

Compliance, Trucking & **PEOPLEASE**

In This Paper: Covering the Gamut of Compliance Concerns in the Trucking Industry and How PEOPLEASE Is Poised to Help.

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This article is intended as basic information only, it is not intended as legal advice, nor is it inclusive of the varying state laws that may apply, which may or may not be more restrictive. We encourage you to speak to your human resource professional or to consult an attorney for specific questions applicable to your company and employees. Information current as of publish date.

Compliance is one of those rare phenomena that can actually make or break your organization, as was the case of JDJD Transportation just last year. In case you are unfamiliar with this case, the Federal Motor Carriers Safety Administration (FMCSA) ordered them to cease operations immediately for several violations of safety regulations. The FMCSA cited failure to ensure drivers complied with hours-of-service regulations, failure to ensure drivers had a valid commercial driver's license (CDL) or had been drug tested, and failure to inspect, repair and maintain its commercial vehicles as the most serious amongst the many that came out in the nine month investigation. While shutting down a business's operations is probably the most serious result of non-compliance with federal or state regulations, most organizations typically face severe fines for their violations.¹

PEOPLEASE is poised and equipped to help you avoid costly penalties or worse for non-compliance. This white paper will cover the various areas of compliance concerns; such as safety and loss control, human resources, accounting and finance, and payroll, which are necessary, but tedious tasks required by your organization. After giving a brief synopsis of these compliance issues, this paper will let you know how PEOPLEASE can make your life easier so you can focus on what is important to you, running your company.

Let's begin the journey with a look at the compliance concerns regarding the safety of your organization and what the government requires...

The Department of Transportation and OSHA Compliance

The Department of Transportation (DOT) lays down the law and has federal, state and even local law enforcement to ensure you are abiding by the regulations. Some people may view the regulations outlined in the Code of Federal Regulations (CFR) as a nuisance, but they are intended to ensure the drivers of the companies operating on our roads are as safe as possible for the public. The list of the regulations outlined in Title 49 of the CFR is extensive, but some of the most prevalent the DOT and OSHA refer to as 'acute and critical' violations are:

- Failure to ensure driver medical records are current
- Failure of the company to conduct the minimum annual percentage rate for random alcohol and controlled substance testing
- Drivers operating their vehicles for more than the allowable 14 hours after coming on duty
- Allowing a driver to operate a commercial vehicle before passing a pre-employment drug test
- Failure of a motor carrier to implement a random drug testing program for its drivers
- Failure of a driver to complete a record of duty status (either manual or electronic)
- Failure to develop a Hazardous Materials Security Plan

The list goes on and on, but this gives you the general idea of the types of violations trucking companies must be cognizant of on a daily basis. Fines for these types of violations can run anywhere from \$2,000 up to well over \$100,000 with the most serious consequence being the suspension of operations.²

Human Resource Compliance

Not only do you have to ensure your trucks are operated safely by following the list of DOT and OSHA regulations, the Department of Homeland Security, Department of Labor and the Internal Revenue Service are agencies you must be concerned with regarding compliance. For years, the Equal Employment Opportunity Commission has required companies with 100 or more employees, or those with 50 or more employees and a contractor for the government worth of \$50,000 or more, to file the EEO-1 report by September 30th every year. If a company fails to report as required or files a false report, they could be subject to a lawsuit resulting in heavy fines or imprisonment.

The Department of Homeland Security, through its U.S. Citizenship and Immigration Services Division, also wants to make sure companies are hiring people legally authorized to work in our country. Maintenance of the Employment Eligibility Verification form I-9 can be an administrative quagmire, especially in our industry. According to Peoplematter.com, errors with this seemingly simple 1-page form can cost an organization \$110 per error with approximately 50% of audited companies receiving an average fine of \$112,000.³

In addition to the annual EEO-1 report, companies must also report their health and welfare plans to the DOL every year. According to the MRA website, although these reports have been required for years... "80% of employers are not compliant."⁴ The fines and penalties for non-compliance in this area can be extremely stiff considering many employers have failed to report for a couple of years and fines are assessed on a daily basis for each plan the employer offers. This could cost a company up to \$30,000 per plan, per year, which adds up quickly if you offer medical, supplemental and retirement plans. And then there's the Patient Protection and Affordable Care Act (PPACA).

The PPACA, or Obamacare as it is more commonly known, has now begun reporting requirements of its own. Not only has the PPACA required certain companies to provide their employees with affordable health care benefits, beginning with this year, companies with more than 50 full-time equivalent employees are required to provide them with the forms required for tax filing and reporting those statistics to the IRS. Penalties for not providing required coverage could run \$2,000 per employee per year (that would be a whopping \$100,000 for a company of 50 employees) or a \$3,000 fine for providing coverage that is not deemed affordable.⁵

Accounting, Finance and Payroll Compliance

Of course when you are dealing with numbers in business, there has got to be some oversight from the government to ensure the fair, equitable and proper handling of funds. Every year about this time, employees look for their W-2 forms and those independent contractors are waiting on their form 1099. According to the IRS website, small businesses (those with less than \$5 million in gross receipts) could face fines of \$50 per return, up to \$185,000 for filing less than 30-days late! If the company files after August 1st, fines can increase to a maximum of over \$1 million dollars!

A couple of other expenses employers must cover for their employees are the Federal Unemployment Tax and State Unemployment Tax per applicable FUTA and SUTA requirements. In addition to paying the taxes which cover the unemployment compensation should an employee become unemployed, payroll reports must also be filed to provide the details of an employer's payroll obligations. Penalties for failing to pay these taxes is calculated based on how late the deposit is as follows:

2% penalty if deposit is made 1 – 5 days late

5% penalty if deposit is made 6 – 15 days late

10% penalty if deposit is made more than 16 days late.⁶

Wrapping It All Up

As you can see, ensuring your organization is in compliance is a never-ending and complicated affair. From maintaining compliance with DOT and OSHA in regards to keeping your trucks on the road and your drivers behind the wheel, to ensuring you meet the requirements of the DOL and Homeland Security for proper hiring practices, all the way to meeting the mandates of the Internal Revenue Service. With all of this on your plate, how can you possibly concentrate on running your business? That is what PEOPLEASE is here to help you with in all of these areas. Tom Hartley, one of our Senior Managers of Safety and Loss Control, along with Stu Churchill, oversees a cadre of Regional Safety and Loss Control Managers whose primary mission is to help you maintain your compliance with the DOT and OSHA regulations by providing you information, and best practices in this area. As stated by Mr. Hartley, they accomplish this, "Through quarterly face-to-face visits, loss run reviews, conducting mock DOT and OSHA audits and evaluate each client's safety program and provide guidance on redesigning them if necessary."

Our Client Services department, headed by Matt Opprecht, are experts in the area of Human Resources compliance. These professionals ensure the 5500 filing and EEO-1 reporting is accomplished for all of our eligible and required clients annually and on-time. Our benefits supervisor, Katherine Epperson, has everything in place to ensure the required ACA reporting is completed for our clients who participate in the PEOPLEASE benefits plan.

And finally, our crack team of accounting and finance and payroll professionals led by Ingrid Russell, Kristin Wallace and Heather Voke respectively, do a superb job of meeting the expectations of the IRS and your employees when it comes to those pesky W-2s as well as making sure your FUTA and SUTA taxes are paid appropriately and timely.

PEOPLEASE is here to help ensure your organization is compliant in several different ways so you can focus on what's important. This is the key to us, "Driving success by expertly navigating our partners down the risky road."

References

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