



Implications for compliance can be punitive. **Kevin**

Cunningham reports in part 1 of a three-part series in the February, March and April 2010 issues of *ACT*

Definition of Mobile Crane under FMCSR

While "mobile cranes" are not specifically defined in Part 390.5 of the FMCSRs, the definition of a commercial motor vehicle, describes mobile cranes as follows:

Mobile cranes are readily capable of traveling at highway speeds, over extended distances, and in the mixed traffic of public highways. Although the functions a crane performs are distinct from the transportation provided by a truck, the ready mobility of the crane depends on its permanent integration with a truck chassis. The truck chassis is equipped with wheels, tires, brakes, a suspension system and other components.

Definition of Interstate Commerce under FMCSRs

Part 390.5 of the FMCSRs defines interstate commerce as follows:

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

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

Thus, any company operating a mobile crane as described above in interstate commerce is now required to follow all rules and regulations that apply to Commercial Motor Vehicles. Those rules and regulations include the need for drivers to have a Commercial Drivers License, to be drug and alcohol tested, to maintain logs for employers to create and keep current driver qualification files for companies to keep maintenance records on file, etc.

Mobile crane commercial

On August 27, 2009 the Department of Transportation through the Federal Motor Carrier Safety Administration (FMCSA) determined that mobile cranes operating in interstate commerce are commercial motor vehicles subject to the Federal Motor Carrier Safety Regulations (FMCSRs). As a result, questions have arisen regarding what changed, if anything, in terms of mobile cranes' operations/compliance with FMCSRs, and mobile cranes' insurance coverage under Commercial General Liability and Business Auto policies.

Compliance with FMCSRs

What specific procedures need to be followed?

Below are five recordkeeping areas that highlight the items a company needs to follow to be in compliance with the Federal Motor Carrier Safety Regulations.

1. Driver Qualification Files

The Federal Motor Carrier Safety Regulations require motor carriers to maintain a driver qualification on file. The file must contain certain documents that reflect the driver's ability to safely and legally operate a commercial motor vehicle. The following documents must be current and in the file, in order to be compliant with the regulation (Part 391.51):

- Prior to employment:
 - Application for employment
 - Safety performance history (inquires to previous employers)
 - Road test
 - Medical certificate
 - Medical waiver, if necessary
 - Driving record (MVR) obtained within 30 days of hire
 - Entry level driver training certificate (for CDL drivers)
 - Long Combination Vehicle training certificate (for CDL drivers)
- After employment:
 - Annual driving record (MVR)
 - Annual certificate of violations
 - Annual review of driving record
 - Renewal of medical certificate (generally 2 years)
- Current and accurate list of drivers
- Monitor SAFER/SAFESTAT driver roadside inspections (Monitor CSA 2010 carrier data beginning in June 2010)

2. Controlled Substance and Alcohol Testing

- Questions answered regarding previous pre-employment controlled substance test
- Inquires to previous employers regarding drug/alcohol testing
- Control/custody form and results available for:
 - Pre-employment
 - Post accident
 - Random
 - Reasonable suspicion
 - Return to duty
 - Follow up
- Educational material provided to drivers (and receipt)
- Written drug and alcohol testing policy
- Supervisor training for reasonable suspicion
- Copy of agreement with service provider (consortium)
- Annual summary available for previous year
- Record of number of random drug/alcohol tests for previous year
- Current list of eligible (defined by DOT) employees for random testing

3. Hours of Service of Commercial Vehicle Drivers

The FMCSRs require all commercial vehicle drivers to maintain "records of duty status" or daily logs. There is an exception for drivers who operate primarily in local service. If they can meet certain criteria, they may operate on a simple time record rather than the daily log.

Items to check during an audit of drivers' logs:

- Form and manner:
 - Date

es as vehicles?

- Total miles
- Driver's signature
- Equipment number
- Main office address
- Co-driver name
- Completed 24 hour grid
- Entries in "remarks" section
- Hours totaled to equal 24
- Shipping number or commodity name
- Hours of Service
 - Minimum 10 hours of duty
 - Did not drive more than 11 hours
 - Did not drive after 14th hour
 - Did not drive after 60 hours on duty in 7 consecutive days, or;
 - Did not drive after 70 hours on duty in 8 consecutive days
 - Utilized 34-hour restart
- False documents:
 - Check logs against supporting documents
 - Check logs against payroll records
- 100/150 air-mile radius drivers
 - Stay within 100-150 air mile radius
 - Return and release from duty within 12 consecutive hours
 - 10 consecutive hours off duty between shifts

4. Vehicle Inspection, Repair, and Maintenance

- Current equipment list available
- Maintenance file for every commercial vehicle (including trailers, jeeps, boosters)
- Record of repair in file
- Monitor SAFER/SAFESTAT vehicle inspection records
- Written preventative maintenance policy

- Roadside inspection copies maintained for 12 months
- Periodic inspections complete and current, and copy in/on vehicle
- Daily vehicle inspection reports completed and on hand for previous 90 days

5. Administrative Considerations

There are several miscellaneous administrative items that need to be maintained by the motor carrier. These include:

- Vehicle markings
- Maintaining an accident register
- Entry level training and LCV training

What are the potential consequences of not being in compliance from an operations perspective?

If a company is found to be out of compliance with these FMCSRs, warning, fines and the possible shutting down of an operation can be handed out by the DOT.

Next up in the March issue:

What insurance implications will result?



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