

USDOT Operations as a Canadian Carrier:

The Main Additional Requirements for USDOT Compliance

Background

Canadian carriers operating in the US have the at-times challenging job of maintaining compliance with both Canadian and American regulations. While the spirit of the regulations in both countries is the same – everyone wants safe carriers and roads – the details are not. To ensure compliance, Canadian carriers need to expand their safety programs to include all relevant American requirements.

The purpose of this bulletin is to provide a high-level primer on the most common safety and compliance requirements Canadian carriers must meet when operating in the US. It will not detail all the specifics but, instead, is intended to direct new US-operating carriers to the right sources of information and give existing carriers an opportunity to see how confident they are in with their current systems.

OHS management systems (OHSMSs) are meant to provide a company with a reliable and consistent method for preventing injuries. An OHSMS is composed of multiple components like incident investigations, facility inspections, and staff training; each of these can be continually improved upon to better address the company's unique OHS challenges.

The Regulators

This section will present two significant US regulatory organisations, the USDOT and FMCSA.

USDOT

The [US Department of Transportation](#) (USDOT) is a branch of the America federal government that oversees all matters related to civilian transportation in the US [1]. For Alberta-based carriers, the Canadian Council of Motor Transport Administrators (CCMTA), Transport Canada, and Alberta Transportation are all organisations that, together, form the closest Canadian counterpart to the USDOT.

FMCSA

The [Federal Motor Carrier Safety Administration](#) (FMCSA) is an agency that exists within the USDOT. It regulates and monitors interstate motor carriers – both passenger and cargo – for the purpose of reducing injuries and fatalities from collisions involving commercial carriers. Most of a carrier's safety program and compliance requirements are direct FMCSA requirements. [2]

In Alberta, Carrier & Vehicle Safety (a department within Alberta Transportation) is the closest Canadian counterpart to the FMCSA.



States versus Federal

US commercial carrier operations are regulated similarly to Canada in that there are both federal and state-level regulations to consider. However, the US does have stronger federal oversight, so agencies like the FMCSA have no direct, single, federal counterpart in Canada. Provinces in Canada regulate commercial transportation within their borders, and while there are federal National Safety Code (NSC) standards administered by the CCMTA, it is up to the provinces to turn these standards into legislation and manage carrier compliance.

Individual states do have similar control to Canadian provinces over their internal management of carriers. While Canadian carriers can go directly to the FMCSA for most of their questions, questions about weights and dimensions regulations are normally best directed to the individual state in which the carrier plans on operating.

Main US Compliance Areas

Canadian carriers must maintain compliance with all Canadian requirements. While an NSC safety program for a federally regulated Alberta-based carrier will be similar to an American one, the following sections will present the main areas of additional work required to meet USDOT requirements.

Registration, Operating Authorities, and Insurance

All commercial vehicles used by a carrier must be registered. In both Canada and the US, vehicle registration is the responsibility of the province or state. As motor carriers began operating in multiple jurisdictions, though, this created the challenge of ensuring registration in one province or state was recognised in others.

One of the first things a Canadian carrier must do to operate in the US is to obtain a [USDOT number](#). A USDOT number demonstrates the carrier has registered their operations with the FMCSA and carriers with a USDOT number must comply with the US Federal Motor Carrier Safety Regulations (FMCSRs) [3]. Additional information about operating authority, registration, and insurance specific to different types of carriers can be found on the [FMCSA's website](#) [4].

To assist interjurisdictional commercial transportation, the [International Registration Plan](#) (IRP) was established. IRP registration allows a carrier to register only in a single province or state of their choosing (their base jurisdiction) and then have their plates and registration recognised in all participating IRP jurisdictions [5]. The cost for IRP varies based upon the registration fees in all IRP jurisdictions and the amount of distance the carrier travels in each. Carriers go through their base jurisdiction to enroll in the IRP, meaning they do not have to register separately in all jurisdictions in which they may operate; [Alberta Prorate Services](#) is the branch of the Government of Alberta that offers this service [6].

US-operating carriers will also need to obtain registration with the [Unified Carrier Registration](#) (UCR) Plan. UCR requires carriers to pay annual fees that vary depending on their fleet size, and these fees are used specifically to fund state carrier registration and highway safety programs. [7]

The FMCSA tracks information related to carrier fleet size and vehicle miles driven in the US. This information is used for a variety of purposes, including tracking collision rates and predicting future risk.

For already-established carriers with a USDOT number (new carriers must go through the Unified Registration System), the [MCS-150](#) form is used to update this information with the FMCSA [8]. The FMCSA requires this carrier information to be updated at least every two years in accordance with a [specific schedule](#); this avoids the deactivation of the carrier's USDOT number and, if desired, may be done more frequently [9].

Carriers will need to have proper insurance coverage for their US operations. Before starting the process of obtaining US operating authority, a Canadian carrier should discuss their intentions to operate in the US with their insurance provider. Insurance providers will need to take this into account in their policy and adding US operations to a Canadian policy can dramatically change premiums.

In addition to the insurance documentation a Canadian carrier is required to provide in all of their vehicles, a carrier must obtain an MCS-90 form from the FMCSA (or MCS-90B for bus operators). The purpose of an MCS-90 is to prove the carrier can pay minimum damages resulting from collisions. It is a requirement and, for many carriers, is met by purchasing an MCS-90 option through their insurance provider. [10]

Carriers must also pay fuel tax in every province and state in which they operate based upon the distance driven in each. To simplify these calculations and avoid problems, carriers can register for an [International Fuel Tax Agreement](#) (IFTA) membership through their base jurisdiction and pay fuel tax quarterly in accordance with their real-time distance reporting. This is a voluntary program but is strongly recommended giving the complexities involved in self-paying fuel tax in multiple jurisdictions.[11]

Weights and Dimensions

Carriers operating in the US must maintain compliance with the weights and dimensions regulations in each state in which they operate, just like what they must do for each province. The US interstate system under the authority of the FMCSA does provide a high degree of standardization for five-axle tractor-trailers operating at or less than 80,000lbs gross vehicle weight (GVW). However, American weights are generally more restrictive than in Canada, so common Canadian combinations are often too heavy for the US. Individual permits for length, width, height, and weight will be required at times for combinations that are legal without permits in Canada.

The FMCSA does consolidate individual state and province resources on [their website](#). But, the individual province or state is the final authority on these matters, so carriers must find the applicable rules for each of the states through which they plan on travelling. [12]

Drug and Alcohol Testing and the Clearinghouse

A major difference between Canada and the US are regulations concerning drug and alcohol use. In the US, the USDOT requires motor carriers operating vehicles of certain capacities (i.e. above gross combined vehicle weights of 26,001 or more lbs, designed to carry 16 or more passengers including the driver, and any size where hazardous materials at placarded quantities are transported) to implement a [drug and alcohol testing program](#). The rules around testing, staff training, and managing data are complicated – even more so for Canadian carriers who must balance this program with Canadian legislation – and it is recommended carriers thoroughly understand their obligations and consider using a third-party service provider. [13]

Carriers must also register in the FMCSA's [Drug & Alcohol Clearinghouse](#) (DACH). Generally, a third-party service provider can manage much of this aspect of a drug and alcohol testing program, but carriers will still need to be involved and must understand the requirements needing to be met before a driver or anyone else in a safety sensitive position is able to perform US duties. [14]

Driver and Vehicle Requirements

Canadian carriers should already be familiar with driver files since they must maintain them up to NSC standards. Driver files are also a US requirement (called [Driver Qualification, or DQ, files](#)) and are similar in spirit to their Canadian counterparts; however, there is additional information Canadian carriers will be required to maintain for their US-authorized drivers. The FMCSA is the authority on this subject. [15]

The American requirements for vehicle inspections and maintenance is similar in spirit to Canadian requirements, but there are differences such as the requirement for drivers to complete a daily post-trip written inspection in addition to their pre-trip inspection (a best practice for Canadian carriers, anyways). Specific details on inspection and record keeping requirements can be found through the FMCSA broadly in [section 396 of the FMCSRs](#). [16]

Driver Medical Fitness and Age

Like in Canada, the US requires commercial drivers to undergo regular medicals to ensure they are fit for duty. However, there are certain restrictions the US has that Canada does not, meaning a commercial driver can be legal in Canada with some medical conditions that would prohibit them from driving commercially in the US. [For drivers with an Alberta license](#), the code "W" will appear on a licence if a driver has a commercial medical that allows them to drive in Canada but prohibits them from driving in the US; carriers will need to make sure any driver they plan on sending to the US does not have this code on their licence. [17]

Interstate drivers in the US must also be at [least 21 years of age](#). Commercial drivers from Canada under this age will have to wait until they are 21 before they will be allowed to enter the US in the capacity of a commercial driver. [18]

Safety Performance History Check

Carriers must investigate the safety performance history of any driver they authorize for US operations. This is part of the hiring process and involves formally contacting previous DOT-regulated employers from the past three years of any new driver. There is also a previous employer check required under the drug and alcohol testing regulations; these are separate inquiries, and the rules for the safety performance history check can be found in section 391.23 of the FMCSRs. [19]

Hours of Service

Like Canada, the US uses hours of service (HOS) regulations to control for the hazards related to commercial driver fatigue and requires the use of electronic logging devices (ELDs). However, the [US rules are significantly different](#) than those in Canada and will require special training so drivers and operations staff understand how to plan and operate. The FMCSA is the authority on this topic. [20]

Optional but Recommended

Canadian carriers planning to or already operating in the US can take advantage of optional safety and security programs to improve their safety performance and broaden their ability to haul certain types of freight. Some of these programs will be presented below.

PSP Reports

The FMCSA offers the optional [Pre-employment Screening Program](#) (PSP) as a way for carriers to access the driving records for prospective drivers before extending a hiring offer; it can only be requested by a carrier before the driver is hired (i.e. it cannot be requested on an ongoing basis like a drivers abstract) and requires the written authorisation of the driver. A PSP report provides the past five years of crash data and past three years of roadside inspection data for individual drivers with commercial drivers' licences; this is from US inspections and crashes only. Canadian drivers will appear in the system. [21]

Even though Canadian carriers are required to obtain a commercial drivers abstract for all new hires, these do not always contain information from the US due to data transfer issues. So, the PSP report acts as a supplement to a Canadian abstract and will contain information on collisions that a carrier would not be able to access through any Canadian agency. In addition, drivers themselves may request their own PSP reports at any time.

Border Security Plan

Canadian carriers with US operations are, by default, cross-border carriers. This means there are additional non-USDOT requirements they and their drivers will need to meet. Carriers should contact [Canada Border Services Agency](#) (CBSA; [22]) and US [Customs and Border Protection](#) (CBP; [23]), along with a customs broker, to ensure they are meeting all cross-border requirements specific to the work they do.

Both CBSA and CBP are concerned with security and compliance. Carriers can, if they meet the requirements, apply for [Partners in Protection](#) (PIP) certification through CBSA [24] and [Customs Trade Partnership Against Terrorism](#) (CTPAT) certification through CBP [25] to show they have implemented systems to enhance their level of security. PIP and CTPAT are useful tools in improving security and bidding on loads; some shippers will only ship freight with carriers that have one or both certifications.

The Motor Carrier Safety Planner

The FMCSA has developed a tool called the [Motor Carrier Safety Planner](#) that allows carriers to manage their compliance with the FMCSRs. While not mandatory, a Canadian carrier can register online and begin to use the planner to track their compliance with US requirements. This tool covers the general compliance requirements for most carriers and is an excellent tool as part of an overall due diligence practice. However, it does not cover labour, border, state-specific, and some operational requirements, so carriers will still need to defer to appropriate authorities depending on the question at hand. [26]

FMCSA Portal and Safety Record Monitoring

Carriers should have a regular practice of monitoring their safety performance from reports available from outside organisations like government departments and their insurance provider.

Alberta-based carriers can freely access their [Carrier Profile](#) which compiles safety and compliance information for all carriers with an Alberta Safety Fitness Certificate [27]. Once a carrier has a USDOT number, they have additional sources of safety data.

The [FMCSA Portal](#) is an option online web access tool carriers can use to view information about their operations and to access additional FMCSA and USDOT tools. Having a working Portal account simplifies many aspects of compliance and allows for easier access to the DACH and safety records; it is strongly encouraged carriers register for Portal access early into their US operations (if not before) as it is the central tool used by the FMCSA for carrier online services. [28]

The FMCSA's [Compliance, Safety, and Accountability](#) (CSA) program is the cornerstone of how the US assesses risk posed by motor carriers involved in interstate transportation. CSA provides the FMCSA with a system for quantifying violations of the FMCSRs, USDOT regulations, and collision reports for the purpose of rating carrier safety performance. Carriers with a USDOT number can access their CSA scores online. [29]

Closely aligned with the CSA program is the FMCSA's [Safety Measurement System](#) (SMS). SMS is the way the FMCSA measures and reports carrier safety performance. Carriers can access the system online to check their performance; members of the public can also look up carrier safety scores using the carrier's name or USDOT number. [30]

Carriers have the ability to challenge information in their FMCSA safety reports through the DataQs system. It is always possible that an enforcement officer makes an incorrect judgement or that information reported on a carrier's safety record has been placed there in error. Carriers that detect such an issue can use the [DataQs](#) system to request a review of the information by the FMCSA. [31]

The Central Analysis Bureau (CAB) is an organisation that provides a variety of data analysis services in the US. One of the products offered by the CAB is a report known colloquially as a CAB report that summarises and analyses carrier safety information. While not available directly to carriers, carriers can request their CAB report through their insurance provider. [32]

Summary

The above sections have provided a summary and primer for the basic requirements of a US-compliant commercial carrier safety and compliance program. While it is a lot of information to take in, Canadian carriers should not dismiss US business opportunities if can implement a system to meet all Canadian and US requirements.

Need help? Contact AMTA

AMTA can provide carriers with 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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