

**TITLE 37**

**PUBLIC SAFETY AND CORRECTIONS**

**PART 1**

**TEXAS DEPARTMENT OF PUBLIC SAFETY**

**CHAPTER 4**

**COMMERCIAL VEHICLE REGULATIONS AND  
ENFORCEMENT PROCEDURES**

**SUBCHAPTER B**

**REGULATIONS GOVERNING TRANSPORTATION SAFETY**

**RULE §4.11**

**General Applicability and Definitions**

---

(a) General. The director of the Texas Department of Public Safety incorporates, by reference, the Federal Motor Carrier Safety Regulations, Title 49, Code of Federal Regulations, Parts 40, 380, 382, 385, 386, 387, 390 - 393, and 395 - 397 including all interpretations thereto, as amended through October 1, 2007. All other references in this subchapter to the Code of Federal Regulations also refer to amendments and interpretations issued through October 1, 2007. The rules adopted herein are to ensure that:

- (1) a commercial motor vehicle is safely maintained, equipped, loaded, and operated;
- (2) the responsibilities imposed on a commercial motor vehicle's operator do not impair the operator's ability to operate the vehicle safely;
- (3) the physical condition of a commercial motor vehicle's operator enables the operator to operate the vehicle safely; and,
- (4) the minimum levels of financial responsibility required to be maintained by motor carriers of property or passengers operating commercial motor vehicles in interstate, foreign, or intrastate commerce.

(b) Terms. Certain terms, when used in the federal regulations as adopted in subsection (a) of this section, will be defined as follows:

- (1) the definition of motor carrier will be the same as that given in Texas Transportation Code, §643.001(6);
- (2) hazardous material shipper means a consignor, consignee, or beneficial owner of a shipment of hazardous materials;
- (3) interstate or foreign commerce will include all movements by motor vehicle, both interstate and intrastate, over the streets and highways of this state;
- (4) department means the Texas Department of Public Safety;
- (5) director means the director of the Texas Department of Public Safety or the designee of the director;
- (6) FMCSA field administrator, as used in the federal motor carrier safety regulations, means the director of the Texas Department of Public Safety for vehicles operating in intrastate commerce;
- (7) farm vehicle means any vehicle or combination of vehicles controlled and/or operated by a farmer or rancher being used to transport agriculture commodities, farm machinery, and farm supplies to or

from a farm or ranch;

(8) commercial motor vehicle has the meaning assigned by Texas Transportation Code, §548.001(1) if operated intrastate; commercial motor vehicle has the meaning assigned by Title 49, Code of Federal Regulations, Part 390.5 if operated interstate;

(9) foreign commercial motor vehicle has the meaning assigned by Texas Transportation Code, §648.001;

(10) agricultural commodity is defined as an agricultural, horticultural, viticultural, silvicultural, or vegetable product, bees and honey, planting seed, cottonseed, rice, livestock or a livestock product, or poultry or a poultry product that is produced in this state, either in its natural form or as processed by the producer, including wood chips. The term does not include a product which has been stored in a facility not owned by its producer;

(11) planting and harvesting seasons are defined as January 1 to December 31; and

(12) producer is defined as a person engaged in the business of producing or causing to be produced for commercial purposes an agricultural commodity. The term includes the owner of a farm on which the commodity is produced and the owner's tenant or sharecropper.

(13) off-road motorized construction equipment includes but is not limited to motor scrapers, backhoes, motor graders, compactors, excavators, tractors, trenchers, bulldozers, and other similar equipment routinely found at construction sites and that is occasionally moved to or from construction sites by operating the equipment short distances on public highways. Off-road motorized construction equipment is not designed to operate in traffic and such appearance on a public highway is only incidental to its primary functions. Off-road motorized construction equipment is not considered to be a commercial motor vehicle as that term is defined in Texas Transportation Code, §644.001.

(c) Applicability.

(1) The regulations shall be applicable to the following vehicles:

(A) a vehicle or combination of vehicles with an actual gross weight, a registered gross weight, or a gross weight rating in excess of 26,000 pounds when operating intrastate;

(B) a farm vehicle or combination of farm vehicles with an actual gross weight, a registered gross weight, or a gross weight rating of 48,000 pounds or more when operating intrastate;

(C) a vehicle designed or used to transport more than 15 passengers, including the driver; and

(D) a vehicle transporting hazardous material requiring a placard.

(E) a motor carrier transporting household goods for compensation in intrastate commerce in a vehicle not defined in Texas Transportation Code, §548.001(1) is subject to the record keeping requirements in Title 49, Code of Federal Regulations, Part 395 and the hours of service requirements specified in this subchapter.

(F) a foreign commercial motor vehicle that is owned or controlled by a person or entity that is domiciled in or a citizen of a country other than the United States.

(G) a contract carrier transporting the operating employees of a railroad on a road or highway of this state in a vehicle designed to carry 15 or fewer passengers.

(2) The regulations contained in Title 49, Code of Federal Regulations, Part 392.9a, and all interpretations thereto, are applicable to motor carriers operating in intrastate commerce and to for-hire interstate motor carriers exempt from economic regulation. The term "operating authority" as used in Title 49, Code of Federal Regulations, Part 392.9a, for the motor carriers described in this paragraph, shall mean compliance with the registration requirements found in Texas Transportation Code, Chapter 643, for vehicles operating in intrastate commerce, or Texas Transportation Code, Chapters 643 or 645, for for-hire interstate motor carriers exempt from economic regulation. For purposes of enforcement of this paragraph, peace officers certified to enforce this chapter, shall verify that a motor carrier is not registered, as required in Texas Transportation Code, Chapters 643 or 645, before placing a motor carrier out-of-service. Motor carriers placed out-of-service under Title 49, Code of Federal Regulations, Part 392.9a may request a review under §4.18 of this chapter. All costs associated with the towing and storage of a vehicle and load declared out-of-service under subsection (c)(2) shall be the responsibility of the motor carrier and not the department or the State of Texas.

(3) All regulations contained in Title 49, Code of Federal Regulations, Parts 40, 380, 382, 385, 386, 387, 390 - 393 and 395 - 397, and all interpretations thereto pertaining to interstate drivers and vehicles are also adopted except as otherwise excluded.

(4) Nothing in this section shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee health and safety.

---

**Source Note:** The provisions of this §4.11 adopted to be effective March 9, 2004, 29 TexReg 2376; amended to be effective August 31, 2004, 29 TexReg 8375; amended to be effective January 4, 2005, 29 TexReg 12235; amended to be effective May 22, 2005, 30 TexReg 3031; amended to be effective September 22, 2005, 30 TexReg 6065; amended to be effective January 24, 2006, 31 TexReg 404; amended to be effective May 30, 2006, 31 TexReg 4442; amended to be effective October 1, 2006, 31 TexReg 8109; amended to be effective January 28, 2007, 32 TexReg 245; amended to be effective April 30, 2007, 32 TexReg 2370; amended to be effective August 16, 2007, 32 TexReg 5034; amended to be effective January 2, 2008, 32 TexReg 10056

**TITLE 37**

**PART 1**

**CHAPTER 4**

**SUBCHAPTER B**

**RULE §4.12**

**PUBLIC SAFETY AND CORRECTIONS**

**TEXAS DEPARTMENT OF PUBLIC SAFETY**

**COMMERCIAL VEHICLE REGULATIONS AND  
ENFORCEMENT PROCEDURES**

**REGULATIONS GOVERNING TRANSPORTATION SAFETY**

**Exemptions and Exceptions**

---

(a) Exemptions. Exemptions to the adoptions in §4.11 of this title (relating to General Applicability and Definitions) are made pursuant to Texas Transportation Code, §§644.052 - 644.054, and are adopted as follows:

(1) Such regulations shall not apply to the following vehicles when operated intrastate:

(A) a vehicle used in oil or water well servicing or drilling which is constructed as a machine consisting in general of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purpose or purposes;

(B) a mobile crane which is an unladen, self-propelled vehicle constructed as a machine used to raise, shift, or lower weights;

(C) a vehicle transporting seed cotton; or,

(D) concrete pumps.

(2) Drivers in intrastate commerce will be permitted to drive 12 hours following eight consecutive hours off duty. Drivers in intrastate commerce may not drive after having been on duty 15 hours, following eight consecutive hours off duty. Drivers in intrastate commerce violating the 12 or 15 hour limits provided in this paragraph shall be placed out-of-service for eight consecutive hours. Drivers of vehicles operating in intrastate commerce shall be permitted to accumulate the equivalent of eight consecutive hours off duty by taking a combination of at least eight consecutive hours off duty and sleeper berth time; or by taking two periods of rest in the sleeper berth, providing:

(A) neither rest period in the sleeper berth is shorter than two hours duration;

(B) the driving time in the period immediately before and after each rest period in the sleeper berth, when added together, does not exceed 12 hours;

(C) the on duty time in the period immediately before and after each rest period in the sleeper berth, when added together, does not include any driving time after the 15th hour; and

(D) the driver may not return to driving subject to the normal hours of service requirements in this subsection without taking at least 8 consecutive hours off duty, at least 8 consecutive hours in the sleeper berth, or a combination of at least 8 consecutive hours off duty and sleeper berth time.

(3) Drivers in intrastate commerce who are not transporting placardable hazardous materials and were regularly employed in Texas as commercial vehicle drivers prior to August 28, 1989, are not required to meet the medical standards contained in the federal regulations.

(A) For the purpose of enforcement of this regulation, those drivers who reached their 18th birthday on or after August 28, 1989, shall be required to meet all medical standards.

(B) The exceptions contained in this paragraph shall not be deemed as an exemption from drug and alcohol testing requirements contained in Title 49, Code of Federal Regulations, Parts 40 and 382.

(4) The maintenance of a driver's record of duty status is not required if the vehicle is operated within a 150 air-mile radius of the driver's normal work reporting location if:

(A) the driver returns to the normal work reporting location and is released from work within 12 consecutive hours;

(B) the driver has at least 8 consecutive hours off duty separating each 12 hours on duty and

(C) the motor carrier that employs the driver maintains and retains for a period of 6 months true and accurate time and business records which include the following information:

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day;

(iv) the total time on duty for the preceding seven days in accordance with Title 49, Code of Federal Regulations, Part 395.8(j)(2) for drivers used for the first time or intermittently; and

(v) the motor carrier maintains business records that provide the date, time, quantity, and location of the delivery of a product or service, including delivery tickets or sales invoices.

(5) The provisions of Title 49, Code of Federal Regulations, Part 395 shall not apply to drivers transporting agricultural commodities in intrastate commerce for agricultural purposes within a 150 air-mile radius from the source of the commodities or the distribution point for the farm supplies during planting and harvesting seasons.

(6) Unless otherwise specified, a motor carrier transporting household goods for compensation in intrastate commerce in a vehicle not defined in Texas Transportation Code, §548.001(1) is subject to the record keeping requirements in Title 49, Code of Federal Regulations, Part 395 and the hours of service requirements specified in this subchapter.

(7) Unless otherwise specified, a contract carrier is subject only to Title 49, Code of Federal Regulations, Part 391, except 391.11(b)(4) and Subpart E, Parts 393, 395, and 396, except §396.17.

(b) Exceptions. Exceptions adopted by the director of the Texas Department of Public Safety not specified in Texas Transportation Code, §644.053, are as follows:

(1) Title 49, Code of Federal Regulations, Part 393.86, requiring rear-end protection shall not be applicable provided the vehicle was manufactured prior to September 1, 1991 and is used solely in intrastate commerce.

(2) Drivers of vehicles under this section operating in intrastate transportation shall not be permitted to drive after having worked and/or driven for 70 hours in any consecutive seven-day period. A driver may restart a consecutive seven-day period after taking 34 or more consecutive hours off-duty. Drivers in intrastate transportation violating the 70 hour limit provided in this paragraph will be placed out-of-service until no longer in violation.

(3) Drivers of vehicles operating in intrastate transportation claiming the 150 air mile radius exemption in subsection (a)(4) of this section must return to the work reporting location; be released from work within 12 consecutive hours; and have at least 8 consecutive hours off-duty separating each 12 hours on-duty.

(4) Title 49, Code of Federal Regulations, Part 391.11(b)(1), is not adopted for intrastate drivers. The minimum age for an intrastate driver shall be 18 years of age. Intrastate drivers in violation of this paragraph shall be placed out-of-service until no longer in violation.

(5) Title 49, Code of Federal Regulations, Part 391.11(b)(2), is not adopted for intrastate drivers. An intrastate driver must have successfully passed the examination for a Texas Commercial Driver's License and be a minimum age of 18 years old.

(6) Texas Transportation Code, §547.401 and §547.404, concerning brakes on trailers weighing 15,000 pounds gross weight or less take precedence over the brake requirements in the federal regulations for trailers of this gross weight specification unless the vehicle is required to meet the requirements of Federal Motor Vehicle Safety Standard No. 121 (Title 49, Code of Federal Regulations 571.121) applicable to the vehicle at the time it was manufactured.

(7) Title 49, Code of Federal Regulations, Part 390.23 (Relief from Regulations), is adopted for intrastate motor carriers with the following exceptions:

(A) Title 49, Code of Federal Regulations, Part 390.23(a)(2) is not applicable to intrastate motor carriers making emergency residential deliveries of heating fuels or responding to a pipeline emergency, provided the carrier:

(i) documents the type of emergency, the duration of the emergency, and the drivers utilized; and

(ii) maintains the documentation on file for a minimum of six months. An emergency under this paragraph is one that if left unattended would result in immediate serious bodily harm, death or substantial property damage but does not include routine requests to re-fill empty propane gas tanks.

(B) The requirements of Title 49, Code of Federal Regulations, Parts 390.23(c)(1) and (2), for intrastate motor carriers shall be:

(i) the driver has met the requirements of Texas Transportation Code, Chapter 644; and

(ii) the driver has had at least eight consecutive hours off-duty when the driver has been on duty for 15 or more consecutive hours, or the driver has had at least 34 consecutive hours off duty when the driver has been on duty for more than 70 hours in seven consecutive days.

(8) Title 49, Code of Federal Regulations, Part 380, (Subparts A - D), is not adopted for intrastate motor carriers and drivers. Title 49, Code of Federal Regulations, Part 380 (Subpart E) is adopted for intrastate motor carriers and drivers. Intrastate motor carriers and drivers must complete the

requirements of Title 49, Code of Federal Regulations, Part 380.500 on or before July 31, 2005.

(9) In accordance with §4132 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETA-LU) (Pub. L. 109-59), the hours of service regulations in this subchapter are not applicable to utility service vehicles that operate in either interstate or intrastate commerce. Utility service vehicles are those vehicles operated by public utilities, as defined in the Public Utility Regulatory Act, the Gas Utility Regulatory Act, the Texas Water Code, Title 49, Code of Federal Regulations, Part 395.2, or other applicable regulations, and charged with the responsibility for maintaining essential services to the public to protect health and safety.

---

**Source Note:** The provisions of this §4.12 adopted to be effective March 9, 2004, 29 TexReg 2376; amended to be effective August 31, 2004, 29 TexReg 8375; amended to be effective January 4, 2005, 29 TexReg 12235; amended to be effective January 24, 2006, 31 TexReg 404; amended to be effective May 30, 2006, 31 TexReg 4442; amended to be effective October 1, 2006, 31 TexReg 8109; amended to be effective January 28, 2007, 32 TexReg 245; amended to be effective August 16, 2007, 32 TexReg 5034