

TRUCK ACCIDENT FEDERAL EVIDENCE PRESERVATION KIT

72-Hour Protocol · Black Box · FMCSA Regulations

JusticeFinder.net

Free Calculators · LegalTools · ClaimGuides · Resources

Legal Disclaimer & How To Use This Kit

This kit is produced by JusticeFinder.net for **educational purposes only**. Nothing in this document constitutes legal advice, creates an attorney-client relationship, or replaces consultation with a licensed attorney in your state. Federal trucking regulations (49 C.F.R.) and state laws change. All information reflects publicly available government and FMCSA sources cited inline. JusticeFinder.net is not a law firm and does not provide legal representation. Commercial truck accident cases are among the most complex personal injury claims — professional legal representation is strongly recommended.

■ THE SINGLE MOST CRITICAL RULE

You have **72 hours — or less**. ECM/black box data is overwritten. Dashcam footage loops. Drug testing windows close. Evidence that could win your case disappears permanently within the first 3 days.

Read Section 9 (The 72-Hour Checklist) FIRST. Send the Master Spoliation Letter (Section 8) within 24 hours of the accident. **Every hour matters.**

What Makes Truck Accidents Legally Different From Car Accidents

- **Federal regulatory framework:** Commercial trucks are regulated by the FMCSA under 49 C.F.R. Parts 380-399. These federal regulations create duties that do not exist in standard car accident cases.
- **Multiple liable parties:** A truck accident may involve the driver, the motor carrier, a cargo loader, a truck manufacturer, a maintenance company, and a broker — each with separate insurance and separate legal obligations.
- **Specialized federal records:** ELDs, Driver Qualification Files, vehicle inspection reports, and drug testing records are federally mandated documents that trucking companies will destroy if not formally demanded.
- **Higher damages:** Average truck accident settlements significantly exceed car accident settlements due to injury severity and multi-party liability.
- **Evidence disappears faster:** Truck ECM data, dashcam loops, and drug testing windows close within hours. In a car accident, most evidence persists for days or weeks.

[Source: FMCSA, [fmcsa.dot.gov](https://www.fmcsa.dot.gov); NHTSA Large Truck Crash Facts, [nhtsa.gov](https://www.nhtsa.gov); 49 C.F.R. Parts 380-399]

EXECUTIVE BRIEF

Why Truck Accidents Are a Federal Legal Category

Commercial trucks involved in interstate commerce are regulated by federal law under the **Federal Motor Carrier Safety Improvement Act (49 U.S.C. § 31136)** and administered by the FMCSA. When a commercial truck causes an accident, the investigation extends to a comprehensive framework of federal safety regulations that the driver and carrier must comply with at all times. Violations of these regulations constitute evidence of negligence that state law alone cannot provide.

[Source: 49 U.S.C. § 31136; FMCSA, [fmcsa.dot.gov](https://www.fmcsa.dot.gov); 49 C.F.R. Parts 380-399]

The 3 Tiers of Potential Liability in a Truck Accident

Tier	Party	Federal Duty	Key Evidence	How They Respond
Tier 1	The Driver	49 C.F.R. §§ 383, 391, 395 — CDL, qualifications, hours of service	ELD/HOS logs, drug test results, MVR, cell phone records, DQF	Driver's personal insurer + carrier's policy both respond. Driver may be personally liable if operating outside scope of employment.
Tier 2	Motor Carrier	49 C.F.R. Parts 390-396 — maintenance, hiring, dispatch, supervision	DQF, DVIR, maintenance records, SMS scores, prior accidents, dispatch logs	Carrier's commercial liability policy (minimum \$750K, often \$1M+). Primary target in most commercial truck cases.
Tier 3	Third Parties	49 C.F.R. Part 393 (cargo), product liability law (manufacturer), state contract law (broker)	Weight tickets, bill of lading, load securement records, vehicle defect reports, broker contracts	Each third party carries separate insurance. Identifying them and preserving evidence early is critical to maximum recovery.

[Source: 49 C.F.R. Parts 383-396; FMCSA, [fmcsa.dot.gov](https://www.fmcsa.dot.gov); 49 U.S.C. § 13101]

The Federal Records Most Victims Never Know Exist

- **Electronic Logging Device (ELD) Data:** Automatically records driver location, speed, duty status, and engine hours. Retained by carrier for 6 months minimum. Far more difficult to falsify than paper logs. [49 C.F.R. § 395.8(k)]
- **Driver Qualification File (DQF):** Contains CDL, MVR, medical certificate, employment history, road test records, and pre-employment drug test. Reveals whether the carrier knew the driver was unqualified. [49 C.F.R. § 391.51]
- **Driver Vehicle Inspection Report (DVIR):** Required before and after every trip. Documents known defects. Retained for 3 months. [49 C.F.R. § 396.11]
- **ECM / Event Data Recorder:** Records pre-crash speed, braking, throttle, and impact data for the seconds before a crash. Not subject to a federal retention requirement — overwritten on a rolling basis. [49 C.F.R. § 563]
- **Post-Accident Drug & Alcohol Test Results:** Federally mandatory within 8 hours (alcohol) and 32 hours (controlled substances). Retained 1–5 years depending on result. [49 C.F.R. § 382.303]
- **FMCSA Carrier Safety Records (SMS):** Publicly available at safer.fmcsa.dot.gov. Shows carrier's violation history, inspection results, and safety ratings.
- **Accident Register:** Carrier must maintain a register of all accidents for 3 years. [49 C.F.R. § 390.15]

The Evidence Destruction Timeline — Why 72 Hours Is Critical

INSIDER INSIGHT

Trucking companies employ claims response teams that activate within 1–2 hours of a serious accident. These teams — not law enforcement — are usually the first professionals on the scene. Their job is to protect the carrier's interests: securing the ECM, controlling the narrative, and legally managing evidence before a preservation demand arrives. You are racing against a professional team. This kit helps you move faster.

Evidence Category	Federal Retention Req.	Destruction Risk Window	Urgency
ECM / Black Box Data	No federal minimum — carrier policy governs	Hours to days — rolling overwrite	CRITICAL: Act within hours
Dashcam Footage	No federal minimum	24–72 hours on loop systems	CRITICAL: Act within hours
Post-Accident Drug Test (Alcohol)	Test must occur within 8 hrs (§ 382.303) Test must occur within 32 hrs	Window closes at 8 hours	EMERGENCY: Verify testing occurred
Post-Accident Drug Test (Drugs)	(§ 382.303) No federal mandate —	Window closes at 32 hours	URGENT: Verify testing occurred
Driver Cell Phone Records	preserve if on notice No federal minimum	Days without preservation demand	HIGH: Send demand Day 1
GPS / Telematics Data		Days to weeks on carrier system	HIGH: Send demand Day 1
ELD / HOS Records	6 months minimum (§ 395.8)	6 months from date of record	Moderate: Demand within 7 days
DVIR Records	3 months (§ 396.11)	3 months from date	Moderate: Demand within 7 days
Driver Qualification File	3 years post-employment (§ 391.53)	3 years (but may be 'lost' earlier)	Important: Demand within 14 days
Maintenance Records	1 year minimum (§ 396.3)	1 year from date	Important: Demand within 14 days
Accident Register	3 years (§ 390.15)	3 years from date	Demand within 14 days

Demand within 14 days

SECTION 1

The ECM / Black Box Evidence System

Why This Matters: The Event Data Recorder captures the last 5–30 seconds before a crash — speed, braking, throttle — in objective, timestamp data that cannot be disputed. This single piece of evidence has determined the outcome of more truck accident cases than any other. Once it is overwritten, it is gone forever.

What the ECM Records

Data Point	What It Proves	Legal Significance
Pre-crash vehicle speed	Speeding violations; failure to control speed	Direct evidence of driver/carrier negligence
Brake application timing	Did driver brake before impact? When?	Establishes reaction time and awareness of hazard
Brake force applied	Full braking vs. partial — was driver distracted? Was driver accelerating into the crash?	Supports distracted driving or impairment claims
Throttle position at impact	Was driver wearing seat belt at time of impact?	Eliminates 'uncontrollable circumstances' defense
Seat belt status	Vehicle load and performance at time of crash	Safety compliance and carrier policy enforcement
Engine RPM	Was cruise control active at time of crash?	Corroborates speed and operating condition data
Cruise control status	Pattern of aggressive driving before the accident	Establishes driver's level of active vehicle control
Hard braking events (prior)	Force of collision in mph change	Establishes pre-existing unsafe driving pattern
Impact severity (delta-V)		Corroborates injury severity claims

[Source: NHTSA Event Data Recorder Research, [nhtsa.gov](https://www.nhtsa.gov); 49 C.F.R. § 563, FMCSA]

The Legal Framework Governing ECM Data

Federal regulations under 49 C.F.R. § 563 establish minimum performance requirements for event data recorders in light vehicles, but commercial truck ECMs are governed by manufacturer specifications and industry standards rather than a single federal data retention mandate. **This gap means that without a preservation demand, a trucking company has NO legal obligation to preserve ECM data beyond their standard maintenance cycle** — which may overwrite data within hours.

Courts have consistently held that once a party is on notice of potential litigation, they have a duty to preserve relevant evidence — including ECM data. Failure to preserve after notice may result in an **adverse inference instruction** (the jury is told to assume the destroyed evidence was unfavorable to the carrier).

[Source: 49 C.F.R. § 563; FRCP Rule 37(e); Courts.gov; NHTSA, [nhtsa.gov](https://www.nhtsa.gov)]

INSIDER INSIGHT — The Repair Shop Tactic

Trucking company defense attorneys know that most victims do not send a preservation demand for ECM data within the first 24 hours. They count on this. Once the truck enters their repair facility for 'routine post-accident inspection,' the ECM data is often overwritten as part of the diagnostic process. This is technically legal without a preservation demand. It is not accidental. The repair shop tactic is a standard defense strategy. Sending the Master Spoliation Letter in Section 8 within 24 hours stops this tactic legally.

ECM Data Preservation Demand Letter — Send Within 24 Hours

ECM / EVENT DATA RECORDER PRESERVATION DEMAND

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)

RE: DEMAND FOR PRESERVATION OF ELECTRONIC CONTROL MODULE (ECM) / EVENT DATA RECORDER DATA

Accident Date: [DATE] | Time: [TIME] | Location: [EXACT LOCATION]

Your Vehicle DOT Number: [DOT NUMBER FROM TRUCK DOOR] | Driver: [IF KNOWN]

LEGAL BASIS:

You are hereby placed on notice of potential litigation. Upon notice, you have a legal duty to preserve all relevant evidence under FRCP Rule 37(e) and applicable state spoliation doctrine.

SPECIFIC DATA DEMANDED:

1. All ECM/EDR data for the [30] days prior to and including [ACCIDENT DATE]
2. All hard braking event data recorded in the 30 days prior to the accident
3. All engine fault codes and diagnostic data
4. All pre-crash data captured in the seconds before the accident
5. The complete ECM memory in its current state — do NOT perform system resets or diagnostic clears

PHYSICAL PRESERVATION:

(a) Immediately remove the vehicle from service; (b) ensure no diagnostic procedures are performed on the ECM until data is imaged by a qualified forensic expert; (c) provide written confirmation within 10 business days that data has been preserved.

CONSEQUENCES:

Failure to preserve after receipt of this notice may result in sanctions, adverse inference instruction, and other remedies under FRCP Rule 37(e) and applicable state law.

Sincerely,

[YOUR FULL NAME] | [Address] | [Phone / Email] | [DATE]

ECM Evidence Tracker

DATE DEMAND SENT

CERTIFIED MAIL TRACKING #

EMAIL SENT TO

DATE DELIVERY CONFIRMED

RESPONSE RECEIVED? ■ YES ■ NO

DATA PRODUCED? ■ YES ■ NO

FORMAT OF DATA PRODUCED

DISPUTES / NOTES

SECTION 2

Hours of Service & ELD Evidence

Why This Matters: Driver fatigue is involved in a significant percentage of serious truck crashes. Federal Hours of Service (HOS) regulations set strict limits on driving time — and Electronic Logging Devices create an objective, timestamped record of whether those limits were followed or violated.

The Federal Hours of Service Rules

HOS Rule	CFR Citation	What It Limits	Evidence of Violation
11-Hour Driving Limit	49 C.F.R. § 395.3(a)(3)	Maximum 11 hours driving after 10 consecutive hours off-duty	ELD shows more than 11 hours in 'driving' status
14-Hour On-Duty Window	49 C.F.R. § 395.3(a)(2)	No driving after 14th consecutive hour after coming on-duty	ELD shows driving after 14-hour window expired
30-Minute Break Requirement	49 C.F.R. § 395.3(a)(3)(ii)	Required 30-minute break after 8 cumulative hours of driving	ELD shows no 30-min break in off-duty or sleeper status
10-Hour Off-Duty Rest	49 C.F.R. § 395.3(a)(1)	10 consecutive hours off-duty before driving	ELD shows less than 10 hours prior to driving period
60/70-Hour Weekly Limit	49 C.F.R. § 395.3(b)	Max 60 hrs in 7 days / 70 hrs in 8 days	ELD cumulative hours exceed 60 or 70 hours
34-Hour Restart Rule	49 C.F.R. § 395.3(c)	Optional restart of 7/8-day period after 34 hrs off	Restart period used improperly to circumvent weekly limits

[Source: FMCSA Hours of Service Final Rule, 49 C.F.R. § 395; 85 Fed. Reg. 33396 (2020)]

The ELD Mandate — What It Records

The ELD Final Rule (49 C.F.R. § 395.8) became effective December 18, 2017 and requires most commercial motor vehicle drivers to use Electronic Logging Devices that automatically record Hours of Service data. ELDs are connected to the truck's engine and record: date, time, location (GPS coordinates), engine hours, vehicle miles, driver identification, duty status, and supporting documents. Because ELD data is generated automatically by the engine, it is **far more reliable than paper logs** — and far more difficult for a driver to falsify.

INSIDER INSIGHT — The 6-Month Deletion Window

ELD data retention is only required for 6 months under 49 C.F.R. § 395.8(k)(1). After 6 months, the carrier may legally delete ELD records. If your accident is approaching the 6-month mark without a preservation demand, those records can vanish legally and permanently. Preservation demands sent within the first week are the only reliable protection. An attorney can subpoena ELD data from the carrier's ELD provider even after the carrier deletes their own copy — but only if the demand is sent promptly.

HOS Records Preservation Demand Letter

HOS & ELD RECORDS PRESERVATION DEMAND

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)
DEMAND FOR PRESERVATION OF HOURS OF SERVICE AND ELD RECORDS
 Accident: [DATE] | Location: [LOCATION] | Driver: [NAME IF KNOWN]

SPECIFIC RECORDS DEMANDED:

1. All ELD records for the driver for the 30-day period prior to and including [ACCIDENT DATE]
2. All paper logs (if ELD exemptions applied) for the same 30-day period
3. Driver's duty status records showing on-duty, driving, off-duty, and sleeper berth time
4. All supporting documents: fuel receipts, toll records, weigh station records, and GPS data
5. All records of HOS violations, citations, or warnings in the 12 months prior to the accident
6. Communications between carrier and driver about HOS compliance or dispatch schedule pressure

LEGAL BASIS:

ELD and HOS records must be retained for a minimum of 6 months under 49 C.F.R. § 395.8(k)(1). You are placed on litigation notice and are required to preserve these records beyond the regulatory minimum. Destruction after receipt of this notice may result in adverse inference sanctions under FRCP Rule 37(e).

Sincerely,
[YOUR NAME] | [ADDRESS] | [DATE]

HOS Evidence Tracker

DATE DEMAND SENT

TRACKING #

RESPONSE DATE

ELD RECORDS RECEIVED? ■ YES ■ NO

30-DAY PERIOD COVERED

HOS VIOLATIONS IDENTIFIED (DESCRIBE)

SECTION 3
Driver Qualification File (DQF)

Why This Matters: The DQF reveals whether the carrier knew — or should have known — that the driver was unqualified, had prior violations, or had a history of unsafe driving. If the carrier hired or retained a driver despite red flags in the DQF, this is negligent entrustment — and it can multiply damages significantly.

What the DQF Must Contain Under Federal Law

DQF Document	CFR Requirement	What It Reveals	Retention Period
Commercial Driver's License (CDL)	49 C.F.R. § 391.11	Valid CDL class and endorsements; any disqualifications	Duration of employment + 3 years
Motor Vehicle Record (MVR)	49 C.F.R. § 391.23	Prior accidents, violations, and license suspensions	Duration + 3 years
Employment Application	49 C.F.R. § 391.21	Prior employers, accident history (self-reported), employment gaps	Duration + 3 years
Prior Employer Verification	49 C.F.R. § 391.23(d)	Did carrier verify all prior employment and obtain prior accident records?	Duration + 3 years
Medical Examiner's Certificate	49 C.F.R. § 391.43	DOT physical results; medical fitness to drive; expiration date	Duration + 3 years
Annual MVR Review	49 C.F.R. § 391.25	Annual review of driving record — carrier must check each year	3 years from review date
Pre-Employment Drug Test Result	49 C.F.R. § 382.301	Result of required pre-employment drug screen	5 years
Road Test Certificate	49 C.F.R. § 391.31	Carrier's certification that driver demonstrated safe driving ability	Duration + 3 years

INSIDER INSIGHT — Missing DQF Documents

Missing DQF documents are not just a regulatory violation — they are evidence of carrier negligence. When prior employer verification is absent, it means the carrier never checked whether the driver had prior accidents or was terminated for safety violations. When the annual MVR review is missing, it means the carrier was ignoring the driver's deteriorating driving record. A DQF with gaps is often worth more to your case than a complete DQF, because each gap proves willful blindness to risk.

DQF Records Preservation Demand Letter

DRIVER QUALIFICATION FILE PRESERVATION DEMAND

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)
DEMAND FOR PRESERVATION OF DRIVER QUALIFICATION FILE
Driver: [NAME IF KNOWN] | Accident Date: [DATE]

SPECIFIC RECORDS DEMANDED:

1. Driver's CDL and all endorsements — including any disqualification history
2. Motor Vehicle Record (MVR) — all versions obtained at hiring and in all annual reviews
3. Complete employment application as submitted by the driver
4. All prior employer verification documents and responses (49 C.F.R. § 391.23(d))
5. Medical Examiner's Certificate — current and all prior versions on file
6. Annual driving record reviews for all years of employment (49 C.F.R. § 391.25)
7. Road test certificate (49 C.F.R. § 391.31)
8. Pre-employment drug and alcohol test results (49 C.F.R. § 382.301)
9. All documentation of safety violations, counseling, or disciplinary actions
10. Training and certification records for any specialized endorsements

LEGAL BASIS:

49 C.F.R. § 391.53 requires DQF retention for 3 years post-employment. Litigation notice extends this duty indefinitely. Please confirm preservation in writing within 10 business days.

Sincerely,
[YOUR NAME] | [DATE]

SECTION 4

Post-Accident Drug & Alcohol Testing

Why This Matters: Federal law requires drug and alcohol testing after qualifying truck accidents within strict time windows. If the carrier allowed these windows to close without testing — or if testing was delayed past the mandatory window — that failure itself is evidence of carrier negligence.

The Federal Mandatory Testing Framework

Test Type	Time Window	CFR Citation	Triggers Testing	Retention Period
Alcohol Test	accident	49 C.F.R. § 382.303(a)	Fatal accident OR bodily injury + driver cited OR disabling vehicle damage + driver cited	1 year (negative) / 5 years (positive)
Controlled Substance Test	Within 32 hours of accident	49 C.F.R. § 382.303(b)	Same triggers as alcohol test above	5 years (all results)

Which Accidents Trigger Mandatory Testing

Under 49 C.F.R. § 382.303, post-accident testing is required when: (1) the accident involved a fatality; OR (2) the driver received a citation AND a person was treated away from the scene for bodily injury; OR (3) the driver received a citation AND a vehicle was towed due to disabling damage. In any of these circumstances, the carrier **MUST** ensure testing occurs within the specified windows — this is **not discretionary**.

INSIDER INSIGHT — The Testing Avoidance Pattern

The carrier sends the driver to a medical facility for 'treatment' for minor complaints. The medical appointment extends past the 8-hour alcohol testing window. The carrier then documents that alcohol testing was 'not practicable due to medical treatment' — a recognized exception under 49 C.F.R. § 382.303(c). This eliminates the most time-sensitive piece of impairment evidence. If you witness the driver appearing impaired or smell alcohol at the scene, document this in writing immediately and notify law enforcement. Police-administered roadside testing is separate from and independent of the carrier's federal obligation.

Drug & Alcohol Testing Records Preservation Demand

POST-ACCIDENT DRUG & ALCOHOL TESTING RECORDS DEMAND

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)

Accident Date: [DATE] Driver: [NAME IF KNOWN]

SPECIFIC RECORDS DEMANDED:

1. Documentation of whether post-accident alcohol testing was conducted (49 C.F.R. § 382.303(a)) — including time and result
2. Documentation of whether controlled substance testing was conducted (49 C.F.R. § 382.303(b)) — including time and result
3. If testing was not conducted within required windows — all documentation of the reason for non-testing
4. The chain of custody records for all specimens collected
5. All Medical Review Officer (MRO) reports
6. Documentation of any 'not practicable' determination and the basis for that determination
7. The driver's complete drug and alcohol testing history on file with your Substance Abuse Professional (SAP)

LEGAL BASIS:

49C.F.R. § 382.303; records retained per 49 C.F.R. § 382.401.

Sincerely,
[YOUR NAME] | [DATE]

TESTING CONFIRMED OCCURRED? ■ YES ■ NO

ALCOHOL TEST TIME (VS. 8-HR WINDOW)

DRUG TEST TIME (VS. 32-HR WINDOW)

RESULTS DEMANDED? ■ YES ■ NO

SECTION 5

Vehicle Inspection & Maintenance Records

Why This Matters: When a carrier has documented defects but continued operating the truck — or when inspection records are missing — this is direct evidence of knowing, willful disregard for safety.

The Driver Vehicle Inspection Report (DVIR)

Under 49 C.F.R. § 396.11, a driver must complete a DVIR before and after every trip, documenting any defects or deficiencies that affect safety. If the driver reports a defect, the carrier must repair it before the vehicle is operated again (49 C.F.R. § 396.13).

DVIRs must be retained for **3 months**. If a brake defect was documented in DVIRs prior to the accident but the truck continued to operate, this is some of the most powerful negligence evidence available.

Annual Inspection Requirements

Every commercial motor vehicle must be inspected at least annually under 49 C.F.R. § 396.17. The inspection must include: braking system, coupling devices, exhaust system, frame, fuel system, lighting, steering mechanism, suspension, tires, wheels and rims, windshield glazing, and windshield wipers. The inspection report must be kept on file for **14 months** (49 C.F.R. § 396.21(a)). An out-of-date inspection certificate is itself a violation the carrier must answer for.

INSIDER INSIGHT — Brake Failures & Punitive Damages

Brake failures account for a significant portion of serious truck accidents. The FMCSA's Large Truck Crash Causation Study (LTCCS) found brake problems as a factor in over 29% of truck crashes studied. When brake-related maintenance records show deferred repairs, ignored DVIR notations about brake issues, or expired inspection certifications, the case for punitive damages — not just compensatory damages — becomes substantially stronger. Carriers who know their brakes are failing and keep driving the truck may face enhanced liability.

Maintenance Records Preservation Demand

VEHICLE INSPECTION & MAINTENANCE RECORDS DEMAND

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)

Vehicle: [DOT NUMBER / UNIT NUMBER IF KNOWN] | Accident Date: [DATE]

SPECIFIC RECORDS DEMANDED:

1. All DVIRs for this vehicle for the 90 days prior to and including [ACCIDENT DATE] (49 C.F.R. § 396.11)
2. The most recent annual inspection report and certification (49 C.F.R. § 396.17)
3. All maintenance and repair records for this vehicle for the 12 months prior to the accident (49 C.F.R. § 396.3)
4. All records of brake system inspection, adjustment, repair, or replacement
5. All records of tire inspection, repair, or replacement
6. All records of any out-of-service orders or violations issued for this vehicle
7. All work orders and invoices from any repair facility in the 12 months prior to the accident
8. All documentation of any deferred maintenance or maintenance items noted but not completed

LEGAL BASIS:

49 C.F.R. § 396.3 (1-year minimum retention); 49 C.F.R. § 396.11 (DVIR 3-month retention).

Sincerely,
[YOUR NAME] | [DATE]

MOST RECENT ANNUAL INSPECTION DATE

CERTIFICATION EXPIRED? ■ YES ■ NO

DVIR DEFECTS DOCUMENTED PRE-ACCIDENT (DESCRIBE)

BRAKE ISSUES IN RECORDS? ■ YES ■ NO

DEFERRED MAINTENANCE FOUND? ■ YES ■ NO

SECTION 6

Cargo Loading & Weight Records

Why This Matters: An overloaded truck takes significantly longer to stop, handles differently in emergency maneuvers, and causes far greater damage on impact. When weight limits are violated, the party responsible for loading bears liability alongside the carrier.

Federal Weight Limits

Weight Limit	Federal Statute	Maximum	Relevance to Accident
Gross Vehicle Weight	23 U.S.C. § 127; 23 C.F.R. § 658.17	80,000 lbs on Interstate highways	Overweight truck = longer stopping distance + greater impact force
Single Axle	23 U.S.C. § 127	20,000 lbs per single axle	Axle overloading causes tire failures and brake degradation
Tandem Axle	23 U.S.C. § 127	34,000 lbs per tandem axle group	Tandem overloading increases rollover risk
Bridge Formula	23 U.S.C. § 127 (bridge formula)	Variable based on axle spacing	Prevents structural damage and maintains vehicle stability

Cargo Securement — Federal Requirements

Under 49 C.F.R. Part 393, Subpart I (§§ 393.100-393.136), all cargo on commercial vehicles must be properly contained, immobilized, or secured to prevent shifting or falling during transport. Violations include: insufficient tie-downs, improper blocking, loose or missing cargo containment, and failure to reassess securement after the first 50 miles. When cargo shifts and causes a rollover or spill accident, the shipper/loader who improperly secured the load may bear liability alongside the carrier.

Cargo Records Preservation Demand

CARGO & WEIGHT RECORDS PRESERVATION DEMAND

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)
Vehicle: [DOT NUMBER] | Accident Date: [DATE]
Addressees: [TRUCKING COMPANY] AND [SHIPPER/CARGO LOADER IF KNOWN]

SPECIFIC RECORDS DEMANDED:

- 1. All weight tickets for the loadcarried on [ACCIDENT DATE] — from origin through delivery
- 2. Bill of lading for the load in transit at the time of the accident
- 3. All cargo securement inspection records for this load (49 C.F.R. § 392.9)
- 4. All loading instructions and documentation from the shipper/loader
- 5. Any documentation of overweight violations or weigh station records for this trip
- 6. Photographs or documentation of cargo condition taken by any party after the accident
- 7. Carrier and shipper contracts specifying loading and securement responsibilities

LEGAL BASIS:

49C.F.R.Part393; 23 U.S.C. § 127.

Sincerely,
[YOUR NAME] | [DATE]

SECTION 7

Carrier Safety Records & FMCSA Database

Why This Matters: The FMCSA's public database contains every carrier's safety record, violation history, inspection results, and accident register — freely searchable by anyone. A carrier with a pattern of safety violations is far more likely to face punitive damages.

The FMCSA Safety Measurement System (SMS)

The SMS evaluates seven BASICs (Behavior Analysis and Safety Improvement Categories):

- **Unsafe Driving** — speeding, reckless driving, improper lane changes
- **Hours-of-Service Compliance** — HOS violations, log falsification
- **Driver Fitness** — CDL compliance, medical certification failures
- **Controlled Substances/Alcohol** — positive drug tests, DUI violations
- **Vehicle Maintenance** — out-of-service violations, brake violations
- **Hazardous Materials Compliance** (where applicable)
- **Crash Indicator** — carrier's history of crash involvement

How to Search the FMCSA Database — Step by Step

1. Go to safer.fmcsa.dot.gov
2. Click '**Company Snapshot**' in the search tool.
3. Enter the carrier's DOT number (found on the truck door — required by 49 C.F.R. § 390.21) or the carrier's name.
4. The company snapshot shows: operating status, number of power units, number of drivers, safety rating, out-of-service rate, total crashes, and inspection history.
5. Click '**SMS Results**' to see the carrier's BASICs scores — red/yellow scores indicate areas of regulatory concern.
6. **Screenshot and print the complete snapshot.** This is your evidence of carrier safety history.
7. Note the carrier's USDOT number and MC number — you will need these for any legal filings.

INSIDER INSIGHT — SMS Data as Pattern Evidence

A carrier's SMS score at the time of the accident is admissible evidence of their safety culture and prior pattern of violations. Courts have permitted plaintiff attorneys to introduce SMS data showing that a carrier was in the 'alert' threshold (highest violation rates) in the months before an accident. This data transforms a single-incident negligence claim into a pattern-and-practice case — which significantly increases settlement value and punitive damage exposure for the carrier.

Carrier Safety Records Tracker

CARRIER NAME

USDOT NUMBER (FROM TRUCK DOOR)

FMCSA SNAPSHOT PRINTED? ■ YES ■ NO

SAFETY RATING

SNAPSHOT DATE

PRIOR ACCIDENTS IN REGISTER

BASICS SCORE CONCERNS (LIST CATEGORIES WITH HIGH SCORES)

OUT-OF-SERVICE RATE

TOTAL INSPECTIONS

SECTION 8

The Master Spoliation Letter System

Why This Matters: A single, comprehensive spoliation letter sent within 24 hours of the accident preserves your right to all federal evidence categories simultaneously. Once received, the carrier has a legally enforceable duty to preserve every item listed. Destruction after receipt equals sanctions, adverse inference, and in egregious cases, default judgment.

What Is Spoliation — And Why It Changes the Entire Case

Spoliation of evidence is the intentional or negligent destruction, alteration, or failure to preserve evidence relevant to pending or reasonably foreseeable litigation. Under **Federal Rule of Civil Procedure Rule 37(e)**, if a party fails to preserve electronically stored information after a duty to preserve arises, courts may issue sanctions including: adverse inference instructions, dismissal of defenses, and monetary sanctions.

The Master Spoliation Letter — Send Within 24 Hours of the Accident

MASTER EVIDENCE PRESERVATION DEMAND

VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)
 VIA CERTIFIED MAIL — RETURN RECEIPT REQUESTED AND EMAIL (if available)

ADDRESSEE 1: [TRUCKING COMPANY FULL LEGAL NAME] | [Registered Agent Address]

ADDRESSEE 2: [MOTOR CARRIER'S INSURANCE COMPANY] | [Claims Department]

ADDRESSEE 3: [DRIVER FULL NAME] | [Last Known Address]

ADDRESSEE 4: [SHIPPER / CARGO LOADER if known]

RE: Accident of [DATE] at [EXACT LOCATION] | USDOT Number: [FROM TRUCK DOOR]

I, [YOUR FULL NAME], was involved in an accident with your commercial motor vehicle on [DATE] at approximately [TIME] at [EXACT LOCATION]. I have sustained injuries and property damage and anticipate pursuing legal claims against all responsible parties.

You are hereby placed on **formal legal notice of pending litigation**. Upon receipt of this notice, you are legally required to immediately preserve — and are prohibited from destroying, altering, overwriting, or permitting the deterioration of — all evidence related to this accident.

COMPREHENSIVE EVIDENCE PRESERVATION DEMAND:

1. ECM / EVENT DATA RECORDER DATA

All data recorded by the ECM and EDR, including pre-crash speed, brake application, throttle position, impact severity, seat belt status, and all diagnostic data. Do NOT reset, clear, or overwrite ECM memory. [49 C.F.R. § 563; FRCP Rule 37(e)]

2. ELECTRONIC LOGGING DEVICE (ELD) AND HOS RECORDS

All ELD data for the driver for the 30-day period prior to and including [DATE]. All paper logs (if applicable). All supporting documents. [49 C.F.R. § 395.8]

3. DRIVER VEHICLE INSPECTION REPORTS (DVIR)

All DVIRs completed by any driver who operated this vehicle for the 90-day period prior to and including [DATE]. [49 C.F.R. § 396.11]

4. VEHICLE MAINTENANCE AND REPAIR RECORDS

All maintenance records, repair invoices, work orders, and service records for this vehicle for the 12-month period prior to [DATE]. [49 C.F.R. § 396.3]

5. DRIVER QUALIFICATION FILE (DQF)

Complete DQF for the involved driver, including CDL, MVR, employment application, prior employer verification, medical certificates, annual reviews, road test certificate, and pre-employment drug test results. [49 C.F.R. § 391.51]

6. POST-ACCIDENT DRUG AND ALCOHOL TESTING RECORDS

All documentation of post-accident drug and alcohol testing under 49 C.F.R. § 382.303, including test results, chain of custody, MRO reports, and any 'not practicable' determination.

7. ALL DASHCAM AND VIDEO FOOTAGE

All video footage from any forward-facing, rear-facing, or cab-facing camera on the truck or trailer. Do NOT allow footage to be overwritten. Download and preserve immediately.

8. DRIVER AND CARRIER COMMUNICATIONS

All communications between the driver and carrier on [DATE] including text messages, call logs, dispatch communications, satellite messaging, and emails.

9. DISPATCH AND LOAD ASSIGNMENT RECORDS

All dispatch records, load assignments, delivery schedules, and route instructions for the driver for the 30-day period prior to and including [DATE].

10. GPS AND TELEMATICS DATA

All GPS location data, speed data, and telematics records for the vehicle for the 30-day period prior to and including [DATE].

11. CARGO AND WEIGHT RECORDS

All weight tickets, bills of lading, cargo securement records, and loading documentation for the load carried on [DATE].

12. INSURANCE DOCUMENTS

All applicable insurance policies including motor carrier liability policy, cargo policy, and any umbrella or excess policies. Policy numbers and coverage limits.

13. PRIOR ACCIDENT AND INCIDENT REPORTS

The carrier's accident register under 49 C.F.R. § 390.15 and all incident reports for the past 3 years.

14. FMCSA INSPECTION AND SAFETY AUDIT RECORDS

All FMCSA roadside inspection reports, compliance reviews, and safety audit results for this carrier and this driver for the past 3 years.

15. DRIVER'S PERSONAL CELL PHONE RECORDS

All call logs, text message records, and application usage data from the driver's personal and company-issued cell phones for [DATE]. [49 C.F.R. § 392.82]

RESPONSE REQUIRED:

You are required to respond in writing within 10 business days confirming: (1) receipt of this demand; (2) that all listed evidence categories have been preserved; (3) the name and contact of the person responsible for evidence preservation.

CONSEQUENCES OF NON-COMPLIANCE:

Destruction of any of the above evidence after receipt of this notice may result in: motions for sanctions under FRCP Rule 37(e); adverse inference instructions at trial; dismissal of defenses; monetary sanctions; and enhanced damages claims for spoliation. All rights reserved.

Sincerely,

[YOUR FULL NAME] | [Address] | [Phone] | [Email] | [DATE]

Spoliation Letter Delivery Tracker

Trucking Company

NAME / ADDRESS

CERTIFIED MAIL TRACKING #

DATE DELIVERED

EMAIL SENT TO

EMAIL SENT DATE

RESPONSE RECEIVED? ■ YES ■ NO

RESPONSE DATE

Carrier's Insurer

NAME / ADDRESS

CERTIFIED MAIL TRACKING #

DATE DELIVERED

EMAIL SENT TO

EMAIL SENT DATE

RESPONSE RECEIVED? ■ YES ■ NO

RESPONSE DATE

Driver

NAME / ADDRESS

CERTIFIED MAIL TRACKING #

DATE DELIVERED

EMAIL SENT TO

EMAIL SENT DATE

RESPONSE RECEIVED? ■ YES ■ NO

RESPONSE DATE

Shipper/Loader

NAME / ADDRESS

CERTIFIED MAIL TRACKING #

DATE DELIVERED

EMAIL SENT TO

EMAIL SENT DATE

RESPONSE RECEIVED? ■ YES ■ NO

RESPONSE DATE

SECTION 9

The 72-Hour Master Evidence Checklist

Why This Matters: This is the most time-sensitive section in the entire kit. Evidence disappears in real time. Use this checklist as your field guide — at the scene, in the hospital, and in the days after.

HOURL 1 — At the Scene or Immediately After

✓	Action	Window	Why
■	Photograph truck — ALL sides, all damage, license plate	CRITICAL — now	Scene evidence disappears as vehicles are moved
■	Record DOT number from truck door (49 C.F.R. § 390.21 required)	CRITICAL — now	DOT number identifies the carrier for all federal records
■	Record carrier name and USDOT number from truck cab door	CRITICAL — now	Required to search FMCSA database and demand records
■	Photograph cab unit number and trailer number separately	CRITICAL — now	Specific unit numbers required for maintenance record demands
■	Photograph truck dashboard through windshield if visible	CRITICAL — now	May capture driver instrument data or device usage
■	Photograph all cargo spill or securement failure evidence	Hour 1	Cargo evidence disappears rapidly as cleanup begins
■	Photograph full road scene: skid marks, debris field, geometry	Hour 1	Skid marks and debris disappear within hours
■	Record GPS coordinates of exact accident location	Hour 1	Exact location required for federal crash reports and reconstruction
■	Identify and photograph any cameras: intersections, businesses	Hour 1	Business cameras overwrite footage within 24–72 hours
■	Collect ALL witness names, phone numbers, and emails	Hour 1	Witnesses leave scene and become unreachable rapidly
■	Do NOT allow the truck to be moved before full documentation	CRITICAL — now	Once moved, physical evidence of impact positions is lost
■	Note driver's condition: appearance, behavior, speech, odor	CRITICAL — now	Impairment observation window closes within hours

HOURS 1–12

✓	Action	Window	Why
■	Send Master Spoliation Letter (Section 8) by certified mail + email	Hours 1–12	Preservation duty attaches to trucking company upon receipt
■	Seek medical attention — document same day if possible	Hours 1–12	Same-day medical record establishes accident causation
■	File police report and obtain officer name and report number	Hours 1–12	Police report is foundational evidence for entire claim
■	Search carrier's FMCSA safety record: safer.fmcsa.dot.gov	Hours 1–12	SMS data is publicly available and may strengthen your claim immediately
■	Document carrier's SMS scores and prior accident register	Hours 1–12	Print/screenshot carrier snapshot for your evidence file

✓	Action	Window	Why
■	Note whether post-accident drug/alcohol testing occurred	Hour 8 cutoff	Federal testing window closes at 8 hours (alcohol) / 32 hours (drugs)
■	Photograph your injuries — today and daily for 2 weeks	Hours 1–12	Injury progression is powerful non-economic damages evidence

HOURS 12–72

✓	Action	Window	Why
■	Verify spoliation letter delivery (certified mail tracking)	72 hours	Confirmed delivery starts the carrier's preservation duty clock
■	Consult a truck accident attorney (ECM subpoena requires attorney)	72 hours	Only attorneys can file court orders to compel ECM data production
■	Identify all 3 tiers of potential defendants (Section 10)	72 hours	Additional parties must receive separate preservation demands
■	Demand cargo shipper's weight tickets and securement records	72 hours	Cargo records may be with shipper — not just the carrier
■	Do NOT allow your vehicle to be repaired before independent appraisal	72 hours	Your vehicle is physical evidence of impact force and direction

DAYS 3–14

✓	Action	Window	Why
■	Follow up on all spoliation letter responses (10-business-day deadline)	Days 3–14	If no response, this becomes evidence of willful non-compliance
■	Obtain all available business surveillance / dash cam footage	Days 3–14	Most systems overwrite within 72 hours; demand preservation immediately
■	Begin compiling economic damages: lost wages, medical bills, future costs	Days 3–14	Early documentation establishes damages baseline
■	Document all ongoing medical treatment and symptoms daily	Days 3–14	Gaps in medical records are used by defense to minimize injuries
■	Do not post about the accident on social media	Days 3–14	Defense investigators monitor social media from day one
■	Do not speak with the carrier's insurance adjuster without an attorney	Days 3–14	Early recorded statements can be used against you
■	Verify your state's statute of limitations deadline (Section 11)	Days 3–14	Missing the SOL deadline means losing your case entirely

SECTION 10

The Liability Matrix

Why This Matters: Unlike car accidents, truck accidents routinely involve 2–6 separate defendants with separate insurance policies and separate legal obligations. Identifying and preserving evidence against EACH party dramatically increases total available recovery.

Defendant	Federal Duty / Law	Evidence That Proves Liability	How to Obtain It
1. Driver	49 C.F.R. §§ 383, 391, 395 — CDL, qualifications, HOS compliance	ELD/HOS violations; positive drug test; cell phone use (49 C.F.R. § 392.82); speeding (ECM data); prior MVR violations	ECM data; ELD records; drug test results; cell phone records; police report; witness statements
2. Motor Carrier	49 C.F.R. Parts 390-396 — maintenance, hiring, supervision, dispatch	Missing DQF items; DVIR defects ignored; HOS pressure from dispatch; poor SMS scores; prior accidents on register	DQF; DVIR; maintenance records; dispatch logs; SMS data from safer.fmcsa.dot.gov ; accident register
3. Cargo Shipper / Loader	49 C.F.R. Part 393 — cargo securement; 23 U.S.C. § 127 — weight limits	Weight tickets showing overloading; securement inspection records showing improper technique; loading instructions	Weight tickets; bill of lading; securement records; shipper contracts; loading facility records
4. Truck Manufacturer	Product liability law; 49 C.F.R. Part 393 — vehicle equipment standards	Defect in braking system; defective tire; safety system failure prior to or during accident	NHTSA defect reports (nhtsa.gov); maintenance records showing known defect; expert inspection report
5. Maintenance Company	Negligent repair; 49 C.F.R. § 396.3 — maintenance standards	Work orders showing improper repair; failure to correct known defects; brake/tire negligence on recent service	Maintenance records; work orders; invoices; maintenance company contracts; service technician depositions
6. Freight Broker	49 C.F.R. Part 371 (broker regulations); negligent hiring doctrine	Broker contracted with carrier knowing of poor safety record; broker had access to FMCSA data showing violations and ignored them	Broker-carrier contracts; FMCSA SMS data as of hire date; communications showing carrier safety concerns

[Source: 49 C.F.R. Parts 371-396; 49 U.S.C. §§ 13101-14102; FMCSA, [fmcsa.dot.gov](https://safer.fmcsa.dot.gov)]

The Respondeat Superior Doctrine in Commercial Trucking

Under the doctrine of respondeat superior, an employer is liable for the negligent acts of an employee committed within the scope of employment. Federal law under **49 U.S.C. § 14102** and FMCSA regulations establish that a motor carrier is legally responsible for the actions of its drivers operating under its authority — regardless of whether the carrier attempts to classify the driver as an 'independent contractor.' Courts have consistently looked through independent contractor classifications when the carrier exercises sufficient control over the driver's operations.

SECTION 11

State-by-State Trucking Law Reference

Why This Matters: While federal FMCSA regulations apply uniformly, the statute of limitations, fault system, and state crash report process are all state-specific. The state where the accident occurred governs your claim.

Federal Preemption Note: Federal FMCSA safety regulations preempt state law in most commercial trucking matters — you can always demand FMCSA-required records regardless of state law. However, state law governs: (1) the time you have to file suit (SOL), (2) how fault is allocated (comparative vs. contributory), (3) procedural rules for lawsuits, and (4) bad faith insurance claims.

■ CONTRIBUTORY FAULT STATES — CRITICAL WARNING

In Alabama, D.C., Maryland, North Carolina, and Virginia, **any fault on your part may bar all recovery**. If you were involved in an accident in one of these states, contact an attorney immediately.

■ 1-YEAR STATUTE OF LIMITATIONS — IMMEDIATE ACTION REQUIRED

Kentucky, Louisiana, and Tennessee have a **1-year SOL from the accident date**. If you were in an accident in one of these states, do not delay — contact a truck accident attorney now.

State	SOL	Fault System	Crash Report Portal	Insurance Commissioner
Alabama	2 yrs	Contributory	alea.gov/traffic-records	aldoi.gov
Alaska	2 yrs	Comparative	dps.alaska.gov	commerce.alaska.gov/ins
Arizona	2 yrs	Comparative	azdot.gov	insurance.az.gov
Arkansas	3 yrs	Comparative	isp.arkansas.gov/crashreports	insurance.arkansas.gov
California	2 yrs	Comparative	chp.ca.gov	insurance.ca.gov
Colorado	3 yrs	Comparative	codot.gov	doi.colorado.gov
Connecticut	2 yrs	Comparative	portal.ct.gov/DOT	portal.ct.gov/CID
Delaware	2 yrs	Comparative	dmv.de.gov	insurance.delaware.gov
D.C.	3 yrs	Contributory	mpdc.dc.gov	disb.dc.gov
Florida	4 yrs	Comparative	flhsmv.gov	myfloridacfo.com
Georgia	2 yrs	Comparative	gsp.georgia.gov	oci.ga.gov
Hawaii	2 yrs	Comparative	hidot.hawaii.gov	cca.hawaii.gov/ins
Idaho	2 yrs	Comparative	itd.idaho.gov	doi.idaho.gov
Illinois	2 yrs	Comparative	idot.illinois.gov	insurance.illinois.gov
Indiana	2 yrs	Comparative	in.gov/isp/crash-reports	in.gov/idoi
Iowa	2 yrs	Comparative	iowadot.gov	iid.iowa.gov
Kansas	2 yrs	Comparative	kdot.ks.gov	insurance.ks.gov
Kentucky	1 yr ■	Comparative	transportation.ky.gov	insurance.ky.gov
Louisiana	1 yr ■	Comparative	lsp.org/traffic-records	ldi.la.gov
Maine	6 yrs	Comparative	maine.gov/sos/bmv	maine.gov/pfr/insurance
Maryland	3 yrs	Contributory	mdsp.maryland.gov	insurance.maryland.gov
Massachusetts	3 yrs	Comparative	mass.gov/traffic-crash-reports	mass.gov/orgs/doi
Michigan	3 yrs	Comparative	michigan.gov/msp	michigan.gov/difs

State	SOL	Fault System	Crash Report Portal	Insurance Commissioner
Minnesota	2 yrs	Comparative	dps.mn.gov	mn.gov/commerce
Mississippi	3 yrs	Comparative	dps.ms.gov	mid.ms.gov
Missouri	5 yrs	Comparative	mshp.dps.missouri.gov	insurance.mo.gov
Montana	3 yrs	Comparative	mdt.mt.gov	csimt.gov
Nebraska	4 yrs	Comparative	nebraska.gov/dmv	doi.nebraska.gov
Nevada	2 yrs	Comparative	ndot.nv.gov	doi.nv.gov
New Hampshire	3 yrs	Comparative	nh.gov/dot	nh.gov/insurance
New Jersey	2 yrs	Comparative	njsp.org	dobi.nj.gov
New Mexico	3 yrs	Comparative	nmsp.nm.gov	osi.state.nm.us
New York	3 yrs	Comparative	dmv.ny.gov/crash-report	dfs.ny.gov
North Carolina	3 yrs	Contributory	ncdot.gov	ncdoi.gov
North Dakota	6 yrs	Comparative	ndhp.nd.gov	nd.gov/ndins
Ohio	2 yrs	Comparative	publicsafety.ohio.gov	insurance.ohio.gov
Oklahoma	2 yrs	Comparative	dps.ok.gov	ok.gov/oid
Oregon	2 yrs	Comparative	oregon.gov/odot	insurance.oregon.gov
Pennsylvania	2 yrs	Comparative	penndot.pa.gov	insurance.pa.gov
Rhode Island	3 yrs	Comparative	risp.ri.gov	dbr.ri.gov
South Carolina	3 yrs	Comparative	dps.sc.gov	doi.sc.gov
South Dakota	3 yrs	Comparative	sddot.com	dlr.sd.gov/insurance
Tennessee	1 yr ■	Comparative	tn.gov/safety/stats/crash	tn.gov/commerce/insurance
Texas	2 yrs	Comparative	txdot.gov	tdi.texas.gov
Utah	4 yrs	Comparative	udot.utah.gov	insurance.utah.gov
Vermont	3 yrs	Comparative	dmv.vermont.gov	dfr.vermont.gov
Virginia	2 yrs	Contributory	dmv.virginia.gov	scc.virginia.gov
Washington	3 yrs	Comparative	wsp.wa.gov	insurance.wa.gov
West Virginia	2 yrs	Comparative	transportation.wv.gov	wvinsurance.gov
Wisconsin	3 yrs	Comparative	transportal.wi.gov/crash	oci.wi.gov
Wyoming	4 yrs	Comparative	dot.state.wy.us	doi.wyo.gov

SECTION 12

FMCSA Regulation Quick Reference

Why This Matters: This reference table gives you every major federal regulation governing truck driver and carrier behavior, the evidence it creates, and the legal retention period — so you can cite the exact CFR section in every preservation demand you send.

CFR Section	Topic	Key Requirement	Evidence Created	Retention Period
49 C.F.R. § 382.303	Post-Accident Testing	Alcohol test within 8 hrs; drug test within 32 hrs	Test results, chain of custody, MRO report	Negative: 1 yr Positive: 5 yrs
49 C.F.R. § 382.301	Pre-Employment Testing	Drug test required before first drive	Pre-employment test result	5 years
49 C.F.R. § 383.51	CDL Disqualification	Conditions disqualifying driver from CMV operation	CDL disqualification history	Lifetime record
49 C.F.R. § 391.11	Driver Qualifications	Minimum qualifications to operate CMV	DQF — initial qualification records	3 yrs post-employment
49 C.F.R. § 391.23	Driver Investigation	Employer must investigate driving record; prior employers	MVR, prior employer responses	3 yrs post-employment
49 C.F.R. § 391.43	Medical Certificate	DOT physical exam required; medical cert on file	Medical Examiner Certificate	3 yrs post-employment
49 C.F.R. § 391.51	DQF Contents	Complete DQF required for each driver	Full Driver Qualification File	3 yrs post-employment
49 C.F.R. § 391.53	DQF Retention	DQF retained minimum 3 years after employment ends	DQF (all components)	3 yrs post-employment
49 C.F.R. § 392.82	Cell Phone Prohibition	Driver prohibited from using handheld phone while driving	Cell phone records; citation history	Demand from phone carrier
49 C.F.R. § 395.3	Hours of Service	11-hr driving / 14-hr on-duty / 10-hr off-duty limits	ELD/HOS logs	6 months
49 C.F.R. § 395.8	ELD / Log Requirements	ELD required for most CMV drivers; records retained	ELD data, supporting documents	6 months minimum
49 C.F.R. § 396.3	Maintenance	Systematic maintenance program required	Maintenance records, repair orders	1 year minimum
49 C.F.R. § 396.11	Pre/Post-Trip DVIR	DVIR required before and after each trip	DVIR forms (defects + certifications)	3 months
49 C.F.R. § 396.17	Annual Inspection	Annual CMV inspection required	Annual inspection report + certification	14 months
49 C.F.R. § 390.15	Accident Register	Carrier must maintain register of all accidents	Accident register	3 years
49 C.F.R. § 390.21	Vehicle Marking	USDOT number displayed on vehicle	DOT number (identifies carrier)	Current — displayed on vehicle
49 C.F.R. § 563	EDR Requirements	Minimum EDR performance standards for light vehicles	ECM/EDR data (commercial: manufacturer-specific)	No federal minimum — demand immediately
23 U.S.C. § 127	Weight Limits	80,000 lb gross weight maximum on Interstates	Weight tickets, weigh station records	Demand from carrier/shipper
49 C.F.R. Part 393	Vehicle Equipment	Cargo securement, brakes, lights, tires	Equipment inspection records; DVIR	1 year

ATTORNEY PREP

Attorney Consultation Preparation — Truck Accident Specialist**Why Truck Accident Cases Require a Specialist**

Not all personal injury attorneys handle commercial truck accident cases. FMCSA regulations, ELD subpoenas, DQF analysis, and multi-defendant litigation require specific expertise. An attorney who does not know 49 C.F.R. § 395.3 cannot effectively argue an HOS violation case.

Questions to Identify Attorneys with Genuine Truck Accident Expertise:

- 'Are you familiar with the FMCSA Hours of Service regulations under 49 C.F.R. § 395?'
- 'Have you subpoenaed ELD data from a trucking company before?'
- 'Do you use an accident reconstruction expert in truck cases?'
- 'Have you deposed a carrier's safety director or dispatch manager before?'
- 'Are you familiar with the FMCSA Safety Measurement System and how to use SMS data at trial?'
- 'What is the carrier's commercial liability insurance minimum for interstate trucking?'
- 'Have you pursued punitive damages in a truck accident case involving HOS violations?'

Pre-Consultation Document Checklist

- ■ Photograph of truck's DOT number and carrier name (from truck door)
- ■ Printed FMCSA company snapshot for the carrier (from safer.fmcsa.dot.gov)
- ■ Copies of all spoliation letters sent and certified mail tracking confirmations
- ■ Police accident report with officer name and report number
- ■ All medical records and bills from accident date forward
- ■ Photographs of scene, vehicles, injuries, and cargo
- ■ Witness names, phone numbers, and any written statements
- ■ Your own insurance information and UM/UIM policy limits
- ■ Documentation of whether post-accident drug/alcohol testing occurred
- ■ Written record of any contact from carrier or carrier's insurance adjuster
- ■ Your accident timeline written out in chronological order
- ■ Any cargo weight tickets or bill of lading if you were able to obtain them at the scene
- ■ Documentation of your SOL deadline (Section 11 of this kit)
- ■ List of all questions about the accident that remain unanswered

RESOURCES

Official Resources & Government Links

Resource	Website	Use For
FMCSA — Federal Motor Carrier Safety Administration	fmcsa.dot.gov	Primary source for DOT regulations, FMCSA rules, ELD mandate, ELD requirements
FMCSA Company Safety Snapshot	safer.fmcsa.dot.gov	Look up any carrier's safety record, SMS scores, accident register, inspection history
NHTSA — Natl. Highway Traffic Safety Admin.	nhtsa.gov	ECM/EDR research, large truck crash facts, vehicle safety standards
DOT — U.S. Dept. of Transportation	dot.gov	Federal transportation law and policy overview
NTSB — Natl. Transportation Safety Board	nts.gov	Major truck crash investigation reports and safety recommendations
FHWA — Federal Highway Administration	fhwa.dot.gov	Federal weight limits (23 U.S.C. § 127), bridge formula, size/weight enforcement
OSHA — Occupational Safety & Health Admin.	osha.gov	Cargo loading safety standards; workplace accident reporting
BLS — Bureau of Labor Statistics	bls.gov/iif/oshcfoi1.htm	Trucking industry fatality and injury data
Congress.gov	congress.gov	Full text of 49 U.S.C., FMCSIA, and all federal trucking statutes
Federal Courts — Rules of Civil Procedure	uscourts.gov	FRCP Rule 37(e) — spoliation sanctions and evidence preservation duties

JusticeFinder.net — Free Tools Referenced in This Kit

Tool	URL	Use For
Lost Wages Calculator	justicefinder.net/tools/lost-wages-calculator	Document all income losses (truck accidents often involve extended disability)
Future Medical Expenses	justicefinder.net/tools/future-medical-expenses-calculator	Project long-term treatment costs (truck injuries are typically severe)
Statute of Limitations Calculator	justicefinder.net/tools/personal-injury-statute-of-limitations-calculator	Verify your exact SOL deadline for your state (Section 11)
Pain & Suffering Calculator	justicefinder.net/tools/pain-and-suffering-calculator	Calculate non-economic damages with multiplier method
Medical Lien Calculator	justicefinder.net/tools/medical-lien-settlement-reduction-calculator	Model net recovery after health insurer liens
Wrongful Death Calculator	justicefinder.net/tools/wrongful-death-compensation-calculator	Fatal truck accident damages estimation
Evidence Checklist	justicefinder.net/tools/personal-injury-evidence-checklist	Cross-reference with Section 9 checklist in this kit
Demand Letter Generator	justicefinder.net/tools/personal-injury-demand-letter-generator	Build demand letter using damages from this kit
Fault Estimator	justicefinder.net/tools/car-accident-fault-percentage-estimator	Assess comparative fault in multi-vehicle truck accidents

TRUCK ACCIDENT FEDERAL EVIDENCE PRESERVATION KIT

72-Hour Protocol · BlackBox · FMCSA Regulations

Not a law firm. Not legal advice.

Your information. Your power. Your rights.

All information sourced exclusively from official U.S. federal government and regulatory agencies.
FMCSA · NHTSA · DOT · NTSB · FHWA · OSHA · BLS · Congress.gov · 49 C.F.R. Parts 380-399

JusticeFinder.net

Free Calculators · Legal Tools · Claim Guides · Resources

© JusticeFinder.net — Educational use only — Not legal advice — Verify all regulations with a licensed attorney in your state