What to Expect During A FMCSA Compliance Review

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SMSC
SAFETY MANAGEMENT SERVICES COMPANY

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 only be able to address questions at the end of the webinar.
- You may also send your questions directly to Rich with the email address below:

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TRAINING TOPICS

Compliance Investigation (CI) Process

CSA refresher and the CI process

What to expect during CI's- Overview of major CI areas

Corrective Actions

COMPLIANCE INVESTIGATION (CI) PROCESS

Core principles:

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

Do you know your CSA/SMS 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

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 or
- 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 used to prioritize what 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)

BASICs	PERFORMANCE On-Road	PERFORMANCE Investigation		BASICs Status
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

Comprehensive - 4 or more BASICs above threshold

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
- Per 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)

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

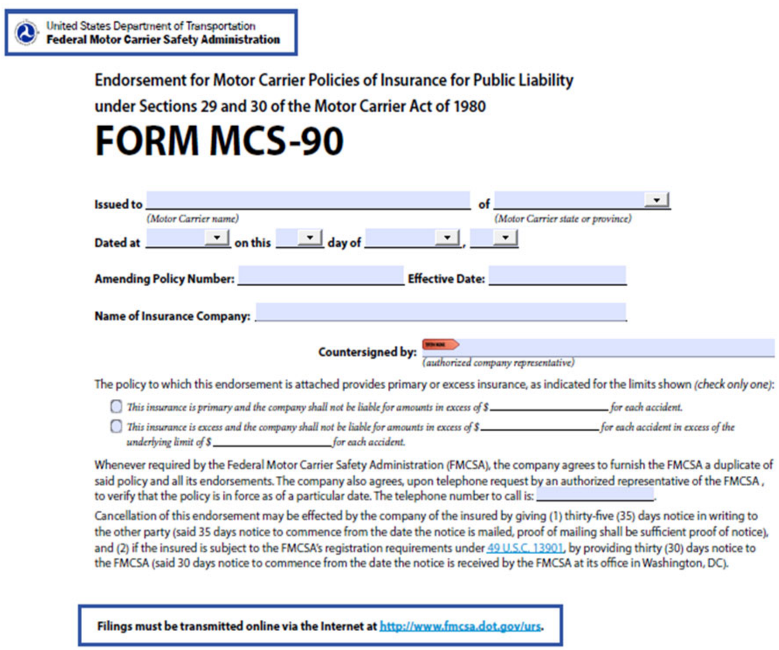
Unsatisfactory: Adequate controls not in place and violations have occurred

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
- Be sure the company's MCS 150 is correct



United States Department of Transportation
Federal Motor Carrier Safety Administration

Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980

FORM MCS-90

Issued to ______ (*Motor Carrier name*) **of** ______ (*Motor Carrier state or province*)

Dated at ______ **on this** ______ **day of** ______, ______

Amending Policy Number: ______ **Effective Date:** ______

Name of Insurance Company: ______

Countersigned by: ______ (*authorized company representative*)

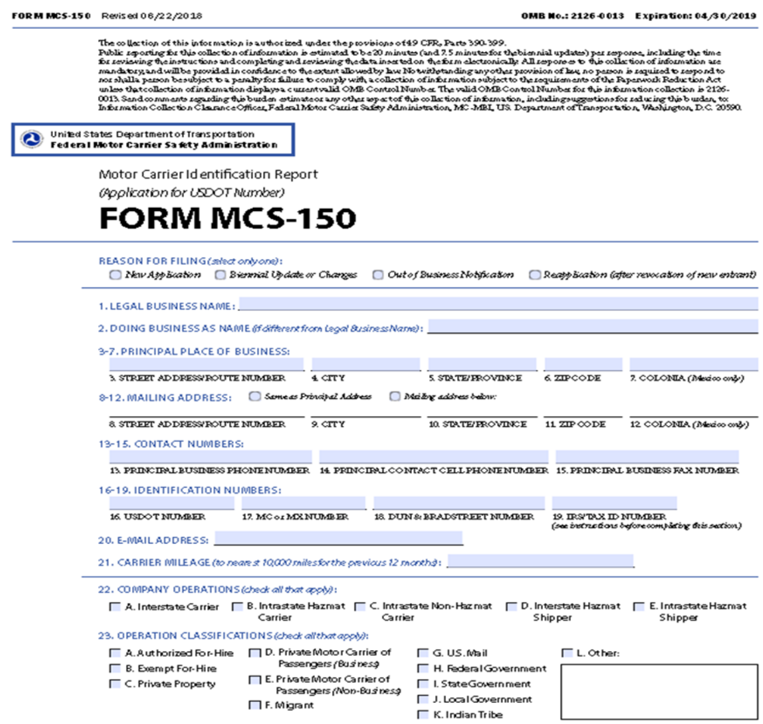
The policy to which this endorsement is attached provides primary or excess insurance, as indicated for the limits shown (*check only one*):

- ☐ *This insurance is primary and the company shall not be liable for amounts in excess of $______ for each accident.*
- ☐ *This insurance is excess and the company shall not be liable for amounts in excess of $______ for each accident in excess of the underlying limit of $______ for each accident.*

Whenever required by the Federal Motor Carrier Safety Administration (FMCSA), the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is: ______.

Cancellation of this endorsement may be effected by the company of the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's registration requirements under 49 U.S.C. 13901, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, DC).

Filings must be transmitted online via the Internet at http://www.fmcsa.dot.gov/urs.



FORM MCS-150 Revised 06/22/2018 **OMB No.: 2126-0013 Expiration: 04/30/2019**

The collection of this information is authorized under the provisions of 49 CFR, Parts 390-399. Public reporting for this collection of information is estimated to be 20 minutes (and 7.5 minutes for the biennial updates) per response, including the time for reviewing the instructions and completing and reviewing the data inserted on the form electronically. All responses to this collection of information are mandatory, and will be provided in confidence to the extent allowed by law. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The valid OMB Control Number for this information collection is 2126-0013. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-MBI, US Department of Transportation, Washington, D.C. 20590.

United States Department of Transportation
Federal Motor Carrier Safety Administration

Motor Carrier Identification Report
(Application for USDOT Number)

FORM MCS-150

REASON FOR FILING (*select only one*):
☐ *New Application* ☐ *Biennial Update or Changes* ☐ *Out of Business Notification* ☐ *Reapplication (after revocation of new entrant)*

1. LEGAL BUSINESS NAME:
2. DOING BUSINESS AS NAME (*if different from Legal Business Name*):

3-7. PRINCIPAL PLACE OF BUSINESS:
3. STREET ADDRESS/ROUTE NUMBER 4. CITY 5. STATE/PROVINCE 6. ZIP CODE 7. COLONIA (*Mexico only*)

8-12. MAILING ADDRESS: ☐ *Same as Principal Address* ☐ *Mailing address below:*
8. STREET ADDRESS/ROUTE NUMBER 9. CITY 10. STATE/PROVINCE 11. ZIP CODE 12. COLONIA (*Mexico only*)

13-15. CONTACT NUMBERS:
13. PRINCIPAL BUSINESS PHONE NUMBER 14. PRINCIPAL CONTACT CELL PHONE NUMBER 15. PRINCIPAL BUSINESS FAX NUMBER

16-19. IDENTIFICATION NUMBERS:
16. USDOT NUMBER 17. MC or MX NUMBER 18. DUN & BRADSTREET NUMBER 19. IRS/TAX ID NUMBER (*see instructions before completing this section*)

20. E-MAIL ADDRESS:
21. CARRIER MILEAGE (*to nearest 10,000 miles for the previous 12 months*):

22. COMPANY OPERATIONS (*check all that apply*):
☐ A. Interstate Carrier ☐ B. Intrastate Hazmat Carrier ☐ C. Intrastate Non-Hazmat Carrier ☐ D. Interstate Hazmat Shipper ☐ E. Intrastate Hazmat Shipper

23. OPERATION CLASSIFICATIONS (*check all that apply*):
☐ A. Authorized For-Hire
☐ B. Exempt For-Hire
☐ C. Private Property
☐ D. Private Motor Carrier of Passengers (Business)
☐ E. Private Motor Carrier of Passengers (Non-Business)
☐ F. Migrant
☐ G. U.S. Mail
☐ H. Federal Government
☐ I. State Government
☐ J. Local Government
☐ K. Indian Tribe
☐ L. Other:

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?
- Possess all consortium or third party administrator documentation for the prior full calendar 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.
- Be able to articulate the company's RODS review program.
- A disciplinary policy is not required in the FMCSRs but are a valuable tool to determining compliance. Meaningful enforcement of the policy is imperative.
- With nearly all carriers utilizing electronic logs currently, FMCSA auditors look for "exceptions."

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

REFERENCES

- Re-designed FMCSA website- http://www.fmcsa.dot.gov/
- SMS and SMS Preview http://ai.fmcsa.dot.gov/SMS/Default.aspx
- Hours of Service- http://www.fmcsa.dot.gov/rules-regulations/topics/hos/index.htm
- http://www.fmcsa.dot.gov/documents/hos/logbook.pdf
- http://www.psp.fmcsa.dot.gov/Pages/default.aspx
- Medical Registry- http://nrcme.fmcsa.dot.gov/
- Supervision - https://esupervision.com/driver-license-monitoring
- Samba Safety License Monitoring - https://www.sambasafety.com/monitoring-solutions/

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
- Create good safety culture
- Internal Audits

QUESTIONS?

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