

What to Expect During a FMSCA Compliance Review

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OUR PRESENTER



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WELCOME!

- 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

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

Core principles:

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



CSA REFRESHER

Do you know your BASIC thresholds?

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



CSA INTERVENTIONS

Off-Site Focused Review

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



CSA INVESTIGATIONS

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

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

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

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

- 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!

What Do We Do Now???

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



DRIVER / CMV SELECTION PROCESS

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

- 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

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

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

Single acute = serious violation

One point will be assessed to safety rating factor



CRITICAL REGULATIONS

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

Generally pattern = 10% or greater



SAFETY FACTORS RATED

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

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

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



FINANCIAL RESPONSIBILITY

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



DRIVER QUALIFICATION PROCEDURES

- 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

- 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)

- 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)

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)

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

- 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

- 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

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



CI PROCESS – HOW TO SUCCEED

- 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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