

ALERT

Department of Transportation: Enforcement Discretion and Regulatory Guidance

In response to the outbreak of COVID-19 and the need for expedient transportation of supplies and services, the federal government has published several guidance documents and enforcement discretion notices. The guidance and discretion documents are summarized below with hyperlinks to the official publications. Requirements for commercial driver licenses (CDL) and hazardous materials endorsements (HME) are also regulated at the state level, and companies should review policy decisions at the state level, as well.

- **DOT:** [Guidance on Compliance with DOT Drug and Alcohol Testing Regulations](#)
 - Directs employers to “make a reasonable effort” to comply with DOT training and testing requirements and, if unable to comply, employers must document why the requirements were not met.
 - Maintains that training and testing requirements must still be met in order for employees to exercise related functions, “If employers are unable to conduct DOT drug and alcohol testing due to the unavailability of testing resources, the underlying modal regulations continue to apply.”
- **FMCSA:** [Notice to State Drivers Licensing Agencies of the FMCSA’s Policy Regarding Effect of Actions during COVID-19 Emergency](#)
 - Ordinarily, failure of states to comply with CDL regulations results in withholding of federal highway funds. The FMCSA notice waives this provision for state licensing agencies that choose to extend CDLs and/or extend medical certification requirements.
- **FMCSA:** [FMCSA CDL Waiver](#)
 - Extends validity of intra- and interstate CDLs until June 30, 2020 as well as waives the requirement for a medical examination and certification with proof of valid medical certificate that expired on or after March 1, 2020.
- **FMCSA:** [Notice of Enforcement Policy Regarding Expiring Driver’s Licenses and Medical Examiner’s Certificates During COVID-19 National Emergency](#)
 - Identifies federal CDL regulations that FMCSA will not take enforcement discretion on until June 30, 2020.
- **FMCSA:** [Frequently Asked Questions Related to the FMCSA Emergency Declaration](#)
 - Answers common questions for drivers and motor carriers, including document verification and electronic logging device records.
- **TSA:** [General Information regarding TSA Enrollment Services](#)
 - Questions and answers on TSA procedures for obtaining and renewing hazardous materials endorsements, which are also subject to determinations by state authorities.
- **PHMSA:** [Enforcement Policy Notice Regarding Hazardous Materials Training](#)
 - For 90 days, PHMSA will not take enforcement action on the federal requirement to conduct refresher training for hazardous material employees. PHMSA emphasizes that employers may still utilize web based, remote, or on the job training to satisfy the refresher training requirement. See DOT: [Guidance on Compliance with DOT Drug and Alcohol Testing Regulations](#).

NPGA continues to seek clarity on other regulatory requirements, including CDL endorsements, requalification deadlines, etc. Please direct any regulatory questions to [Sarah Reboli](#), NPGA Deputy Counsel, Regulatory Affairs.

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