



+ **Mock DOT Audits**
A case for proactive self-critical examination

WHITEPAPER

The Concern

The Federal Motor Carrier Safety Administration (FMCSA), a sub-agency of the USDOT, and its state partners routinely audit motor carriers to assess their compliance with federal and/or state motor carrier safety regulations. The agency prioritizes carriers for audit by considering roadside safety violations, accidents, driver complaints, and other factors. Violations discovered during audits can, and frequently do, lead to civil penalties, out-of-service orders, and safety rating downgrades. Depending on the outcome, carriers who aren't adequately prepared risk significant disruptions to their operations, loss of business, increased insurance premiums, and more.

Too often carriers are content to don their gear and fight fires as they arise rather than taking deliberate steps ahead of time to prevent—or at least mitigate—those fires. This isn't surprising, frankly, as carriers' safety managers, particularly for small- to mid-size carriers, are often spread thin. There's just not enough time in the day to sit down and look critically at the company's existing safety protocol and procedures, let alone devote an entire week to conducting a mock audit. So, they pick their battles.

This approach is clearly short-sighted. The head-in-the-sand mindset ignores the reality of regulatory enforcement and nuclear verdicts. Look around and you'll see countless examples of unaddressed deficiencies in a carrier's safety management controls leading to company-wide shutdowns or, worse, exploited in highway accident litigation, leading to multi-million dollar jury verdicts. So, what's the solution? We posit that a small investment of time, energy, and money in self-critical analysis today will inevitably save carriers thousands, if not millions, of dollars and serious operational headaches in the future. In the same way that routine health checkups are critical to identifying medical issues before they become life-threatening, so too are periodic self-audits of a carrier's safety and compliance program.

DOT Audits Performed (2021 YTD)

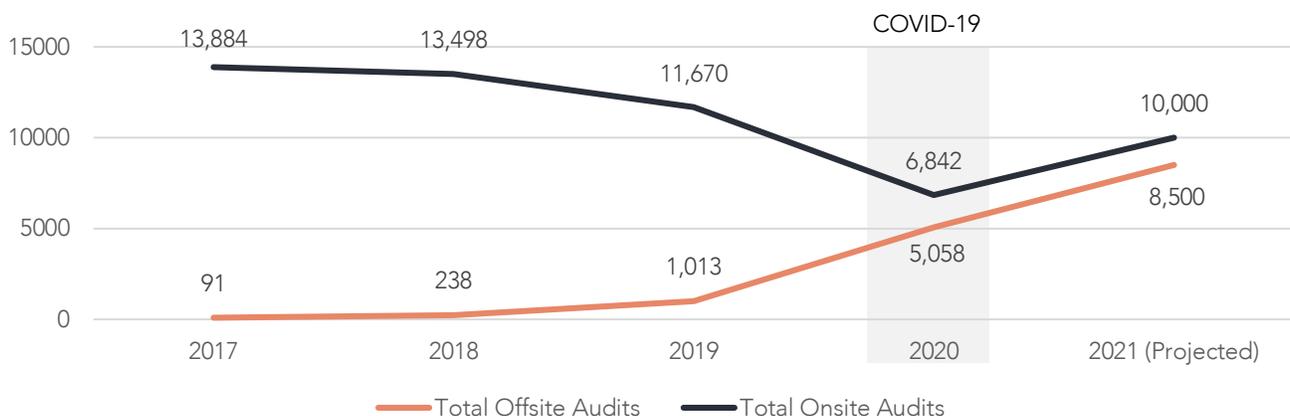
8,491

Avg. Fine Assessed (2021 YTD)

\$6,463

<https://ai.fmcsa.dot.gov/SafetyProgram/EnforcementCase.aspx>

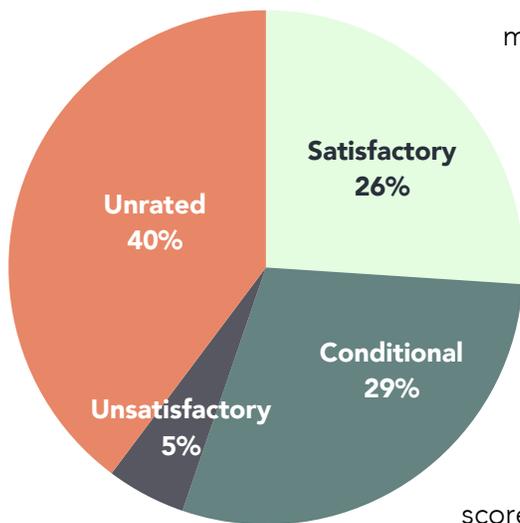
DOT Audits Over Time



Mock audits reveal regulatory gaps & help minimize exposure

When the FMCSA or its state partners come in to audit, they are looking primarily at the carrier's driver files, hours-of-service records, maintenance files, drug/alcohol testing records, and hazmat paperwork (as applicable). They are combing these files for so-called critical and acute violations. Too many of these violations and the carrier will receive a downgraded safety rating of "conditional" or "unsatisfactory."

DOT Audit Outcomes (2021 YTD)



Unsatisfactory ratings will lead to company-wide out-of-service orders, and conditional ratings can lead to increased insurance premiums and lost business. The FMCSA also regularly imposes monetary penalties for regulatory violations discovered during a review.

This in mind, one key benefit of a carrier self-audit is that it will identify any regulatory gaps ahead of time before they become major issues during an audit and, more importantly, to hopefully keep the carrier out of the DOT's crosshairs to begin with. By identifying these gaps, carriers can take appropriate remedial action to close them and then develop and implement the necessary policies and procedures to prevent them from reoccurring in the future. By doing so, carriers can work to improve their problematic CSA scores, thereby reducing the likelihood of an audit.

What's more, by closing these regulatory gaps and improving their reputation, carriers can build a strong defense against nuclear verdicts. And by being proactive, carriers may even see reductions in their insurance premiums.

Most Common Acute Violations

383.37(A)	Allowing driver to drive with suspended/revoked/etc. CDL
382.115(A)	Failing to implement an alcohol and/or drug testing program
382.305(2)	Failing to randomly test for drugs and/or alcohol
383.37(B)	Allowing driver with more than one CDL to drive a CMV
382.215	Using a driver who has tested positive for a drug
387.7(A)	No proof of financial responsibility - Freight Carrier

Most Common Critical Violations

395.8(A)(1)	Not using the appropriate method to record hours of service
395.8(E)(1)	False reports of records of duty status
391.51(B)(2)	Inquiries into driving record not kept in DQ file
396.3(B)	Failing to keep minimum records of inspection and maintenance
395.8(K)(1)	Failing to preserve supporting documents for 6 months
382.301(A)	Using a driver before receiving a pre-employment result

Our Solution

As part of its suite of DOT consulting services, Trucksafe Consulting, LLC (Trucksafe) offers mock DOT audits to motor carriers to assess their compliance with the multitude of motor carrier safety regulations governing their operations and to prepare them for real DOT audits. Our audits are performed by transportation attorneys¹ who have extensive experience guiding carriers through actual DOT audits and working with carriers to improve their safety programs. Trucksafe performs its mock audits using the same methodology as the FMCSA so that carriers know precisely how they would fare in a real audit. At the close of the mock audit, Trucksafe provides a comprehensive report detailing all violations discovered during the review as well as recommendations for improvement.

Types of Mock Audits

As does the FMCSA, Trucksafe performs different types of mock audits, depending on the carrier's preference:

- **Comprehensive Compliance Reviews** – A full review of the carrier's compliance program, including evaluation of the factor areas used by the DOT in actual compliance reviews, including general compliance, driver qualification, hours-of-service, vehicle maintenance, drug/alcohol testing, hazardous materials, and accidents. Like real audits, our comprehensive compliance reviews will result in the issuance of a proposed safety rating to the motor carrier based on the number and types of violations discovered.
- **Focused Audits** – A targeted review of the carrier's compliance efforts in one or more problem areas (e.g., driver qualification, hours-of-service).

Similar to the FMCSA, Trucksafe performs both on- and off-site reviews, again depending on the carrier's preference. Traditionally, the FMCSA has conducted comprehensive reviews onsite; however, it has relied more heavily on off-site reviews in recent years. Whichever option the carrier chooses, Trucksafe has streamlined the process to minimize disruption to the carrier's operations.

Comprehensive Record Review



Done On Your Schedule



Regulatory Methodology



Detailed Report & Recommendations



¹ Note: Trucksafe Consulting, LLC is not a law firm and does not provide legal advice. Though Trucksafe takes all reasonable precautions to keep its communications with customers confidential and secure, such communications are not protected by the attorney/client privilege. Trucksafe's affiliated law firm, Childress Law, PLLC, performs similar audits. Please contact us for details.

Process

Trucksafe adheres to the following auditing process to closely mirror the FMCSA's own methodology:

1. 5-7 days prior to the start of the audit, Trucksafe will request the carrier to provide a complete list of drivers and vehicles, from which Trucksafe will select its sample of files to review, as well as access to the carrier's Safety Measurement System (SMS) account. Trucksafe will also provide the carrier with a questionnaire to complete and return.
2. 2-3 days prior to the start of the audit, Trucksafe will notify the carrier of the files that it has selected to audit and which the carrier must make available to Trucksafe by the first day of the audit (either in paper or uploaded to a secure dropbox). Depending on the scope of the audit, the document request could encompass a sample of driver files, vehicle maintenance files, hours-of-service records, drug/alcohol testing records (as applicable), and hazardous materials records (as applicable). As is the case in actual DOT audits, Trucksafe's sampling will target drivers and vehicles who have had recent violations and/or accidents.
3. Depending on the size of the carrier and the record sampling, Trucksafe will spend 2-5 full days auditing the provided records to identify regulatory violations. This process will require periodic input from carrier officials, so carriers should have a designated point of contact available to answer questions as they arise.
4. 7-14 days following the close of the audit, Trucksafe will provide the carrier with a full written report of violations discovered, as well as the carrier's proposed safety rating (as applicable). The report will also include recommendations for improvement, and Trucksafe will be available to answer questions.

About Us

Trucksafe Consulting is a team of transportation attorneys who have devoted their professional careers to helping motor carriers develop and maintain cutting edge safety programs. In addition to traditional consulting services, Trucksafe offers state-of-the-art online training courses through its Trucksafe Academy, covering a number of regulatory compliance topics like DOT registration, driver qualification, hours-of-service, vehicle maintenance, drug/alcohol testing, DOT enforcement, and hazardous materials. It also offers a full library of compliance documents and free educational tools on its website.

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