

Frequently Asked Questions (FAQ)



This page is currently displaying **Intermodal Final** FAQs. Please select from search list to view FAQ's of your choice.

1. Why is FMCSA issuing this regulation?
2. What are the new terms in the regulation?
3. To whom does this rule apply?
4. When does the rule go into effect?
5. What must IEPs do?
6. Does this final rule change other requirements?
7. Must an IEP do this work itself, or may it contract with others?
8. Does this rule change safety requirements that apply to drivers and motor carriers?
9. If an IEP or a motor carrier has questions or concerns about information in its inspection or accident reports, how can it contact FMCSA?
10. If a motor carrier or an IEP believes that a party subject to these rules is violating them, what should it do?
11. How will FMCSA review compliance with the new rules?
12. What happens if an IEP is found to be in noncompliance during a roadability review?
13. What are the consequences if an IEP, motor carrier, or driver is found to be in violating the rules?
14. How should IEPs mark their IME?
15. How does the rule change part 385, Safety Fitness Procedures?
16. How does the rule change part 386, Rules of Practice?
17. How does the rule change part 390, Federal Motor Carrier Safety Regulations, General?
18. How does the rule change part 392, Driving of Commercial Motor Vehicles?
19. How does the rule change part 393, Parts and Accessories Necessary for Safe Operation?
20. How does the rule change part 396, Inspection, Repair, and Maintenance?
21. Does the rule preempt State and local laws and regulations on the inspection, repair, and maintenance of IME?
22. Will this rule change the way roadside inspections are performed and documented?
23. How do you tell IME chassis from other types of trailers?
24. Does this new rule apply to IEPs in Puerto Rico, the U.S. Virgin Islands, or other Territories?

25. Does an IEP located outside the United States need to mark IME that will be operated in the United States?
26. Although most foreign-based IEPs have U.S. agents, there may be cases where the equipment is actually owned or leased by the foreign entity. May I enter a foreign address for the IEP on the Form MCS-150C?
27. Must a driver complete a written pre-trip inspection form for intermodal equipment?
28. Why does the rule refer to intermodal equipment and trailers, rather than by the common term "chassis?"
29. If a motor carrier is transporting a van trailer that is controlled by a different motor carrier, and the van trailer has been transported by rail during a part of an interstate trip, is the van trailer considered intermodal equipment?
30. In industry terminology, "intermodal trailer" means a closed van semi-trailer that is either owned or controlled by a railroad, leasing company, motor carrier, or private entities such as shippers and intermodal marketing companies. Motor carriers transport these trailers to and from intermodal rail and marine terminals, depots, container yards, etc. Are these intermodal trailers covered by the December 2008 rule?
31. If an ocean carrier has a contract with a facility or terminal operator to systematically inspect, maintain and repair the ocean carrier's IME and to tender that IME to motor carriers on behalf of the ocean carrier, who is the IEP?
32. In a port-wide chassis pool, ocean carriers may contract with a third-party to provide systematic inspection, repair, and maintenance. However, each ocean carrier tenders IME directly to motor carriers. Who is the IEP?
33. As a motor carrier that does not tender chassis, do violations found on the chassis impact my Safety Measurement System scores?
34. As a motor carrier that also tenders chassis, do violations found on the chassis impact my Safety Measurement System scores?
35. As an IEP-only, will my company be evaluated in the Safety Measurement System?
36. As an IEP-only, will my company be evaluated in the Safety Measurement System in the future?
37. What if there is data on my record that should go against the motor carrier or IEP, how should I go about correcting this?
38. As an IEP-only, will my company be subject to a review?
39. As an IEP-only, will my company be issued a safety fitness rating?
40. How do I determine which violations are attributed to either a motor carrier or an IEP during a roadside inspection?

1. Why is FMCSA issuing this regulation?

The Federal Motor Carrier Safety Administration (FMCSA) is issuing this final rule to implement provisions in section 4118 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), applicable to “Roadability.” Section 4118 is codified in 49 U.S.C. 31151.



2. What are the new terms in the regulation?

Interchange means the act of providing intermodal equipment (IME) to a motor carrier pursuant to an IME interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider. It does not include the leasing of equipment to a motor carrier for primary use in the motor carrier’s freight hauling operations.

Intermodal equipment (IME) means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, mainly chassis, but also including trailers.

Intermodal equipment interchange agreement means the Uniform Intermodal Interchange and Facilities Access Agreement (UIIFA) or any other written document executed by an intermodal equipment provider (IEP) or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the IME.

Intermodal equipment provider (IEP) means any person that interchanges IME with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the IME.



3. To whom does this rule apply?

The rule applies to IEPs and to motor carriers and drivers operating IME.



4. When does the rule go into effect?

IEPs must submit the IEP Identification Report (Form MCS-150C) and must establish systematic inspection, repair, and maintenance programs by December 17, 2009.

IEPs must mark their IME by December 17, 2010.



5. What must IEPs do?

Each IEP must:

- Register and file using FMCSA Form MCS-150C;
- Mark each item of IME offered for transportation in interstate commerce with a U.S. Department of Transportation (USDOT) identification number;
- Establish a systematic inspection, repair, and maintenance program to assure the safe operating condition of IME;
- Maintain documentation of its maintenance program; and
- Develop and provide a means to effectively respond to driver and motor carrier reports about IME mechanical defects and deficiencies.



6. Does this final rule change other requirements?

Yes. The final rule also adds inspection requirements for motor carriers and drivers operating IME.



7. Must an IEP do this work itself, or may it contract with others?

An IEP may enter into agreements with others (“designated agents”) to perform inspection, repair, and maintenance on its behalf. The IEP, however, is responsible for the work performed by its agents and for ensuring the safety of the IME it tenders to motor carriers and drivers.



8. Does this rule change safety requirements that apply to drivers and motor carriers?

Yes, the safety requirements have changed:

- Before operating IME over the road, the driver accepting the equipment must inspect the equipment components listed in § 392.7(b) and be satisfied that they are in good working order; and

- A driver or motor carrier transporting IME must report to the IEP, or its designated agent, any known damage, defects, or deficiencies in the IME at the time the equipment is returned to the IEP or its designated agent. If no damage, defects, or deficiencies are discovered by the driver, the report shall so indicate. The report must include, at a minimum, the items in § 396.11(a)(2).



9. If an IEP or a motor carrier has questions or concerns about information in its inspection or accident reports, how can it contact FMCSA?

IEPs and motor carriers may use FMCSA's DataQ's system to electronically file questions or concerns at <http://dataqs.fmcsa.dot.gov>.



10. If a motor carrier or an IEP believes that a party subject to these rules is violating them, what should it do?

The IEP, the motor carrier, or designated agent should file a complaint with FMCSA against the party believed to be in noncompliance. They should call FMCSA's Safety Violation and Consumer Complaint Hotline is available by phone at 1-888-DOT-SAFT or by e-mail the Hotline at <http://nccdb.fmcsa.dot.gov/HomePage.asp>.



11. How will FMCSA review compliance with the new rules?

FMCSA will conduct roadability reviews on IEPs. A roadability review is an on-site examination of the IEP's compliance with the applicable Federal Motor Carrier Safety Regulations.



12. What happens if an IEP is found to be in noncompliance during a roadability review?

Although FMCSA will not assign a safety rating to an IEP as a result of a roadability review, it will cite the IEP for violations found and may impose civil penalties.



13. What are the consequences if an IEP, motor carrier, or driver is found to be in violating the rules?

In very general terms, consequences range from a written citation (with or without a monetary penalty), to placing an item of IME out-of-service at roadside, to prohibiting a motor carrier from transporting IME, to prohibiting an IEP from tendering IME.



14. How should IEPs mark their IME?

Each unit of IME must identify the IEP by its legal or trade name and USDOT number. Section 390.21(g)(4) gives an IEP four options for identifying its IME, which include:

- Marking the identification on the curb side of the item of equipment. The marking must be in letters that contrast sharply in color with the background on which the letters are placed. The identification code must be readily legible, during daylight hours, from a distance of 50 feet (15.24 meters) while the CMV is stationary. It must be kept and maintained in a manner that retains this legibility; or
- Placing the identification marking on a label placed upon the curb side of the item of equipment. The label must be readily visible and legible to an inspection official during daylight hours when the vehicle is stationary. The label must be a color that contrasts sharply with the background on which it is placed, and the letters must also contrast sharply in color with the background of the label. The label must be kept and maintained in a manner that retains this legibility; or
- Including the USDOT number of the IEP, as well as the VIN and 4-character SCAC code and 6-digit unique identifying number on the interchange agreement so that it is clearly identifiable to an inspection official; or
- Placing the identification information on a document placed in a weathertight compartment affixed to the frame of the item of IME. The color of the letters used in the document must contrast sharply in color with the background of the document. The document must include additional information to identify the specific item of IME (such as the VIN and 4-character SCAC code and 6-digit unique identifying number).



15. How does the rule change part 385, Safety Fitness Procedures?

The final rule adds a new type of safety assessment, the roadability review. A roadability review is an on-site examination of an IEP's inspection, repair, and

maintenance operation and records to determine compliance with applicable Federal Motor Carrier Safety Regulations (i.e., parts 390, 393, and 396). The Agency will conduct roadability reviews to evaluate the safety and regulatory compliance status of IEPs.



16. How does the rule change part 386, Rules of Practice?

The final rule makes part 386 applicable to IEPs subject to inspection, repair, and maintenance requirements. FMCSA has the legal authority to place IEPs out-of-service if they tender IME that poses an imminent hazard to safety. An “imminent hazard” involves a violation of certain laws and regulations involving a “vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.”



17. How does the rule change part 390, Federal Motor Carrier Safety Regulations, General?

The final rule makes IEPs subject to many of the same vehicle and equipment safety regulations that apply to motor carriers. An IEP must:

- Identify its operations to the FMCSA by filing the Form MCS-150C.
- Mark its IME with the USDOT number, as required by § 390.21, before tendering the equipment to a motor carrier.
- Systematically inspect, repair, and maintain all IME intended for interchange with a motor carrier.
- Ensure that IME intended for interchange with motor carriers is in safe and proper operating condition.
- Maintain a system of driver vehicle inspection reports submitted to the IEP as required by § 396.11.
- Maintain a system of inspection, repair, and maintenance records for equipment intended for interchange with a motor carrier.
- Periodically inspect IME intended for interchange.
- At facilities at which the IEP makes IME available for interchange, have procedures in place and provide sufficient space for drivers to perform a pre-trip inspection of tendered IME.
- At facilities at which the IEP makes IME available for interchange, develop and implement procedures to repair any equipment damage, defects, or deficiencies identified as part of a pre-trip inspection, or replace the equipment, prior to the driver’s departure. The repairs or replacement must be made after being notified by a driver of such damage, defects, or deficiencies.
- Refrain from placing IME in service on the public highways if that equipment

has been found to pose an imminent hazard, as defined in § 386.72(b)(1).



18. How does the rule change part 392, Driving of Commercial Motor Vehicles?

The rule adds an inspection requirement for drivers. Drivers preparing to transport IME must make an inspection of the following components, and must be satisfied they are in good working order before the equipment is operated over the road. Drivers who operate the equipment over the road are deemed to have confirmed that the following components were in good working order when the driver accepted the equipment.

- Service brake components that are readily visible to a driver performing as thorough a visual inspection as possible without physically going under the vehicle, and trailer brake connections;
- Lighting devices and reflectors;
- Tires;
- Coupling devices;
- Rails or support frames;
- Tie down bolsters;
- Locking pins, clevises, clamps, or hooks; and
- Sliders or sliding frame lock.



19. How does the rule change part 393, Parts and Accessories Necessary for Safe Operation?

Part 393 is revised to make it applicable to IEPs, in addition to motor carriers.

- Every IEP and its employees or agents responsible for the inspection, repair, and maintenance of IME interchanged to motor carriers must be knowledgeable of and comply with the applicable requirements and specifications of this part.
- No IEP may operate IME, or cause or permit such equipment to be operated, unless it is equipped in accordance with the requirements and specifications of this part.



20. How does the rule change part 396, Inspection, Repair, and Maintenance?

The rule revises part 396 to make it applicable to IEPs, in addition to motor carriers. The final rule adds a new section on driver vehicle-inspection reports and

systems for reporting damage, defects, or deficiencies in the IME.



21. Does the rule preempt State and local laws and regulations on the inspection, repair, and maintenance of IME?

In general, yes. Any State or local law, regulation, order, or other requirement that exceeds or is inconsistent with this regulation is preempted. However, a State with an inconsistent chassis inspection requirement in effect on January 1, 2005, may seek a determination of non-preemption as long as its application is filed by June 17, 2009. The Administrator will issue a decision within 6 months after receiving the request. The request may be granted if the Administrator decides that the State requirement is just as effective as this final rule and does not unduly burden interstate commerce. If a State amends a regulation for which it previously received a determination of non-preemption, it must make a separate application for the amended regulation. If a State does not seek a determination of non-preemption before June 17, 2008, its inspection requirements are preempted on that date.



22. Will this rule change the way roadside inspections are performed and documented?

The rule does not change the methods used to perform roadside inspections, but it does change how some information is recorded.

In highway intermodal operations, different entities are usually responsible for the inspection, repair, and maintenance of the power unit (tractor) and the trailing unit (IME). In most situations, a motor carrier is responsible for the tractor, but an IEP is responsible for the IME used to transport intermodal containers. For that reason, FMCSA has changed the Aspen software to include separate fields to record the identification of the power unit and the trailing unit. An inspection official will enter the USDOT numbers and equipment identification numbers for both the tractor and IME trailer.

There are some motor carriers that operate their own IME. For those carriers, enter the USDOT number for the carrier in both fields, and enter the tractor and trailer identification numbers for each unit.

In some situations, motor carriers use a flatbed trailer to transport intermodal containers. In most cases, the flatbed trailer is not an item of IME, and it should be identified as the motor carrier's unit.

An intermodal container is cargo – it is not part of the IME.



23. How do you tell IME chassis from other types of trailers?



To tell IME from other types of trailers:

- Look at the lower corners. Intermodal containers transported on IME have “twistlocks” at each lower corner to secure them to the chassis.
- Look for the retroreflective tape. On van trailers, it is applied around the lower perimeter of the trailer walls. On IME, the marking will be on the chassis itself, not on the container that is being transported.
- Look at the lower frame. Many types of IME have a large beam that runs along their length. You can see this beam under the exterior floor of the container. Most types of van trailers do not have a large beam that you can see below the floor.



Look at the information on the rear doors. A container is generally marked with several items of information about the container's capacity: maximum gross weight, tare weight, net weight, and cubic capacity. Dry van trailers are rarely marked with information at this level of detail.



24. Does this new rule apply to IEPs in Puerto Rico, the U.S. Virgin Islands, or other Territories?

The FMCSRs do not apply directly in Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands because those jurisdictions do not fall within the definition of a "State" in 49 U.S.C. 31132(8). However, those jurisdictions are defined as "States" for purposes of the Motor Carrier Safety Assistance Program (MCSAP) [49 U.S.C. 31101(4)].

Therefore, as a condition of accepting MCSAP funds, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands must adopt regulations "compatible" with 49 CFR 390-397 (see 49 CFR 350.201(a)). "Compatible" means that "State laws and regulations applicable to interstate commerce and to intrastate movement of hazardous materials are identical to the FMCSRs and the HMRs or have the same effect as the FMCSRs."

An intermodal equipment provider in Puerto Rico or the U.S. Virgin Islands must therefore comply with the "compatible" regulations those jurisdictions adopt to remain eligible for MCSAP funds. The MCSAP States (including Puerto Rico and the U.S. Virgin Islands) may delay the adoption of compatible regulations for up to three years after the effective date of the rule, or June 17, 2012.



25. Does an IEP located outside the United States need to mark IME that will be

operated in the United States?

As a practical matter, any IEP that sends chassis into the 50 States and the District of Columbia on or after June 17, 2009, will have to mark those chassis as required by the rule. Otherwise, the motor carrier pulling the chassis/container combination would have violated these proposed regulations.

Because motor carriers are unlikely to accept the risk of fines for transporting unmarked chassis, foreign or non-'United States' IEPs that know their equipment will operate within the United States may find it necessary, for business reasons, to file a Form MCS-150C and mark their equipment. FMCSA will accept registration applications from such entities and issue them USDOT numbers. In these cases, however, the assignment of an identifying number does not amount to an assertion of jurisdiction over the foreign or non-United States IEP.



26. Although most foreign-based IEPs have U.S. agents, there may be cases where the equipment is actually owned or leased by the foreign entity. May I enter a foreign address for the IEP on the Form MCS-150C?

The Form MCS-150C requires a "Principal Address," which is where the company's safety records are maintained. FMCSA will use this address for on-site visits to intermodal equipment providers for the purpose of conducting roadability reviews. It seems likely that the records required by § 396.12 and other provisions of the rule will be maintained near the place where intermodal equipment is tendered and returned. The form also requires a "Mailing Address." This is the address where the company wants all its FMCSA correspondence to be sent (this may be a P.O. Box). If an IEP wants to list a foreign address, it should use the "Mailing Address" block on the form.



27. Must a driver complete a written pre-trip inspection form for intermodal equipment?

Although § 390.42(b) requires drivers to advise the intermodal equipment provider (IEP) of any damage, defects, or deficiencies found during their pre-trip assessment, and § 390.40(i) requires the IEP to have procedures to repair the deficiencies that the driver reports, the Federal Motor Carrier Safety Regulations (FMCSRs) do not require a written pre-trip inspection report.

IEPs and motor carriers may use a written or electronic pre-trip inspection form that does not conflict with the FMCSRs.



28. Why does the rule refer to intermodal equipment and trailers, rather than by the common term "chassis?"

Although the underlying legislation is concerned primarily with intermodal chassis, it used the term "intermodal equipment," which includes both trailers and chassis. We used the legislative language. Most intermodal containers are moved by chassis, but some specialized types (such as tanks in frames) could be transported on drop-deck or other trailers. If such trailers are tendered to transport intermodal containers, they are subject to the provisions of the rule.



29. If a motor carrier is transporting a van trailer that is controlled by a different motor carrier, and the van trailer has been transported by rail during a part of an interstate trip, is the van trailer considered intermodal equipment?

No. Van trailers, flatbeds, tankers, and other types of trailers owned, leased, and maintained by motor carriers are not intermodal equipment for purposes of this rule and are not subject to its requirements. Motor carriers are responsible for the systematic inspection, repair, and maintenance of these commercial motor vehicles (CMVs).



30. In industry terminology, "intermodal trailer" means a closed van semi-trailer that is either owned or controlled by a railroad, leasing company, motor carrier, or private entities such as shippers and intermodal marketing companies. Motor carriers transport these trailers to and from intermodal rail and marine terminals, depots, container yards, etc. Are these intermodal trailers covered by the December 2008 rule?

No. The Secretary of Transportation is required to issue regulations "to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained" [49 U.S.C. 31151(a)(1), emphasis added]. Van trailers are not "intermodal containers," as that term is used in the statute.



31. If an ocean carrier has a contract with a facility or terminal operator to systematically inspect, maintain and repair the ocean carrier's IME and to tender that IME to motor carriers on behalf of the ocean carrier, who is the

IEP?

If the facility or terminal operator both tenders IME and performs systematic inspection, repair, and maintenance on that equipment under contract with an ocean carrier, the facility or terminal operator is the IEP.



32. In a port-wide chassis pool, ocean carriers may contract with a third-party to provide systematic inspection, repair, and maintenance. However, each ocean carrier tenders IME directly to motor carriers. Who is the IEP?

An IEP, as defined in § 390.5, is 'any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.' An IEP is required to identify itself by filing form MCS-150C, but that action, by itself, does not make it responsible for any particular piece of IME. In the case of a chassis pool, the IEP may be the ocean carrier, the pool operator itself, or another entity that has identified itself as responsible for a given chassis. In the great majority of cases, the IEP will be determined by comparing the alphanumeric marking on a piece of equipment against a readily accessible electronic database where IME is listed by such markings, along with the identity of the IEP currently responsible for that equipment. The key concept here is the party that has assumed responsibility for maintenance of a particular chassis; at any time, there can be only one IEP responsible for a piece of IME.



33. As a motor carrier that does not tender chassis, do violations found on the chassis impact my Safety Measurement System scores?

Yes, any violation that is discovered during a roadside inspection on a chassis under a motor carrier's control, either by way of lease or ownership, will impact a carrier's CSMS.



34. As a motor carrier that also tenders chassis, do violations found on the chassis impact my Safety Measurement System scores?

Yes, violations that are discovered during a roadside inspection on a chassis that has been tendered by a motor carrier may impact a carrier's CSMS. It is dependent on whether the violations found during the roadside inspection could have been visually and audibly detected during a driver's pre-trip inspection and

whether the operator of the chassis conducted a pre-trip inspection.



35. As an IEP-only, will my company be evaluated in the Safety Measurement System?

No, at this time IEPs will not be evaluated in SMS.



36. As an IEP-only, will my company be evaluated in the Safety Measurement System in the future?

Yes, FMCSA does have plans to develop a measurement system for IEPs, much like we have for carriers. Therefore, violation data collected during inspections performed today, may eventually be used in a measurement system for IEPs.



37. What if there is data on my record that should go against the motor carrier or IEP, how should I go about correcting this?

If there are violations on your record that you believe should go to another entity, you may challenge the data by going to our DataQs web site. The address is <https://dataqs.fmcsa.dot.gov/login.asp>.



38. As an IEP-only, will my company be subject to a review?

Yes, IEPs will be subject to roadability reviews. Roadability reviews are a review of an IEP's compliance with the regulations.



39. As an IEP-only, will my company be issued a safety fitness rating?

No, roadability reviews do not result in the assignment of a safety rating; however, if violations are found, the review may result in the issuance of civil penalties.



40. How do I determine which violations are attributed to either a motor carrier or an IEP during a roadside inspection?

Go to the following link to determine if a violation is attributed to either a motor carrier or an IEP during a roadside inspection - <http://www.fmcsa.dot.gov/rules-regulations/topics/IEP/document-library.aspx>.