***Question 20:*** Do the FMCSRs apply to Indian Tribal Governments?

*Guidance:* Under [§ 390.3T(f)(2)](file:///C:/Users/ssharda/Desktop/2241#Tag11), transportation performed by the Federal Government, States, or political subdivisions of a State is generally exempt from the FMCSRs. Since 1997, FHWA and FMCSA have likewise not enforced the FMCSRs against Indian Tribal Governments.  FMCSA reaffirms that longstanding position. Thus, when a driver is employed by and is operating a CMV owned by a governmental entity, neither the driver, the vehicle, nor the entity is subject to the FMCSRs, with the following exceptions:

(1) The requirements of [part 383](file:///C:/Users/ssharda/Desktop/2241) relating to CMV driver licensing standards;

(2) The drug testing requirements in [part 382](file:///C:/Users/ssharda/Desktop/2241);

(3) Alcohol testing when an employee is performing, about to perform, or just performed safety-sensitive functions. For the purposes of alcohol testing, safety-sensitive functions are defined in [§382.107](file:///C:/Users/ssharda/Desktop/2241) as any of those on-duty functions set forth in [§395.2](file:///C:/Users/ssharda/Desktop/2241) On-Duty time, paragraphs (1) through (6), (generally, driving and related activities) and;

(4) The accident report retention requirements of [§390.15](file:///C:/Users/ssharda/Desktop/2241) are applicable when the governmental entity is performing interstate charter transportation of passengers.