

# Getting your paperwork in order with self-auditing guidelines



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## Introduction

The compliance review can be an anxiety-producing experience — especially if you know that all of your records are not in order as they should be. Other issues often take priority and record management moves to the back burner. It is all too easy to let paperwork pile up, leaving those review and filing tasks to wait until another day. In a DOT compliance review, however, your documentation becomes front and center. It is the best indicator the DOT investigator will have of your safety management controls. And it is your safety management controls (or lack of) that will determine the outcome of the compliance review.

## The DOT is! coming! The DOT is coming

First, don't panic. You will want to review the letter carefully to make sure you know which agency is coming, and look for any specific instructions and any listing of particular records the investigator will be examining. Beyond that it will depend on what kind of shape your compliance program is in. If you have adequate safety management controls in place and have been following them, you won't need to do much. Just make sure you have all required records available when the investigator arrives.

Make sure you are up to date with the filing of paperwork, and review the regulations and your compliance program so you will be prepared to respond to questions. If your compliance program is lacking, three days is not much time to turn things around. One thing you absolutely should not do is falsify records (even back-dating them is falsifying) to give the appearance of being in compliance. It is much better to work on developing a plan, with dates, for getting into compliance those areas that you realize have deficiencies. At least then you are moving in the right direction.

Conducting regular safety self-audits (either internally or through a third-party safety and compliance provider) that cover the areas subject to review by the DOT are recommended as a sound and prudent business practice. This section will focus on showing how motor carriers can develop and implement a self-audit program.

## Self-audit opportunities

This self-audit is going to focus only on compliance with what DOT has identified as the "acute" and "critical" regulations. The acute and critical regulations are those that DOT keys in on most closely when determining a carrier's safety rating. DOT can cite and/or penalize a carrier and/or a driver for noncompliance with any regulation, not just the acute and critical regulations. Being in compliance with all the identified acute and critical regulations does not mean a carrier (or even an individual driver) is exempt from monetary fines and penalties.

The records a carrier will usually need to produce include:

- Proof of financial responsibility;
- Driver qualification files;
- Drug and alcohol testing records (if applicable);
- Records of duty status and all supporting documents;
- Driver vehicle inspection reports and maintenance records;
- Hazardous materials records (if applicable); and
- An accident register and copies of all accident reports required by state or other governmental entities or insurers.

Identify who is responsible for each area. In order to get organized, it is recommended carriers complete a list of individuals responsible for the areas to be audited, such as the one below:

<b>Safety Area</b>	<b>Responsible Company Representative</b>
Financial responsibility	Name: _____ Title: _____ Phone: _____ Ext. ____
Driver qualification files	Name: _____ Title: _____ Phone: _____ Ext. ____
Drug & alcohol testing policy and procedures	Name: _____ Title: _____ Phone: _____ Ext. ____
Accident reporting and record retention	Name: _____ Title: _____ Phone: _____ Ext. ____
Physical qualifications of drivers and hours of service	Name: _____ Title: _____ Phone: _____ Ext. ____
Vehicle inspection, maintenance, and record retention	Name: _____ Title: _____ Phone: _____ Ext. ____
Hazardous materials training and record retention	Name: _____ Title: _____ Phone: _____ Ext. ____

## Reviewing policies and procedures

In addition to the above list of safety responsibilities, motor carriers should review their current regulatory compliance safety policies and procedures to make sure they are understood by all employees and are being followed consistently.

Comprehensive written safety policies and procedures serve three very important purposes for commercial motor carriers. Written safety policies and procedures:

1. Enhance a carrier's overall safety program;
2. Provide a system of monitoring, controlling, and improving the company's overall safety performance; and
3. Are viewed favorably by the DOT since they are evidence of a company's commitment and concern for safety.

## Safety management controls

Read through the self-audit items below to see if you have a policy or procedure relating to each of them. If you do not have a policy on a particular audit item, how can you say with certainty that you comply with whatever that item says? For example, one of the audit items in Factor 3 says: "We do not schedule a run which would necessitate the vehicle being operated at speeds in excess of those prescribed." This is considered a critical regulation. How can you say for certain that you follow this? By having a policy in effect that says exactly what the audit item says. By having and enforcing policies relating to the acute and critical regulations, you would have safety management controls in place to address these regulations.

## Factors

The acute and critical regulations are grouped into five regulatory areas called factors. A sixth factor is also figured into the review, which focuses on the carrier's accident rate.

The following list shows what parts of the regulations are included in the factors:

- Factor 1: General — Parts 387 and 390
- Factor 2: Driver — Parts 382, 383, and 391
- Factor 3: Operational — Parts 392 and 395
- Factor 4: Vehicle — Parts 393 and 396
- Factor 5: Hazmat — Parts 397, 171, 177, and 180

In the self-audit, the acute and critical regulations for each factor are listed in audit checklist form. You can use these audit checklists to check your company's compliance with each acute and critical regulation.

*Note:* N/A means not applicable.

### Factor 1 — General (Parts 387 and 390)

Regulation	Audit Item	In Compliance?
§387.7(a) (acute)	We have in effect the required minimum levels of financial responsibility coverage for our commercial motor vehicles.	Yes ___ No___ N/A ___ Comments: _____ _____
§387.7(d) (critical)	We retain at our principal place of business required proof of financial responsibility.	Yes ___ No___ N/A ___ Comments: _____ _____
§387.31(a) (acute)	We have in effect the required minimum levels of financial responsibility for our passenger-carrying vehicles.	Yes ___ No___ N/A ___ Comments: _____ _____
§387.31(d) (critical)	We retain at our principal place of business required proof of financial responsibility for our passenger-carrying vehicles.	Yes ___ No___ N/A ___ Comments: _____ _____
§390.15(b) (2) (critical)	We maintain copies of all accident reports required by state or other governmental entities or insurers.	Yes ___ No___ N/A ___ Comments: _____ _____
§390.35 (acute)	We do not make or cause to make fraudulent or intentionally false statements or records and/or reproduce fraudulent records.	Yes ___ No___ N/A ___ Comments: _____ _____

**Factor 2 — Driver (Parts 382, 383, 391)**

<b>Regulation</b>	<b>Audit Item</b>	<b>In Compliance?</b>
§382.115(a) (acute)	We implemented an alcohol and drug testing program (domestic motor carrier).	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.201 (acute)	We have not used a driver known to have an alcohol concentration of 0.04 or greater.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.211 (acute)	We have not used a driver who has refused to submit to an alcohol or drug test required under part 382.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.213(b) (acute)	We have not used a driver known to have used a drug.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.215 (acute)	We have not used a driver known to have tested positive for a controlled substance.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.301(a) (critical)	We have not used a driver before receiving a negative pre-employment controlled substance test result.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.303(a) (critical)	We conduct post-accident testing on drivers for alcohol and drugs.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.305 (acute)	We implemented a random drug and alcohol testing program.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.305(b) (1) (critical)	We conduct random alcohol testing at the minimum applicable annual rate of the average number of driver positions.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.305(b) (2) (critical)	We conduct random drug testing at the minimum applicable annual rate of the average number of driver positions.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.309(a) (acute)	We do not use a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.309(b) (acute)	We do not use a driver who has not undergone a return-to-duty drug test with a result indicating a verified negative result for controlled substances.	Yes ___ No ___ N/A ___ Comments: _____ _____
§382.503 (critical)	We do not allow a driver to perform safety sensitive functions, after engaging in conduct prohibited by	Yes ___ No ___ N/A ___ Comments: _____ _____

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	Subpart B, without being evaluated a by substance abuse professional, as required by §382.605.	_____
§382.505(a) (acute)	We do not use a driver within 24 hours after being found to have an alcohol concentration of 0.02 or greater but less than 0.04.	Yes ___ No___ N/A ___ Comments: _____ _____
§382.605(c) (1) (acute)	We do not use a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 or with a verified negative test result, after engaging in conduct prohibited by Part 382 Subpart B.	Yes ___ No___ N/A ___ Comments: _____ _____
§382.605(c) (2)(ii) (critical)	We subject a driver who has been identified as needing assistance to at least six unannounced follow-up alcohol and/or controlled substance tests in the first 12 months following the driver's return to duty.	Yes ___ No___ N/A ___ Comments: _____ _____
§383.23(a) (critical)	We do not allow a driver to operate a commercial motor vehicle without a valid commercial driver's license.	Yes ___ No___ N/A ___ Comments: _____ _____
§383.37(a) (acute)	We do not knowingly allow, require, permit, or authorize an employee with a commercial driver's license that is suspended, revoked, or canceled by a state or who is disqualified to operate a commercial motor vehicle.	Yes ___ No___ N/A ___ Comments: _____ _____
§383.37(b) (acute)	We do not knowingly allow, require, permit, or authorize an employee with more than one commercial driver's license to operate a commercial motor vehicle.	Yes ___ No___ N/A ___ Comments: _____ _____
§383.51(a) (acute)	We do not knowingly allow, require, permit, or authorize a driver to drive who is disqualified to drive a commercial motor vehicle.	Yes ___ No___ N/A ___ Comments: _____ _____
§391.11(b)(4) (acute)	We do not use a physically unqualified driver.	Yes ___ No___ N/A ___ Comments: _____ _____
§391.15(a) (acute)	We do not use a disqualified driver.	Yes ___ No___ N/A ___ Comments: _____ _____
§391.45(a) (critical)	We do not use a driver not medically examined and certified.	Yes ___ No___ N/A ___ Comments: _____ _____
§391.45(b)(1) (critical)	We do not use a driver not medically examined and certified during the preceding 24 months.	Yes ___ No___ N/A ___ Comments: _____ _____
§391.51(a) (critical)	We maintain a driver's qualification file on each driver employed.	Yes ___ No___ N/A ___ Comments: _____ _____

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		_____
§391.51(b)(2) (critical)	We maintain inquiries into driver's driving record in the driver's qualification file.	Yes ___ No ___ N/A ___ Comments: _____ _____
§391.51(b)(7) (critical)	We maintain medical examiner's certificate(s) in the driver's qualification file.	Yes ___ No ___ N/A ___ Comments: _____ _____

**Factor 3 — Operational (Parts 392 & 395)**

Regulation	Audit Item	In Compliance?
§392.2 (critical)	We operate motor vehicles in accordance with the laws, ordinances, and regulations of the jurisdiction in which they are being operated.	Yes ___ No ___ N/A ___ Comments: _____ _____
§392.4(b) (acute)	We do not require or permit a driver to drive while under the influence, or in possession of, a narcotic drug, amphetamine, or any other substance capable of rendering the driver incapable of safely operating a motor vehicle.	Yes ___ No ___ N/A ___ Comments: _____ _____
§392.5(b)(1) (acute)	We do not require or permit a driver to drive a motor vehicle while under the influence of, or in possession of, an intoxicating beverage.	Yes ___ No ___ N/A ___ Comments: _____ _____
§392.5(b)(2) (acute)	We do not require or permit a driver who shows evidence of having consumed an intoxicating beverage within 4 hours to operate a motor vehicle.	Yes ___ No ___ N/A ___ Comments: _____ _____
§392.6 (critical)	We do not schedule a run which would necessitate the vehicle being operated at speeds in excess of those prescribed.	Yes ___ No ___ N/A ___ Comments: _____ _____
§392.9(a)(1) (critical)	We do not require or permit a driver to drive without the vehicle's cargo being properly distributed and adequately secured.	Yes ___ No ___ N/A ___ Comments: _____ _____
§395.3(a)(1) (critical)	We do not require or permit a driver to drive more than 11 hours.	Yes ___ No ___ N/A ___ Comments: _____ _____
§395.3(a)(2) (critical)	We do not require or permit a driver to drive after the 14th consecutive hour after coming on duty.	Yes ___ No ___ N/A ___ Comments: _____ _____
§395.3(b)(1) (critical)	We do not require or permit a driver to drive after having been on duty more than 60 hours in 7 consecutive days.	Yes ___ No ___ N/A ___ Comments: _____ _____
§395.3(b)(2) (critical)	We do not require or permit a driver to drive after having been on duty more than 70 hours in 8 consecutive days.	Yes ___ No ___ N/A ___ Comments: _____ _____

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§395.8(a) (critical)	We require drivers to make a record of duty status.	Yes ___ No___ N/A ___ Comments: _____ _____
§395.8(e) (critical)	We do not permit false reports of records of duty status.	Yes ___ No___ N/A ___ Comments: _____ _____
§395.8(i) (critical)	We require drivers to forward, within 13 days of completion, the original of the record of duty status.	Yes ___ No___ N/A ___ Comments: _____ _____
§395.8(k)(1) (critical)	We preserve driver's records of duty status for 6 months.	Yes ___ No___ N/A ___ Comments: _____ _____
§395.8(k)(1) (critical)	We preserve driver's records of duty status supporting documents for 6 months.	Yes ___ No___ N/A ___ Comments: _____ _____
§395.1(h)(1) (i) (critical)	We do not require or permit a driver to drive more than 15 hours. (Driving in Alaska)	Yes ___ No___ N/A ___ Comments: _____ _____
§395.1(h)(1) (ii) (critical)	We do not require or permit a driver to drive after having been on duty 20 hours. (Driving in Alaska)	Yes ___ No___ N/A ___ Comments: _____ _____
§395.1(h)(1) (iii) (critical)	We do not require or permit a driver to drive after having been on duty more than 70 hours in 7 consecutive days. (Driving in Alaska)	Yes ___ No___ N/A ___ Comments: _____ _____
§395.1(h)(1) (iv) (critical)	We do not require or permit a driver to drive after having been on duty more than 80 hours in 8 consecutive days. (Driving in Alaska)	Yes ___ No___ N/A ___ Comments: _____ _____

**Factor 4 – Vehicle (Parts 393 and 396)**

Regulation	Audit Item	In Compliance?
§396.3(b) (critical)	We keep minimum records of inspection and vehicle maintenance.	Yes ___ No___ N/A ___ Comments: _____ _____
§396.9(c)(2) (acute)	We do not require or permit the operation of a motor vehicle declared "out of service" before repairs were made.	Yes ___ No___ N/A ___ Comments: _____ _____
§396.11(a) (critical)	We require drivers to prepare driver vehicle inspection reports.	Yes ___ No___ N/A ___ Comments: _____ _____
§396.11(c) (acute)	We correct out-of-service defects listed by a driver in a driver vehicle inspection report before the vehicle	Yes ___ No___ N/A ___ Comments: _____ _____

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	is operated again.	_____
§396.17(a) (critical)	We do not use a commercial motor vehicle not periodically inspected.	Yes ___ No___ N/A ___ Comments: _____ _____
§396.17(g) (acute)	We promptly repair parts and accessories not meeting minimum periodic inspection standards.	Yes ___ No___ N/A ___ Comments: _____ _____

**Factor 5 — Hazardous Materials (Part 397 and HMRs 171, 172, 177, & 180)**

Regulation	Audit Item	In Compliance?
§397.5(a) (acute)	We ensure a motor vehicle containing Division 1.1, 1.2, or 1.3 (explosive) material is attended at all times by its driver or a qualified representative.	Yes ___ No___ N/A ___ Comments: _____ _____
§397.7(a)(1) (critical)	We prohibit parking a motor vehicle containing Division 1.1, 1.2, or 1.3 materials within 5 feet of a traveled portion of highway or street.	Yes ___ No___ N/A ___ Comments: _____ _____
§397.7(b) (critical)	We prohibit parking a motor vehicle containing hazardous material(s) other than Division 1.1, 1.2 or 1.3 materials within 5 feet of traveled portion of highway or street.	Yes ___ No___ N/A ___ Comments: _____ _____
§397.13(a) (critical)	We do not permit a person to smoke or carry a lighted cigarette, cigar or pipe within 25 feet of a motor vehicle containing Class 1 materials, Class 5 materials, or flammable materials classified as Division 2.1, Class 3, Divisions 4.1, and 4.2.	Yes ___ No___ N/A ___ Comments: _____ _____
§397.19(a) (critical)	We furnish a driver of a motor vehicle transporting Division 1.1, 1.2, or 1.3 (explosive) materials with a copy of the rules of Part 397 and/or emergency response instructions.	Yes ___ No___ N/A ___ Comments: _____ _____
§397.67(d) (critical)	We do not require or permit the operation of a motor vehicle containing explosives in Class 1, Divisions 1.1, 1.2 or 1.3 that is not accompanied by a written route plan.	Yes ___ No___ N/A ___ Comments: _____ _____
§171.15 (critical)	We give immediate telephone notice of an incident involving hazardous materials.	Yes ___ No___ N/A ___ Comments: _____ _____
§171.16 (critical)	We make a written report of an incident involving hazardous materials.	Yes ___ No___ N/A ___ Comments: _____ _____
§177.800(c) (critical)	We instruct all categories of hazmat employees in hazardous materials regulations.	Yes ___ No___ N/A ___ Comments: _____ _____
§177.817(a) (critical)	We transport all shipments of hazardous materials accompanied by a properly prepared shipping paper.	Yes ___ No___ N/A ___ Comments: _____ _____
§177.817(e) (critical)	We maintain proper accessibility of shipping papers.	Yes ___ No___ N/A ___ Comments: _____

		_____ _____
§177.823(a) (critical)	We do not move a transport vehicle containing hazardous material that is not properly marked or placarded.	Yes ___ No___ N/A ___ Comments: _____ _____
§177.841(e) (acute)	We do not transport a package bearing a poison label in the same transport vehicle with material marked or known to be foodstuff, feed, or any edible material intended for consumption by humans or animals unless an exception in Sec. 177.841(e) is met.	Yes ___ No___ N/A ___ Comments: _____ _____
§180.407(a) (critical)	We do not transport a shipment of hazardous material in a cargo tank that has not been inspected or retested in accordance with Sec. 180.407.	Yes ___ No___ N/A ___ Comments: _____ _____
§180.407(c) (critical)	We periodically test and inspect cargo tanks.	Yes ___ No___ N/A ___ Comments: _____ _____
§180.415 (critical)	We mark cargo tanks that passed an inspection or test required by Sec.180.407.	Yes ___ No___ N/A ___ Comments: _____ _____
§180.417(a) (1) (critical)	We (owner) retain cargo tank manufacturers' data report certificates and related papers, as required.	Yes ___ No___ N/A ___ Comments: _____ _____
§180.417(a) (2) (critical)	We (motor carrier) retain copies of cargo tank manufacturers' certificates and related papers (or alternative report) as required.	Yes ___ No___ N/A ___ Comments: _____ _____

## Factor 6 — Accident rate

In addition to the five regulatory factors, a sixth factor addresses the accident history of the motor carrier. This factor is the recordable accident rate the carrier has experienced during the past 12 months. It will be used only when a motor carrier incurs two or more recordable accidents within the 12 months prior to the compliance review.

To audit yourself for this factor, you can calculate your accident rate using the formula below:

$$\frac{\text{Recordable Accidents} \times 1,000,000}{\text{Total miles operated by the carrier}} \\ \text{in the 365 days prior to the compliance review}$$

If you are an "urban carrier" (a carrier operating entirely within a radius of 100 air-miles), you will receive an unsatisfactory rating for the accident factor if your recordable accident rate is greater than 1.7. If you are not an "urban carrier," you will receive an unsatisfactory factor rating if your recordable accident rate is greater than 1.5.

The FMCSA will consider preventability when a motor carrier contests a rating by presenting compelling evidence that the recordable rate is not a fair means of evaluating its accident factor. Preventability will be determined according to the following standard: "If a driver, who exercises normal judgment and foresight could have foreseen the possibility of the accident that in fact

occurred, and avoided it by taking steps within his/her control which would not have risked causing another kind of mishap, the accident was preventable.”

## **When the audit is finished**

When you have finished the self-audit, take a serious look at any items for which you marked “No” for compliance. Develop a corrective action plan to address those items. It might mean developing a new policy, revising a policy, outsourcing certain work, or utilizing a new technology. Take a look at any comments you put down. Your comments may not require you to do something right away, but maybe you saw an area that could use beefing up. Put these kinds of things on a “To Do List” for future attention.

## **Summary**

The purpose of this self-audit is to check your compliance with FMCSR’s acute and critical regulations. However, be cognizant of the fact that the list of acute and critical regulations could be revised at any time. Therefore, it is important to set up a regular schedule for doing the self-audit so you pick up on any new acute or critical regulations that have been included. A good business practice would be to conduct the audit on an annual basis.

After you get into the habit of doing this self-audit, you could expand it to include more regulations than just those that are acute or critical. And finally, remember to review your policies and procedures at the same time you do the self-audit. The real DOT compliance review should go a lot smoother and be less stressful if you follow the self-audit program outlined above.

## **For More Information**

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