

# What to Expect During a FMSCA Compliance Review

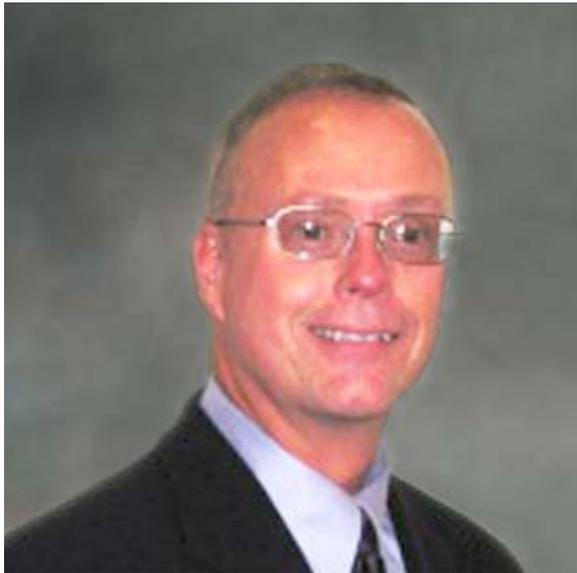
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## OUR PRESENTER

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# WELCOME!

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- Attendees are in listen-only mode.
- You may ask questions throughout the presentation using the Question panel, however Rich will answer all questions via email after the webinar.
- You may also send your questions directly to Rich with the email address below.
- Supporting information for this Webinar will be emailed out shortly after the presentation.



# TRAINING TOPICS

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Compliance Investigation (CI) Process

CSA refresher and the CI process

What to expect during CIs- Overview of major CI areas

New era of electronic logging

Corrective Actions



# COMPLIANCE INVESTIGATION (CI) PROCESS

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## Core principles:

- Raising the bar for entry
- Maintain high safety standards
- Removing high risk carriers and drivers



# CSA REFRESHER

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Do you know your BASIC thresholds?

<b>BASIC</b>	<b>General</b>	<b>HM</b>	<b>Passenger</b>
Unsafe Driving, HOS Compliance, Crash Indicator	<b>65%</b>	<b>60%</b>	<b>50%</b>
Driver Fitness, Controlled Substances/Alcohol, Vehicle Maintenance	<b>80%</b>	<b>75%</b>	<b>65%</b>
HM Compliance	<b>80%</b>	<b>80%</b>	<b>80%</b>



# CSA INTERVENTIONS

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## Off-Site Focused Review

- Carrier directed to send records
- Carrier could be subject to on-site investigation if records are not supplied



# CSA INVESTIGATIONS

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## On-site Focused Investigation

- Investigators come on-site
- Conducting review of records relating to specific area(s)
- Generally two or more BASICs in alert status



# CSA INTERVENTIONS

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## On-site Comprehensive Investigation

- Basically the equivalent of previous Compliance Reviews
- Review includes all areas of carrier's operations
- 4 or more BASICs above the threshold
- SMS mandatory investigation



# HIGH RISK CARRIERS

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Do you know if you are a high risk carrier?

“High risk” carriers have substantially higher crash rates: more than twice the crash rate of the general carrier population.

- Crash or HOS Compliance or Unsafe Driving > 85
- Any 4 or more BASICS at or above the “all other” motor carrier threshold levels

Carriers that are “High Risk” for 2 consecutive months will be prioritized in the Investigative 1 – Mandatory SMS investigation listing used by the FMCSA to prioritize which carriers they will conduct an investigation.

# SAMPLE CARRIER PERCENTILE RANK

Select a BASIC below to view details

## BASICs Overview

(Based on a 24-month record ending February 24, 2012)

		PERFORMANCE		BASICs Status
		On-Road	Investigation	
	Unsafe Driving	97.6%		
	Fatigued Driving (Hours-of-Service)	91.4%		
	Driver Fitness	52.3%		
	Controlled Substances and Alcohol	43.1%		
	Vehicle Maintenance	83%		
	Cargo-Related	Not Public	Not Public	Not Public
	Crash Indicator	Not Public	Not Applicable	Not Public

\*USE OF SMS DATA/INFORMATION



## PRIORITIZATION OF CI TARGETS

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CI targets are placed in an Investigative “bucket” depending on the time elapsed since the last intervention (CI):

- Investigative 1- Last primary intervention over 24 months
- Investigative 2- Last primary intervention over 18 months
- Investigative 3- Last primary intervention over 12 months



## ON-SITE COMPLIANCE INVESTIGATIONS

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- I. Comprehensive - 4 or more BASICs above threshold or SMS mandatory
- II. Focused - 2 or less BASICs above threshold

Carriers with 3 BASICs above threshold may be subject to either CI scope per FMCSA manager discretion.

The following carriers will always receive a Comprehensive CI:

- New entrant carriers without a Safety Audit.
- HM permitted carriers.
- Passenger carriers without a CI in the past 12 months.

CI scope may be changed during the CI.



# THE DOT IS COMING! THE DOT IS COMING!

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## What Do We Do Now???

- First, don't panic!
- Review letter, which is usually sent
- Which agency?
- Specific instructions – documents



# DRIVER / CMV SELECTION PROCESS

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## Basic sampling of drivers:

- Drivers involved in crashes
- Red flag drivers
- Positive drivers
- Driver SMS scores (not currently published)
- Drivers who contributed to the carrier's violation history
- Drivers employed in the last 365 days



## RED FLAG DRIVERS

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- 383.21- Driving with more than 1 CDL
- 382.23(a)(2)- Driving without CDL
- 383.51(a)- Disqualified (CDL holder)
- 383.91(a)- No/improper endorsement
- 391.11- Unqualified driver
- 391.11(b)(5)- No license for CMV operated
- 391.11(b)(7)- Disqualified license
- 391.15(a)- Driving CMV while disqualified
- 392.4(a)- Use/possession of drugs
- 392.5(a)- Use/possession/under influence of alcohol within 4 hrs.
- 395.13(d)- Driving after OOS
- 396.9(c)(2)- Operating an OOS CMV



# ON-SITE COMPLIANCE INVESTIGATION

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## Records Reviewed

- Proof of financial responsibility
- Driver Qualification Files
- Drug and alcohol testing records
- Records of duty status and supporting documents
- Driver vehicle inspection reports and maintenance records
- FMCSA accident register
- Hazardous materials records (if applicable)



# ON-SITE COMPLIANCE INVESTIGATION

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1. General – Parts 387, 390
2. Driver – Parts 382, 383, 391
3. Operational – Parts 392, 395
4. Vehicle – Parts 393, 396
5. Hazardous Materials – Parts 397, 177, 180, and 171
6. Accident Factor



# ACUTE REGULATIONS

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Single acute = serious violation

One point will be assessed to safety rating factor



# CRITICAL REGULATIONS

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Non-compliance relates to a breakdown in carrier's management controls

Generally pattern = 10% or greater



## SAFETY FACTORS RATED

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Each factor then rated:

- Satisfactory: If the acute and/or critical = 0 points
- Conditional: If the acute and/or critical = 1 point
- Unsatisfactory: If the acute and/or critical = 2 points



## RATINGS OF SAFETY MANAGEMENT CONTROLS

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Satisfactory: Adequate controls to ensure safety compliance are in place

Conditional: Adequate controls are not in place and violations could result

Unsatisfactory: Adequate controls not in place and violations have occurred



## OPENING CONFERENCE WITH AUDITOR

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- Recommend top management involvement
- Be organized, interested, and indicate desire to learn from the process
- Determine where auditor will work



# FINANCIAL RESPONSIBILITY

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- Form MCS 90
- Proof of financial responsibility
- Ensure the form is countersigned



# DRIVER QUALIFICATION PROCEDURES

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- Be able to articulate a comprehensive hiring process.
- Paperwork is not enough, how did you use the records to determine qualifications?
- Be aware if any driver has a chronic medical condition that may be a factor in their qualification.
- Be aware of incomplete documentation. It can be an indicator of concealment of negative information.



## CONTROLLED SUBSTANCES & ALCOHOL TESTING PROGRAM

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- Have you asked all perspective employees if they have ever tested positive?
- Have all consortium or third party administrator documentation for the past year available.
- Always present the CCF form and test results together.
- Have key personnel received reasonable suspicion training?
- Have post accident testing procedures in place to include documentation as to why a test was not performed?
- Has the carrier met/exceeded the random testing rates?



## HOURS OF SERVICE (HOS)

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- Records of Duty Status (RODS) must be maintained for 6 months.
- All supporting evidence must be available during CI. This includes all business records that can help corroborate the accuracy of RODS (less with e-logs).
- A disciplinary policy is not required in the FMCSRs but are a valuable tool to determining compliance. Meaningful enforcement of the policy is imperative.



# HOURS OF SERVICE (HOS)

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## Auditing Electronic Logs

If the carrier is using an AOB RD (devices sold and installed from now until 12/18/17):

- Carrier must pay special attention to:
- “Skips” indicating tampered system
- Unassigned driving
- Edits to logs (driver or company)
- Stop and start locations for the driver
- GPS movements that are not on the driving line
- Driver driving below the speed threshold to “fool” the system



## HOURS OF SERVICE (HOS)

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If the carrier is using an ELD system (devices sold and installed on or after 12/18/17):

- Standard data format makes audit faster/easier
- FMCSA agent's laptop will audit logs to indicate where there may be violations
- Auditor then investigates those specific issues



## VEHICLE MAINTENANCE

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- Ensure all personnel, to include outside sources, are qualified to perform vehicle maintenance and are knowledgeable of the FMCSRs.
- Document their qualifications.
- Preventive maintenance vs. repairs; there is a difference.
- Carrier is ultimately responsible for the maintenance of all leased equipment.
- Paperwork is not enough; is the maintenance program effective?



# CRASHES

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- Present a completed accident register and copies of crash reports.
- Investigator will review insurance loss runs
- Accident countermeasures are not required by the FMCSRs but is a major factor for determining compliance. Present any countermeasures implemented during the CI.



# HAZARDOUS MATERIALS

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- Employee training records
- Will review a sampling of HM shipping papers
- Security Plan when needed
- Registration as needed



## CI PROCESS – HOW TO SUCCEED

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- Hiring safe, qualified drivers
- Proactive safety policies
- Train, Train, Train
- Track roadside inspections
- Roadside Inspection Violation Review
- Actively challenge violations – Data Q
- Develop incentives
- Internal Audits



# QUESTIONS?

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