

Mastering DOT Compliance

A Guide to Navigating FMCSA Regulations
and Ensuring Cross-border Safety



This comprehensive guide is designed to equip Canadian employers, safety officers, and compliance managers with the knowledge and tools to ensure compliance with DOT regulations.

In this guide you will learn about:

- Enforcement and testing requirements
- Practical steps for staying compliant
- Tips on handling audits



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Your Route to DOT Compliance

For Canadian companies operating across the border, navigating U.S. Department of Transportation (DOT) regulations can be challenging, but there are no acceptable detours. Compliance is mandatory.

Enforced by the Federal Motor Carrier Safety Administration (FMCSA), the regulations require strict compliance on the part of commercial drivers and their employers. They include areas such as drug and alcohol testing, rules on vehicle safety, driver qualifications, hours of service, and transportation of hazardous materials. Non-compliance can lead to severe consequences, including fines, loss of operating privileges, and damage to a company's reputation.



The High Cost of DOT Violations



The consequences of non-compliance are steep, including significant fines, potential operational shutdowns, and damage to your company's reputation. Such disruptions can hurt your company's ability to operate efficiently, leading to long-term effects on business continuity and growth.



Financial Penalties

Non-compliance can lead to steep fines from the FMCSA. For instance, in 2023, companies faced high fines for violations related to drug and alcohol testing programs. These fines can accumulate quickly if multiple infractions are found.

Up to \$15,419 in fines

for violations related to drug and alcohol testing programs in 2023



Operational Interruptions

Serious safety violations can put carriers at risk of being placed out of service. An out of service order halts all operations, resulting in revenue losses, missed deliveries, and potentially broken contracts with clients.

1,717 carriers placed out of service by the FMCSA

due to serious safety violations in fiscal year 2022



Reputation Damage

Non-compliant carriers often face public scrutiny, which can severely impact their reputation. Losing client trust can translate to reduced business opportunities. Additionally, safety violations can lead to removal from preferred vendor lists or contracts with major companies that prioritize safety in their supply chains.



Safety Risks

Drivers under the influence of drugs or alcohol are significantly more likely to be involved in accidents. Non-compliance with drug and alcohol testing regulations only heightens the risk of such accidents, which can lead to legal settlements, injury, or even loss of life.

28% of all traffic-related deaths

are a consequence of alcohol-impaired driving in the U.S In 2019



Turnover and Employee Morale

Companies with poor safety records tend to experience higher turnover rates among drivers. In fact, research from the American Transportation Research Institute (ATRI) found that turnover rates can be 50% higher in companies with safety issues, leading to increased recruitment and training costs.

50% higher turnover rates

in companies with safety issues

Steer Clear of these Misunderstandings



Myth

VS

Fact

DOT Compliance applies only to U.S. based companies

Any commercial motor vehicle operating in the U.S., regardless of the company's home country, must comply with FMCSA regulations. Canadian companies crossing into the U.S. are subject to the same rules as U.S. based companies.

Compliance is only required during inspections or audits

Compliance is a 24/7 responsibility. Any commercial motor vehicle operating in the U.S., regardless of the company's home country, must comply with FMCSA regulations at all times.

Compliance is too expensive and time-consuming

It is true that compliance requires an investment in time and resources. Yet, the cost of non-compliance is far higher. Fines, operational delays, and potential lawsuits can severely impact your bottom line and endanger your business.

Stay Ahead of the Curve

Compliance does not end with periodic audits or inspections—it is a continuous obligation essential to daily business functions. The DOT regulatory environment is constantly evolving, requiring companies to stay vigilant and adaptable. Staying ahead of regulatory changes is crucial not only for meeting legal obligations, but also for ensuring the safety of all operational aspects, from drivers to cargo to road users.

Integrating compliance into your organizational culture helps to build positive attitudes toward safety and regulations. Companies that embed safety into their core values typically see improved safety outcomes, enhanced readiness for audits, and a stronger industry reputation. This proactive approach helps build trust with clients and regulatory bodies alike, positioning your company as a reliable and safety-focused leader.



Map out DOT Drug and Alcohol Testing

Who is Subject to Testing?

Testing regulations are set by the Federal Motor Carrier Safety Administration (FMCSA) and apply to safety-sensitive employees. These include holders of a Commercial Driver's License operating Commercial Motor Vehicles.

FMCSA drug and alcohol testing rules strictly prohibit the use of controlled substances and alcohol while performing any safety-sensitive functions. Non-compliance can result in immediate removal from safety-sensitive duties, fines, and significant legal consequences.

Employers are required to train all safety-sensitive employees regarding drug and alcohol requirements. This includes providing information on when and how tests are conducted, understanding responsibilities, and recognizing the importance of maintaining safety standards to protect both the driver and the public.

Testing Requirements and Services

FMCSA rules state that someone who performs safety-sensitive duties must never report for duty or remain on duty with an alcohol concentration of 0.04 or higher, or while using any controlled substances. Exceptions are made only when the substance is prescribed by a licensed medical practitioner who confirms it will not interfere with the driver's ability to safely perform their job.

Drug Testing

Drug testing is conducted by collecting urine or oral fluid samples which are analyzed in a Health and Human Services (HHS)-certified laboratory. Technicians must ensure the privacy of the individual during the collection process while maintaining the integrity and authenticity of the sample.

Alcohol Testing

Alcohol testing is performed using breath or saliva devices that are approved by the National Highway Traffic Safety Administration (NHTSA). If the initial test shows an alcohol concentration of 0.02 or higher, a confirmation test must be completed within 15-30 minutes to verify the result.

6 Situations When Testing is Required

All employees in safety-sensitive positions will face pre-employment and random testing. Added to these are tests required in cases of suspicious behaviour, an accident or previous violations:



1 Pre-Employment Testing

All applicants for safety-sensitive positions must undergo drug testing before employment begins. Employers are prohibited from allowing applicants who refuse or fail the test to begin safety-sensitive duties.

4 Post-Accident Testing

Post-accident testing is required if there is a fatality, a driver receives a citation with a tow, or a citation with ambulance transport. Drug testing must be done within 32 hours, and alcohol testing within 8 hours of the incident.

2 Random Testing

Employers are required to conduct random drug and alcohol testing throughout the year. These tests must be unannounced and administered randomly across the workforce to ensure that each employee has an equal chance of being selected.

5 Return-to-Duty Testing

If a driver violates drug and alcohol regulations, they must undergo a Substance Abuse Professional (SAP) evaluation and return-to-duty testing. This ensures they are drug and alcohol free before they resume safety-sensitive duties.

3 Reasonable Suspicion Testing

When a supervisor observes behaviour or appearance that suggests drug or alcohol use—such as slurred speech, erratic behaviour, or noticeable odours—reasonable suspicion testing can be conducted.

6 Follow-Up Testing

After successfully returning to duty, the driver must undergo follow-up testing as mandated by the SAP. A minimum of six follow-up tests is required within the first 12 months after returning to safety-sensitive work.

Testing is a Confidential Matter with Strict Procedures

When conducting drug and alcohol testing, employers are required to follow the protocols outlined in DOT's 49 CFR Part 40. This includes ensuring the privacy of employees during sample collection, maintaining the integrity of specimens, and adhering to split-specimen procedures. The use of Substance Abuse and Mental Health Services Administration (SAMHSA)-certified laboratories and the involvement of Medical Review Officers (MROs) to review all test results are also mandatory, ensuring accuracy and fairness in testing practices.

Employers are responsible for safeguarding the confidentiality of drug and alcohol testing reports. Results must be securely stored and accessible only to authorized personnel, following the strict confidentiality provisions outlined in DOT regulations. Records must be retained for five years in cases of positive results and for one year in cases of negative or cancelled tests.



A Roadmap to Avoid Costly Errors

Many Canadian transportation companies make mistakes in their approach to safety and compliance, often due to a lack of knowledge or overly lenient practices. These errors can have severe consequences, both legally and operationally.

By addressing these common mistakes, companies can enhance their compliance efforts, reduce legal risks, and promote a safer, more efficient workplace. Here are examples that may help you avoid penalties and reduce safety risks.

Permitting Safety-sensitive Duties Before Receiving Negative Test Results

Issue: Some companies allow new hires or returning employees to begin safety-sensitive duties before receiving confirmed negative results from pre-employment or return-to-duty tests.

Implications: This practice violates DOT regulations, exposes the company to legal liabilities, and significantly heightens safety risks.

Failure to Immediately Remove Employees Who Test Positive

Issue: Allowing employees who test positive or refuse to undergo testing to continue performing safety-sensitive functions.

Implications: This non-compliance can result in hefty fines, legal action, and an increased likelihood of accidents caused by impaired drivers.

Inaccurate or Incomplete Record-keeping

Issue: Failing to maintain confidential, accurate and complete records of testing activities, test results, and employee acknowledgments of policies.

Implications: Poor record-keeping complicates audits, undermines verification efforts, and can lead to fines and other penalties.

Non-compliance with Random Testing Requirements

Issue: Failing to meet the FMCSA's mandated random testing rates for drugs and alcohol among safety-sensitive employees.

Implications: Non-compliance with random testing requirements can result in substantial fines and may jeopardize a company's operating authority.

Neglecting Return-to-Duty and Follow-Up Testing Protocols

Issue: Improperly managing employees who have violated drug and alcohol policies by missing mandatory evaluations and follow-up testing.

Implications: This failure exposes the company to severe penalties and allows for continued risk from employees who may still be abusing substances.

Inadequate Employee Education and Training

Issue: Failing to provide employees with the required education on the drug and alcohol policies, the effects of substance misuse, and the consequences of violations.

Implications: Insufficient training leads to uninformed employees who are more likely to violate regulations, increasing the company's safety and compliance risks.

Lack of Supervisor Training for Reasonable Suspicion Testing

Issue: Failing to train supervisors to recognize the signs and symptoms of drug and alcohol use for reasonable suspicion testing.

Implications: Having a trained supervisor is a compliance requirement. Untrained supervisors may overlook signs of employee impairment, leading to increased safety risks and regulatory violations.

A Compliance Checklist to Help Chart Your Course

By following these comprehensive steps, Canadian transportation companies can ensure their operations meet the strict standards of DOT and FMCSA regulations.

A

Getting Started: Initial Steps for DOT-regulated Companies

Policy Development

The first step for compliance with 49 CFR Part 382 is to develop a substance use and testing policy aligned with U.S. DOT and Canadian regulations. It should prohibit drug and alcohol use during safety-sensitive functions, define prohibited behaviors, and outline disciplinary actions for violations. Responsibilities for employees and supervisors must be included. The policy should be accessible to all employees, with signed acknowledgment forms to document understanding and consent.

Supervisor Training

Supervisors are key players in ensuring compliance, and it is mandatory under 49 CFR Part 382.603 that they receive specific training. This training focuses on recognizing signs of alcohol misuse and drug use among employees, as well as understanding DOT and FMCSA regulations relevant to cross-border operations.

Designating a Third-Party Administrator (TPA)

Choosing a qualified Third-Party Administrator (TPA) to handle FMCSA Clearinghouse compliance is vital. Under 49 CFR Part 382.705, TPAs are responsible for managing records, reporting test results, and safeguarding sensitive information. Employers should establish clear communication protocols with their chosen TPA to ensure seamless compliance management, including swift responses to any issues that arise.

B

Before New Hires Get Behind the Wheel

Pre-Employment Testing

Before employment, all safety-sensitive employees must undergo drug and alcohol screenings as required by 49 CFR Part 382.301. These screenings ensure that new hires are compliant with DOT regulations.

FMCSA Clearinghouse Queries

All employers must perform both initial and annual queries in the FMCSA Clearinghouse to verify driver qualifications and compliance. This process requires obtaining proper consent from drivers and managing query responses. Documentation is key: maintaining accurate records of all queries and responses ensures regulatory compliance and smooth audits in the future.

C

Smooth Running for Ongoing Compliance

Random Testing Programs

A robust, compliant random testing program must be in place per 49 CFR Part 382.305. This program should ensure randomness in the selection process to prevent discrimination while testing employees at the required frequencies. Detailed records, including dates, tested individuals, and results, must be maintained to demonstrate compliance with FMCSA requirements. Proper management of this program is crucial for ensuring both fairness and adherence to regulations.

Annual Compliance Review

To maintain continuous compliance, companies must perform annual reviews of their practices in line with DOT and FMCSA regulations. This review should include checks on training records, policy updates, and adherence to reporting requirements. Regular reviews provide the opportunity to identify areas for improvement and implement necessary updates to ensure that all compliance protocols remain up to date.

D

Getting Back on Track When Incidents Occur

Post-Accident Testing

In the event of an accident, companies must follow detailed post-accident protocols as specified in 49 CFR Part 382.303. These steps include determining when testing is required based on the accident's severity and nature. Supervisors and safety officers must handle the documentation of the incident, administer tests, and report results within the required timelines. Clear guidelines for managing the scene and ensuring compliance with DOT regulations are critical to avoid penalties.

Reasonable Suspicion Testing

When drug or alcohol use is suspected, supervisors must follow a strict, step-by-step procedure outlined in 49 CFR Part 382.307. This includes properly documenting observations, initiating testing, and managing the process to ensure compliance with legal and regulatory requirements.

Return-to-Duty Testing

When employees violate drug and alcohol regulations, they must go through the return-to-duty protocol as stipulated in 49 CFR Part 40, Subpart O. This process involves specific testing and documentation steps before the employee can resume safety-sensitive duties.

How to Be Audit-ready: Tips on Getting There

If your trucks cross the border, you can be sure that the road ahead includes a DOT/FMCSA audit. However, you won't know its timing, so you need to be prepared in advance. U.S. law requires that your records demonstrate compliance with FMCSA's 49 CFR Part 382 and DOT's 49 CFR Part 40, which govern all aspects of drug and alcohol testing protocols.



1

Implement a Structured Internal Review Program

Start by developing a detailed compliance checklist that includes all the requirements under 49 CFR Parts 382 and 40. This checklist should cover every facet of the drug and alcohol testing program, ensuring no aspect is overlooked during internal audits. Checklist in hand, a step-by-step review will help you spot any gaps and address them before they become compliance issues.

2

Collect and Review Compliance Documents

Key documents that must be readily available during an audit include records of all drug and alcohol tests, training logs for supervisors copies of distributed policies, and records of any violations and the corrective actions taken.

3

Assign Dedicated Compliance Officers

Designate capable individuals or a team to take responsibility for compliance efforts, ensuring they stay informed on regulatory updates and industry best practices.

4

Implement Corrective Action

When deficiencies are identified, swift and effective corrective action is essential. This may involve retraining employees on compliance protocols, revising policies to clarify procedures, or tightening internal oversight mechanisms. Documenting all corrective actions is critical for future audits, as it demonstrates a company's commitment to compliance and improvement.

5

Test Your Success with Internal Audits

Using your compliance checklist and past audit results, conduct quarterly or semi-annual audits. This proactive measure will identify potential compliance issues before they escalate, providing opportunities for timely intervention, and familiarize staff with the audit process.

6

Document Your Steps

Maintain detailed records of compliance-related activities, including training, policy updates, audit findings, and corrective actions. This documentation not only proves due diligence during actual audits but also demonstrates continuous improvement in the company's compliance efforts.

Stay Ahead of the Curve With CannAmm

Navigating FMCSA regulations is essential for both new entrants and established companies in the transportation industry. CannAmm strives to support Canadian transportation businesses in their compliance efforts, particularly in the area of DOT drug and alcohol testing.

By adopting these effective strategies, companies can enhance their audit processes, promote continuous improvement, and work toward long-term operational success. With our ongoing support, clients can better manage compliance and reduce risks, helping to create a foundation for sustainable growth.

To learn more about how CannAmm can help build your long-term cross-border success, contact us today:

 **800.440.0023**

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