

(1) The prominent statement that the license is a "Commercial Driver's License" or "CDL," except as specified in §383.153(b).

(2) The full name, signature, and mailing address of the person to whom such license is issued;

(3) Physical and other information to identify and describe such person including date of birth (month, day, and year), sex, and height;

(4) Color photograph of the driver;

(5) The driver's State license number;

(6) The name of the State which issued the license;

(7) The date of issuance and the date of expiration of the license;

(8) The group or groups of commercial motor vehicle(s) that the driver is authorized to operate, indicated as follows:

(i) A for Combination Vehicle;

(ii) B for Heavy Straight Vehicle; and

(iii) C for Small Vehicle.

(9) The endorsement(s) for which the driver has qualified, if any, indicated as follows:

(i) T for double/triple trailers;

(ii) P for passenger;

(iii) N for tank vehicle;

(iv) H for hazardous materials;

(v) X for a combination of the tank vehicle and hazardous materials endorsements; and

(vi) At the discretion of the State, additional codes for additional groupings of endorsements, as long as each such discretionary code is fully explained on the front or back of the CDL document.

(b) If the CDL is a Nonresident CDL, it shall contain the prominent statement that the license is a "Nonresident Commercial Driver's License" or "Nonresident CDL." The word "Nonresident" must be conspicuously and unmistakably displayed, but may be noncontiguous with the words "Commercial Driver's License" or "CDL."

(c) If the State has issued the applicant an air brake restriction as specified in §383.95, that restriction must be indicated on the license.

(d) Except in the case of a Nonresident CDL:

(1) A driver applicant must provide his/her Social Security Number on the application of a CDL; and

(2) The State must provide the Social Security Number to the CDLIS.

§ 383.155 Tamperproofing requirements.

States shall make the CDL tamperproof to the maximum extent practicable. At a minimum, a State shall use the same tamperproof method used for noncommercial drivers' licenses.

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

Subpart A—General

Sec.

384.101 Purpose and scope.

384.103 Applicability.

384.105 Definitions.

Subpart B—Minimum Standards for Substantial Compliance by States

384.201 Testing program.

384.202 Test standards.

384.203 Driving while under the influence.

384.204 CDL issuance and information.

384.205 CDLIS information.

384.206 State record checks.

384.207 Notification of licensing.

384.208 [Reserved]

384.209 Notification of traffic violations.

384.210 Limitation on licensing.

384.211 Return of old licenses.

384.212 Domicile requirement.

384.213 Penalties for driving without a proper CDL.

384.214 Reciprocity.

384.215 First offenses.

384.216 Second offenses.

384.217 Drug offenses.

384.218 Second serious traffic violation.

384.219 Third serious traffic violation.

384.220 National Driver Register information.

384.221 Out-of-service regulations (intoxicating beverage).

384.222 [Reserved]

384.223 Railroad-highway grade crossing violation.

384.224-384.230 [Reserved]

384.231 Satisfaction of State disqualification requirement.

384.232 Required timing of record checks.

Subpart C—Procedures for Determining State Compliance

384.301 Substantial compliance—general requirement.

384.303 State certification for Federal fiscal year (FY) 1994.

§ 384.101

49 CFR Ch. III (10–1–99 Edition)

384.305 State certifications for Federal fiscal years after FY 1994.

384.307 FHWA program reviews of State compliance.

384.309 Results of compliance determination.

Subpart D—Consequences of State Noncompliance

384.401 Withholding of funds based on non-compliance.

384.403 Period of availability; effect of compliance and noncompliance.

AUTHORITY: 49 U.S.C. 31136, 49 U.S.C. 31301 *et seq.*, 31502; 49 CFR 1.48.

SOURCE: 59 FR 26039, May 18, 1994, unless otherwise noted.

Subpart A—General

§ 384.101 Purpose and scope.

(a) *Purpose.* The purpose of this part is to ensure that the States comply with the provisions of section 12009(a) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 31311(a)).

(b) *Scope.* This part:

(1) Includes the minimum standards for the actions States must take to be in substantial compliance with each of the 22 requirements of 49 U.S.C. 31311(a);

(2) Establishes procedures for determinations to be made of such compliance by States; and

(3) Specifies the consequences of State noncompliance.

[62 FR 37152, July 11, 1997]

§ 384.103 Applicability.

The rules in this part apply to all States.

§ 384.105 Definitions.

(a) The definitions in part 383 of this title apply to this part, except where otherwise specifically noted.

(b) As used in this part:

Issue and issuance mean initial licensure, license transfers, license renewals, license upgrades, and nonresident commercial driver's licenses (CDLs), as described in § 383.73 of this title.

Licensing entity means the agency of State government that is authorized to issue drivers' licenses.

Year of noncompliance means any Federal fiscal year during which—

(1) A State fails to submit timely certification as prescribed in subpart C of this part; or

(2) The State does not meet one or more of the standards of subpart B of this part, based on a final determination by the FHWA under § 384.307(c) of this part.

Subpart B—Minimum Standards for Substantial Compliance by States

§ 384.201 Testing program.

The State shall adopt and administer a program for testing and ensuring the fitness of persons to operate commercial motor vehicles (CMVs) in accordance with the minimum Federal standards contained in part 383 of this title.

§ 384.202 Test standards.

No State shall authorize a person to operate a CMV unless such person passes a knowledge and driving skills test for the operation of a CMV in accordance with part 383 of this title.

§ 384.203 Driving while under the influence.

The State shall have in effect and enforce through licensing sanctions the disqualifications prescribed in § 383.51(b) at the 0.04 percent blood alcohol concentration level.

§ 384.204 CDL issuance and information.

(a) *General rule.* The State shall authorize a person to operate a CMV only by issuance of a CDL, unless a waiver under the provisions of § 383.7 applies, which contains, at a minimum, the information specified in part 383, subpart J, of this title.

(b) *Exceptions—(1) Training.* The State may authorize a person, who does not hold a CDL valid in the type of vehicle in which training occurs, to undergo behind-the-wheel training in a CMV only by means of a learner's permit issued and used in accordance with § 383.23(c) of this title.

(2) *Confiscation of CDL pending enforcement.* A State may allow a CDL holder whose CDL is held in trust by that State or any other State in the course of enforcement of the motor vehicle traffic code, but who has not been

convicted of a disqualifying offense under §383.51 based on such enforcement, to drive a CMV while holding a dated receipt for such CDL.

§ 384.205 CDLIS information.

Before issuing a CDL to any person, the State shall, within the period of time specified in §384.232, perform the check of the Commercial Driver's License Information System (CDLIS) in accordance with §383.73(a)(3)(ii) of this title, and, based on that information, shall issue the license, or, in the case of adverse information, promptly implement the disqualifications, licensing limitations, denials, and/or penalties that are called for in any applicable section(s) of this subpart.

§ 384.206 State record checks.

(a) *Required checks*—(1) *Issuing State's records.* Before issuing a CDL to any person, the State shall, within the period of time specified in §384.232, check its own driving record for such person in accordance with §383.73(a)(3) of this title.

(2) *Other States' records.* Before initial or transfer issuance of a CDL to a person, the issuing State shall, within the period of time specified in §384.232, obtain from any other State or jurisdiction which has issued a CDL to such person, and such other State(s) shall provide, all information pertaining to the driving record of such person in accordance with §383.73(a)(3) of this title.

(b) *Required action.* Based on the findings of the State record checks prescribed in this section, the State shall issue the license, or, in the case of adverse information, promptly implement the disqualifications, licensing limitations, denials, and/or penalties that are called for in any applicable section(s) of this subpart.

§ 384.207 Notification of licensing.

Within the period defined in §383.73(f) of this title, the State shall:

(a) Notify the operator of the CDLIS of each CDL issuance;

(b) Notify the operator of the CDLIS of any changes in driver identification information; and

(c) In the case of transfer issuances, implement the Change State of Record transaction, as specified by the oper-

ator of the CDLIS, in conjunction with the previous State of record and the operator of the CDLIS.

§ 384.208 [Reserved]

§ 384.209 Notification of traffic violations.

(a) *Required notification with respect to CDL holders.* Whenever a person who holds a CDL from another State is convicted of a violation, in any type of vehicle, of any State or local law relating to motor vehicle traffic control (other than a parking violation), the licensing entity of the State in which the conviction occurs shall notify the licensing entity of the person's State of licensure of the conviction as expeditiously as possible.

(b) *Required notification with respect to non-CDL holders.* Whenever a person who does not hold a CDL, but who is licensed to drive by another State, is convicted of a violation, in a CMV, of any State or local law relating to motor vehicle traffic control (other than a parking violation), the licensing entity of the State in which the conviction occurs shall notify the licensing entity of the person's State of licensure of such conviction.

§ 384.210 Limitation on licensing.

The State shall not knowingly issue a CDL to a person during a period in which:

(a) Such person is disqualified from operating a CMV, as disqualification is defined in §383.5 of this title, or under the provisions of §384.231(b)(2).

(b) Any type of driver's license held by such person is suspended, revoked, or canceled by the State or jurisdiction of licensure for driving related offenses which in the judgment of the licensing State are based on valid information; or

(c) Such person is subject to the penalties for false information contained in §383.73(g) of this title.

§ 384.211 Return of old licenses.

The State shall not issue a CDL to a person who possesses a driver's license issued by another State or jurisdiction unless such person first surrenders the driver's license issued by such other State or jurisdiction in accordance

§ 384.212

with §§383.71(a)(7) and (b)(4) of this title.

§ 384.212 Domicile requirement.

(a) The State shall issue CDLs only to those persons for whom such State is the State of domicile as defined in §383.5 of this title; except that the State may issue a nonresident CDL under the conditions specified in §§383.23(b), 383.71(e), and 383.73(e) of this title.

(b) The State shall require any person holding a CDL issued by another State to apply for a transfer CDL from the State within 30 days after establishing domicile in the State, as specified in §383.71(b) of this title.

§ 384.213 Penalties for driving without a proper CDL.

The State shall impose civil and criminal penalties for operating a CMV while not possessing a CDL that is valid for the type of CMV being driven; while having a driver's license suspended, revoked, or canceled; or while being disqualified from operating a CMV. In determining the appropriateness of such penalties, the State shall consider their effectiveness in deterring this type of violation. The State shall impose penalties on CMV drivers that are at least as stringent as those imposed on noncommercial drivers for the same or analogous offenses.

§ 384.214 Reciprocity.

The State shall allow any person to operate a CMV in the State who is not disqualified from operating a CMV and who holds a CDL which is—

(a) Issued to him or her by any other State or jurisdiction in accordance with part 383 of this title;

(b) Not suspended, revoked, or canceled; and

(c) Valid, under the terms of part 383, subpart F, of this title, for the type of vehicle being driven.

§ 384.215 First offenses.

(a) *General rule.* The State shall disqualify from operating a CMV each person who is convicted, as defined in §383.5 of this title, in any State or jurisdiction, of a disqualifying offense

49 CFR Ch. III (10–1–99 Edition)

specified in §383.51(b)(2) (i) through (iv) of this title, for no less than one year.

(b) *Special rule for hazardous materials offenses.* If the offense under paragraph (a) of this section occurred while the driver was operating a vehicle transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (implementing regulations at 49 CFR 177.823), the State shall disqualify the person for no less than three years.

§ 384.216 Second offenses.

(a) *General rule.* The State shall disqualify for life from operating a CMV each person who is convicted, as defined in §383.5 of this title, in any State or jurisdiction, of a subsequent offense as described in §383.51(b)(3)(iv) of this title.

(b) *Special rule for certain lifetime disqualifications.* The State where the disqualified driver resides after 10 years of disqualification have elapsed may reduce the lifetime disqualification of a person disqualified for life under §383.51(b)(3)(iv) of this title, to a minimum of ten years in accordance with §383.51(b)(3)(v) of this title.

§ 384.217 Drug offenses.

The State shall disqualify from operating a CMV for life each person who is convicted, as defined in §383.5 of this title, in any State or jurisdiction, of using a CMV in the commission of a felony described in §§383.51(b)(2)(v) and 383.51(b)(3)(iii) of this title. The State shall not apply the special rule in §384.216(b) to lifetime disqualifications imposed for controlled substance felonies as detailed in §§383.51(b)(2)(v) and 383.51(b)(3)(iii) of this title.

§ 384.218 Second serious traffic violation.

The State shall disqualify from operating a CMV for a period of not less than 60 days each person who, in a three-year period, is convicted, as defined in §383.5 of this title, in any State(s) or jurisdiction(s), of two serious traffic violations involving a CMV operated by such person, as specified in §§383.51(c)(1) and 383.51(c)(2)(i) of this title.

§ 384.219 Third serious traffic violation.

The State shall disqualify from operating a CMV for a period of not less than 120 days each person who, in a three-year period, is convicted, as defined in § 383.5 of this title, in any State(s) or jurisdiction(s), of three serious traffic violations involving a CMV operated by such person, as specified in §§ 383.51 (c)(1) and (c)(2)(ii) of this title. This disqualification period shall be in addition to any other previous period of disqualification.

§ 384.220 National Driver Register information.

Before issuing a CDL to any person, the State shall, within the period of time specified in § 384.232, perform the check of the National Driver Register in accordance with § 383.73(a)(3)(iii) of this title, and, based on that information, promptly implement the disqualifications, licensing limitations, and/or penalties that are called for in any applicable section(s) of this subpart.

§ 384.221 Out-of-service regulations (intoxicating beverage).

The State shall adopt, and enforce on operators of CMVs as defined in §§ 383.5 and 390.5 of this title, the provisions of § 392.5 (a) and (c) of this title in accordance with the Motor Carrier Safety Assistance Program as contained in 49 CFR part 350 and applicable policy and guidelines.

§ 384.222 [Reserved]**§ 384.223 Railroad-highway grade crossing violation.**

The State must have and enforce laws and/or regulations applicable to CMV drivers and their employers, as defined in § 383.5 of this title, which meet the minimum requirements of §§ 383.37(d), 383.51(e), and 383.53(c) of this title.

[64 FR 48111, Sept. 2, 1999]

EFFECTIVE DATE NOTE: At 64 FR 48111, Sept. 2, 1999, § 384.223 was added, effective Oct. 4, 1999.

§§ 384.224–384.230 [Reserved]**§ 384.231 Satisfaction of State disqualification requirement.**

(a) *Applicability.* The provisions of §§ 384.203, 384.206(b), 384.210, 384.213, 384.215 through 384.219, 384.221, and 384.231 apply to the State of licensure of the person affected by the provision. The provisions of § 384.210 also apply to any State to which a person makes application for a transfer CDL.

(b) *Required action—(1) CDL holders.* A State shall satisfy the requirement of this part that the State disqualify a person who holds a CDL by, at a minimum, suspending, revoking, or canceling the person's CDL for the applicable period of disqualification.

(2) *Non-CDL holders applies on and after May 18, 1997.* A State shall satisfy the requirement of this subpart that the State disqualify a non-CDL holder who is convicted of an offense or offenses necessitating disqualification under § 383.51 by, at a minimum, implementing the limitation on licensing provisions of § 384.210 and the timing and recordkeeping requirements of paragraphs (c) and (d) of this section so as to prevent such non-CDL holder from legally obtaining a CDL from any State during the applicable disqualification period(s) specified in this subpart.

(c) *Required timing.* The State shall disqualify a driver as expeditiously as possible.

(d) *Recordkeeping requirements.* The State shall maintain such driver records and cause such driver identification data to be retained on the CDLIS as the operator of the CDLIS specifies are necessary to the implementation and enforcement of the disqualifications called for in §§ 384.215 through 384.219.

[59 FR 26039, May 18, 1994, as amended at 60 FR 57545, Nov. 16, 1995]

§ 384.232 Required timing of record checks.

The State shall perform the record checks prescribed in §§ 384.205, 384.206, and 384.220, no earlier than 10 days prior to issuance for licenses issued before October 1, 1995. For licenses issued

after September 30, 1995, the State shall perform the record checks no earlier than 24 hours prior to issuance if the license is issued to a driver who does not currently possess a valid CDL from the same State and no earlier than 10 days prior to issuance for all other drivers.

Subpart C—Procedures for Determining State Compliance

§ 384.301 Substantial compliance—general requirement.

To be in substantial compliance with 49 U.S.C. 31311(a), a State must meet each and every standard of subpart B of this part by means of the demonstrable combined effect of its statutes, regulations, administrative procedures and practices, organizational structures, internal control mechanisms, resource assignments (facilities, equipment, and personnel), and enforcement practices.

[62 FR 37152, July 11, 1997]

§ 384.303 State certification for Federal fiscal year (FY) 1994.

(a) *FY 1994 certification requirement.* Prior to July 18, 1994, each State shall review its compliance with this part and certify to the Federal Highway Administrator as prescribed in paragraph (b) of this section. The certification shall be submitted as a signed original and four copies to the State Director or Officer-in-Charge, Office of Motor Carriers, Federal Highway Administration, located in that State.

(b) *FY 1994 certification content.* The certification shall consist of a statement signed by the Governor of the State, or by an official designated by the Governor, and reading as follows:

I (name of certifying official), (position title), of the State (Commonwealth) of _____, do hereby certify that the State (Commonwealth) is in substantial compliance with all requirements of 49 U.S.C. app. 2708(a), as defined in 49 CFR 384.301, and contemplates no changes in statutes, regulations, or administrative procedures, or in the enforcement thereof, which would affect such substantial compliance through [the last date of the current Federal fiscal year].

(Approved by the Office of Management and Budget under control number 2125–0542)

§ 384.305 State certifications for Federal fiscal years after FY 1994.

(a) *Certification requirement.* Prior to January 1 of each Federal fiscal year after FY 1994, each State shall review its compliance with this part and certify to the Federal Highway Administrator as prescribed in paragraph (b) of this section. The certification shall be submitted as a signed original and four copies to the State Director or Officer-in-Charge, Office of Motor Carriers, Federal Highway Administration, located in that State.

(b) *Certification content.* The certification shall consist of a statement signed by the Governor of the State, or by an official designated by the Governor, and reading as follows: “I (name of certifying official), (position title), of the State (Commonwealth) of _____, do hereby certify that the State (Commonwealth) has continuously been in substantial compliance with all requirements of 49 U.S.C. 31311(a), as defined in 49 CFR 384.301, since [the first day of the current Federal fiscal year], and contemplates no changes in statutes, regulations, or administrative procedures, or in the enforcement thereof, which would affect such substantial compliance through [the last date of the current Federal fiscal year].”

(Approved by the Office of Management and Budget under control number 2125–0542)

[59 FR 26039, May 18, 1994, as amended at 62 FR 37152, July 11, 1997]

§ 384.307 FHWA program reviews of State compliance.

(a) *FHWA program reviews.* Each State’s CDL program shall be subject to review to determine whether or not the State meets the general requirement for substantial compliance in § 384.301. The State shall cooperate with and provide information in conjunction with any program reviews under this section.

(b) *Preliminary FHWA determination and State response.* If, after review, a preliminary determination is made that a State does not meet one or more of the standards of subpart B of this part, the State will be informed accordingly prior to July 1 of the fiscal year

in which the preliminary determination is made. The State will have up to thirty calendar days to respond to the preliminary determination. Upon request by the State, an informal conference will be provided during this time.

(c) *Final FHWA determination.* If, after reviewing any timely response by the State to the preliminary determination, a final determination is made that the State is not in compliance with the affected standard, the State will be notified of the final determination.

§ 384.309 Results of compliance determination.

(a) A State shall be determined not substantially in compliance with 49 U.S.C. 31311(a) for any fiscal year in which it:

(1) Fails to submit the certification as prescribed in this subpart; or

(2) Does not meet one or more of the standards of subpart B of this part, as established in a final determination by the FHWA under § 384.307(c).

(b) A State shall be in substantial compliance with 49 U.S.C. 31311(a) for any fiscal year in which neither of the eventualities in paragraph (a) of this section occurs.

[62 FR 37152, July 11, 1997]

Subpart D—Consequences of State Noncompliance

§ 384.401 Withholding of funds based on noncompliance.

(a) *Following first year of noncompliance.* An amount equal to five percent of the funds required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's first year of noncompliance under this part.

(b) *Following second and subsequent year(s) of noncompliance.* An amount equal to ten percent of the funds required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(5) of title 23, U.S.C., shall be withheld on the first day of the fiscal year following such State's sec-

ond or subsequent year of noncompliance under this part.

§ 384.403 Period of availability; effect of compliance and noncompliance.

(a) *Period of availability—(1) Funds withheld on or before September 30, 1995.* Any funds withheld under this subpart from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under 23 U.S.C. 104(b)(5)(B) but for the provisions of this subpart, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under 23 U.S.C. 104(b)(1) or 104(b)(3) but for the provisions of this subpart, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(2) *Funds withheld after September 30, 1995.* No funds withheld under this subpart from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

(b) *Apportionment of withheld funds after compliance.* If, before September 10 of the last fiscal year for which funds withheld under this subpart from apportionment are to remain available for apportionment to a State under paragraph (a) of this section, the State makes the certification called for in § 384.305 and a determination is made that the State has met the standards of subpart B of this part for a period of 365 days and continues to meet such standards, the withheld funds remaining available for apportionment to such State shall be apportioned to the State on the day following the last day of such fiscal year.

(c) *Period of availability of subsequently apportioned funds.* Any funds apportioned pursuant to paragraph (b) of this section shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned. Sums not obligated at the end of such period shall lapse or, in the

case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

(d) *Effect of noncompliance.* If, at the end of the period for which funds withheld under this subpart from apportionment are available for apportionment under paragraph (a) of this section, the State has not met the standards of subpart B of this part for a 365-day period, such funds shall lapse or, in the case of funds apportioned under 23 U.S.C. 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with 23 U.S.C. 118(b).

PART 385—SAFETY FITNESS PROCEDURES

Sec.

385.1 Purpose and scope.

385.3 Definitions.

385.5 Safety fitness standard.

385.7 Factors to be considered in determining a safety rating.

385.9 Determination of a safety rating.

385.11 Notification of a safety rating.

385.13 Unsatisfactory rated motor carriers—prohibition on transportation of hazardous materials and passengers; ineligibility for Federal contracts.

385.15 Administrative review.

385.17 Change to safety rating based on corrective actions.

385.19 Safety fitness information.

385.21 Motor carrier identification report.

385.23 Failure to report.

APPENDIX A TO PART 385—FORM MCS-150, MOTOR CARRIER IDENTIFICATION REPORT

APPENDIX B TO PART 385—EXPLANATION OF SAFETY RATING PROCESS

AUTHORITY: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144, 31502; and 49 CFR 1.48.

SOURCE: 53 FR 50968, Dec. 19, 1988, unless otherwise noted.

§385.1 Purpose and scope.

(a) This part establishes procedures to determine the safety fitness of motor carriers, to assign safety ratings, to take remedial action when required, and to prohibit motor carriers receiving a safety rating of “unsatisfactory” from operating a commercial motor vehicle:

(1) To provide transportation of hazardous materials for which vehicle placarding is required in accordance with part 172, subpart F of this title; or

(2) To transport more than 15 passengers, including the driver.

(b) The provisions of this part apply to all motor carriers subject to the requirements of this subchapter.

[56 FR 40805, Aug. 16, 1991]

§385.3 Definitions.

Applicable safety regulations or requirements means 49 CFR subtitle B, chapter III, Subchapter B—Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, Subchapter C—Hazardous Materials Regulations.

Commercial motor vehicle shall have the same meaning as described in §390.5 of this subchapter.

Preventable accident on the part of a motor carrier means an accident (1) that involved a commercial motor vehicle, and (2) that could have been averted but for an act, or failure to act, by the motor carrier or the driver.

Reviews. For the purposes of this part:

(1) *Compliance review* means an on-site examination of motor carrier operations, such as drivers' hours of service, maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action.

(2) [Reserved]

(3) *Safety management controls* means the systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage.

Safety ratings: (1) *Satisfactory safety rating* means that a motor carrier has