

FEDERAL MOTOR CARRIER SAFETY REGULATIONS

THE ESSENTIAL BACKDROP TO ALL SERIOUS TRUCK
COLLISION CASES



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KEY FACTORS

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Trucking Company's Knowledge Of Danger

Educate the Jury on the Danger

Things to look for that take you beyond negligence

A Regulated Industry – Title 49

- FMCS regs apply to all employers, employees and commercial motor vehicles, which transports property or passengers in interstate commerce.
- Every employer must be knowledgeable and comply with all regulations.
- Every driver and employee shall be instructed regarding and shall comply with all applicable regulations

Purpose of the Regulations

- Ensure the safety of the public and the industry itself
- The typical semi weighs up to 40 times the weight of a passenger car.
- Trucks have much longer stopping distances.
- Truck drivers work long hours and are subject to fatigue.
- Tractor trailers articulate.



Sources

- FMCSA website, p.12
 - Trucking Associations such as the ATA, pp.15-17
 - Literature published by Private Companies, pp. 15-17
- Videos

Driver Safety Regulations

- General Safety Regulations – Part 390
- Qualifications of drivers – Part 391
- Driving – Part 392
- Hours of Service – Part 395
- Inspection, repair and maintenance – Part 396
- Hazardous Materials – Part 397
- Safety and Health Standards – Part 398

General Safety Regulations – Part 390

Defines who the rules apply to

Broad interpretation of “interstate commerce.”

Minimal exceptions: School buses, Federal agency trucks, vehicles that can carry less than 15 passengers

Qualifications of drivers – Part 391

- Requires CDL License
- Sets qualifications and responsibilities
- Grounds for disqualification
- Specific requirements for hiring including background checks
- Physical examination and health qualifications
- Files and record keeping requirements

Driving – Part 392

- Ill or fatigued drivers
- Drug and alcohol use
- Inspection of truck and load
- Railroad grade crossings
- Driving in hazardous conditions
- Stopped vehicles
- Refueling practices
- Obscured lights
- Passengers

Hours of Service – Part 395

- Maximum driving and on duty time - Rules changing effective 1/04
- Record of duty status: “driver logs”



ABF FREIGHT SYSTEM, INC.
Fort Smith, Arkansas
DRIVER'S DAILY LOG AND TRIP REPORT
(One Day — 24 Hours)

ORIGINAL — File each day at home terminal
DUPLICATE — Driver retains in his possession for 8 days.

CHARLES PA.
(HOME TERMINAL ADDRESS)

1
(DRIVER'S NAME - PLEASE PRINT)

	MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	MID-NIGHT	TOTAL HOU	
1: OFF DUTY																											
2: DRIVING																											15
3: ON DUTY (NOT DRIVING)																											9
REMARKS																											0
																											24

DAYTIME OFF-TRIP
CHARLES, AR.



Code: 4018

SSN:

Reporting Level:
Include Violations: All Violations

Date Range: 7/1/1999 - 7/31/1999

The following is a listing of the violations generated from the information on your logs for the period listed above

Please contact Tina or Kathy for a review of these violations.

Reason(s) given by driver for violations:

Action taken: Instructed Driver to Notify Dispatcher when he is low on hours. Reviewed 70/8 rule + recap w/driver.
Driver signature: _____

Date: _____

Reviewed by: _____

Date: _____

Notes

Violation	Date of Violation	Time of Violation
Shipment Info Missing/Incomplete 395.8(d)	07/20/1999 07/20/1999	
Log Falsified 395.8(e)	07/01/1999 07/17/1999 07/20/1999 07/23/1999 07/29/1999 - 07/30/1999	
<u>70 Hr/8 Day Violation 395.3(b)</u>	07/01/1999 07/02/1999 07/11/1999 07/18/1999 07/19/1999	10:30 pm - 12:00 am 6:30 pm - 11:30 pm 9:15 pm - 12:00 am 12:00 am - 10:00 pm 12:00 am - 2:30 am



Inspection, repair and maintenance – Part 396

Pre and post trip inspections

Management Safety Parts

- Workplace Drug Testing Programs-Part 40
- Controlled Substance and Alcohol Use and Testing – Part 382
- Commercial Driver's License Standards – Part 383
- Safety Fitness Procedures – Part 385
- All parts listed for drivers

Some Items Specific to Management

- Leasing requirements; section 376.11-12
- Accident records: section 390.15
- Schedules to conform with Speed limits: Section 392.6
- Driver's responsibility for cargo securement

CONSIDERATIONS FOR TRIAL

Violations of Safety Rules

The Relevancy Connection

- The specific negligence that caused the collision
- The relationship between the negligence and a specific section of the regs, CDL manual, company manual, etc.
- The failure of the company to enforce the regs, manual etc.
- The general failures of the company regarding safety [pattern and practice]

Key Factors

- Show what professional drivers should know
- Show what trucking companies know and should do
- Educate the jury on the danger and what should be done to avoid it

Drivers' Knowledge Of Danger

- Orientation and training
- Commercial drivers license
- Driver manual
- Copy of federal regulations
- ATA Facts for Drivers



Trucking Company's Knowledge Of Danger

- Federal regulations
- Motor Fleet Safety Manual by National Safety Counsel
- Audit
- Safety rating
- Compensation methods and scheduling
- Trucking Publications
- National Transportation Safety Board meetings and studies
- Department of Labor hearings
 - E.G., Smith v. Yellow Freight System, Inc., Case No. 91-STA-45, Department of Labor, Office of Administrative Law "Judge" Reporter

EDUCATE THE JURY ON THE DANGER

Things to look for that take you beyond negligence

- Speeding
- Overload
- Poor maintenance
- Fatigue
- Poor or No Training
- Clear violation of driver's manual or company policy
- failure of company to enforce company policy



YOU-16 01 15:28 FROM:THOMAS THOMAS

7172377185

TO:92326467

PAGE:01

Form DOT 001-201-0 (Rev. 8/94)

6/11/99 - Utility Log
(One Calendar Day - 24 Hours)

Print with 24-Hour Scale
Please Print Clearly Within the Boxes

DATE: 7-17-99
TIME: 845
VEHICLE NUMBER: PT9934
DRIVER'S LICENSE: PRV 310 *

DRIVER'S SIGNATURE: [Signature]
DATE: 7/17/99
TIME: 845

CO-DRIVER'S NAME: [Blank]

Job	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11										
1: On Duty																																	
2: Sleeping																																	
3: Driving																																	
4: On Duty (Not Driving)																																	
REMARKS:	POSTVILLE IA PT/SW/DA TRC											Keating MD BR											AMMAN, IA TR OFF										

Total Hours

10.75

13.25

24

Driver's License: 10885



NOV-16 01 15:28 FROM: THOMAS THOMAS 7172377125 TO: 92326467 PAGE: 01

Form 0001-301-LD (Rev. 8/94) **UNITED STATES DEPARTMENT OF TRANSPORTATION**
DRIVER'S LOG
 (See Calendar Day - 24 Hours)

Carrier Name & Address: **845**
 Driver's ID Card: **4018**

Vehicle Number: **PT9934**
 Trailer Number: **PRU310 ***

Carrier's Name: _____
 Co-Owner's Name: _____

RECAP

1. On Duty	10.75
2. Sleeper	13.25
3. Driving	
4. On Duty (not driving)	
Total	24

Remarks:
 Postville IA
 PT/Sw/da TRC
 Highway MD
 BN
 Postville IA
 OFF

10885

Original Copy Submit to Carrier
 Driver's Copy Submit to Preceptor by 2 Days

UIC TIME STANDARD AT HOME TERMINAL
 © Copyright 1994 - J. KELDON & ASSOCIATES, INC., Madison, WI - USA - 608-227-6666 - Printed on Recycled Paper



- Hard Brake

Print Date:

Trip:
Vehicle ID:
Driver ID:
Odometer:

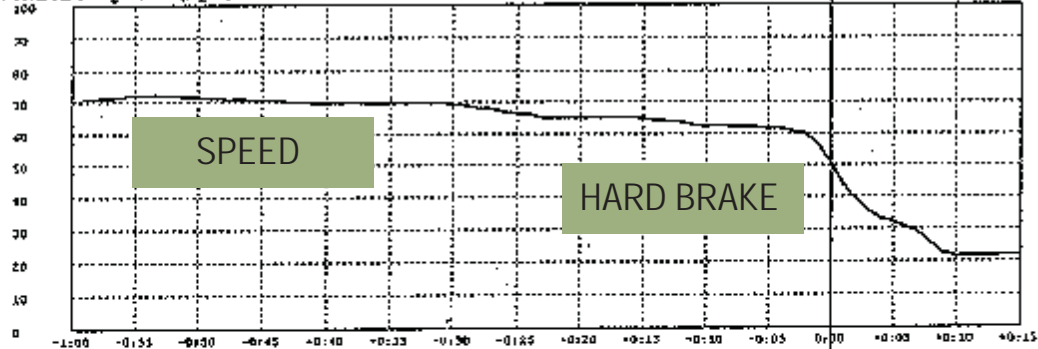
Trip Distance
Trip Fuel
Fuel Economy
Avg Drive Load
Avg Vehicle Speed

Trip Time
Fuel Consumption
Idle Time
Idle Percent
Idle Fuel

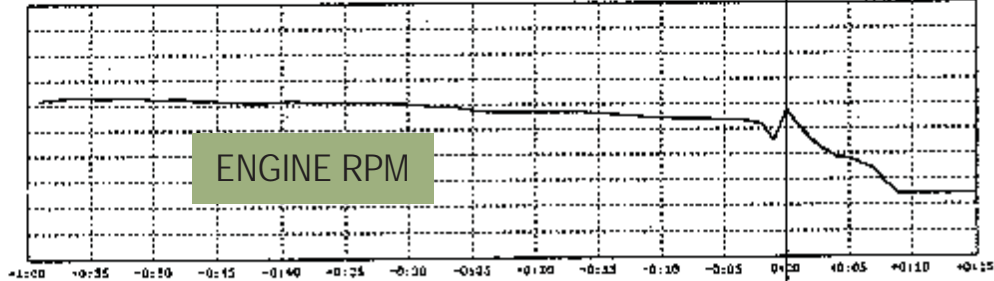
Incident Time:

Incident Odometer:

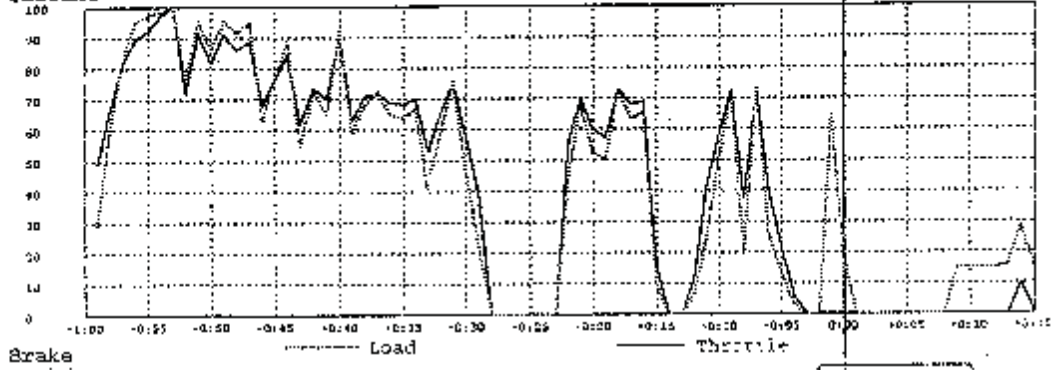
Vehicle Speed (mph)



Engine RPM



Percent





DDEC Reports [redacted] :ake #2

Unit Name: [redacted]

Unit ID: [redacted]
Unit Type: [redacted]
Unit Make: [redacted]
Unit Model: [redacted]

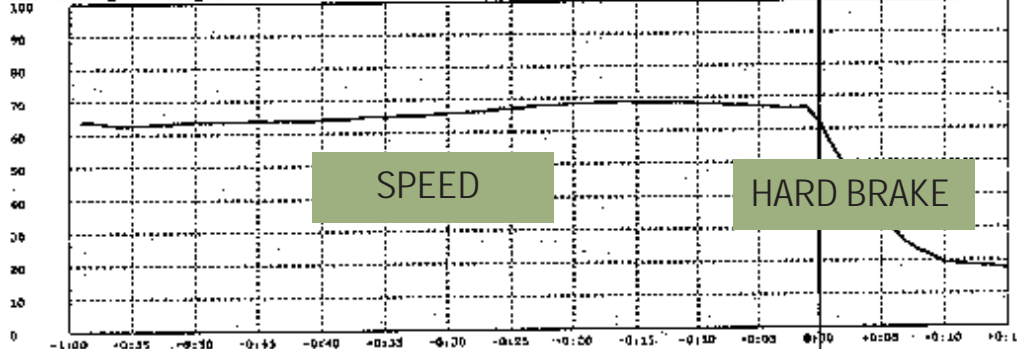
trip Distance 38719.5 mi
trip Fuel 6266.25 gal
fuel Economy 6.16 mpg
avg Drive Load 54 %
avg Vehicle Speed 62.1 mph

Time 1642:03:20
Consumption 3.83 g
Time 1019:11:15
Percent 62.01 %
Fuel 324.38 g

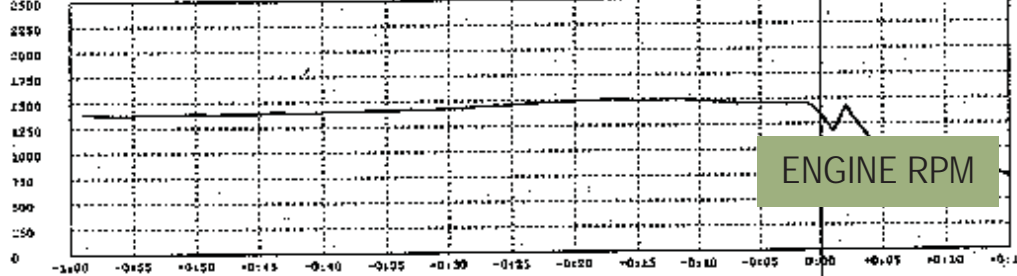
incident Time: May 04, 1999 '06

ent. Odometer: 114445.8 mi

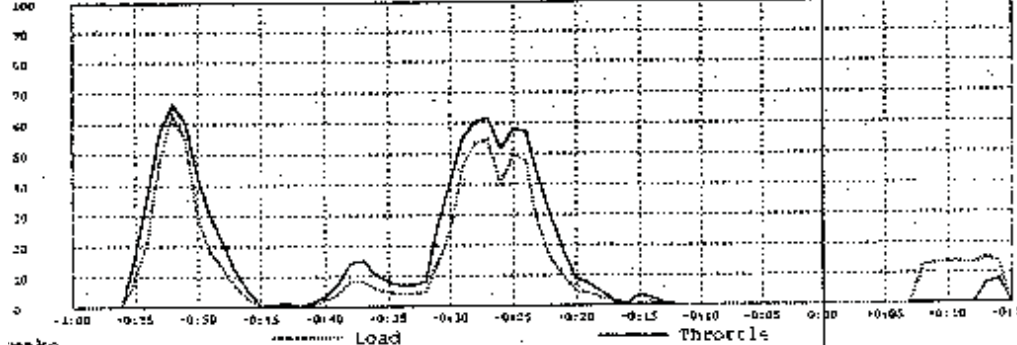
Vehicle Speed (mph)



Engine RPM



Percent





3 - Profile

06/04/99

mi

Cruise Percent 12 %

Top Gear Percent 80 %

Coast Percent 0 %

Idle Percent 62 %

VSS Percent 28 %

Avg. Drive Load 54 %

Hard Brake Count 3

Diagnostic Code Yes

Highest Speed 87.0 mph

Highest RPM 2288 rpm



"SPEEDING"



"HIGHEST SPEED"



Vehicle Configuration									
Print Date: Jun 04, 1999 10:06 AM									
[Redacted]					Trip: [Redacted]				
[Redacted]					Vehicle ID: [Redacted]				
[Redacted]					Driver ID: [Redacted]				
[Redacted]					Odometer: [Redacted]				
Trip Distance [Redacted]					Trip Time [Redacted]				
Trip Fuel [Redacted]					Fuel Consumption [Redacted]				
Fuel Economy [Redacted]					Idle Time [Redacted]				
Avg Drive Load [Redacted]					Idle Percent [Redacted]				
Avg Vehicle Speed [Redacted]					Idle Fuel [Redacted]				
Hard Brake Limit 7.0 mph/s					Learned On: 01/29/99				
Stop Idle Limit 5 min									
Top Gear Limit 23 rpm/mph									
Top Gear-1 Limit 28 rpm/mph									
ECM S/W 22.00									
ECM Type DDEC IV									
Config. Change 06/04/99									
Idle Method VSS									
Idle-Load Limit - %									
Idle-RPM Limit - rpm									
Reset Lockout No									
Fleet Time Zone -5.0 h (EST)									
Maintenance Visual Reminder									
Enabled No									
Percentage - %									
Vehicle Speed Bands (mph) 10 20 30 40 50 55 60 66 71									
Engine Speed Bands (rpm) 700 1000 1200 1300 1400 1500 1600 1700 1800									
Percent Load Bands (%) 10 20 30 40 50 60 70 80 90									