



NEW!!!! Compliance Tools

FMCSA Owner/Operator Policy© Customizable for TPA/Consortiums

Includes Word Document

*** Add your C/TPA Logo and Brand and Sell to Drivers ***

by Don Shatinsky, former US DOT ODAPC Senior Policy Advisor

What is it? *Owner/Operator Policy*© is a document that 49 CFR 382.601 requires every FMCSA employer to have, i.e., a written policy describing the employer's drug/alcohol policy, procedures, and consequences for violations of this policy. Section 382.601 lists 11 items that such a policy should contain. Employers are required to provide copies of their policy to their DOT drivers. In many cases, Owner/Operators do not write or have such a policy in place. However, an employer who employs himself/herself (i.e., owner/operator) as a driver must comply with both the requirements that apply to employers and the requirements that apply to drivers. The *Owner/Operator Policy*© specifically addresses the 11 items required under 382.601 and provides a summary of the responsibilities of the owner/operator in relationship to the supporting Consortium/Third Party Administrator (C/TPA).

Why use it? As already indicated, the majority of owner/operators will not have a written policy in place – unless the C/TPA provides one. Instead of writing different policies for each owner/operator, the *Owner/Operator Policy*© is a ready-made “template” which can be used “as is.” Provisions exist for the C/TPA to insert requirements or procedures that are specific to that C/TPA. FMCSA directs that each employer shall ensure that each driver is required to sign a statement certifying that he or she has received a copy of these materials described in this section (382.601). Each employer shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. The *Owner/Operator Policy*© includes a certificate which each owner/operator must sign acknowledging that he/she received a copy of these materials, i.e., this policy, and will provide this statement to the C/TPA which conducts the random testing and other program requirements for the owner/operator. This is an excellent method of informing the owner/operator what is required under the policy, and what procedures he/she must follow, making it much easier for the C/TPA to make the driver more responsive to participation in the C/TPAs program.

Background. §382.601 “Employer obligation to promulgate a policy on the misuse of alcohol and use of controlled substances” specifically directs that each employer (and this includes owner/operators who are self-employed) shall provide to its safety-sensitive employees educational material that explains the requirements of the rule text and the employer's items listed in the rule text. In discussions with FMCSA, the agency did not want to provide specific guidelines on how they would look at this issue as it relates to owner/operators, but reiterated that an owner/operator is also an employer and would be held to the same standards. Therefore, during an audit, an inspector may ask to see the owner/operator's drug and alcohol policy. If it is not available, the owner/operator may face potential sanctions. It would serve the C/TPA's interests to ensure that all owner/operators to whom the C/TPA provides services are prepared for this eventuality and have drug and alcohol policies in place.

Who should use it? This document is ideal for any C/TPA that provides any services to an owner/operator. This includes MROs who provide other services, such as random selections.

How to order? Alpha Pro Solutions, Inc. is the exclusive distributor of *Owner/Operator Policy*©. For only \$399.00, you receive a password-protected Microsoft Word file with provisions for adding your own specific additional requirements.

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