

New Entrant Safety Assurance Program



Carriers who are new to interstate commerce must apply for a USDOT Number. Its issuance is tentative and subject to an 18-month trial period during which the carrier will undergo a safety assurance review. The review—often referred to as an audit—is intended to ensure that the new carrier understands the regulations that apply and has properly implemented the required provisions. It's more an educational tool than an enforcement action. Carriers can easily pass the review by understanding what is required and take steps in advance to comply.

Safety assurance audits

For decades, motor carriers regulated by the Federal Motor Carrier Safety Regulations (FMCSR) have been subject to audits by DOT. The primary purpose of the audits—known as “*Compliance Reviews*”—is to ensure that those carriers are complying with the FMCSR. Fines can be imposed for failure to do so.

Then in 2003, Congress ordered DOT to conduct further audits aimed at new carriers, those just entering the trucking industry. These “*New Entrant*” audits also focus on compliance, but emphasize education—rather than penalties—to achieve that end. [\[385.309\]](#)

New entrants

The government identifies these new carriers through the USDOT Numbering system. Because carriers are required to register for a USDOT Number prior to beginning interstate trucking operations, DOT classifies every first-time applicant as a “new entrant.”

The new entrant will be subject to the new-entrant safety monitoring procedures for a period of 18 months. During this 18-month period:

(a) The new entrant's roadside safety performance will be closely monitored to ensure the new entrant has basic safety management controls that are operating effectively. A bad safety record during this time could trigger a safety audit or compliance review at any time.

(b) A safety audit will be conducted on the new entrant, once it has been in operation for enough time to have sufficient records to allow the agency to evaluate the adequacy of its basic safety management controls. This period will generally be at least 3 months.

(c) All records and documents required for the safety audit shall be made available for inspection upon request by an individual certified under Federal Motor Carrier Safety Administration (FMCSA) regulations to perform safety audits. In Arizona, Arizona Department of Transportation (ADOT) Enforcement and Compliance personnel fill that role.

Makeup of a new-entrant audit

The safety audit will consist of a review of the new entrant's safety management systems and a sample of required records to assess compliance with the FMCSRs, applicable Hazardous Materials Regulations (HMRs) and related record-keeping requirements. The areas for review include, but are not limited to, the following:

[\[385.311\]](#)

- (a) Driver qualification;
- (b) Driver duty status;
- (c) Vehicle maintenance;
- (d) Accident register; and
- (e) Controlled substances and alcohol use and testing requirements.

Following a new-entrant audit

Upon the completion of the safety audit, the auditor will review the findings with the new entrant.

If the new entrant is determined to have adequate basic safety management controls, the FMCSA will provide the new entrant written notice of that as soon as practicable, but not later than 45 days after the completion of the audit. The new entrant's safety performance will continue to be closely monitored for the remainder of the 18-month period.

If the new entrant's basic safety management controls are

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deemed inadequate, FMCSA it will provide the new entrant written notice of that, as soon as practicable, but not later than 45 days after the completion of the safety audit. The carrier's USDOT new entrant registration is subject to being revoked and its operations placed out-of-service unless it takes the actions specified in the notice to remedy its safety management practices:

- Within 45 days of the date of the notice if the new entrant transports passengers (in a commercial motor vehicle (CMV) designed or used to transport 16 or more passengers, including the driver), or transports hazardous materials requiring placarding; [\[385.319\(c\)\(1\)\]](#)
— or —
- Within 60 days of the date of the notice for all other new entrants. [\[385.319\(c\)\(2\)\]](#)

Getting Prepared

You might be anxious about an upcoming audit and that's natural. Keep in mind, however, that new entrant audits are intended to be educational and provide technical assistance. You'll most likely be given time afterward to correct shortcomings.

Some basic things you can do to prepare:

1. Get the rule book! It's one of the requirements.
2. Read it! At least familiarize yourself with it enough to know where to find things.
3. Get record-keeping aids—from suppliers or off the USDOT website. Forms and files are available.
4. Review your records and gather information.
5. Ask questions. Talk with the examiner before he or she arrives. Call ADOT and/or FMCSA.
6. Demonstrate an effort to comply with the rules!
7. If desperate, hire a consultant. They're out there.

For more information visit
www.fmcsa.dot.gov

Safety assurance standard

Under the "safety assurance" standard, the FMCSA has identified 16 regulations as essential elements of basic safety management controls necessary to operate in interstate commerce and makes a carrier's failure to comply with any one of the 16 regulations an automatic failure of the safety audit.

Those 16 items include:

1. Failure to have a drug & alcohol screening program (DASP) ‡
2. Using a driver a BAC of greater than 0.04
3. Using driver who refused a test
4. Use driver who had a positive drug test
5. Not having a random DASP ‡
6. Using a driver who does not hold a CDL ‡
7. Using a driver with an invalid CDL
8. Using a disqualified driver
9. Operating without proper insurance (freight)
10. Operating without proper insurance (passenger)
11. Using a disqualified driver
12. Using a driver who is physically disqualified
13. Failure to maintain a record of duty status*
14. Using an out-of-Service vehicle
15. Failure to correct an out-of-service violation
16. Not periodically inspecting vehicles as required*

* More than 50% of the time

‡ Applies only if driver is required to have a CDL

Generally, carriers can be given up to 60 days to correct these violations, typically without a fine being issued.

Additionally, if certain violations are discovered during a roadside inspection, the new entrant will be subject to expedited actions to correct these deficiencies.

The FMCSA also checks compliance with the Americans with Disabilities Act and certain household goods-related requirements in the new entrant safety audit if they apply to the new entrant's operation. Failure to comply with either of these requirements will not affect the outcome of the safety audit; however, the Agency will take appropriate actions to improve compliance.

These changes do not impose additional regulatory requirements on any new entrant carrier because these carriers are already required to comply with all such applicable rules.

For questions regarding the New Entrant Safety Assurance Process, please contact the

FMCSA Help Line at 800-832-1181
newentrant@dot.gov

AZ DOT New Entrant Program Office at 602-712-4388
<mailto:dsanders@azdot.gov>

Additional detailed informational guidance is available on-line at

<http://www.fmcsa.dot.gov/safety/new-entrant-safety-assurance-program> and

<http://www.fmcsa.dot.gov/safety/carrier-safety/motor-carriers-guide-improving-highway-safety>

Carrier Information for Safety Assurance Reviews

As applicable, have the following available for review at time of audit.

Insurance and economic documentation [\[Part 387\]](#)

- Form MCS-90 (or MCS-90B for passenger carriers) — insurance endorsement.
- Form BOC-3 (designation of process agents). *(If one cannot be located in your current insurance policy, contact your agent and have one forwarded to you. A copy will be taken of this form during the audit.)*

Controlled substances and alcohol testing administrative records [\[Part 382\]](#)

- If you are enrolled with a consortium, obtain from the consortium and have available for review the consortium's current list of drivers for your company.
- Your company's Controlled Substances and Alcohol Testing Policy.
- Quarterly/semi-annual summaries (from the laboratory) of *Controlled Substances and Alcohol Tests* for the prior year.
- Annual calendar year summary for the prior year.

Driver qualifications [\[Part 391\]](#)

- Driver qualification files for all drivers used within the past 12 months.
 - Application; accurately and completely filled out [\[391.21\]](#)
 - 10-year employment history for CDL drivers [\[391.21b\(11\)\]](#)
 - Previous employer history check; 3-year [\[391.21b\(10\)\]](#)
 - Previous employer drug/alcohol check; 2-year [\[391.23\(e\)\]](#)
 - Current medical card/certificate [\[391.43\]](#)
 - Copy of CDL or road test for non-CDL drivers [\[391.33\]](#), [\[391.31\]](#)
 - Annual driving record; 3-year history [\[391.23\(a\)\(1\)\]](#)
 - Annual review of driving record [\[391.25\]](#)
 - Annual certification of violations; completed by Driver [\[391.27\]](#)
- If your company operates with drivers assigned to various locations or functions, be prepared to identify each driver's status (i.e., terminal location; commercial zone vs. long haul; van vs. flat bed operations; leased vs. company, etc.).

Hours of service [\[Part 395\]](#)

- A driver-specific listing showing assigned units and account numbers for phone and/or fuel charges for all drivers, including leased operators, used within the past six months.
- Records of duty status for previous six months for all drivers, including leased operators.
- All supporting documents for previous six months of all drivers (i.e., trip envelopes, driver expense receipts, telephone records, fuel reports, dispatch logs, payroll records, bills of lading, etc.)

Equipment/Maintenance [\[Part 396\]](#)

- A list showing all equipment owned/leased/trip leased and operated in intrastate and interstate commerce for previous 12 months. Designate type of equipment — trucks, truck-tractors, trailers, HM cargo tank trucks, HM cargo tank trailers, and buses.
- If applicable, indicate terminal locations and/or date removed from service.
- Maintenance files and records for each unit, including leased units. Include evidence of annual inspections, repair receipts, maintenance schedules, qualifications of persons performing annual inspections and/or brake repair and adjustments.
- Copies of drivers' daily vehicle inspection reports for the last three months.

Hazardous materials records (if applicable)

- Current copy of the DOT/RSPA HM registration [\[107.608\]](#)
- HM training materials and records of such training [\[172.704\]](#)
- Copy of the most recent shipping document for each class of materials transported [\[172.201\]](#)

General [\[Part 390\]](#)

- Show availability of current copy of FMCSA Safety Regulations book or FMCSA.dot.gov online.
- Have USDOT# properly displayed on vehicles [\[390.21\]](#)

Accident records [\[Part 390\]](#)

- Records related to accidents for the past 365 days, including an accident register.
- Accident reports for recordable accidents (retain for 3 years.) Includes accidents involving:
 - Fatalities;
 - Injuries treated away from the scene;
 - Tow-away due to disabling damage.
- Your damage/loss run from your insurance company and/or any State accident reports maintained. Include all accidents resulting in fatality, injury, and/or tow — regardless of whether or not your driver or leased driver was found to have been "at fault."

Also, visit the internet at:

<http://www.fmcsa.dot.gov/safety/new-entrant-safety-assurance-program>

Driver Qualification File Checklist

As applicable, have the following records for each driver available at time of audit .

Driver's application for employment

[391.21] A person will not be allowed to drive a commercial motor vehicle unless he/she has completed and signed an application for employment.

Inquiry to previous employers—3 years

[391.23(A) (2) & (C)] An investigation of the driver's employment record during the preceding three years. This investigation must be made within 30 days of the date employment begins.

Inquiry to state agencies—3 years

[391.23(A)(1) & (B)] The driver's driving record for the preceding three years.

Inquiry to state agencies—annual

[391.25(A) & (C)] Request driving record annually for each driver.

Annual review of driving record

[391.25] At least once every 12 months, a motor carrier must review the driving record of each driver. A note stating the results of this review shall be included in the Driver's Qualification File.

Annual driver's certification of violations

[391.27] At least once every 12 months, a motor carrier must require each driver that it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances during the previous 12 months. Note: Drivers who have provided information required by [383.31] need not repeat that information in this annual list of violations.

Driver's road test certification or equivalent

[391.31] A person must not be allowed to drive a commercial motor vehicle until he/she has successfully completed a road test and has been issued a certificate, or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to [391.33].

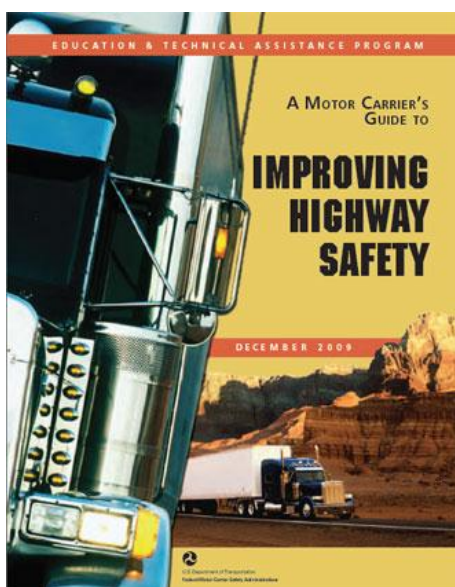
Medical examiner's certificate

[391.43] The driver must pass a medical examination conducted by a licensed health care professional. A driver must be issued a Medical Examiner's Certificate, which must be carried at all times. This certificate must be renewed every two years unless more frequent renewals are required according to regulatory standards.

Multiple-employer drivers

[391.63] If a motor carrier employs a person as a driver on any basis, the motor carrier must have on file the driver's name, social security number, identification number, type, issuing state of his/her motor vehicle operator's license, medical certificate, road test and certificate, and controlled substance test results, even if that driver's primary employment is with another carrier.

Drivers furnished by other motor carriers -- A motor carrier using a driver regularly employed by another motor carrier must have on file a signed written certificate that includes the driver's name and signature, certification of the driver's full qualifications, and expiration date of the driver's medical examiner's certificate. Compliance with drug and alcohol program requirements is also required.



Detail on these regulations – including necessary forms – is available in the manual titled “A Motor Carrier’s Guide to Improving Highway Safety” on the USDOT website at:

<http://www.fmcsa.dot.gov/safety/carrier-safety/motor-carriers-guide-improving-highway-safety>