

5.0 Facility Audits and Investigations

Manitoba's Motor Carrier Investigators (MCIs) are responsible for conducting facility audits on both intra-provincial and extra-provincial operators base-plated in Manitoba. MCIs are trained enforcement specialists who have extensive knowledge of regulated vehicle operations, the National Safety Code (NSC), the requirements of The Highway Traffic Act (of Manitoba) (HTA) and its regulations, and the federal Motor Vehicle Transport Act (1987) and its regulations, including the Commercial Vehicle Drivers Hours of Service Regulations.

The goal of a facility audit is to promote safe motor carrier operations by ensuring operator compliance with legislated requirements. MCIs use the facility audit process to assess the operator's compliance in the areas of Driver Qualification, Hours of Service, Vehicle Maintenance, and Transportation of Dangerous Goods.

Facility audit results become part of the carrier profile, and play a major role in determining an operator's Safety Fitness Rating. Operators must understand the importance of demonstrating a high level of compliance and achieving and maintaining an acceptable Safety Fitness Rating.

Motor carriers operating vehicles base-plated in another jurisdiction fall under the facility audit mandate of that jurisdiction. The Motor Carrier Branch may become involved in the facility audit process at the request of the base-plated jurisdiction.

Facility Audit

Standard 15 of the National Safety Code (NSC 15) requires operators to keep records on drivers, hours of service, vehicle maintenance, accidents, dangerous goods transportation and trip inspection reports. An investigator may examine an operators' records to ensure compliance with safety legislation and to verify safety programs are in place.

Facility Audit Structure

The facility audit is a quantifiable audit. This means that compliance for every operator will be measured against the same standards, including:

- Consistent rules/guidelines for determining compliance
- Quantifiable methods to arrive at the overall audit score
- Random sampling in situations where the carrier has more than five of either drivers and/or vehicles

Facility Audit Objectives

- Improve highway safety
- Reduce accidents by checking carrier records and business operations
- Promote compliance with safety regulations

Operator Selection and Notification

A facility audit or investigation may be initiated for a number of reasons, including:

- information in the Carrier Profile System (CPS) relating to on-road performance thresholds
- legitimate complaints or concerns received from the general public, policing agencies and/or the transportation industry
- a wheel-off occurrence
- a collision involving a regulated vehicle
- misuse of the Safety Fitness Certificate (SFC)
- allegations of coercing drivers to drive in excess of the prescribed Hours of Service regulations
- at the request of the operator for the purpose of adjusting their Manitoba safety fitness rating
- based on random selection

When a facility audit is required, the operator may be given five to ten working days to gather the requested records. There is no requirement to give advance notice. Where an immediate safety concern has been identified, an investigator may enter the operator's chief place of business and demand the operator present records for examination, in accordance with Section 318.10(2) of the HTA.

Conducting the Facility Audit

An audit is usually conducted at the operator's place of business; however, it may on occasion be conducted at the Motor Carrier Branch offices due to extenuating circumstances such as the operator's location, an operator's inappropriate behavior, or a lack of space to accommodate an investigator or team.

The number of driver and vehicle records included in the audit is determined using statistically valid sampling of the total number of drivers and vehicles under the operator's control. Manitoba abides by the sample sizes prescribed in NSC 15. Depending on the size of the audit, there may be one investigator, or a team of two or more. The operator will be asked to provide a suitable working location for the investigator(s). Again, depending on the size of the operator, the audit may be completed in a few hours, or may take several days.

When violations are found, the investigator(s) will make copies of the pertinent documents, either digitally or by using the operator's copying equipment.

Random Audit Sampling of Driver(s) and Vehicle(s)

The number of driver and vehicle records included in the facility audit is determined by the NSC 15 sample size guidelines of the total number of drivers and vehicles under the operator's control.

In order to ensure objectivity for operators that have more than five drivers/vehicles, a random sampling of drivers and vehicles must be used. If a vehicle/driver is removed from the audit, it must be replaced with another.

The following table from NSC 15 summarizes the number of drivers, power units and trailers that will be audited based on the size of the operator's fleet and the number of drivers.

Number of Drivers/Vehicles	Minimum Sample Size (Drivers/Vehicles)
1	1
2 to 5	All
6 to 9	6
10 to 12	8
13 to 15	9
16 to 18	10
19 to 22	11
23 to 26	12
27 to 32	13
33 to 40	14
41 to 50	15
51 to 64	16
65 to 85	17
86 to 121	18
122 to 192	19
193 to 413	20
414 to 500	21
+500	25

REMINDER: Drivers and/or vehicles can be added to the audit if the investigator has a concern about a particular driver and/or vehicle. For instance, the operator forgot to list a driver/vehicle, omitted a driver because the carrier had dismissed him/her, disposed of a vehicle or deliberately omitted a driver/vehicle. However, it is up to the investigator to explain why the addition(s) have been made.

When a vehicle or driver has not been identified by the operator, the investigator should note it and keep a look out for references to the driver/vehicle as the audit proceeds before deciding to include the driver/vehicle as part of the audit.

Facility Audit Records

Driver Qualification records for the previous 24 months on selected driver(s), including:

- Commercial Driver Record (abstract) and records of review for driver fitness
- Accident and conviction driver disclosures (if applicable)
- copies of Dangerous Goods Training Certification Cards (if applicable)
- records of any corrective action taken when safety violations were identified

Vehicle Maintenance records for the previous 24 months on selected unit(s) including:

- repair invoices/work orders, records of scheduled preventative maintenance
- copies of the Periodic Mandatory Vehicle Inspection Report (also known as a vehicle safety)
- Commercial Vehicle Trip Inspection Report
- CVSA Roadside Inspection Report (if applicable)

Hours of Service records for the previous 6 months including:

- daily logs, electronic recording device logs (or if exempt, timecards)
- trip reports/envelopes or other trip records
- fuel receipts/statements and other supporting documents
- driver payroll
- daily log book self-audit report(s) and corrective action (if applicable)

More information on each audit category are located in sections 6.0, 7.0, and 8.0.

Facility Audit Follow-Up

The investigator will complete the audit report. If no violations are found, no action will be taken, as the operator has demonstrated an acceptable level of compliance.

If violations have been identified, the operator will be provided with a copy of them in a document called the Summary of Violations report. An appointment will be made for a mandatory operator interview, which is held at the Motor Carrier Branch offices. The purpose of this interview is to discuss the audit findings and provide the operator with an opportunity to present evidence to refute any of the findings, make comments, or give explanations. This is followed by discussions of the actions required to bring the operator into full compliance.

Operator Improvement

If the minister or delegate (i.e., a Director of the Motor Carrier Branch) is not satisfied that the operator is complying adequately with the Acts and the Regulations under those Acts, they may do one or more of the following:

- to submit to one or more audits by a third-party auditor designated by the director
- to limit the size of the operator's fleet
- to institute a safety plan acceptable to the director
- to retain an auditor at the operator's expense to develop a safety plan or any similar thing
- adjust the operator's safety fitness rating
- suspend or revoke the operator's safety fitness certificate
- impose a monetary penalty of not more than \$25,000 on the operator

The operator may appeal any order, action or penalty to the minister. The appeal must be in writing and delivered to the minister within 30 days after the date of the director's decision.

Safety Rating Assignment

Safety rating assignment is determined by the facility audit overall audit score and the operator's performance thresholds at the time the audit is completed. Three possible audit outcomes are as follows:

85% or greater overall audit rating score

- The carrier be assigned a SATISFACTORY safety rating, and/or
- The carrier be assigned a CONDITIONAL safety rating and the safety rating will be adjusted to SATISFACTORY if, within 24 months of the audit completion date, all performance thresholds are below 85%

60%-84% overall audit rating score

- Branch will manage the carrier into compliance
- The carrier to maintain their current safety rating until the verification audit result is determined
- The carrier to develop and submit a branch approved action plan within 10 business days of the consent offer date
- The carrier to undergo a verification audit within 1-6 months of the approved action plan date

Verification Audit Result

If the carrier ***has*** met the expectations of the action plan

- The carrier to be assigned a SATISFACTORY safety rating if all performance thresholds are below 85%
- The carrier to be assigned a CONDITIONAL safety rating and the safety rating will be adjusted to SATISFACTORY if, within 24 months of the audit completion date, all performance thresholds are below 85%

If the carrier ***has not*** met the expectations of the action plan

- The carrier to be assigned a CONDITIONAL safety rating, and
- cannot request another audit for a minimum of 6 months from the disposition order date

Less than 60% overall audit rating score

- The carrier be assigned a CONDITIONAL safety rating, and
- cannot request another audit for a minimum of 6 months from the disposition order date

Commonly Asked Questions:

How long are records to be kept?

Unless otherwise specified, an operator must keep records for a minimum of two years.

Where are the records required to be kept?

The operator must keep the records at the operator's chief place of business in Manitoba.

May records be kept on a computer?

The operator may keep the records electronically, provided they can be examined by an investigator and the operator is capable of producing a paper report upon request

Who is an operator?

"Operator" means a person who operates a regulated vehicle.

Do I need a company compliance officer?

The operator of regulated vehicles must ensure that a person who resides in Manitoba is designated in writing to be responsible for promoting compliance by the operator and operator's employees.

What is a regulated vehicle

"regulated vehicle" means, subject to the regulations,

- (a) a motor vehicle or trailer that has a registered gross weight of 4,500 kg or more, or
- (b) a bus - "bus" means a motor vehicle designed to carry 11 or more persons including the driver

Who maintains records for leased operators?

Leased operators with regulated vehicles registered to the operator are considered part of the operator's fleet and records must be maintained by the operator for these vehicles and their drivers.

What is a safety plan?

Manitoba recommends that operators of regulated vehicles complete a safety plan to ensure they are meeting safety and vehicle maintenance requirements. A safety plan is a document that outlines all of the safety and vehicle maintenance records required to ensure drivers and vehicles are operating safely. Once an operator has had a facility audit conducted, a safety plan becomes a requirement.

A safety plan template has been included as **Appendix D** in this guide. You may use this template and customize it to your operations.

Audit Rating System

The Motor Carrier Branch audit program is comprised of three sections. Refer to the safety rating assignment section to determine, by the facility audit overall audit score and the operator's performance thresholds at the time the audit is completed for possible audit outcomes.

Section one – Driver Qualification
Section two – Vehicle Maintenance
Section three – Hours of Service

Driver Qualification

The operator is graded on its record-keeping practices such as keeping copies of driver record (abstract), accident and conviction disclosure reporting and dangerous goods compliance.

The operator is assigned 100 points for each driver sampled. Points are deducted for violations found under each part in section one. If a document is missing, it must be determined if the driver did not provide it or the operator did not record it. Only one violation is assigned for each missing document, per driver.

Deduction Schedule:

- 50 Points** – Driver record (abstract)
(no driver record on file, no initial record at time of hire, record not current within 12 months, or record obtained after audit notification)
 - 20 Points** – Annual driver review
(no documented review on file, no current abstract on file to conduct review, abstract obtained after audit notification, driver review conducted more than 30 days of abstract date, review not signed or dated)
 - 15 Points** – Accident disclosure
(NOTE: Having multiple violations of different types would result in one 15 point deduction)

(no accident disclosure on file, disclosure provided more than 30 days from incident date, no abstract on file to determine disclosure requirements, or abstract obtained after audit notification)
 - 15 Points** – Conviction disclosure
(NOTE: Having multiple violations of different types would result in one 15 point deduction)

(no conviction disclosure on file, disclosure provided more than 30 days from incident date, no abstract on file to determine disclosure requirements, or abstract obtained after audit notification)
- Example: one violation for driver failing to report conviction is the same score as three violations for driver failing to report convictions. 15 points.
- Example: one violation for driver failing to report convictions and one violation for operator failing to maintain a record of accident disclosure on file would result in 30 points being deducted.
- 100 Points** – Refuse to allow a Motor Carrier Investigator access to all documents

Once the audit is completed the scores for all drivers sampled in the audit are averaged to provide a section score.

Vehicle Maintenance

The operator is graded on its scheduled routine preventative maintenance program, Periodic Mandatory Vehicle Inspection (PMVI) certificate, and Commercial Vehicle Trip Inspection record keeping practices.

The operator is assigned a total of 100 points for each vehicle sampled in the audit. Points are deducted from the operator's score if violations are found in the areas of preventative maintenance, PMVI or Commercial Vehicle Trip Inspection record keeping requirements.

Deduction Schedule:

- 60 Points -** Scheduled maintenance
(Operator failed to retain records, incomplete information, or exceeds service intervals)
- 35 Points -** Periodic Mandatory Vehicle Inspection (PMVI) certificate, also known as a "safety"
(Operating without valid PMVI or fail to provide PMVI certificate within a reasonable time)
- 5 Points -** Commercial Vehicle Trip Inspection
(Operator failed to retain records, incomplete information, or not inspected as required)
- 100 Points -** Refuse to allow Motor Carrier Investigator access to all documents

Once the audit is completed the scores for all vehicles sampled in the audit are averaged to provide a section score.

Hours of Service

The operator is graded on its compliance with regulations pertaining to hours of service worked, accuracy, and legibility. Onus is placed on the operator's ability and effort to monitor the individual driver's compliance. Points are not deducted if the operator has found the violations and made an effort to have the driver comply (due diligence). The operator must show evidence of meaningful remedial action taken and/or enforcing disciplinary procedures to not have points deducted.

The carrier is assigned 100 points for each driver sampled. Points are deducted for violations in which the operator has not satisfactorily demonstrated an effort to monitor, document and correct areas of non-compliance.

Falsification violations are separated into two categories:

Critical Falsification: (major infraction)

Violations where non-compliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier.

Nominal Falsification: (minor infraction)

Violations where non-compliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls.

NOTE: The Facility Audit Manual & Scoring Guidelines includes a table that provides a snapshot of the most commonly cited carrier false or inaccurate hours of service violations that occur in any Canadian jurisdiction.

NOTE: Having violations in one violation category will result in points being deducted.

Deduction Schedule:

20 Points - Cycle compliance

25 Points - Daily hours compliance

25 Points - Shift hours compliance

20 Points - Nominal falsification

10 Points - Form and content compliance

100 Points - Refuse to allow Motor Carrier Investigator access to all documents, critical falsification, missing logs and/or time records per driver sampled.

Once the audit is completed the scores for all drivers sampled in the audit are averaged to provide a section score.