

**Table 45.171:
Load Line Requirements for Dry Cargo River Barges
Operating on Lake Michigan**

	Voyages between Calumet Harbor, IL and:			
	Burns Harbor, IN	Milwaukee, WI	St. Joseph, MI	Muskegon, MI
1) Load line requirement	Conditionally exempted from load line assignment (must meet requirements below)		"Limited service domestic voyage" load line	
2) Where to register/apply	Exempted barges must be registered with the USCG Marine Safety Unit 555A Plainfield Road, Willowbrook, IL 60527 Fax: (630) 986-2120		Apply for load line to ABS Americas 16855 Northchase Dr. Houston, TX 77060	
3) Eligible barges	Dry cargo river barges Built and maintained in accordance with ABS River Rules Length-to-depth ratio less than 22 All weathertight and watertight closures are in proper working condition			
	No age limitation	Not more than 10 years old	No age limitation	
4) Freeboard requirement	All barges: freeboard must be at least 24 inches (610 mm) Open hopper barges: coaming height + freeboard must be at least 54 inches (1,372 mm)			
5) Tow limitations	Barges must be unmanned Not more than 5 nautical miles from shore			
	No limit on number of barges		Not more than 3 barges per tow	
6) Cargo limitations	Dry cargoes only. Liquid cargoes, even in drums or tank containers, are prohibited No hazardous materials. HazMats are defined in 46 CFR part 148 and 49 CFR chapter 1, subchapter C			
7) Weather limitations Voyage may not begin; or if these conditions arise during transit, voyage must be discontinued and tow must proceed to shelter.	"Fair weather" only	Ice conditions: adverse conditions that imperil tow or access to shelter Waves: 4 feet (1.2 m)		
		Sustained winds: 16 kts from NE, E, SE 21 kts from N, NW, W, SW, S	Sustained winds: 16 kts from N, NW, W, SW 21 kts from NE, E, SE, S	
8) Pre-departure preps:	Required -- as specified in § 45.191			
9) Towboat requirements	Sufficient to handle tow, but at least--			
	(a) Power:	Sufficient to handle tow	1,000 HP	1,500 HP
	(b) Communication system:	Recommended -- § 45.195(a)	Recommended -- § 45.195(a)	Required -- § 45.195(a)
	(c) Cutting gear:	Recommended -- § 45.195(b)	Recommended -- § 45.195(b)	Required -- § 45.195(b)
	(d) Operational plan:	Recommended -- § 45.197	Recommended -- § 45.197	Required -- § 45.197

■ 3. Revise § 45.187 to read as follows:

§ 45.187 Weather limitations.

(a) Tows on the Burns Harbor route must operate during fair weather conditions only.

(b) The weather limits (ice conditions, wave height, and sustained winds) for the Milwaukee, St. Joseph, and Muskegon routes are specified in § 45.171, Table 45.171.

(c) If weather conditions are expected to exceed these limits at any time during the voyage, the tow must not leave harbor or, if already underway, must proceed to the nearest appropriate harbor of safe refuge.

■ 4. Revise § 45.191(a) to read as follows:

§ 45.191 Pre-departure requirements.

* * * * *

(a) *Weather forecast.* Determine the marine weather forecast along the planned route, and contact the dock operator at the destination port to get an update on local weather conditions.

* * * * *

Dated: May 26, 2011.

F.J. Sturm,

Acting Director of Commercial Regulations and Standards.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 390

Regulatory Guidance on the Designation of Steerable Rear Axle Operators (Tillermen) as Drivers of Commercial Motor Vehicles

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Regulatory Guidance.

SUMMARY: FMCSA issues regulatory guidance concerning the applicability of the term "driver" to "tillerman," a person who controls the steerable rear axle on a commercial motor vehicle. The term "driver" is used in FMCSA's commercial

driver's license requirements and in the Agency's general safety rules. This notice provides Federal and State enforcement personnel, and the motor carrier industry, with uniform guidance as to when certain Federal rules concerning driver licensing and qualifications are applicable to tillermen.

DATES: *Effective Date:* This regulatory guidance is effective June 6, 2011.

FOR FURTHER INFORMATION CONTACT: Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590. *E-mail:* MCPSD@dot.gov. Phone (202) 366-4325.

SUPPLEMENTARY INFORMATION:

Legal Basis

The Motor Carrier Act of 1935 provides that "The Secretary of Transportation may prescribe requirements for (1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation" [49 U.S.C. 31502(b)].

The Motor Carrier Safety Act of 1984 (MCSA) confers on the Secretary the authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to prescribe safety standards for commercial motor vehicles (CMVs). At a minimum, the regulations must ensure that (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of CMVs is adequate to enable them to operate the vehicles safely; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operator [49 U.S.C. 31136(a)]. The Act also grants the Secretary broad power to "prescribe recordkeeping and reporting requirements" and to "perform other acts the Secretary considers appropriate" [49 U.S.C. 31133(a)(8) and (10)].

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA) requires the Secretary to prescribe regulations on minimum licensing and testing standards for persons seeking a commercial driver's license (CDL) to operate a CMV. For purposes of the CMVSA, the term CMV means (among other things) a vehicle with a weight or

weight rating of at least 26,001 pounds, compared to a minimum weight threshold of 10,001 pounds for purposes of the MCSA [49 U.S.C. chapter 313].

The Administrator of FMCSA has been delegated the authority to carry out the functions vested in the Secretary by the Motor Carrier Act of 1935 [49 CFR 1.73(l)], the MCSA [§ 1.73(g)], and the CMVSA [§ 1.73(e)(1)]. The provisions affected by this Notice of Regulatory Guidance are based on these three statutes.

Background

This document revises current regulatory guidance on the applicability of the definition of a "driver" in 49 CFR 390.5, to "tillerman," a person exercising control over the movement of a steerable rear axle on a CMV. Section 390.5 states that "Driver means any person who operates any [CMV]." Today's guidance also pertains to CDL requirements for " * * * every person who operates a commercial motor vehicle (CMV) * * *" (§ 383.3(a)).

Current Regulatory Guidance Question 14 to § 390.5 (62 FR 16370, 16407, April 4, 1997) reads as follows:

"Question 14: Is the tillerman who controls the steerable rear axle of a vehicle so equipped a driver subject to the FMCSRs while operating in interstate commerce?

Guidance: Yes. Although the tillerman does not control the vehicle's speed or braking, the rear-axle steering he/she performs is essential to prevent the trailer from off tracking into other lanes or vehicles or off the highway entirely. Because this function is critical to the safe operation of vehicles with steerable rear axles, the tillerman is a driver."

Reason for This Notice

The FMCSA has received inquiries from various entities, including the Professional Escort Vehicle Operators Association and the Specialized Carriers and Riggers Association, asking about other circumstances under which a person exercising control over a CMV's steerable rear axle would be considered a driver of the CMV under § 383.3 and thus subject to the CDL requirements, or a driver under § 390.5 and therefore subject to many provisions of the FMCSRs, such as driver qualifications and hours of service.

In these new scenarios, the tillerman does not sit on the CMV, but walks alongside it to use a wired or wireless remote control to steer the rear axle; sometimes the tillerman may be in an escort car. These CMVs are typically specialized oversize vehicles on which

the rear axle is steered only when "released" and when the CMV is moving at very slow speeds.¹ Under these circumstances, we do not believe that the persons operating the steerable rear axle should be classified as "tillermen," as the term is used in Question 14. CDL knowledge and skills testing would have little relevance to the remote-control operation of a steerable rear axle on an oversized CMV. Therefore, FMCSA believes it is necessary to update Question 14 for § 390.5 to differentiate among persons who might be considered to be "tillermen," consistent with the explanation above.

FMCSA considers the tillerman's physical location in, on, or around a CMV to be the most relevant factor in determining whether the person is a driver. A tillerman physically located on a vehicle is likely to be responsible for steering the rear axles of the CMV at highway speeds, and should be held responsible for safe operation of the vehicle, just like the driver in the cab. Anyone controlling a steerable rear axle from outside the CMV would be doing so under the direction of the person in the cab, and should not be considered a driver. Although certain training may be needed for such remote operators, that would vary according to the equipment involved.

For the reasons explained above, FMCSA issues Regulatory Guidance Question 34 to § 383.3 and revises Question 14 of the Regulatory Guidance to § 390.5 of the FMCSRs.

PART 383—COMMERCIAL DRIVERS LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

Section 383.3, "Applicability."

"Question 34: Would a tillerman, a person exercising control over the steerable rear axle(s) on a commercial motor vehicle (CMV), be considered a driver or " * * * person who operates a [CMV] * * *" (§ 383.3), and thus subject to applicable commercial driver's license regulations?

Guidance:

A person physically located on the rear of the CMV who controls a steerable rear axle while the CMV is moving at

¹ Steerable rear axles may have a "locked" or "unlocked" status, used for highway speeds and low speeds, respectively. The status can be changed by operation of the trailer controls when the CMV is not moving. In the "locked" position, the axle may be completely fixed, or have a limited self-steering capability, depending on the manufacturer's design. In the self-steering mode, the axle automatically steers itself within a range determined by the manufacturer to prevent tire scrubbing in turns. Typically, the unlocked mode is used for over-length CMVs that cannot turn at many roadway intersections without steering the rear axle under close guidance of a remote operator.

highway speeds would be considered a “* * * person who operates a commercial motor vehicle * * *” (§ 383.3), and would therefore be subject to the applicable commercial driver’s license regulations in 49 CFR part 383.

A person walking beside a CMV or riding in an escort car while controlling a steerable rear axle at slow speeds would not be considered a “* * * person who operates a [CMV] * * *” (§ 383.3), and therefore would not be subject to applicable commercial driver’s license regulations.”

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

Section 390.5, “Definitions.”

“*Question 14:* Would a tillerman, a person exercising control over the steerable rear axle(s) on a commercial motor vehicle (CMV), be considered a driver as defined in § 390.5, and thus subject to 49 CFR Parts 390 to 399?”

Guidance:

A person physically located on the rear of the CMV who controls a steerable rear axle while the CMV is moving at highway speeds would be considered a

driver as defined in § 390.5 and therefore would be subject to the regulations in 49 CFR parts 390–399.

A person walking beside a CMV or riding in an escort car while controlling a steerable rear axle at slow speeds would not be considered a driver as defined in § 390.5 and would therefore not be subject to 49 CFR Parts 390 to 399.”

Issued on: May 25, 2011.

Anne S. Ferro,
Administrator.

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