

DOT

COMPLIANCE FOR NEW ENTRANTS

WHAT YOU NEED TO KNOW



A GUIDE CREATED BY
TBS FACTORING SERVICE

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CREATED BY TBS FACTORING SERVICE

With over 50 years of experience serving motor carriers, TBS makes trucking easier with cutting-edge technology and various services to help drivers get established, stay compliant, find loads, and get paid faster. TBS serves thousands of clients nationwide with simple and quick cash flow solutions.

Headquartered in Oklahoma City and voted one of the best places to work in Oklahoma, the TBS family of companies drives change for small businesses with our commitment to digital transformation.



LET'S BE FRIENDS





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DOT COMPLIANCE FOR NEW ENTRANTS

WHAT YOU NEED TO KNOW



Trucking is one of the most regulated industries in America. Whether you're a firm with thousands of drivers or an owner-operator with one truck, these federal and state regulations apply to you, and you must comply with them as soon as you obtain your operating authority.

Keeping compliant is as important as finding loads to haul and keeping a well-maintained vehicle. This e-book will tell you how to stay DOT-compliant and will help you decide whether you have time to handle the process yourself or need to hire a service provider for that part of your business. If you decide to hire a compliance service, this e-book will guide you through some of the regulatory and safety questions to help you get the most for your money.

NEW ENTRANTS: UNDER A WATCHFUL EYE

The Federal Motor Carrier Safety Administration (FMCSA) has published a list of 14 violations that will result in the automatic failure of a new entrant safety audit.

The FMCSA believes the raised standards will improve the agency's ability to identify at-risk new entrant carriers and ensure deficiencies in basic safety management controls are corrected before the new entrant is granted permanent registration.

In addition to the FMCSA and DOT, you may also be accountable to OSHA, the Department of Labor, or the Hazardous Materials Pipeline Administration dependent on your mode of operation.

CHAPTER #1

FMCSA

BASIC

DOT

BOC-3

PSP

SMC

CSA

HM

7 HABITS OF SUCCESSFUL TRUCKERS

Like most worthwhile things in life, being an independent trucker is both challenging and rewarding.

First the good news: you are your own boss, rates are competitive, and there is plenty of available freight.

On the other hand, your rig is expensive and requires a lot of TLC; your cash flow, at times, is unpredictable; and staying healthy on the road is more difficult than expected. No wonder consultants who track such things say there's only a one-in-ten chance that a new business owner starting out today will still be in business in two years.

To help you beat those odds, we've compiled some of the best advice we've heard from truckers.

[Download our
free 7 Habits
e-book today!](#)



WHO REGULATES TRUCKERS?

The Federal Motor Carrier Safety Administration (FMCSA) is the government agency responsible for writing and enforcing trucking regulations, and is a division of the Department of Transportation (DOT). FMCSA instituted the Compliance, Safety, Accountability program (CSA) along with BASIC, which stands for Behavior Analysis and Safety Improvement Category. They also implemented special rules for Hazardous Materials carriers (HM), along with Safety Management Cycles (SMC) and Pre-employment Screening Procedures (PSP).

This alphabet soup of acronyms can be confusing, but it's also crucial to your success. If you run the rest of your business well but don't stay compliant, you won't have a business.

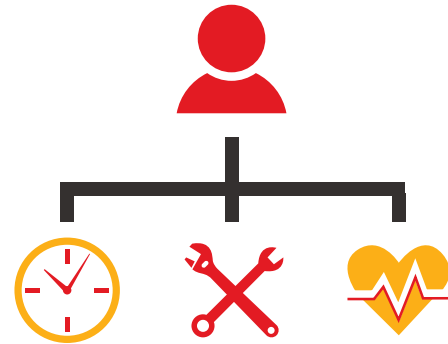
You can get your MC number quickly, but you can't operate until you receive your official operating authority. It generally takes 3-4 weeks, assuming all your paperwork is in order and filed in a timely manner. Here is how it happens:

1. The FMCSA issues your MC number
2. Your MC number is published in the FMCSA register
3. The 14-day protest period starts when your MC number is published
4. File insurance (from your insurance company) and BOC-3 (you or compliance provider)
5. Receive your operating authority after the protest period ends and all filings are made
6. Start planning for your New Entrant DOT Audit

Statistically, the fourteenth day of the 14-day protest period is the soonest and best day to purchase your insurance. Any earlier and you may be paying for insurance you are not able to use because you are not operational. You could be active on the twenty-first day, which provides that 7-day period to bind your insurance coverage.

The FMCSA will conduct a safety audit of a new entrant carrier within the first 12 months of operation to determine if the carrier is exercising basic safety management controls. If the new entrant passes the audit, he/she retains the new entrant registration while remaining subject to the new entrant safety monitoring system until the end of the 18-month period and is granted permanent registration if he/she successfully completes the monitoring period.

CHAPTER #2



FIRST 90 DAYS

If the first step to victory is to recognize the enemy, then your biggest enemy is bad or faulty record-keeping. If you want to pass the New Entrant Audit, keep proper records from day one. Some regulatory requirements must be in place within the first 30 days of operation, such as:

- Drug & Alcohol Policies
- Pre-Employment Drug Testing
- Random Testing Consortium
- Driver Qualification (DQ) Files
- Reasonable Suspicion Supervision Training (if you supervise drivers)



CREATE A COMPLIANCE PLAN

Write down your compliance plan just like your business plan. If you don't have a business plan, the Small Business Administration has useful information to help you develop one. Assistance in creating your compliance plan can be found on the FMCSA web site. There, you'll find a list of all requirements, an Educational and Technical Assistance Program Guide and a section of frequently asked questions.

New entrants face particularly strict scrutiny from the DOT and FMCSA and are officially on probation for the first 18 months. FMCSA believes the stricter rules—which will annually affect about 40,000 motor carriers—will prevent approximately 39,929 crashes over 10 years and yield a 10-year benefit of \$3.778 billion in direct-cost savings such as medical, emergency services, and property damage. This will also reduce indirect costs, including lost productivity and diminished quality of life.

It is important to keep up-to-date with new regulations posted on the FMCSA website and to know the regulations of your base state and states you will pass through.

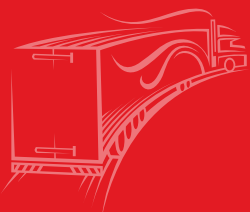
If you find staying on top of all these regulations intimidating, or even just plain annoying, you may want to hire an experienced DOT compliance company to help.

CHAPTER #3



HISTORY LESSON

SafeStat, developed in the mid-1990s, was the former system for measuring safety performance in the trucking industry. In 2008, the FMCSA expanded the model and began testing the CSA initiative that included a new tool to measure the safety of individual motor carriers called the Safety Measurement System (SMS). CSA replaced SafeStat in December 2010 as the new nationwide system and program for making roads safer for motor carriers and the public alike.



REVIEW THE BASICS

Safety management violations can ground you as surely as engine trouble. Unlike engine trouble, however, it may take longer to resolve compliance violations. A good mechanic can fix most engine problems. Fixing a safety violation may involve three or more federal and/or state government entities.

Also, unlike maintenance problems which require straight mechanical fixes, one government regulatory agency may respond well to a wrench, but another group might require a hammer.

It is not uncommon to be placed Out of Service while compliance issues are being resolved. One way to avoid this is to respond to any FMCSA letter the moment you receive it. If you are on the road, it is important to have someone you can rely on to periodically check your mailbox and to notify you of any such letter. Reportedly, some motor carriers have been issued civil penalties for failure to respond to a letter from the FMCSA.

A good tool to have in your toolbox is memorizing the BASICS: the seven areas of DOT scrutiny known as the Behavior Analysis and Safety Improvement Categories. The DOT will require you to have policies in place and to document any issues regarding:

- Unsafe Driving
- Hours of Service
- Controlled Substances/Alcohol
- Vehicle Maintenance
- Driver Fitness
- Crash Indicator
- Hazardous Materials (HM)

CHAPTER #4



PASS OR FAIL

The new CSA requirements dictate how you are continually rated. Your BASIC scores will affect your ability to operate, bid for future business, and maintain your livelihood.

Example: ABC Company operates four power units and had four roadside inspections. Of the four roadside inspections, two units received OOS (Out of Service) violations. ABC Company is now rated beyond the appropriate BASIC threshold at a 50% out-of-service violation rating. DOT will issue an Offsite or Onsite Investigation and may not send a warning letter beforehand. Make sure you check your BASICs scores regularly—your livelihood depends on it.



HOW YOU'RE RATED

The New Entrant DOT Audit is either pass or fail. The audit officer will determine if you have applied the essential elements of basic safety management controls to your business and rate you accordingly. On the next page you will find examples of BASIC violations.

If the driver is an owner-operator operating under his/her own authority, then the owner-operator is responsible for making sure he/she is DOT compliant. Owner-operators are allowed to self-manage and administer their compliance requirements, rendering the owner-operator both the driver and the company.

If the owner-operator leases onto a carrier, then the carrier he/she is leased to becomes responsible for DOT driver qualification reviews, such as making sure the owner-operator's credentials (license and medical card) stay current and for conducting annual reviews.

If you hire drivers, you (the company) are responsible for tracking their compliance. Make sure that your drivers' records or Driver Qualification (DQ) files are clean and up-to-date. We will cover more about hiring compliant drivers in Chapter Six.

What happens when a motor carrier fails their DOT Audit? At the conclusion of your DOT Audit, the auditor will review your scoring during which time deficiencies will be discussed, and points assigned based on the severity. If the point totals indicate you have failed your audit, the auditor should immediately provide instructions on how to correct it, or they will send the instructions via email or USPS mail. The motor carrier is typically provided 30 days to submit a Corrective Action Plan. Remember, within that 30 days you must allow the FMCSA time to receive your Corrective Action Plan (CAP), review it, and make their determination before the deadline indicated. A CAP is your only means to respond to deficiencies discovered during a New Entrant DOT Audit.

CAPs are specific, and you will be provided an outline detailing the form and format for preparing your submission. Depending on the severity, the motor carrier may choose to secure assistance in preparing and submitting a CAP from a professional provider.

CHAPTER #4



BASIC VIOLATIONS



Unsafe Driving: Operation of commercial motor vehicles (CMVs) by drivers in a dangerous or careless manner. Includes speeding, reckless driving, improper lane change, inattention, and failure to wear a seatbelt. (FMCSR Parts 292 & 397)



Hours-of-Service (HOS) Compliance: Violations of regulations pertaining to Records of Duty Status (RODS) as they relate to HOS requirements and managing driver fatigue. **New Rule:** Electronic logging devices enforceable as of December 17, 2017. HOS, RODS and operating a CMV while ill or fatigued. While enforcement officers are looking at your license, logs, ID, etc., they're also checking you out for fatigue or impairment. (FMCSR Parts 392 & 395)



Driver Fitness: Ensuring CMVs are operated by drivers fit for duty, which includes appropriate training, experience, and medical qualifications. Drivers must have appropriate licenses and be medically qualified to operate. Drivers must obtain their physical from a medical examiner on the National Registry of Certified Medical Examiners. CDL drivers must merge their medical card with their CDL or they will be disqualified. (FMCSR Parts 383 & 391)



Controlled Substance/Alcohol: Operation of CMVs by drivers impaired as a result of alcohol consumption, illegal drugs, or misuse of prescription or over-the-counter medications. Use or possession of controlled substances and/or alcohol. You are only required to have Reasonable Suspicion Supervisor Training if you supervise drivers. (FMCSR Parts 382 & 392)



Vehicle Maintenance: Failure to properly maintain a CMV and/or properly prevent shifting loads. Never operate unsafe equipment. Load securement is part of vehicle maintenance. Includes BLTs (brakes, lights, and tires). Inspectors look closely for mechanical defects, failure to make necessary repairs/replacements, and improper load securement. (FMCSR Parts 392, 393 & 396)



Hazardous Materials (HM) Compliance: Unsafe handling of hazardous materials on a CMV. Release of a hazardous material, packaging, labeling, placards, emergency response and appropriate training. Compromised packaging, no shipping papers, no placards/markings where required, emergency response procedures, general awareness and security training. Do you have a written security plan? (FMCSR Parts 171-173, 178-180, 126 & 232)



Crash Indicator: Histories or patterns of high-crash involvement, including frequency and severity. Based on information from state-reported crashes. You are required to maintain a DOT Accident Register whether or not you've had any accidents.

CHAPTER #5



PAPER VS. ELECTRONIC

One of the most annoying responsibilities for new truck drivers is getting into the habit of filling out their daily log book. Paper or electronic, choose the type you're most comfortable with. They all get the job done.



VS.



CLEAR, TIMELY RECORDS

The best way to control your paperwork is to do a little bit every day and not allow it to pile up at the end of the month. Paperwork should be kept in date/trip order.

Have you ever tried to remember a movie you saw a week ago or a month ago? How many details slipped away from you? Forgetting to record your mileage or number of hours worked on the road could cost you your license. Keeping your compliance records current only takes a few minutes each day, but those minutes will save you many hours when you need to produce them for a DOT audit. Some records require you to maintain them for a specific length of time. Not doing so can result in violations with potential civil penalties. Get into the habit of recording everything as soon as it happens.

Federal law requires truckers to keep up-to-date and accurate log books in their vehicles at all times. Law enforcement officials may request these records at any time. Log books must contain complete entries of driving hours, on-duty work periods, rest breaks and time spent in the sleeping berth for the last seven days. The best way to prove you're in compliance is to make sure you record your compliance activities.

NEW ELECTRONIC LOGGING DEVICES (ELD) RULE

Electronic logging devices will be required in the majority of commercial motor vehicles, effective December 17, 2017.

If you are currently using an app, be sure you can physically print driver logs on demand. A small printer in the cab of the truck will suffice. No matter what system you are using, enforcement officers must see your previous seven-day duty status and how much drive time you've got left today.

Recent changes in the Hours of Service (HOS) have suspended the required 34-hour restart containing two consecutive periods between 1 & 5 until the FMCSA provides Congress supporting documentation of improved highway and lower driver fatigue. You are still required to take your 30-minute break within eight hours of coming on duty.

Do you have a written Hours of Service Policy & Procedure?

CHAPTER #6



WHERE IT HURTS

Violations of the new HOS (Hours of Service) rules can cost a company \$11,000 per violation, and individual drivers \$2,750 per infraction.



HIRE COMPLIANT DRIVERS

As an owner-operator, you are responsible for your drivers' compliance. You can be held accountable for putting an unqualified driver on the road. You are required to perform a three-year background investigation (which includes previous employment and drug/alcohol history) on all drivers and provide written evidence of the verifications you obtain.

You must know and document your procedures. The Safety and Fitness Electronic Records (SAFER) database has information on recent CSA violations. Visit the [SAFER database](#) and enter in either an MC# or DOT# to view a report. Before you hire anyone, do your research.

Your audit requires obtaining the driver's Motor Vehicle Record (MVR). If you wish to obtain a copy of another person's driving record, you must have that individual sign a Consent to Release form before you can receive a copy of that person's driving records. Driving records may be purchased online from his/her domiciled state's Records Management department.

Impress upon your drivers the importance of compliance. Take time to train them on your procedures, so your compliance paperwork is clear and consistent. Remember, a little time spent up front on proper training and keeping the paperwork current can be a lifesaver later in the event of trouble, or even a routine DOT audit or traffic stop.

DOT requires a solid Driver Hiring Policy. Driver hiring is also one of the most important decisions you'll make. A driver's performance, bad or good, will remain on your CSA scores for 24 months. Negligent hiring lawsuits are at an all-time high. Perform those background checks and make solid hiring decisions. Verify that prospects have:

- A valid CDL for their domiciled state
- A current and valid medical card
- A negative pre-employment drug screen*
- A good prior employment safety record
- A clear prior employment drug and alcohol history
- A clean motor vehicle record (MVR)

*Negative pre-employment test results must be in the MC's possession prior to allowing the driver to perform any safety sensitive functions.

CHAPTER #7



DO YOU KNOW YOUR COMPLIANCE COST?

Add up the number of hours you and other members of your family spend on compliance—everything from keeping records to filling out regulatory required forms and documents. Then figure out what you could make per hour if you put that time into running your business. That's your hourly compliance cost.



DIY VS. BUY

You undoubtedly went into trucking to haul loads and provide for your family. Spending time on the road, finding the next load, and maintaining your truck may not leave a lot of time for documenting your compliance with the FMCSA and DOT rules.

If you're not an expert mechanic, you probably outsource your maintenance to a garage. Some owner-operators will even buy a garage to ensure they can control their maintenance costs and to provide additional income.

Similarly, if you're not a compliance expert you might want to outsource those tasks to a company that is. The FMCSA and DOT rules are not simple. They are meant to cover the entire industry, but there are times when your particular situation may not be clear. Can you be sure you've made the right regulatory decisions? In some areas, the DOT allows you to decide what your policies will be, but do *you* know what they are?

Many companies claim to provide these services for you, but how do you decide if they're worth hiring? Ask a lot of questions before choosing. Are they accredited? Are they trying to sell stuff you don't need? Do they have a certified Director of Safety on staff?

If you are knowledgeable about DOT regulations, and a real do-it-yourselfer, perhaps you only need a resource to provide the forms. On the flip-side, if you are stretched for time but want to do everything possible in order to pass your safety audit, a compliance provider may be the best choice. Use caution either way, or your business might suffer.

CHAPTER #8



WARNING SIGNS: PROVIDERS TO AVOID

Sadly, many owner-operators have been fooled by companies promising to take them through the New Entrant DOT Audit, but then only took their money. Get to know who you are doing business with. Referrals from people you know are among the best ways to qualify any prospect. Here are some of the worst practices of predatory firms:

- Implying they are connected with the DOT
- Using a fake or facsimile of the DOT seal on communications
- Threatening revocation of your operating authority if you don't do this or that
- Using scare tactics of any type
- Charging high prices to just send brochures or instruction manuals



IS IT A GOOD FIT?

If you run a trucking company of any size, you are probably deluged with offers from companies claiming to do compliance cheaper and better than you can. If you've figured out your hourly compliance cost, you should be able to evaluate their offers. The most important question to ask about any company is: do they have the knowledge and experience to help get you through your New Entrant Audit and keep you compliant throughout the year?

Answer these questions before signing on with a provider:

1. Is the provider performing the tasks, or just providing a packet of instructions? If you're paying a company to handle your compliance issues, make sure they are actually providing the services. The motor carrier is responsible for the work performed by the provider.
2. Is the potential provider selling unnecessary services? Some companies demand training that may not be required of you. Can you afford to pay for something you don't need?
3. Are you only being advised to take online courses? Some online courses may have value but others can be outdated. They may not have the most current regulatory information. Do you really have the time to take online courses when you need to be on the road?

The bottom line is that companies that are selling only information packets and online courses are not true business partners. They are merely providing source material that you could find online with a few clicks.

Look for an experienced compliance company that can help you with the tasks of staying current with government regulations, filing forms, and guiding you through the DOT audit process. The best compliance service providers are your business partners. They do the compliance work for you, so you can concentrate on finding the next load.

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