

Legislation, Best Practices & Everything in Between

Common Terms in the Regulation of Alberta's Road Transportation Industry

Background

Trucking and busing companies in Alberta face numerous regulations that impact their day-to-day operations. In addition to the rules that apply to businesses in general, there are many safety-related regulations that must be followed. In addition, there are voluntary standards, policies, and best practices to consider.

Instead of diving into any specific standard or legislated requirement, this bulletin will focus on the differences between legislation, standards, policies, procedures, and best practices. An understanding of these terms can help safety professionals and business leaders better respond to the demands of regulators while making safety and compliance decisions that are best for their organisation's specific needs.



Different Rules, Different Applications

In safety and compliance, there are a lot of things you must do, should do, could do, and might like to do. The trick is to confidently do all that is mandatory, be able to demonstrate due diligence, and then evaluate new information critically to maximize potential benefits to your organisation.

This is easier said than done and is made considerably more difficult without an understanding of the relationships between legislation, standards, policies, procedures, and best practices. The following subsections will provide short explanations of each of these terms.

Legislation

Simply put, legislation is what you must do. If something is a legislated requirement that applies to your business, your business must meet that requirement. There is nothing voluntary about the law.

Legislation comes from government: Federal, Provincial, or municipal. It is not always easy to determine what legislation to follow when there appears to be competing documents. For example, Provincially regulated carriers must comply with Alberta's "Occupational Health and Safety Act" [1]; Federally regulated carriers must comply with Part II of the "Canada Labour Code" [2]. Carriers must determine their regulatory status in order to comply with the appropriate rules; AMTA can be contacted for help with this issue.

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Legislation Continued...

Some legislation only applies to carriers when carriers operate in a particular area. This is true of many municipal bylaws which only apply to the vehicles a carrier has operating in a particular area. Other times, legislation applies to carrier operations even when the carrier is not actively conducting business in that jurisdiction but wants to retain the option of doing so. An example of this are the rules related to drug and alcohol testing in the USA. Canadian carriers that operate commercial vehicles in the USA must comply with US rules on drug and alcohol testing; there will be situations, like during a pre-employment drug test, where a Canadian carrier will have to conduct a drug test in Canada to comply with an American law [3].

In a compliance audit that is examining legislation (such as Alberta's National Safety Code audits [4]), an auditor will use a standardized audit tool to examine company records to determine how well the carrier was complying with the applicable legislation. In such an audit, any deficiencies discovered must be corrected since they represent areas where the carrier is not meeting their legal minimums; these corrections are normally communicated to the carrier in the form of an action plan. A failure to comply with the action plan will lead to consequences including measures such as financial penalties, increased government monitoring, and possible loss of the ability to conduct operations.

Legislation is not only enforced by audits. In the commercial transportation world, commercial vehicle enforcement officers conduct roadside inspections of drivers, documents, and vehicles to assess compliance with safety laws. Penalties from non-compliance discovered by these officers can range from verbal and written warnings to stiffer measures like immediate licence plate seizures, fines, and arrests. In Alberta, these officers are members of the Sheriff Highway Patrol (although they were previously under the direction of their own organisation, Commercial Vehicle Enforcement) [5].

Standards

Standards are documents that are written to provide guidance and/or act as a rule for the performance of a task, product, or system. They are developed through the collaboration of subject matter experts (SMEs) and are typically administered and published by an association. An example of a standards association is the CSA Group [6].

Standards are not, by themselves, laws. They may look like laws and read like laws, but unless they are adopted through reference by a government, they are not legislation. However, because standards are meant to provide direction to achieve a positive outcome, governments may either use standards as guides to draft their legislation in certain areas or adopt them directly through reference. If adopted through reference, the standards lose all their voluntary aspects and become written law.

Standards may become mandatory to a carrier if the carrier wishes to attain certification through an external organisation.

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For example, if a carrier wishes to obtain their Certificate of Recognition (COR) for their safety program and receive Workers' Compensation Board (WCB) rebates, they must comply with the rules set forth by the Certifying Partner of their COR; in such an example, the rules for COR must be followed as if they were law if the carrier wishes to become and remain a COR holder [7].

An example of this is Alberta's use of National Safety Code Standard 10 as the law for cargo securement on commercial vehicles [8]; this will be explored in greater detail below.

Policies

Policies are created by a carrier and apply to the operations under the carrier's control. They are the rules the carrier declares they will follow; in other words, policies are what an organisation says it is committed to doing.

Some policies are required by law. For carriers in Alberta, the "Commercial Vehicle Certificate and Insurance Regulation" AR 314/2002 states that carriers must "establish, maintain and follow a written safety program [...] including [...] policies that drivers are expected to comply with the law, and policy and procedures related to driver training, responsibilities, conduct and discipline" [9].

Carriers have tremendous leeway to write policies their own way; however, carriers that do not follow their own policies introduce risk into their organization.

Procedures

A procedure is a series of steps taken to achieve a particular outcome. In other words, a procedure is a step-by-step method to complete a task.

The difference between procedures and policies can be explained as follows: a policy will state that a carrier will do a task when necessary or at a certain frequency, and a written procedure will provide workers with specific instructions on how to perform the task safely and appropriately. Written procedures are valuable to workers; some are even required by law for certain tasks like driver training [9].

Best Practices

Best practices – also known as industry best practices (IBPs) – are generally-accepted ways of doing things that are superior to other methods. Typically, a best practice is the best way an industry goes about completing a task. Laws and standards are often not prescriptive enough to tell a carrier how to go about complying with them; as individuals and organisations try different ways to meet the demands of a law or standard, best practices will emerge that prove to be the best way to go about achieving compliance.

Best practices do not have to relate to legislation or standards, either. As an example, a best practice could be the best type of sales management software a segment of the industry is using; carriers wishing to improve their sales management systems could reach out to other carriers or read about their industry to see what current best practices are in use for this task.

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Case Study - National Safety Code and Cargo Securement in Alberta

Commercial vehicle cargo securement laws in Alberta provide an example of the combination of standards and laws. In Canada, the Canadian Council of Motor Carrier Administrators (CCMTA) publishes and maintains sixteen standards known as the National Safety Code (NSC) Standards; these Standards are what the provinces use to create their safety legislation for regulating commercial vehicle operations [10].

NSC Standards are not, by themselves, the law. However, when it comes to cargo securement, Alberta has adopted NSC Standard 10 (the Standard that describes minimum performance standards for cargo securement systems) as the document with which carriers must comply for securing cargo. Under Section 17(3) of "Alberta's Commercial Vehicle Safety Regulation" AR 121/2009, it is stated that a "carrier or an owner of a commercial vehicle shall not permit a driver to operate, and a driver shall not operate, a commercial vehicle where the cargo transported in or on the commercial vehicle is not contained, immobilized or secured in accordance with NSC Standard 10" [8].

Through the above phrasing in Alberta's legislation, NSC Standard 10 becomes law, and if carriers want to know how to legally secure their cargo, they must access NSC Standard 10 as published by the CCMTA and treat this document like law [10, 11]. Since CCMTA may periodically update the NSC Standards, the most recent edition of NSC 10 must be used.

Since the Government of Alberta is a regulator, it can modify cargo securement legislation to serve the people of Alberta. This privilege is exercised through Section 17(5) of AR 121/2009 where some cargo securement exemptions are provided to vehicles transporting hay [8]. So, in this example, we see how a standard becomes law but how the law is also used to modify the standard.

Further Information

The information presented in this bulletin is important for safety professionals and business owners/leaders alike. AMTA offers a course specifically on this material called "Legislation, Standards, and Policy" [12]. Due to the importance in understanding this material, this course is one of the mandatory courses for the Certified Transportation Safety Professional (CTSP) and Coordinator (CTSC) designations [13].

Need Help? Contact AMTA

Beyond taking our formal courses, AMTA can provide carriers with one-on-one guidance on the information presented in this bulletin. If you have any questions, please contact AMTA and our experienced staff will be happy to help. For your safety and compliance questions, please email Workplace Support Services (WSS) directly at wss@amta.ca.

For more updates like this on a variety of topics related to the trucking industry, please [sign up for our eNews](#).

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References

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