qualification files. It includes driver history files, on-going driver qualification requirements, disqualification triggers, record keeping and document storage. This Guide will explore these subjects including explaining how Concorde's services are configured and delivered to help ensure its customer's compliance.

The Regulatory Framework

The gateway to the Federal Motor Carrier Safety Regulations (FMCSRs) is surprisingly not found at the beginning of the regulations but is found closer to the end at [49 CFR Part 390](#). Part 390 makes clear that, with limited exceptions, the regulations apply to commercial motor vehicles (as defined below) that transport property or persons in interstate commerce. One might think that that rule of applicability is clear, but as with most federal statutes and regulations, it is anything but clear. To understand how and when the federal regulations apply, you must first understand the definitions of "interstate commerce" and "commercial motor vehicle" for which there are two different definitions.

Definition of Interstate Commerce

Whether a motor carrier operates in interstate commerce is a much bigger and broader question than whether its drivers cross state lines. Interpretation Question 6 to [§390.3](#) provides:

Question 6: How does one distinguish between intra- and interstate commerce for the purposes of applicability of the FMCSRs?

Guidance: Interstate commerce is determined by the essential character of the movement, manifested by the shipper's fixed and persistent intent at the time of shipment, and is ascertained from all of the facts and circumstances surrounding the transportation. When the intent of the transportation being performed is interstate in nature, even when the route is within the boundaries of a single State, the driver and CMV are subject to the FMCSRs.

Accordingly a motor carrier may be subject to the FMCSRs even when none of its drivers cross a state line. The *Graveley* case, discussed below, illustrates this point.

The Graveley Case's Interpretation of Interstate Commerce

[In the Matter of Robert Graveley dba Bob Graveley Ranch and Trucking, Docket No. FMCSA – 2007-0101-USO436 \(Western Service Center\)](#), the Federal Motor Carrier Safety Administration (FMCSA) found the motor carrier guilty of violating Federal Motor Carrier Safety Regulations (FMCSRs) notwithstanding the motor carrier's truck and its driver never left the motor carrier's home state of Montana; the motor carrier was fined \$8700 for the violation. While the motor carrier may have been shocked to learn that the FMCSA may and does regulate what appears to be wholly intrastate activities, this case is a relatively recent example of a legal decision in a long line of cases applying the FMCSRs to trucks and drivers that never leave their home states.

Facts of the Graveley Case

The material facts of the case were undisputed. This made the case solely a matter of law meaning that in order to decide the case the administrative law judges were simply required to apply the law to the undisputed facts. They did not have to resolve any disputed factual issues because there were none.

Graveley was engaged in the business of shipping cattle both within and outside of Montana. Prior to the instant case, its trucks and drivers had crossed state lines to deliver its customer's cattle. Subsequent to an unsatisfactory rating from the FMCSA resulting in its loss of authority to engage in interstate commerce, its trucks and drivers stopped crossing state lines and Graveley made arrangements for other transporters to pick up the cattle in Graveley's home state of Montana from Graveley's trucks and drivers and to thereafter transport the cattle across the Montana state line to their final destination. Importantly in this case Graveley was well aware at the time it picked up the shipment of cattle in Montana, that the ultimate destination for the beef was South Dakota.

The FMCSA charged Graveley with violation of [§385.13\(a\)\(2\)](#), operating in interstate commerce after an unsatisfactory rating. Graveley denied operating in interstate commerce since neither his trucks nor drivers ever left their home state of Montana and crossed no state line.

The FMCSA's Legal Arguments in Graveley

The FMCSA's memorandum of law (i.e. its written legal brief submitted to the judge) is highly instructive of the agency's position in cases of this type as well as informative on the law. First the FMCSA's counsel argued that "Respondent (Graveley) is charged with the responsibility of knowing and complying with applicable regulations." In other words, the fact that Graveley was not actually aware of the applicable law regarding the definition of Interstate Commerce was not a defense. Graveley, as all motor carriers, was and is "responsible for ascertaining what the regulations require, and complying with those regulations. Respondent cannot avoid this burden by arguing he simply did not know, was not informed or was misinformed." FMCSA Memorandum of Law at p. 8.

FMCSA counsel next argued "The interstate nature of the transportation is determined by the essential character of the commerce." The definitions found at [§390.5](#) provide:

Interstate commerce means trade, traffic, or transportation in the United States... (3)
Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or United States."

As plainly written the regulations clearly contemplate situations where wholly intrastate commerce may be regulated by the federal authorities because the activity is part of a bigger transportation activity which affects interstate commerce.

Counsel next cited several cases from the long line of cases that establish the law that "the movement of goods and the intent of the shipper determine interstate commerce." Citing the [United States Supreme Court case of United States v. Yellow Cab. Co., 332 U.S. 218 \(1947\)](#), counsel's brief quoted the Court's holding in *Yellow Cab*

when persons or goods move from a point of origin in one state to a point of destination in another, the fact that part of the journey consists of transportation by an independent agency solely within the boundaries of one state does not make that portion of the trip any less interstate in character. That portion must be viewed in its relation to the entire journey rather than in isolation. So viewed it is an integral step in the interstate movement. *Id.* at p. 228-229.

FMCSA Counsel argued in its brief that:

Whether transportation between two points in one state is considered to be part of an interstate movement is determined by the essential character of the commerce, manifested by the shipper's fixed and persisting intent at the time of shipment, and is ascertained from all of the facts and circumstances surrounding the transportation. (Citations omitted) When the intent of the transportation being performed is interstate in nature, even when the route is within the boundaries of a single state, the driver and commercial motor vehicle are subject to the FMCSRs. (Citations omitted) FMCSA Memorandum of Law at p.9-10.

Accordingly the factual inquiry concerns the intent and state of mind of the motor carrier. That determination is based upon the totality of the facts in the specific case at issue. In the Graveley matter, there was no dispute that Graveley knew the final destination of the cattle and accordingly was found guilty and fined. It did not matter that Graveley did not understand the nuanced definition of interstate commerce as explained above.

Once transportation of property or persons is characterized as interstate commerce, a variety of FMCSRs may apply including those found in Part 391 such as FMCSA compliant employment applications, road tests, medical examinations, review of MVRs, pre-employment background checks and driver qualification files. The failure to comply with these regulations by an "intrastate" motor carrier that is engaged in "interstate" commerce can lead to substantial fines, not to mention an unsatisfactory rating that could put the carrier out of business.

Definition of Commercial Motor Vehicles

If interstate commerce does not always mean interstate commerce, what does commercial motor vehicle mean? Actually there are two different definitions in the FMCSRs. Part 390 contains one of the two definitions of Commercial Motor Vehicle (CMV) that is found in the FMCSRs. For purposes of Part 390 and most other parts of Title 49, a CMV is defined as:

Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle— (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or(2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or(3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or(4) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C. [See 49 CFR 390.](#)

Those familiar with commercial driver licenses and the requirements related to them are also familiar with the other definition found in Parts 382 and 383. For purposes of those Parts the definition of a CMV is:

Commercial motor vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle(1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or(2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 or more pounds), whichever is greater; or(3) Is designed to transport 16 or more passengers, including the driver; or(4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations ([49 CFR part 172, subpart F](#)). [See 49 CFR 383.](#)

In other words there are two different definitions that differentiate between little trucks/passenger vehicles and big trucks/ passenger vehicles. And to make things just a bit more complicated, Parts 382 and 383 generally apply without regard to any interstate v. intrastate distinction. See [§382.103\(a\)](#) which provides “This part applies to every person and to all employers of such persons who operate a commercial motor vehicle in commerce in any State”...

Effect of State Adoption of the FMCSRs

Companies that are not subject to the FMCSRs because their activity is indeed wholly “intrastate” under the federal analysis explained above might still be subject to state adopted look-a-like regulations. Typically states adopt a portion or all of the FMCSRs, word for word, for application and enforcement in their state.

Depending on the state, trucks weighing as little as 10,001 pounds or more (the minimum federal weight trigger for small trucks in interstate commerce) may be subject to the FMCSRs as adopted by the state. These “small truck” drivers do not require a commercial driver’s license (CDL) and are not subject to the federal drug testing requirements under Part 382 but may still be subject to some or all of the Part 391 and other FMCSR requirements depending on what federal regulations the state has adopted. States have set the weight threshold to trigger the applicability of the state adopted look-a-like regulations anywhere from 10,001 to 26,001 or more pounds. And when a state adopts the federal regulations it might not adopt them in a form identical to the federal regulations.

As a result, many motor carriers that do business in multiple jurisdictions simply decide to follow the FMCSRs without regard to the “inter v intra” state issue. Of course there are a few exceptions and exemptions that apply in limited situations (e.g. Part 390 does not apply to hearses carrying corpses – always good to know); it is beyond the scope of this Guide to address these exceptions because they don’t apply to most of Concorde’s customers.

Driver Qualifications: [49 CFR Part 391](#)

Part 391 of the FMCSRs contains the rules regarding the qualification and disqualification of drivers including the associated record keeping requirements for a driver qualification file (DQF) and a driver history file (DHF).

Among the most important qualification requirements that must be satisfied by a driver are those found at [§391.11](#) which require the items below be satisfied. Of course there are more found elsewhere in the FMCSRs. The regulation provides that to be eligible to operate a CMV (small and big) a driver must satisfy the following requirements:

1. Is at least 21 years old;
2. Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;
3. Can, by reason of experience, training, or both, safely operate the type of commercial motor vehicle he/she drives;
4. Is physically qualified to drive a commercial motor vehicle in accordance with [subpart E](#)—Physical Qualifications and Examinations of this part;
5. Has a currently valid CMV operator's license issued only by one State or jurisdiction;
6. Has prepared and furnished the motor carrier that employs him/her with the list of violations or the certificate as required by [§391.27](#);
7. Is not disqualified to drive a commercial motor vehicle under the rules in [§391.15](#); and
8. Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with [§391.31](#), or has presented an operator's license or a certificate of road test which the motor carrier that employs him/her has accepted as equivalent to a road test in accordance with [§391.33](#).

Driver Qualification File: [49 CFR 391.51](#)

The FMCSA mandates that an audit trail be created to measure compliance with the foregoing and other requirements in the form of the maintenance of a DQF and DHF. The DQF requirement is found at 49 CFR 391.51 which requires the following documents to be included in the file:

1. The driver's application for employment completed in accordance with [§391.21](#).
2. A copy of the motor vehicle record received from each State record pursuant to [§391.23\(a\)\(1\)](#).
3. The certificate of driver's road test issued to the driver pursuant to [§391.31\(e\)](#), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to [§391.33](#).
4. The motor vehicle record received from each State driver licensing agency to the annual driver record inquiry required by [§391.25\(a\)](#).
5. A note relating to the annual review of the driver's driving record as required by [§391.25\(c\)\(2\)](#).

6. A list or certificate relating to violations of motor vehicle laws and ordinances required by [§391.27](#).
7. (7)(i) The medical examiner's certificate as required by [§391.43\(g\)](#) or a legible copy of the certificate. (ii) Exception. For CDL holders, beginning January 30, 2012, if the CDLIS motor vehicle record contains medical certification status information, the motor carrier employer must meet this requirement by obtaining the CDLIS motor vehicle record defined at [§384.105](#) of this chapter. That record must be obtained from the current licensing State and placed in the driver qualification file. After January 30, 2014, a non-excepted, interstate CDL holder without medical certification status information on the CDLIS motor vehicle record is designated "not-certified" to operate a CMV in interstate commerce. After January 30, 2014, a motor carrier may use a copy of the driver's current medical examiner's certificate that was submitted to the State for up to 15 days from the date it was issued as proof of medical certification. (iii) If that driver obtained the medical certification based on having obtained a medical variance from FMCSA, the motor carrier must also include a copy of the medical variance documentation in the driver qualification file in accordance with [§391.51\(b\)\(8\)](#).
8. A Skill Performance Evaluation Certificate obtained from a Field Administrator, Division Administrator, or State Director issued in accordance with [§391.49](#); or the Medical Exemption document, issued by a Federal medical program in accordance with part 381 of this chapter.
9. A note relating to verification of medical examiner listing on the National Registry of Certified Medical Examiners required by [§391.23\(m\)](#).

Employment Application: [§391.21](#)

See sample application on next page

EMPLOYMENT APPLICATION
PLEASE PRINT USING INK, OR TYPE

Company Name _____ Title _____
 Address _____ Position Applying for _____
 City, State, Zip _____ Referred by _____

PERSONAL
 Name - Last: _____ First: _____ Middle: _____ Social Security No. _____ Name used in previous employment, if other than current: _____
 Permanent Address - Street _____ City _____ State _____ Zip Code _____ Telephone (Area Code and No) _____
 Are you legally eligible to work in the U.S.? Yes No Driver's License No. State _____ Name and location of any relative employed by the Company _____

EDUCATION

SCHOOL NAME AND LOCATION	FROM Mo./Yr.	TO Mo./Yr.	DEGREE Received/Expected		MAJOR FIELD
			Degree	Year	
High School					
College or University					
Trade, Business, or Other					

MILITARY
 Service Branch _____ From: Mo./Yr. _____ To: Mo./Yr. _____

ACTIVITIES
 Professional Organizations or Activities (Include office held) _____ Honors (Include societies and scholarships) _____

MISCELLANEOUS
 Have you ever been convicted of a crime? (Do not include minor traffic violations)
 No Yes. If Yes, explain. Yes answer will not necessarily disqualify you from consideration.
 Have you ever made an employment application made with the company?
 No Yes. If Yes, explain, state where and when.

SKILLS
 Typing (WPM) _____ Sewing _____ Speedwriting (WPM) _____
 Dictaphone _____ Calculator _____ Switchboard _____
 Other (Specify): _____

EMPLOYMENT INTERESTS
 Describe your job interests and objectives _____

As a minimum, the regulation requires employment application to contain the information below:

1. The name and address of the employing motor carrier.
 - a. *Comment:* This is normally included at the top of the first page of the application.
2. The applicant's name, address, date of birth, and social security number.
 - a. *Comment:* Note the requirement for DOB; many employment applications do not include for fear of running afoul of other laws regarding age discrimination.
 - b. *Comment:* Note the requirement for SSN; many employment applications do not include because of privacy concerns.
 - c. *Comment:* Some motor carriers use their standard employment application supplemented by a FMCSA addendum that contains the additional information required by the regulation that is not part of the standard application.

3. The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted.
4. The date on which the application is submitted.
5. The issuing State, number, and expiration date of each unexpired commercial motor vehicle operator's license or permit that has been issued to the applicant.
6. The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment (such as buses, trucks, truck tractors, semitrailers, full trailers, and pole trailers) which he/she has operated.
7. A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused.
8. A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted.
9. A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred.
10. (i) A list of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, (ii) The dates he or she was employed by that employer, (iii) The reason for leaving the employ of that employer, (iv) After October 29, 2004, whether the (A) Applicant was subject to the FMCSRs while employed by that previous employer, (B) Job was designated as a safety sensitive function in any DOT regulated mode subject to alcohol and controlled substances testing requirements as required by 49 CFR part 40.
11. For those drivers applying to operate a commercial motor vehicle as defined by [Part 383](#) of this subchapter, a list of the names and addresses of the applicant's employers during the 7-year period preceding the 3 years contained in paragraph (b)(10) of this section for which the applicant was an operator of a commercial motor vehicle, together with the dates of employment and the reasons for leaving such employment.
 - a. *Comment:* Note the requirement for the additional 7 years for CDL drivers.
12. The following certification and signature line, which must appear at the end of the application form and be signed by the applicant:
 - a. This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.
 - b. *Comment:* Suggest utilizing the certification, word for word, as it appears.

Road Test: [§391.31](#)

DRIVER EVALUATION - VEHICLE ROAD TEST §391.31			
Division _____	Employee _____		
PRE-TRIP INSPECTION AND STARTUP	Yes	No	N/A
Check around unit, tires, horns, lights, reflectors, oil and water.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Checks mirrors, seat and mirror adjustment.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Checks instruments for normal readings and understands the same.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Checks all track controls/understands function of the same.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Checks safety equipment: Fire ext., triangles, low air warning system.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Takes steering, brake action and parking brake... REMARKS: _____			
BRAKES STOPPING/SLOWING	Yes	No	N/A
Applies brakes with smooth even action.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PASSING	Yes	No	N/A
Passes only in safe locations with sufficient space ahead.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Signals changing lanes in advance.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Returns to right lane promptly, but only when safe.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Does not pass unnecessarily or excessively.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Continuously checks mirrors - both sides - throughout the passing procedure..... REMARKS: _____			
INTERSECTIONS & TRAFFIC SIGNALS	Yes	No	N/A
Slows down in advance and checks traffic conditions, regardless of traffic.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Certification of Road Test

Instructions to Carrier: The original of the signed road test form and the original of the Certification of Road Test shall be retained in the driver qualification file of the person who was examined, and duplicate copies provided to the person examined. § 391.31 (e),(f),(g)(1)(2) of the FMCSRs

Type of Equipment: _____ Rolloff _____ Luger _____ Rearloader _____ Sideloader _____ Frontloader

Examined By _____ Title _____ Date _____

Driver's Name: _____ Social Security Number _____

Operator's License No. _____ State _____

General Performance: Satisfactory _____ Needs Training _____ Unsatisfactory _____

This is to certify that the above-named driver was given a road test under my supervision on (date) _____ 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: _____ Organization _____

Title _____ Address of examiner _____

Certification of Road Test

Instructions to Carrier: The original of the signed road test form and the original of the Certification of Road Test shall be retained in the driver qualification file of the person who was examined, and duplicate copies provided to the person examined. § 391.31 (e),(f),(g)(1)(2) of the FMCSRs

Type of Equipment: _____ Rolloff _____ Luger _____ Rearloader _____ Sideloader _____ Frontloader

Examined By _____ Title _____ Date _____

Driver's Name: _____ Social Security Number _____

Operator's License No. _____ State _____

General Performance: Satisfactory _____ Needs Training _____ Unsatisfactory _____

This is to certify that the above-named driver was given a road test under my supervision on (date) _____ 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: _____ Organization _____

Title _____ Address of examiner _____

Clearly drivers must be able to safety operate a CMV. The road test should be conducted utilizing a CMV like the one the driver will be operating. Motor carriers may, but are not required to, accept a CDL in lieu of performing the road test. Many motor carriers want to ensure that their drivers can operate their vehicles so they do utilize the CDL exception.

Medical Examination Card: [§391.43](#)

MEDICAL EXAMINER'S CERTIFICATE		
I certify that I have examined: <u>SAM BURDORF</u> In accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:		
<input type="checkbox"/> wearing corrective lenses <input type="checkbox"/> driving within an exempt intracity zone (49 CFR 391.62) <input type="checkbox"/> wearing hearing aid <input type="checkbox"/> accompanied by a Skill Performance Evaluation Certificate (SPE) <input type="checkbox"/> accompanied by a ___ waiver/exemption <input type="checkbox"/> qualified by operation of 49 CFR 391.64		
The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.		
SIGNATURE OF MEDICAL EXAMINER <u>Dr. Jones</u>	TELEPHONE 215-563-5555	DATE 12/2/2010
MEDICAL EXAMINER'S NAME (PRINT) Dr. Jones		
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE 987654321 / CA		
SIGNATURE OF DRIVER <u>Sam Burdorf</u>	DRIVER'S LICENSE NO. C666631R	STATE CA
ADDRESS OF DRIVER 1835 Market St. Philadelphia PA 19103		
MEDICAL CERTIFICATE EXPIRATION DATE 12/2/2012		

Interstate drivers and those drivers operating in states that have adopted the FMCSA's medical regulations must be medically qualified. The requirements of a FMCSA medical examination are beyond the scope of this Guide. Concorde administers FMCSA medical examination programs across the country utilizing its national provider network.

The requirement is for a copy of the medical card, not the long form to be kept in the DQF. In the future with the integration of CDLs and medical cards, this requirement will not apply to CDL holders.

Motor Vehicle Record



Concorde Motor Vehicle Report

Date Of Request: [REDACTED] **Report Date:** [REDACTED] **Ref:** [REDACTED]

Full Name: [REDACTED]	Date Of Birth: [REDACTED]	Points: ---
License Number: [REDACTED]	Address: [REDACTED]	Mvr Status: [REDACTED]
Date Issued: [REDACTED]	City: [REDACTED]	Mvr History: [REDACTED]
Expiration: [REDACTED]	State: ---	History Length: ---
License State: [REDACTED]	Zip: [REDACTED]	Mvr Score: [REDACTED]
License Type: [REDACTED]		
License Status: [REDACTED]		Gender: [REDACTED]
Class: [REDACTED]		Height: [REDACTED]
Endorsement Description: [REDACTED]		Weight: [REDACTED]
Restrictions: ---		Eye Color: [REDACTED]
Restriction Description: ---		Hair Color: [REDACTED]
Endorsements: [REDACTED]		Race: ---
Class Description: [REDACTED]		

REVOCATIONS
No Revocations Reported.

SUSPENSIONS
No Suspensions Reported.

ACCIDENTS
No Accidents Reported.

VIOLATIONS
No Violations Reported.

LICENSES

(1) Date Issued: [REDACTED] License Type: [REDACTED]

Expiration: [REDACTED] License Status: [REDACTED]

Original Issue Date: [REDACTED] Restrictions: ---

Endorsements: [REDACTED]

Class: [REDACTED]

Class Description: [REDACTED]

Initial MVR: [391.23\(a\)\(1\)](#)

Motor carriers must obtain and review a new driver's MVR within 30 days of the beginning of the driver's employment. This MVR must be maintained in the DQF for the entire length of the driver's employment plus 3 years. Unlike the annual MVR discussed below, the initial MVR may not be removed after three years. Motor carriers will normally order this MVR as part of the pre-employment background checks.

Annual MVR: [391.25\(a\)](#)

Motor carriers must obtain and review an employed driver's MVR not less than annually. Concorde's DQ-it system allows for easy ordering of MVRs for drivers with DQFs.

Driver's Annual Statement & Supervisor's Annual Review

DRIVER'S ANNUAL CERTIFICATION PURSUANT TO 49 C.F.R. 391.27
(This Portion to be Completed by Driver)

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. If none, write NONE.

Date	Offense	Location	Type of Motor Vehicle Operated

If no violations are listed, 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.

Print Driver's Name	Driver's Social Security Number
Motor Carrier's Name	Motor Carrier's Address
Driver's License #	State Expiration Date
Date of Certification (Today's Date)	Driver's Signature

ANNUAL REVIEW OF DRIVING RECORD PURSUANT TO 49 C.F.R. 391.25
(This Portion to be Completed by Reviewer)

I certify that I have reviewed and considered the above driver's annual certification and the other information required by 49 C.F.R. 391.25 and determined that the driver:

meets minimum requirements for safe driving
 is disqualified pursuant to 49 C.F.R. 391.15

Notes

Date of Review	Reviewed by – Print Name and Title
Reviewer's Signature	

Driver's Annual Statement: [391.27](#)

Motor carriers are required to have their drivers provide them annually with a certified statement listing their driving violations. Implicit in the requirement, although not explicit in the regulation, is that the motor carrier reviews the statement.

Drivers must provide a signed statement to their employer-motor carrier, not less than annually, containing a list of their violations for which they were convicted or forfeited bond. The regulation provides the following:

1. Except as provided in subpart G of this part, each motor carrier shall, at least once every 12 months, require each driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he/she has forfeited bond or collateral during the preceding 12 months.

2. Each driver shall furnish the list required in accordance with paragraph (a) of this section. If the driver has not been convicted of, or forfeited bond or collateral on account of, any violation which must be listed, he/she shall so certify.
3. The form of the driver's list or certification shall be prescribed by the motor carrier. The following form may be used to comply with this section:

Driver's Certification

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.

Date of Conviction	Offense	Location	Type of Motor Vehicle Operated

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's Signature _____

Motor Carrier's Name _____ Motor Carrier's Address _____

Reviewed by: _____

Signature/Title _____

4. The motor carrier shall retain the list or certificate required by this section, or a copy of it, in its files as part of the driver's qualification file.
5. Drivers who have provided information required by [§383.31](#) of this subchapter need not repeat that information in the annual list of violations required by this section.

Supervisor's Annual Review: [§391.25](#)

Motor carrier's typically combine the supervisor's review, annual MVR and driver's annual statement (discussed above) into a single event with the supervisor reviewing the MVR, the driver's statement together with the rest of the driver's performance records (accident history, violations of laws, etc.) to determine whether the driver is safe/fit to drive or whether the driver disregards the safety of others.

Motor Carriers must review the drivers motor vehicle record obtained from the SDLA. The regulation provides as follows:

1. Except as provided in [subpart G](#) of this part, each motor carrier shall, at least once every 12 months, make an inquiry to obtain the motor vehicle record of each driver it employs, covering at least the preceding 12 months, to the appropriate agency of every State in which the driver held a commercial motor vehicle operator's license or permit during the time period.

2. Except as provided in [subpart G](#) of this part, each motor carrier shall, at least once every 12 months, review the motor vehicle record of each driver it employs to determine whether that driver meets minimum requirements for safe driving or is disqualified to drive a commercial motor vehicle pursuant to [§391.15](#).
 - a. 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).
 - b. 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.
3. Recordkeeping.
 - a. A copy of the motor vehicle record required by paragraph (a) of this section shall be maintained in the driver's qualification file.
 - b. A note, including the name of the person who performed the review of the driving record required by paragraph (b) of this section and the date of such review, shall be maintained in the driver's qualification file.

Driver Investigation History File (DHF): [49 CFR 391.53](#)

Both [Part 391](#) and [Part 40](#) (Drug and Alcohol regulations) have mandatory background check requirements which must be completed by the hiring motor carrier within 30 days after the driver begins working. General information regarding the driver must be obtained along with accident and drug/alcohol information.

Beginning in 2004 the DHF was separated from the DQF. [§391.53](#) requires the DHF to include:

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\(d\)](#).
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.

[391.23\(d\)](#) requires the prospective employer to inquire of each former employer for which the driver worked as a driver anytime during the last three years at least the following:

1. General driver identification and employment verification information
2. Accident information

[391.23\(e\)](#) requires the prospective employer to check drug and alcohol information. This section is similar to 49 CFR 40.25 which applies to all DOT agencies. This information must be sought from all prior employers that were subject to DOT drug and alcohol testing regulations for which the driver worked.

There is a "due process" provision in the regulation that allows drivers to contest and seek correction of alleged errors in the information that is reported. Drivers are to be advised of their rights at the time of submitting their application.

Continuing Driver Qualification Issues

Ongoing Medical Examination Requirements

As the regulation below indicates, drivers must be re-examined at least every 24 months. In addition drivers who have been impaired by a physical or mental disease should also be re-examined.

[49 CFR §391.45](#) Persons who must be medically examined and certified.

Except as provided in [§391.67](#), the following persons must be medically examined and certified in accordance with [§391.43](#) as physically qualified to operate a commercial motor vehicle:

- (a) Any person who has not been medically examined and certified as physically qualified to operate a commercial motor vehicle;
- (b)(1) Any driver who has not been medically examined and certified as qualified to operate a commercial motor vehicle during the preceding 24 months; or
- (2) Any driver authorized to operate a commercial motor vehicle only with an exempt intracity zone pursuant to [§391.62](#), or only by operation of the exemption in [§391.64](#), if such driver has not been medically examined and certified as qualified to drive in such zone during the preceding 12 months; and
- (c) Any driver whose ability to perform his/her normal duties has been impaired by a physical or mental injury or disease.

Merger of CDL and Medical Card and Certification of Medical Examiners

Interstate CDL drivers will have their medical certificate information included on their CDLs and in their motor vehicle records maintained by state driving licensing agencies (SDLA). This will facilitate law enforcement officers to be able to check these drivers' MVRs and determine whether they are medically qualified. This will eliminate the requirement of these driver's carrying medical cards as well as having to store a copy of the medical card in the DQ file.

Beginning in 2014 medical examiners (MEs) will have to be certified by taking prescribed coursework and passing an examination. These MEs will also be required to report to the appropriate SDLA if a driver is determined to be medically unqualified; this report is due from the ME on the same day as the examination.

Driver Annual Statement – see discussion above under contents of the DQF

Annual MVR and Supervisor Review – see discussion above under contents of the DQF

Location, Storage and Production of Documents

In general, motor carriers are required to maintain records and documents at their principal place of business, a regional office, or driver work-reporting location. See [§390.29\(a\)](#). Some regulations require certain documents to be produced upon demand.

Normally records must be produced within 48 hours of the request, not counting weekends and federal holidays. See [§390.29\(b\)](#). This makes the utilization of electronic documents compelling for motor carriers with multiple locations.

Records must be maintained either in their original form, micrographic film or electronically. Original records may be destroyed after scanning. Electronic signatures are permissible. Paper documents may not be “converted” into an electronic format such as a database; while a motor carrier may create such documents for its own purposes, they do not replace the original or a scanned copy. See [§390.31](#) and the [FMCSA Interpretations](#) to the regulation.

Document Retention Requirements

Contents of a DQF must be maintained as long as the driver is employed plus 3 years. The documents listed below may, but are not required to, be removed after 3 years. Motor carriers should make a conscious decision whether to remove or save these documents. There are reasons for both saving and removing documents. For example, annual MVRs may evidence that a particular driver has a good or bad driving record.

The following documents may be removed after 3 years:

- Medical examiner’s certificate
- Annual MVR (note the initial MVR must be maintained)
- Supervisor’s annual review
- Driver’s annual certification of violations
- Medical variances

Driver “Disqualification” Regulations

The FMCSRs have numerous provisions that address the disqualifications, requirement, and prohibitions applicable to a driver. Those found in Parts 391 and 392 are applicable to all drivers without regard to whether the vehicle is a big or little truck or passenger carrying vehicle. Those found in Part 383 are applicable only to drivers with commercial driver’s licenses (CDL).

Part 383

[Part 383](#) applies to CDL drivers in interstate and intrastate commerce subject to certain enumerate exceptions. It has numerous provisions with various requirements and prohibitions. Some of its provisions that relate to driver disqualification and prohibition include the following:

[§383.21](#) prohibits a driver from having more than one driver’s license. However there is no requirement of a document to be created to memorialize compliance. As a result of this regulation, many motor carriers require new hires to sign a certification so stating. Many motor carriers keep this document in the employee’s personnel file; some store it in the DQF while others create a miscellaneous file. Some of Concorde’s clients that utilize Concorde’s electronic DQF system create a “service folder” to store this type of document.

[§383.31](#) requires drivers who are convicted of violating a motor vehicle law in a state other than where they are licensed to notify their home state within 30 days. Similarly an employed driver must notify their employer.

[§383.33](#) requires drivers to notify their employers of license suspensions, cancelations and revocations.

Subpart D of §383 contains the driver disqualifications and penalties. The disqualifications which are contained in Tables 1 – 4, reproduced below are absolute showstoppers.

Table 1 is titled disqualification for “major” offenses and includes convictions for DUIs (including in a driver’s personal vehicle), refusing an alcohol test, leaving the scene of an accident and more. Convictions result in a period of disqualification from operating a CMV and subsequent convictions result in longer suspensions up to life.

Table 2 is titled disqualification for “serious” offenses and includes convictions for speeding, reckless driving, texting, using a mobile phone etc. Like Table 1 offenses convictions result in a period of disqualification from operating a CMV for 60 days and subsequent convictions result in longer suspensions up to 120 days.

Table 3 is for railroad crossing violations and Table 4 is for violating out-of-service orders.

Violations by drivers and employers of the regulations in §383 carry severe penalties which increase for subsequent violations.

Other provisions found in §383 address the issuance of CDLs

Disqualification for major offenses. Table 1 to §383.51 contains a list of the offenses and periods for which a person who is required to have a CLP or CDL is disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

<p>Table 1 to § 383.51</p> <p>If a driver operates a motor vehicle and is convicted of:</p>	<p>For a first conviction or refusal to be tested while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a first conviction or refusal to be tested while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a first conviction or refusal to be tested while operating a CMV transporting hazardous materials as defined in §383.5, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a second conviction or refusal to be tested in a separate incident of any combination of offenses in this Table while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>
(1) Being under the influence of alcohol as prescribed by State law	1 year	1 year	3 years	Life	Life.
(2) Being under the influence of a controlled substance	1 year	1 year	3 years	Life	Life.
(3) Having an alcohol concentration of 0.04 or greater while operating a CMV	1 year	Not applicable	3 years	Life	Not applicable.
(4) Refusing to take an alcohol test as required by a State or jurisdiction under its implied consent laws or regulations as defined in §383.72 of this part	1 year	1 year	3 years	Life	Life.
(5) Leaving the scene of an accident	1 year	1 year	3 years	Life	Life.
(6) Using the vehicle to commit a felony, other than a felony described in paragraph (b)(9) of this table	1 year	1 year	3 years	Life	Life.
(7) Driving a CMV when, as a result of prior violations committed operating a CMV, the driver's CLP or CDL is revoked, suspended, or canceled, or the driver is disqualified from operating a CMV	1 year	Not applicable	3 years	Life	Not applicable.
(8) Causing a fatality through the negligent operation of a CMV, including but not limited to the crimes of motor vehicle manslaughter, homicide by motor vehicle and negligent homicide	1 year	Not applicable	3 years	Life	Not applicable.
(9) Using the vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement	Life-not eligible for 10-year reinstatement

Disqualification for serious traffic violations. Table 2 to §383.51 contains a list of the offenses and the periods for which a person who is required to have a CLP or CDL is disqualified, depending upon the type of vehicle the driver is operating at the time of the violation, as follows:

<p>Table 2 to § 383.51</p> <p>If the driver operates a motor vehicle and is convicted of:</p>	<p>For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation, or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for . . .</p>	<p>For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period while operating a non-CMV, a CLP or CDL holder must be disqualified from operating a CMV, if the conviction results in the revocation, cancellation or suspension of the CLP or CDL holder's license or non-CMV driving privileges, for . . .</p>
(1) Speeding excessively, involving any speed of 24.1 kmph (15 mph) or more above the posted speed limit	60 days	60 days	120 days	120 days.
(2) Driving recklessly, as defined by State or local law or regulation, including but, not limited to, offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property	60 days	60 days	120 days	120 days.
(3) Making improper or erratic traffic lane changes	60 days	60 days	120 days	120 days.
(4) Following the vehicle ahead too closely	60 days	60 days	120 days	120 days.
(5) Violating State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with a fatal accident	60 days	60 days	120 days	120 days.
(6) Driving a CMV without obtaining a CLP or CDL	60 days	Not applicable	120 days	Not applicable.
(7) Driving a CMV without a CLP or CDL in the driver's possession 1	60 days	Not applicable	120 days	Not applicable.
(8) Driving a CMV without the proper class of CDL and/or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported	60 days	Not applicable	120 days	Not applicable.
(9) Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving a CMV.2	60 days	Not applicable	120 days	Not applicable.

(10) Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a CMV.2	60 days	Not applicable	120 days	Not applicable.
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1 Any individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, shall not be guilty of this offense.

2 Driving, for the purpose of this disqualification, means operating a commercial motor vehicle on a highway, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving does not include operating a commercial motor vehicle when the driver has moved the vehicle to the side of, or off, a highway and has halted in a location where the vehicle can safely remain stationary.(d) Disqualification for railroad-highway grade crossing offenses. Table 3 to §383.51 contains a list of the offenses and the periods for which a person who is required to have a CLP or CDL is disqualified, when the driver is operating a CMV at the time of the violation, as follows:

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Table 3 to § 383.51			
If the driver is convicted of operating a CMV in violation of a Federal, State or local law because . . .	For a first conviction a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .	For a second conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .	For a third or subsequent conviction of any combination of offenses in this Table in a separate incident within a 3-year period, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .
(1) The driver is not required to always stop, but fails to slow down and check that tracks are clear of an approaching train . . .	No less than 60 days	No less than 120 days	No less than 1 year.
(2) The driver is not required to always stop, but fails to stop before reaching the crossing, if the tracks are not clear . . .	No less than 60 days	No less than 120 days	No less than 1 year.
(3) The driver is always required to stop, but fails to stop before driving onto the crossing . . .	No less than 60 days	No less than 120 days	No less than 1 year.
(4) The driver fails to have sufficient space to drive completely through the crossing without stopping . . .	No less than 60 days	No less than 120 days	No less than 1 year.
(5) The driver fails to obey a traffic control device or the directions of an enforcement official at the crossing . . .	No less than 60 days	No less than 120 days	No less than 1 year.
(6) The driver fails to negotiate a crossing because of insufficient undercarriage clearance . . .	No less than 60 days	No less than 120 days	No less than 1 year.

(e) Disqualification for violating out-of-service orders. Table 4 to §383.51 contains a list of the offenses and periods for which a person who is required to have a CLP or CDL is disqualified when the driver is operating a CMV at the time of the violation, as follows:

<p>Table 4 To § 383.51</p> <p>If the driver operates a CMV and is convicted of . . .</p>	<p>For a first conviction while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a second conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>	<p>For a third or subsequent conviction in a separate incident within a 10-year period while operating a CMV, a person required to have a CLP or CDL and a CLP or CDL holder must be disqualified from operating a CMV for . . .</p>
<p>(1) Violating a driver or vehicle out-of-service order while transporting nonhazardous materials</p>	<p>No less than 180 days or more than 1 year</p>	<p>No less than 2 years or more than 5 years</p>	<p>No less than 3 years or more than 5 years.</p>
<p>(2) Violating a driver or vehicle out-of-service order while transporting hazardous materials as defined in § 383.5, or while operating a vehicle designed to transport 16 or more passengers, including the driver</p>	<p>No less than 180 days or more than 2 years</p>	<p>No less than 3 years or more than 5 years</p>	<p>No less than 3 years or more than 5 years.</p>

[67 FR 49756, July 31, 2002, as amended at 68 FR 4396, Jan. 29, 2003; 72 FR 36787, July 5, 2007; 75 FR 59134, Sept. 27, 2010; 76 FR 26879, May 9, 2011; 76 FR 75486, Dec. 2, 2011; 77 FR 59825, Oct. 1, 2012]

Part 391

[§391.15](#) addresses disqualifications of drivers. Drivers without a valid license are disqualified. Drivers convicted of certain offenses, similar to those listed in Tables 1 and 2 above while on-duty or violating an out-of-service order are disqualified. Note the difference between the conviction disqualification triggers under 391 v. 383’s Table 1 – Major offenses. In 391 conviction disqualification require the offense to be committed while on-duty. 383 includes violations while off-duty. A driver holding a CDL faces a broader set of disqualification triggers.

Part 392

[Part 392](#) contains regulations that address the driving of commercial motor vehicles. It contains prohibitions against driving while ill, fatigued, being under the influence of, using or possessing drugs or alcohol. The provisions are utilized by law enforcement officers to place drivers out-of-service.

Drug and Alcohol Testing

See Concorde's *DRUG AND ALCOHOL TESTING PROCEDURES - Concorde's Client Guide for Conducting a Drug and Alcohol Testing Program*