

**IBT  
Safety and Health  
Department**

**Regulatory Update – FMCSA Regulations**

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**Overview**

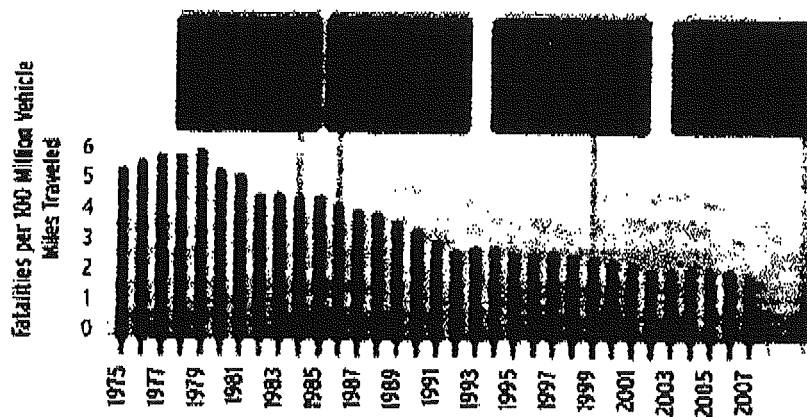
- **Compliance, Safety, Accountability**
- **Hours of Service**
- **Tank Haul Definition and Endorsement**
- **Electronic On-Board Recording Devices**
- **Restricted Use of Cellular Phones**
- **Medical Qualifications**
  - **Exemption Programs**
    - **Diabetes**
    - **Vision Waiver Program**
  - **National Registry of Medical Examiners**
  - **Drug Testing**
  - **Combining the Medical Certificate with the Commercial Driver's License**
  - **Sleep Apnea**

# CSA COMPLIANCE, SAFETY, ACCOUNTABILITY

The Federal Motor Carrier Safety Administration's  
Safety Management System for Carriers and Drivers

## Commercial Motor Vehicle Fatalities

Rate of Commercial Motor Vehicle Fatalities is Leveling Off

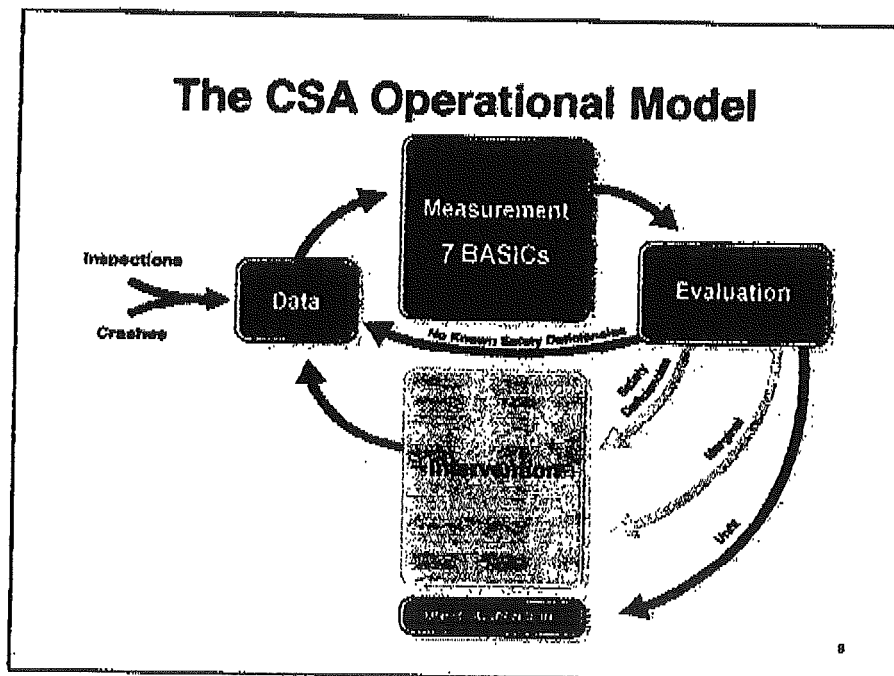
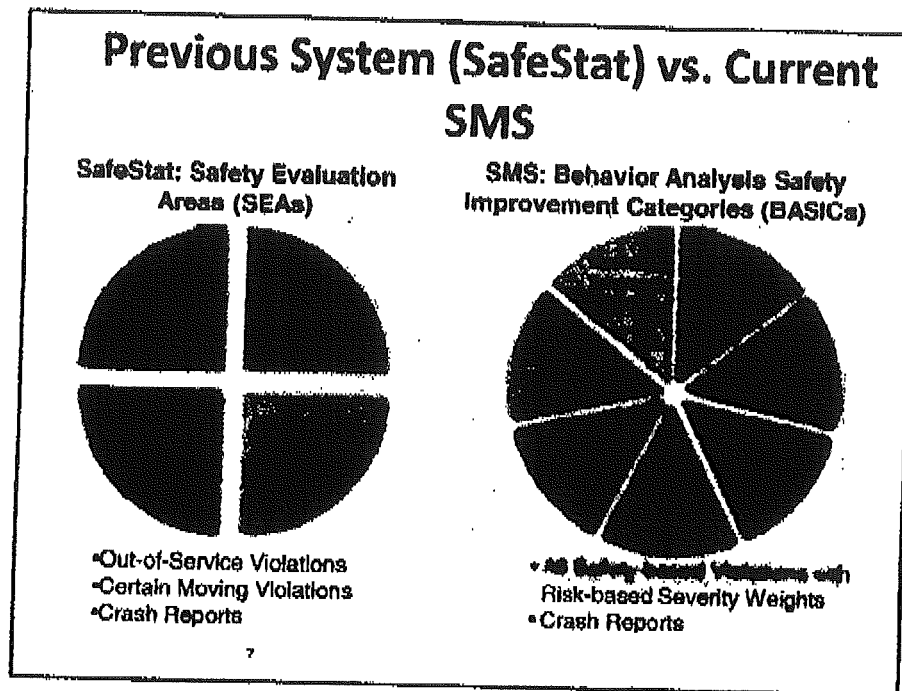


## FMCSA Expectations

- **Changing the way FMCSA will assess carrier safety**
  - Identifies unsafe carrier and driver behaviors that lead to crashes
  - Uses all safety-based roadside inspection violations
  - Evaluates/tracks driver performance individually
- **Changing how FMCSA addresses carrier safety issues**
  - Reaches more carriers earlier and more frequently
  - Improves efficiency of investigations
    - Focuses on specific unsafe behaviors
    - Identifies root causes
    - Defines and requires corrective actions

## FMCSA Expectations

- **Changing how FMCSA promotes safety**
  - Forces carriers/drivers to be accountable for their safety performance
    - Demands and enforces safe on-road performance
  - Makes more complete safety performance assessments publicly available

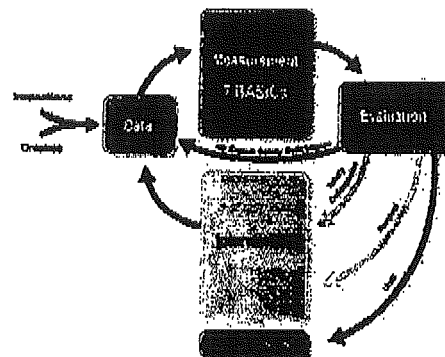


## CSA Core Component #1

### 1. Data

– Gather 24 months of on-road safety event data to create a safety event history

- Inspections
  - Compliance Review
  - Roadside
- Crashes



## CSA Core Component #2

### 2. Safety Measurement System (SMS)

- Assesses safety of carriers and CMV drivers based on factors that lead to crashes
  - 7 Behavior Analysis and Safety Improvement Categories (BASICs)
    - Unsafe Driving
    - Hours-of-Service Compliance
    - Driver Fitness
    - Controlled Substances/Alcohol
    - Vehicle Maintenance
    - Hazardous Materials Compliance
    - Crash Indicator

**CSA Core Component #2**

**2. Safety Measurement System (SMS)**

- **Unsafe Driving**
  - Speeding, reckless driving, improper lane change, and inattention
  - Using a hand-held mobile telephone while operating a CMV (weight=10)
- **Hours of Service Compliance**
  - HOS RODS, and operating a CMV while ill or fatigued
- **Vehicle Maintenance**
  - Brakes, lights, and other mechanical defects, failure to make required repairs, and improper load securement
  - Inoperative/defective hazard warning lamp (weight=6)

**CSA Core Component # 3**

**3. Evaluation** →

- Determination of Carrier Safety Performance
  - No safety deficiencies
  - Deficiencies requiring intervention
- Determination of Carrier Safety Rating
  - Proposed Rulemaking

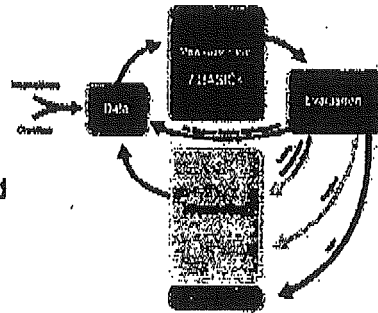
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    Data[Data] --> Evaluation[Evaluation]
    Evaluation --> Rulemaking[Rulemaking]
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    Evaluation --> Rulemaking
  
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## CSA Core Component # 4

### 4. Interventions

- Early contact
  - Warning letter
  - Targeted roadside inspections
- Investigation
  - Off-site investigation
  - On-site investigation – focused & comprehensive
  - Cooperative Safety Plan
  - Notice of Violation (NOV)
  - Notice of Claim (NOC)
  - Settlement Agreement



## CSA: What it Means to You as a Driver

**CSA puts more emphasis on drivers than the previous enforcement model:**

- **ALL** violations found during Roadside Inspections count toward carrier and driver safety measurement according to vehicle or driver violation type.
- BASIC information/scores will be sent to roadside inspectors as a tool in the decision of whether to inspect and what level to inspect a specific CMV
  - Roadside Inspectors will see carrier information/scores
  - Roadside Inspectors will not see driver measurement information

## **CSA: What it Means to You as a Driver**

**Safety Investigators will be able to see the safety performance history of drivers when they are conducting a carrier investigation**

- This information is not available to carriers
- Assessment includes the entire history of the driver
- Assessment is a tool for investigators to use in sampling and to issue NOCs/NOVs to drivers based on performance
- Drivers will not be rated (i.e. unfit) under CSA.

## **CSA: What Can You Do?**

- Member Actions
  - Thorough pre-trip and post-trip inspections
  - Document problems with CMV or load
    - Don't operate a vehicle that does not comply with the regulatory requirements
  - Comply with the law and regulations
    - Operating a CMV
    - Maintain valid CDL and medical card
  - Familiarize yourself with worker rights per contract and regulations



# Hours of Service Regulation

## Revised December 2011

Provision	Current Rule	Final Rule - Effective July 1, 2013
Daily Driving Time	12 Hours of Driving, followed by 10 hours of off-duty	No change
Limitations on minimum "34-hour restarts"	None	(1) Must include two periods between 1 a.m. - 5 a.m. home terminal time. (2) May only be used once per week.
Rest breaks	None, except as defined by other rule provisions	Must take every 8 hours. At least have 15 minutes off-duty for every 4 hours of duty. (HRS 397 - Rest Breaks) 15 minutes off-duty may be included in break if no time outages performed.
		<b>Final Rule Effective February 27, 2012</b>
On-duty time	Includes any time in CMV except sleep time	Does not include any time sleeping in a parked CMV in a sleeping property securing CMV. Does not include up to 1 hour of passenger and immediate duties or other communications from a terminal base. Also applies to passenger carrying drivers.
Penalties	"Egregious" hours of service violations not specifically defined.	Driving (or allowing a driver to drive) 3 or more hours beyond the driving-time limit may be considered an egregious violation and subject to the maximum civil penalties. Also applies to

### 34-Hour Restart Provision

- Any period of 7/8 consecutive days may end with the beginning of any off duty period of 34 or more consecutive hours.
- The rule limits the use of the "34-hour restart" to once a week (168 hours)
- The restart must include 2 night periods between 1 and 5 AM.

### 34-Hour Restart Provision

- §395.3 (c)(1) and (c)(2) Through June 30, 2013 a period of 7 or 8 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours. After June 30, 2013 any period of 7 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours that includes two periods from 1 a.m. to 5 a.m.
- §395.3 (d) After June 30, 2013, a driver may not take an off-duty period of 34 hours to restart the calculations of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days until 168 or more consecutive hours have passed since the beginning of the last such off-duty period.

## Rest Breaks

- If a driver has been on duty for more than 8 consecutive hours since a period of off duty then he/she is required to take a 30 minute break before resuming driving duties.
- §395.3(a)(3)(i) A driver may drive a total of 11 hours during the 14-hour period. (ii) After June 30, 2013 driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes.

## Penalties

- Driving (or allowing a driver to drive) 3 or more hours beyond the driving-time limit may be considered an egregious violation and subject to the maximum civil penalties. Also applies to passenger-carrying drivers.

## Tank Endorsement

### New Definition

## Tank Endorsement

- Tank Vehicle means:
  - designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than 119 gallons
  - a tank with an aggregate rated capacity of 1,000 gallons or more that is either permanently or temporarily attached to the vehicle or the chassis

## Tank Endorsement

- **Intermediate Bulk Container (IBC):**
  - The new definition is to include an IBC if the aggregate capacity exceeds the 1,000 gallon threshold
  
- **Compliance Date: July 8, 2014**

## Tank Endorsement

- In order to obtain a tank vehicle endorsement, each applicant must have knowledge covering the following:
  - a) Causes, prevention, and effects of cargo surge on motor vehicle handling;
  - b) Proper braking procedures for the motor vehicle when it is empty, full and partially full;
  - c) Differences in handling of baffled/compartmented tank interiors versus non-baffled motor vehicles;
  - d) Differences in tank vehicle type and construction;
  - e) Differences in cargo surge for liquids of varying product densities;
  - f) Effects of road grade and curvature on motor vehicle handling with filled, half-filled and empty tanks;
  - g) Proper use of emergency systems; and
  - h) For drivers of DOT specification tank vehicles, retest and marking requirements; and
  - i) Operating practices and procedures not otherwise specified.

## Electronic On-Board Recording Devices

Proposed Rulemaking

### Electronic On-Board Recording Devices

- FMCSA recently withdrew the Final Rule that was challenged in court by the OOIDA
  - OOIDA protested that use of EOBR technology could be used to harass drivers
- Discussion during MCSAC advised the agency to limit rulemaking to only tracking HOS compliance
- Agency will revisit rulemaking and focus on HOS compliance

**Cell Phone Ban:  
Limiting the Use of Wireless  
Communication Devices**

It's very easy  
to comply with the  
new rules:

**No  
REACHING  
No  
HOLDING  
No  
DIALING  
No  
TEXTING  
No  
READING**

**No call,  
No text,  
No ticket!**

**Restricted Use of Cell Phone  
Effective**

**January 3<sup>rd</sup>, 2012**

Rulemaking restricts a CMV driver from:

1. Holding a mobile telephone for a voice call
2. Dialing a mobile telephone by pressing more than a single button; OR
3. Reaching for a mobile phone in an unacceptable and unsafe manner

## Applicability

- All operators of CMVs as defined in 49CFR390
  - This rule applies to you if:
    - a) you have a CDL or
    - b) drive a CMV greater than 10,001lbs.

## Definitions

- Mobile Telephone
  - May include satellite telephone or broadband radio service
  - Does not include two-way or Citizens Band radio service
- Texting
  - Amended the definition of texting to eliminate dialing exception
  - The driver can press a single button to initiate or terminate a call



## Definitions

- **Driving**
  - Operating a CMV on a highway, including while temporarily stationary due to traffic control device
  
  - Does not include when the driver has moved the vehicle to the side of or off a highway and has completely stopped

## Penalties / Disqualifications

- **First Conviction**
  - Civil penalty of \$2,750
- **Second Conviction**
  - If within a 3 year period of first conviction, CDL disqualified for 60 days
- **Third Conviction**
  - If within a 3 year period of first conviction, CDL disqualified for 120 days

## Emergency Situations

- You may use your cell phone to communicate with the law for emergency services
- You may dial 911

## Medical Qualifications

- Exemption Programs
  - Diabetes
  - Vision Waiver Program
- National Registry of Medical Examiners
- Drug Testing
- Combining the Medical Certificate with the Commercial Driver's License
- Sleep Apnea



**Office of Vision and Diabetes  
Exemption Programs**

Phone Number  
703-448-3094

Email  
medicalexemptions@fmcsa.dot.gov

Online  
<http://www.fmcsa.dot.gov/rules-regulations/topics/medical/exemptions.htm>

**Medical Qualifications**

**National Registry of Medical  
Examiners  
FINAL RULE**

### **National Registry of Medical Examiners**

- FMCSA promulgated a Final Rule to establish a registry of medical examiners which will require examiners to
- Successfully complete a written test -Comply with continuing education requirements

### **National Registry of Medical Examiners**

- The effective date of the new rule is May 14, 2014 -On this date, all Medical Examiners who wish to conduct medical examinations must have
  - completed training and successfully completed an test to be included on the National Registry
- All drivers seeking a medical certificate must use a examiner on the National Registry after May 21,2014

## **Medical Qualifications Drug Testing**

**DHHS/SAMHSA Mandatory Testing  
Program**

### **DHHS Federal Drug Testing Programs**

- The Substance Abuse and Mental Health Services Administration (SAMHSA) recently announced that it accepted the Drug Testing Advisory Board's recommendations to revise the Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs regarding
- Schedule II prescription medications, e.g., hydrocodone, hydromorphone, oxycodone, and oxymorphone

## **Medical Qualifications**

### **Combining the Medical Certificate with the Commercial Driver's License**

### **Combining the Medical Certificate with the Commercial Driver's License**

- Starting January 30<sup>th</sup> 2012 all drivers will be required to
  1. Notify SDLA of driver category
  2. Submit a copy of medical certificate
- Drivers have until January 30<sup>th</sup> 2014 to comply UNLESS one of the following occurs first:

### **Combining the Medical Certificate with the Commercial Driver's License**

- Starting on January 30, 2012 if a CDL driver:
  - Renews a CDL
  - Applies for a higher class of CDL
  - Applies for a new endorsement on a CDL, or
  - Transfers a CDL from another State
- The driver will be required to self classify and provide a copy of the medical certificate at the time of the action

### **Combining the Medical Certificate with the Commercial Driver's License**

- New CDL Application
  - Must certify driver category
  - Must provide State with a copy of medical examiner's certificate PRIOR to obtaining a CDL

## **Classification Categories**

### **Category 1: Non-Excepted Interstate**

All Class A, B, C drivers

### **Category 2: Excepted Interstate**

Operations Excepted under 390.3, 391.2, 391.68, 398.3

### **Category 3: Non-Excepted Intrastate**

All Intrastate Drivers

### **Category 4: Excepted Intrastate**

All Intrastate Drivers with State Exceptions

## **Maintaining Status of Medical Certification**

If a medical certification expires, a CDL holder will be considered "not certified" and the CDL privilege will be downgraded unless:

- The driver submits a current medical certificate within 60 days
- Submits a current medical variance (diabetes exception, vision exception); OR
- Changes his/her self-classification to driving only in excepted or intrastate commerce



## Downgrading

- Downgraded will mean that the driver loses the privilege to drive a CMV that requires a CDL
- Downgraded does NOT mean loss of CDL

## Medical Qualifications

Sleep Apnea

## Sleep Apnea

- MRB recommended revising regulatory guidance for medical examiners
- MRB met with MCSAC to discuss proposed revisions
- FMCSA is likely to move forward with both interim guidance and rulemaking

## Sleep Apnea

- Sleep Apnea
  - Studies show that drivers who have OSA are over 2 times as likely to have a crash than drivers who don't have the disorder
  - Research indicates that there is a high correlation between Body Mass Index (BMI) and OSA, so BMI is a good indicator of OSA
  - Studies show that there is a high correlation between a diagnosis of OSA and excessive daytime sleepiness

## Sleep Apnea

- **Sleep Apnea Recommendations**
  - Driver will be disqualified immediately if the driver
    - Admits to experiencing excessive sleepiness during the major wake period while driving
    - Experienced a crash associated with falling asleep, or
    - Has been found non-compliant with treatment

## Sleep Apnea

- **Sleep Apnea Recommendations**
  - Driver may receive a conditional certification if:
    - The driver has an apnea-hypopnea index of greater than 20 until compliant with PAP
    - The driver has undergone surgery and is pending post-op findings, or
    - The driver has a Body Mass Index (BMI) greater than or equal to 35, pending a sleep study

## Sleep Apnea

- MRB Recommendations
  - Conditional certification must include the following elements
    - A driver with a BMI of greater than or equal to 35 may be certified for 60 days pending a sleep study and treatment (if driver is diagnosed with OSA)
    - Within 60 days, if driver is compliant with treatment, he/she may receive an additional 90 day certification
    - After 90 days, if the driver is still compliant with treatment, the driver may be certified for no more than 1 year. Future certification will depend on continued compliance

## Medical Qualifications

- Sleep Apnea Screening
  - BMI equal to or greater than 35
  - Reported loud snoring
  - Witnessed apneas
  - Reported sleepiness during the major wake period
  - Small or recessed jaw

## Medical Qualifications

- Sleep Apnea Screening Ctd...
  - Small airway (Mallampti Scale of Class 3 or 4)
  - Neck size (17 inches for men, 15.5 inches for women)
  - Hypertension (treated or untreated)
  - Type 2 diabetes
  - Age 42 or above
  - Family history
  - Experienced a single-vehicle crash

## Sleep Apnea

- | • Height/Weight             | • Body Mass Index |
|-----------------------------|-------------------|
| – 5 feet, 8 inches/230 lbs  | – 35.0            |
| – 5 feet, 9 inches/237 lbs  | – 35.0            |
| – 5 feet, 10 inches/244 lbs | – 35.0            |
| – 5 feet, 11 inches/251 lbs | – 35.0            |
| – 6 feet, 0 inches/258 lbs  | – 35.0            |
| – 6 feet, 1 inch/265 lbs    | – 35.0            |
| – 6 feet, 2 inches/273 lbs  | – 35.0            |
| – 6 feet, 3 inches/280 lbs  | – 35.0            |
| – 6 feet, 4 inches/288 lbs  | – 35.0            |
| – 6 feet, 5 inches/295 lbs  | – 35.0            |

## Sleep Apnea

- Sleep Apnea (Diagnostic Process)
  - In-lab polysomnography
  - At-home polysomnography
    - Is not as comprehensive as in-lab test
    - If negative, driver will have to submit to in-lab test

## Sleep Apnea

- Treatment Options
  - CPAP
  - Bariatric Surgery
  - Tracheotomy
  - Weight Loss – Non-surgical
  - Dental Appliances – Not currently acceptable as effective treatment for moderate to severe OSA

## Resources



- Staff
- Fact sheets
- Contract language samples
- Website:  
<http://www.teamster.org>
- Phone: (202) 624-6960
- Email: [ibtsafety@teamster.org](mailto:ibtsafety@teamster.org)