

ISSUE NUMBER

22-031-VEH

ISSUE NAME

OOSC, Part II, Item 2. Cargo Securement, a. General Securement - Dirt and Sand

STATUS

Closed

Vehicle Committee

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The commodity-specific cargo securement requirements in Part 393 of the Federal Motor Carrier Safety Regulations are silent on a number of commodity types. In particular, they do not address securement methods for vehicles that carry dirt, sand, gravel, hay and similar materials that are typically related to construction activities. There have been instances occurring in the field where vehicles carrying these materials that are not tarped or otherwise covered, are being cited for loads spilling, blowing, or falling off of the vehicle. Inspectors are citing violations under several different sections of 49 CFR, including 393.100(b), 392.9(a) and 392.2. In some cases, inspectors are also placing these vehicles out of service under 393.100(b). Each of these violations carry different weightings in the SMS methodology that is part of CSA, and the OOS condition also adds more points.

JUSTIFICATION OR NEED

It is our view that in most cases these types of materials do not present an imminent hazard condition to warrant placing these vehicles OOS. We believe 49 CFR 393.100(b) is primarily intended to address egregious violations and more significant types of cargo that present a clear danger to safety should their method of securement fail. This position is evidenced by the fact that 393.100(b) is a 7-point violation in CSA – plus it is also included in the OOS Criteria. Conversely, as an example, 392.9(a) is a 1-point violation in CSA. Additionally, the inconsistencies being cited under the different regulatory sections has a direct bearing on the motor carrier's safety performance, as well as how they compare against their peers with respect to their CSA scores.

REQUEST FOR ACTION

We respectfully request that CVSA consider amending its Operational Policies, issuing an Inspection Bulletin, and consider requesting an interpretation from FMCSA to provide guidance and clarification relating to securement methods for these types of loads. This will help in furthering uniformity and consistency in enforcement. We point to a Utah law (noted below) as an example that in our view serves to address this issue to both preserve safety, as well as to provide more guidance to enforcement and motor carriers for compliance:

72-7-409 Loads on vehicles -- Limitations -- Confining, securing, and fastening load required -- Penalty.
Section 3

(a) A vehicle carrying dirt, sand, gravel, rock fragments, pebbles, crushed base, aggregate, any other similar material, or scrap metal shall have a covering over the entire load unless:

- (i) the highest point of the load does not extend above the top of any exterior wall or sideboard of the cargo compartment of the vehicle; and
- (ii) the outer edges of the load are at least six inches below the top inside edges of the exterior walls or sideboards of the cargo compartment of the vehicle.

Thank you very much for your consideration of this request. In the attached we have provided a few pictures to show examples of the equipment/loads in question.

SUPPORTING DOCUMENTS/PHOTOS

- [Pictures.docx](#)

ACTION TAKEN BY COMMITTEE

Cargo Securement Forum proposed the above addition to Operational Policy 15 to provide guidance on the requirement of tarps on open-top vehicles. The members also discussed removing imminent safety hazard but decided it was needed to clarify that light materials, such as feathers or hay, are not to be placed out of service. The wording was as follows:

Operational Policy 15

Is the absence of a tarp or covering on an open-top vehicle out of service?

No, the out-of-service is only applicable if the cargo is not secured to prevent the cargo from leaking, spilling, blowing or falling from the vehicle creating an imminent hazard.