

## How to Prepare for a DOT Audit

**The DOT has just informed you that your transportation operation will be audited. Are you prepared? Do you know what records will be reviewed? Do you comply with the regulations?**

Companies that have been subjected to a DOT compliance audit often describe the experience as stressful. However, a DOT review of your transportation safety program records and evaluation can be pain-free if your company's management team understands the regulations to which they are subject and what records the DOT expects to see.

### **Who Can Be Audited?**

In 30 + years of transportation safety, many companies have contacted me regarding an audit, claiming, "We are not a trucking company, so we did not know we were subject to all of these regulations." Often, the primary business of these firms is non-transportation (construction, manufacturing, etc.), and they operate commercial motor vehicles to support that business.

Regardless of the industry, any employer, employee, or vehicle involved in the transportation of property or passengers in interstate commerce, with a vehicle of gross vehicle weight rating (GVWR) or combination weight rating (GCWR) of more than 10,000 lbs., is subject to Federal Motor Carrier Safety Regulations (FMCSR).

Companies operating solely in **intrastate** commerce are subject to applicable state regulations regarding commercial motor vehicles.

A DOT on-site audit evaluates a company's safety performance and confirms proper and complete recordkeeping. The review also determines if the company has adequate management controls in place to ensure FMCSR compliance.

As a brief review, the points covered in this article are not necessarily all-inclusive. The motor carrier is responsible to **know and comply** with all FMCSR regulatory and recordkeeping mandates.

A **Compliance Review** is divided into six inspection categories called factors:

- General
- Driver
- Operational

- Vehicle
- Hazardous Materials
- Accidents

Each factor is reviewed and rated Satisfactory, Conditional, or Unsatisfactory. A satisfactory rating does not mean a company can relax its compliance efforts. Satisfactory simply means a company is doing the **minimum** the DOT expects of a carrier's safety program in that factor. Remember this term, "minimum". The FMCSA will not look favorably on a carrier that is just doing just enough to get by.

### **Factor 1: General**

A carrier should be prepared to show documentation demonstrating it has proper liability coverage in place for the type of carrier and cargo. Section 387.9 of the FMCSR contains a schedule of limits.

Carriers should have ready for examination the MCS-90 or MCS-82 form (382.15). This form is countersigned by an insurance provider representative.

In a Factor 1 review, the DOT will also request to see a company's accident register. This document lists accidents that meet the definition of an "accident" as found in Section 390.5 of the FMCSR and are commonly called "DOT recordable accidents."

The review determines if a carrier maintains an accurate record of these accidents. The record must contain the information required by Section 390.15, which includes:

- Accident date
- Location (city and state)
- Driver's name
- Number of injuries
- Number of fatalities
- The presence of hazardous materials other than fuel spilled by any vehicle

**Even if a carrier has had no DOT recordable accidents, it is required to have the accident register in place for review.** If an accident entry appears on the register, it must remain for three years from the date of the accident.

Vehicle markings may also be checked during a DOT review. Commercial motor vehicles must be marked on two sides with the carrier's legal or single-trade name (whichever appears on the MCS-150 form) and the DOT-assigned number preceded by the letters "USDOT" (390.21).

Another key part of a Factor 1 review are training records. The FMCSR requires motor carriers to train not only drivers, but also any employee who may be involved in regulatory compliance, on the applicable regulations. To demonstrate an adequate level of management control, it is strongly suggested carriers keep detailed records of any transportation safety-related training provided employees.

## **Factor 2: Driver**

A Factor 2 review covers commercial driver's licenses (CDL), driver qualification, and drug and alcohol testing. The DOT expects carriers operating CDL-required commercial motor vehicles (CMV) to demonstrate drivers have valid licenses commensurate with the vehicle class and with the appropriate endorsements. A carrier should have in place a means for tracking license expiration dates. A carrier operating CDL-required equipment also must have implemented a drug and alcohol testing program as described in Parts 40 & 382 of the FMCSR. The DOT verifies a carrier's CDL driver testing program is separate from any other company-required testing.

Section 382.601 mandates a carrier have a written policy covering the testing program. The policy is reviewed to ensure it contains all required content listed in that section. The policy must be distributed to CDL drivers, and a signed receipt from each driver must be on file and available for inspection.

The DOT verifies a motor carrier has made a good faith effort to obtain from previous employers three years' worth of Part 382 testing results. The DOT also requires the following tests be in place for all CDL drivers who may operate a CDL-required vehicle:

- Pre-Employment Drug Test (382.301)
- Post-Accident Drug & Alcohol (382.303)
- Random Drug & Alcohol (382.305)
- Reasonable Suspicion (382.307)

The DOT reviews records to determine testing complied with regulations, tests were recorded on federal custody and control forms, and training for supervisors on Reasonable Suspicion testing was completed.

If a carrier chooses not to terminate an employee for testing positive for drug use, records must document the substance abuse professional evaluation, completion of rehab (if required), and Part 40 Return to Duty (40.305) and Follow-Up (40.307) testing. For carriers who employ a third-party administrator to manage the testing program, the DOT may wish to review the semi-annual or annual statistical summary reports.

The driver qualification (DQ) file is a significant point in a Factor 2 review. Motor carriers are required to use only qualified CMV operators. The documentation required in a driver file includes:

- Driver application with all required information listed in Section 391.21.
- Previous three years of employment verification or background investigations and, if applicable, a safety performance history, and drug/alcohol test results (391.23).
- Motor vehicle record (MVR) check for previous three years (391.23)
- Road test and certification (391.31)
- Three years of Medical examinations (391.43)
- Entry-level driver training, if required (380.503).
- Three years of annual MVRs from state(s) in three years' worth (391.25)
- Annual written driver statement of violations, which the driver is licensed (391.25).
- Three years of signed annual reviews from the motor carrier (391.25)
- Any waivers granted (391.49).

DQ files **MUST** be complete, current, and correct and contain the same information in the same order. Notably, placing the DOT physical examination form in the driver file is not required, but it must be available upon request during an audit. Only those items listed previously are required in the file. Other records or documents the motor carrier may feel are necessary for managing the fleet may be placed elsewhere.

### **Factor 3: Operational**

Regulations covered in Part 395, Hours of Service of the FMCSR are the largest component of Factor 3.

Any business operating a CMV is subject to driving limitations and hours of service recordkeeping (logbooks or time records). Unless the carrier is using an exception, the DOT expects six months of driver logs and supporting documents be made available during the review.

A carrier is expected to maintain a file (electronic or paper) for each regulated driver. When drivers are required to complete the standard grid or graph log, the DOT examines these logs for violations of:

- Form & Manner (395.8(d))

- Hours of Service (395.3)
- Falsification of Logs

Form and manner is simply the information, in addition to the graph, required on a driver's log. Hours of service violations occur when a driver exceeds the 11-hour, 14-hour, and 60-hours in seven days or 70-hours in eight days rules. Falsification is checked using supporting documents to identify when a driver intentionally misrepresents information on a log.

Legible logs must be returned to the carrier within 13 days of completion. A motor carrier must have a procedure to account for on-duty hours resulting from a driver performing compensated work for any person (including him/herself) outside their employment with that carrier (395.2(9)).

A carrier operating CMVs and using a logging exception, especially the 100-Air Mile Exception (395.1), may believe the operation is exempt from all Part 395 requirements because the drivers are not required to complete graph logs. **However, even when using exemptions, the carrier must comply with recordkeeping requirements.** The 100-Air Mile exception mandates carrier compliance with four driver requirements before driver use of the logging exception is permitted:

- Stay within 100 air miles of his/her normal work reporting location
- Return to the work reporting location and be relieved of duty within 12 consecutive hours
- Refrain from driving a CMV for more than 11 hours in that 12-hour period
- Take 10 consecutive hours off duty between shifts
- If these requirements are fulfilled, the carrier must keep clear and accurate records (including supporting documents) for six months of the driver's daily start and stop times, total on-duty hours, and the 60- or 70-hour rule tracking.

#### **Factor 4: Vehicle**

The inspection and maintenance issues reviewed in Factor 4 are found in Part 396 of the FMCSR. The DOT expects the carrier to demonstrate any CMV under its control for 30 consecutive days or more is enrolled in a program of systematic or preventative maintenance program.

An issue of note is the requirement a carrier maintain for 90 days the post-trip inspection reports completed by drivers at the end of each workday. This report must be in writing and completed by the driver. The report must indicate:

- What vehicle was inspected
- Date of inspection
- What component was inspected
- Any deficiencies present on the vehicle
- Signature of inspecting driver

For inspections during which a defect is noted, the signature of the mechanic who corrected the defect, the signature of the next driver to conduct a pre-trip inspection, and the individual who accepted the vehicle back into service must also be detailed in the report.