



Scopelitis

Garvin Light Hanson & Feary

The Transportation Law Firm

DOT Safety Workshop

The Transportation Law Seminar

April 14-16, 2024

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DOT Safety Workshop The Transportation Law Seminar



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Offices in 11 Major US Cities

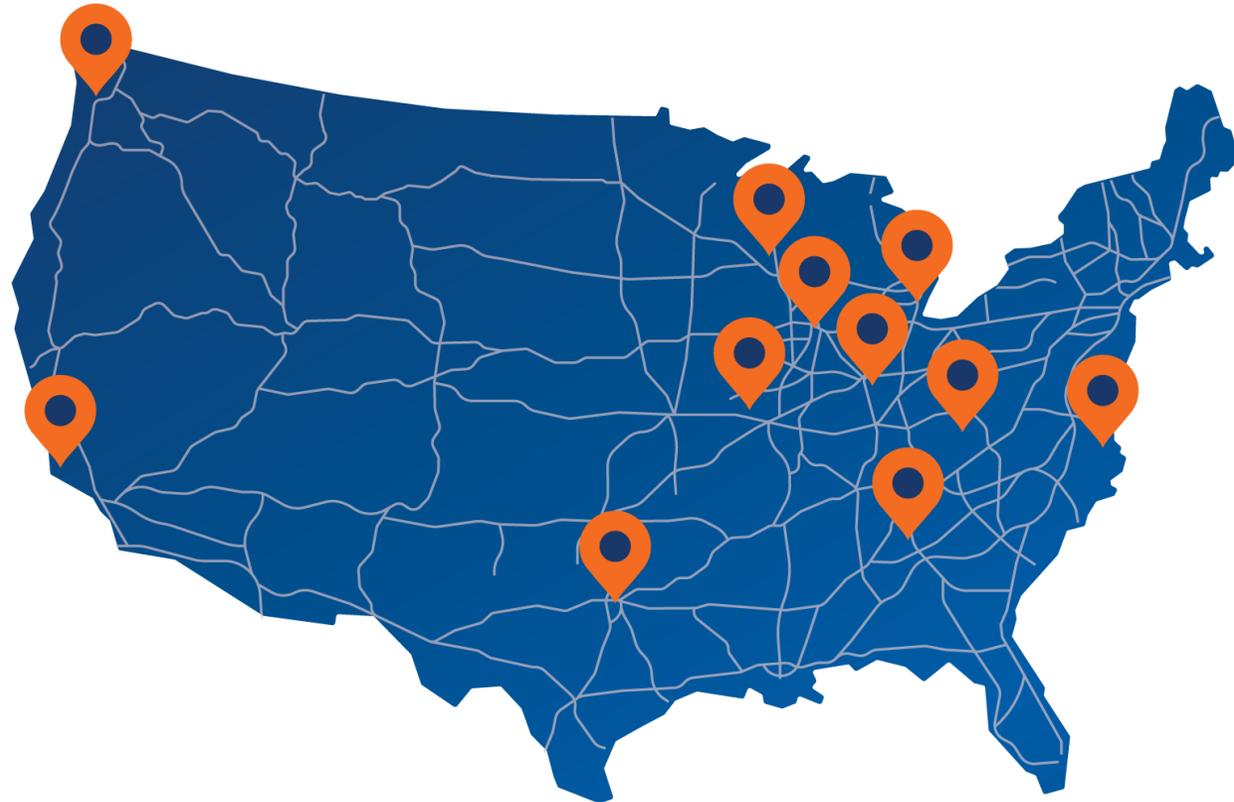
Headquartered in Indianapolis

5,000+
transportation-related clients

90+
of the top 100 motor carriers in
the nation as perennial clients

70+
years serving the legal needs of
the transportation industry

35+
practice areas dedicated to the
transportation & logistics
industry



The Transportation Law Firm

- Established in 1978
- Clients range from Fortune 500 companies to small, family-owned businesses
- The only firm solely focused on transportation and related industries



Our Approach

Scopelitis attorneys take a collaborative, comprehensive, concierge, 24/7/365 approach in helping clients chart a course to success, however they define it

AGENDA

- **CSA Update and How to File Effective DataQ Challenges**
- **Drug and Alcohol Testing Issues and Related Policy Discussion**
- **FMCSA Enforcement Update and Preparing for Audits/Investigations**
- **Hours of Service and ELD Issues**
- **Safety Technology and How to Manage**
- **Hazardous Materials Compliance**

CSA Update and How to File Effective DataQ Challenges



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COMPLIANCE, SAFETY, ACCOUNTABILITY



- Notice published February 14, 2023
- FMCSA declined to adopt Item Response Theory
- Reorganized BASiCs
- Finalized this spring?



CONSOLIDATING VIOLATIONS



- 959 violations to 116 groups
- Violations in like groups counted once, no cap like today with 30 points

Safety Category	Violations in SMS	Violation Groups in Proposed Methodology
<i>New Unsafe Driving</i>	59*	32
HOS Compliance	73	9
<i>New Vehicle Maintenance</i>	406	15
<i>New Vehicle Maintenance: Driver Observed</i>	N/A	35
Controlled Substances/Alcohol	11	N/A
HM Compliance	369	14
Driver Fitness	55	11
Total	973	116

New designates safety categories for the proposed methodology. The new Unsafe Driving category includes Controlled Substances/Alcohol violations.

*Number includes 14 additional violations for operating while under an OOS Order that are not used in the current SMS methodology.

COMPLIANCE, SAFETY, ACCOUNTABILITY



- Simplified Severity Weights
 - 2 - At least one violation in the group was OOS or was disqualifying driver violation
 - 1 - All other violation groups
- Proportionate Percentiles
 - The carrier's change in measure should have greatest influence on percentile ranking
 - Develops a “measure to percentile” relationship
 - Essentially an average of your score between the two SEG
 - Benchmarks used recalculated “infrequently”
 - Annually at beginning of the year

NEW SEGMENTATION AND THRESHOLDS



- Driver Fitness

- General intervention 90th percentile

Carrier Type	Criteria
Straight Carrier	More than 30% of the total PUs in their fleet are straight trucks/other vehicles
Combination Carrier	70% or more of the total PUs in their fleet are combination trucks/motor coach buses

- HazMat

- Intervention 90th Percentile

Carrier Type	Criteria
Cargo Tank Carrier	50% or more of their total placardable HM inspections are cargo tank inspections.
Non-Cargo Tank Carrier	Less than 50% of their total placardable HM inspections are cargo tank inspections.

COMPLIANCE, SAFETY, ACCOUNTABILITY



- Prioritization
 - Carriers without a BASIC violation in last 12 months have no score
- Updated utilization factor
 - Increase cap to 250K miles per power unit

Combination Segment	
VMT per Average PU	Utilization Factor
< 80,000	1
80,000-160,000	$1 + \frac{(VMT \text{ per Average PU} - 80,000)}{133,333}$ 14
160,000-200,000	1.6
> 200,000	1
No Recent VMT Information	1

CRASH PREVENTABILITY DETERMINATION PROGRAM



- FMCSA proposed modifications to the CPDP
 - Clarifies existing eligible crash scenarios
 - Adds four new crash types



CRASH PREVENTABILITY DETERMINATION PROGRAM



- Four new crash types:
 - CMV was struck on the side by a motorist operating in the same direction.
 - CMV was struck because another motorist was entering the roadway from a private driveway or parking lot.
 - CMV was struck because another motorist lost control of their vehicle.
 - Any other type of crash involving a CMV where a video demonstrates the sequence of events of the crash.



WHAT IS A DATAQS CHALLENGE



- Allows for review of incomplete or incorrect Federal and State data in the FMCSA
- Enables users to request change and track review process

USER ROLES IN DATAQS



- Motor carriers
- Commercial drivers
- Representatives
- FMCSA
- States agencies
- Public users

	Motor Carrier or Owner-Operator*	Driver	FMCSA & State Partner	Public/ Industry*
Register/log in with your Portal credentials	✓		✓	
Register/log in with your DataQs credentials		✓		✓
Submit a request	✓	✓	✓	✓
Monitor the status of your existing request	✓	✓	✓	✓
Receive email notifications about changes to your request	✓	✓	✓	✓
View all requests pertaining to your company or organization	✓		✓	
Respond to requests	✓	✓	✓	✓
Access the Help Center	✓	✓	✓	✓
View customized reports			✓	
View response templates			✓	

DATAQS...THE PROCESS

- Two years to challenge violations
- Up to 10 days to receive response
- Receive email updates
- Re-submit after unfavorable decision

WHY SUBMIT REQUEST FOR DATA REVIEW

- Improve CSA Score
- Correct inaccurate information
- Potential to save \$\$
- Potential to save driver's time from inspections



HOW TO USE DATAQS

- How to use DataQs
 - Register on portal or use FMCSA Portal log in
 - Start a New Request on portal homepage
 - Select request type and complete necessary details
 - Include supporting documents and submit

HOW TO USE DATAQS

Registering/Portal Log in

Create an Account

Log In

Create an Account

Log In

Create an Account to Get Started

What type of user are you?



Motor Carrier

You must initially access DataQs through your [FMCSA Portal account](#) if you have not before.



Driver

Create a DataQs account to log in.



FMCSA/State Partner

You must initially access DataQs through your [FMCSA Portal account](#) if you have not before.



Public/Industry

Create a DataQs account to log in.

We have updated how you log in to DataQs.

To protect your data and make access more secure, DataQs now requires multifactor authentication.

Log In to Get Started

Log In with DataQs Credentials

Log In with Portal Credentials

If you used to log in with a DataQs username and password, sign in to your account using Login.gov. **Your Login.gov account must use the same email address as your DataQs account.**

LOGIN.GOV



Don't have a Login.gov account? Create one today. [Learn more.](#)

Motor carriers: You can also log in via the FMCSA Portal to access all requests for data review associated with your U.S. DOT Number(s).

REQUEST TYPES

- Crash/Inspection/Investigation/Audit
- Registration (MCS-150)/Licensing and Insurance/Operating Authority (OP-1, OP2)
- Household Goods (HHG) Complaints
- Drug and Alcohol Clearinghouse Violation Petition

HOW TO SUBMIT CHALLENGE

- Provide sufficient details
 - Summary of issues and proposed solution
 - Correct citation/report numbers
- Provide all documentation that may be useful
- Respond to follow ups from state agency and check status often

HOW TO SUBMIT CHALLENGE ...SUPPORTING DOCUMENTS

- Common Documents
 - Inspection reports
 - Crash reports
 - Shipping papers
 - Lease agreements
 - ICOAs
 - Court documents
- How to submit Documents
 - Fax
 - Upload before or after submission

DATAQS CHALLENGE DENIED...WHAT'S NEXT?

- Appeal?
- FMCSA proposed appeal process in Sept. 2023
 - Limited to legal interpretation or implementation of enforcement polices or regulations
- Factual disputes are not being considered

TABLE 1—EXAMPLE REQUESTS POSSIBLY ACCEPTABLE FOR FMCSA APPEAL

	RDR type and scenario	Reason for FMCSA appeal acceptance
1.	<i>Crash—Not Reportable</i> A CMV was involved in a crash where the other driver left the scene. The other driver was apprehended a short time later and the vehicle had to be towed due to damage sustained during the crash with the CMV	<i>Interpretation—Crash Reportability Definition.</i> Determine whether the crash met FMCSA's definition for reportability of a crash.
2.	<i>Inspection—Incorrect Violation</i> The driver was using a portable electronic logging device (ELD), mounted to the center console. The driver was cited for a violation during an inspection because the ELD was not in view of the driver while operating the CMV. The driver claims the violation is in error because “visible” means not hidden and the driver only needs to access it when changing duty statuses	<i>Interpretation—ELD and Hours of Service (HOS) Final Rule.</i> Interpret the ELD and HOS Supporting Documents Final Rule, § 395.22 (g) “ <i>Portable ELDs.</i> If a driver uses a portable ELD, the motor carrier shall ensure that the ELD is mounted in a fixed position during the operation of the commercial motor vehicle and visible to the driver when the driver is seated in the normal driving position.”

TABLE 1—EXAMPLE REQUESTS POSSIBLY ACCEPTABLE FOR FMCSA APPEAL

	RDR type and scenario	Reason for FMCSA appeal acceptance
	statuses	
3.	<i>Inspection—Incorrect Violation</i> A driver was cited roadside with violating HOS regulations after claiming to be operating under a Regional Emergency Declaration in support of hurricane relief efforts. The State contended the commodity being transported was not part of the relief efforts	<i>Interpretation—National Emergency Declaration.</i> Assess whether the State correctly applied the waiver in response to the declared hurricane emergency.
4.	<i>Inspection—Citation Associated with a Violation</i> The driver received a speeding violation, and an associated citation, during a traffic enforcement inspection. The citation was dismissed in court and the driver paid court costs. The State contends that the court costs were punitive and the equivalent of a conviction	<i>Interpretation—Adjudicated Citations Policy.</i> Determine the appropriate outcome for a citation dismissed with court costs based on the MCMIS Changes to Improve Uniformity in the Treatment of Inspection Violation Data (Adjudicated Citations Policy).

TABLE 2—EXAMPLE REQUESTS LIKELY NOT ACCEPTED FOR FMCSA APPEAL

	RDR type and scenario	Reason for FMCSA appeal rejection
1.	<i>Crash—Not Reportable</i> A motor carrier provides insurance documents stating that they were found “not at fault” in the crash and wants the crash removed as not reportable	<i>Based on Insurance Documents—Not Crash Reportability Definition.</i> FMCSA crash data is based on vehicle involvement, and fault is not a consideration in the reportability of a crash.
2.	<i>Inspection—Incorrect Violation</i> A CMV driver received a violation during an inspection for driving during off-duty hours. The submitter claims that the ELD was malfunctioning, and the inspector was not provided accurate information. The request did not include supporting evidence	<i>Disputes Facts—Not Based on ELD Regulations or Policy.</i> The request disputes facts regarding whether the ELD was working correctly at the time of the inspection. It also does not require an interpretation of regulation or policy.

TABLE 2—EXAMPLE REQUESTS LIKELY NOT ACCEPTED FOR FMCSA APPEAL

	RDR type and scenario	Reason for FMCSA appeal rejection
3.	<i>Inspection—Incorrect Violation</i> The driver received a violation for following too closely during a traffic enforcement inspection. Submitter claims that the driver was not in violation of the traffic code. The request did not include supporting evidence	<i>Opposing Account—Not Based on Regulations.</i> The request presents an opposing account of the inspection without concrete evidence. It also does not question the interpretation of the regulation.
4.	<i>Inspection—Incorrect Violation</i> The driver received an HOS violation because the log did not properly reflect driving hours. The submitter states that the driver has been retrained in maintaining logs and is requesting the violation be removed	<i>Leniency Request—Not Based on HOS Regulations.</i> The requestor is seeking a data change based on purported corrective action and does not question the interpretation of the regulation.

DATAQS HELP CENTER



DataQs Account

(11 QUESTIONS)

- Registering for DataQs
- Logging in to DataQs
- Who to contact with questions on an open request

[Learn More](#)



Driver/Carrier Records

(8 QUESTIONS)

- Viewing driver and carrier safety data
- Learn more about your CSA score
- Learn about the PSP report

[Learn More](#)



Submitting a Request

(7 QUESTIONS)

- How to enter a request
- Who can submit a request
- How to find a report number

[Learn More](#)



Adobe Acrobat
Document



Supporting Documentation

(2 QUESTIONS)

- What qualifies for supporting documentation
- How much supporting documentation is sufficient
- How to add supporting documentation

[Learn More](#)



Monitoring and Responding to Requests

(10 QUESTIONS)

- How to view details of a request
- How to add details to a request
- Who to contact with questions on an open request

[Learn More](#)

DataQs Analyst Guide

DataQs Best Practices

The DataQs Analyst Guide provides FMCSA and State DataQs analysts with the procedures for reviewing and resolving data quality inquiries submitted to FMCSA's DataQs system.

[Download Analyst Guide](#)

QUESTIONS?

Drug and Alcohol Testing Issues and Related Policy Discussion

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DRUG AND ALCOHOL TESTING: LET'S GET INTO THE WEEDS



SUBSTANCES IDENTIFIED IN POSITIVE DRUG TESTS

Substance	2020	2021	2022	2023	# Tests Identified*
Marijuana Metabolite (Δ 9-THCA)	29,511	31,085	40,916	37,657	139,169
Cocaine Metabolite (BZE)	7,940	8,765	10,953	10,326	37,984
Methamphetamine (MET/MAMP)	5,187	5,082	5,569	4,515	20,353
Amphetamine (AMP)	4,953	4,904	5,349	4,222	19,428
Oxymorphone (OXYM)	1,372	1,276	1,398	1,094	5,140
Oxycodone (OXYC)	1,106	1,049	1,130	923	4,208
Hydrocodone (HYC)	1,082	1,048	1,042	836	4,008
Hydromorphone (HYM)	1,000	930	965	811	3,706
Morphine (MOP)	443	353	445	370	1,611
Codeine (COD)	386	329	444	358	1,517
6-Acetylmorphine (6-AM)	302	191	177	116	786
Phencyclidine (PCP)	137	118	138	90	483
Ecstasy (MDMA)	65	60	68	76	269
Methylenedioxyamphetamine (MDA)	30	33	45	49	157
All substances	53,514	55,223	68,639	61,443	238,819

(Reported through December 2023, as of January 1, 2024) *Total since January 6, 2020



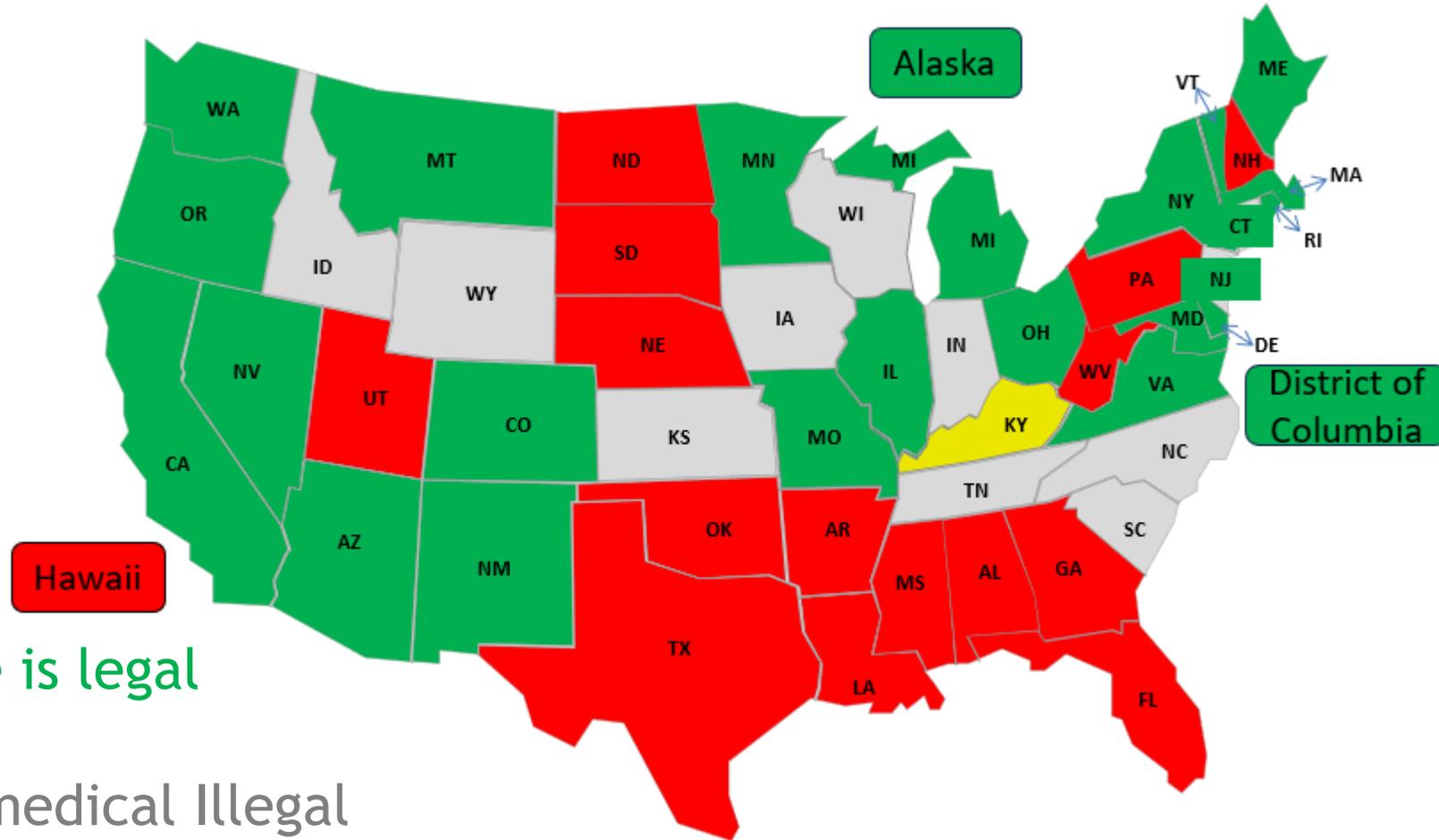
Note: More than one substance can appear in a positive drug test

DECRIMINALIZATION OF MARIJUANA...

HHS/DEA

- States taking action, still federally prohibited
- DACH still has many positives - 57%
- Congressional action and bills
- HHS recommended to DEA from Schedule I to Schedule III
- on par with Tylenol (August 29, 2023)

U.S. HEAT MAP BY STATE...LEGALIZED MARIJUANA



Recreational use is legal

Medical only

Recreational & medical Illegal

Medical only effective 2025



TESTING PROPOSED FOR FENTANYL USE

- Leading cause of death among younger adults between 18 - 45
- 1 in every 28 hair tests are positive for Fentanyl or other opioids
- To replace MDMA/MDA on DOT panel

DRUG & ALCOHOL TESTING - ORAL FLUID & HAIR FOLLICLE

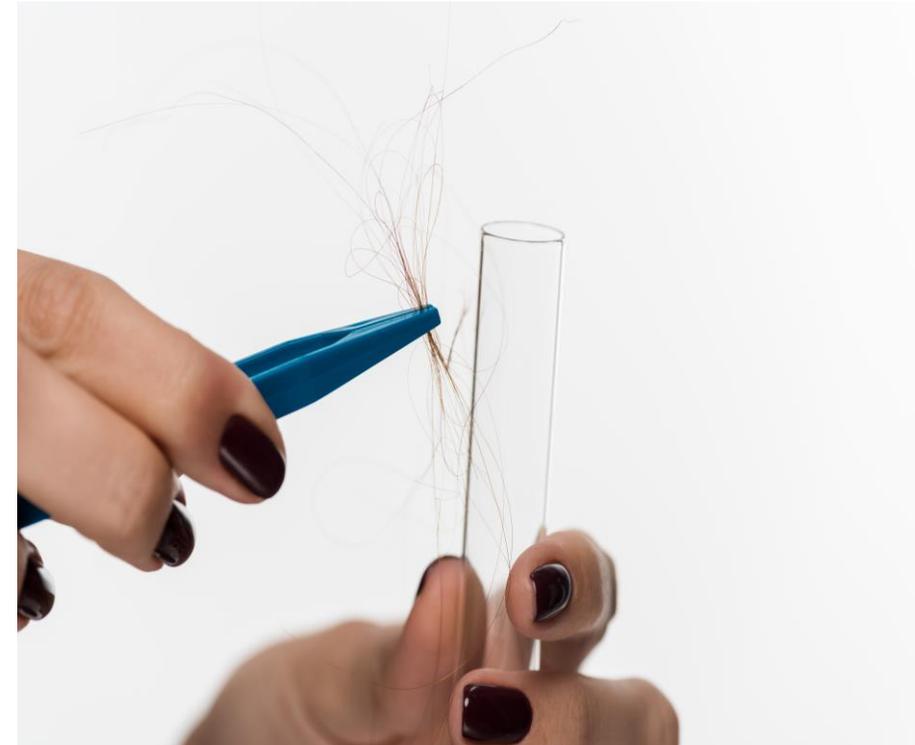
- The Substance Abuse and Mental Health Services Administration (SAMHSA) has adopted standards for oral fluids testing
- DOT authorized the use of oral fluid specimen testing effective on June 1, 2023, for all testing situations
 - Pre-employment, random, post-accident, follow-up, return-to-duty and reasonable suspicion
 - HHS must certify at least two laboratories to conduct the screening and confirmation
 - Still waiting...
 - Carriers must have a Standing Order

Final Rule



DRUG & ALCOHOL TESTING - ORAL FLUID & HAIR FOLLICLE

- NPRM in 2020 followed by public comments
- DTAB reviewed public comments in June 2021
- Hair testing laboratories listening session in spring 2022
- Revised HMG submitted and is under OMB review
 - SAMHSA listening session with 7 hair testing laboratories
 - Topics: proficiency testing requirements, quantitative agreement between labs, reporting criteria, future technical working groups
 - SAMHSA has not ruled on hair testing
 - Both tests are currently being used by many carriers



DRUG & ALCOHOL TESTING - ORAL FLUID BENEFITS

- Easier, faster sample collection
- All collections are observed
- More people are willing
- Samples can be collected anytime and anywhere
- Tighter window of detection than urine
- Employer versatility in detection
- Employers have options
- No change in chain-of-custody process



DRUG & ALCOHOL PROPOSED RULES

- Drug and Alcohol Clearinghouse Implementation Revisions
 - Streamline and improve error-correction procedures, queries, and consent requirements
- DOT appeal process for Employer--Decided Refusals
 - Employee to dispute an employer's determination on refusal to test
- Electronic Signatures, Forms and Records Storage for Drug and Alcohol Testing Records

QUESTIONS?



FMCSA Enforcement Update & Preparing for Audits/Investigations

DOT Safety Workshop



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FMCSA Enforcement Update & Preparing for Audits/Investigations

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Agenda

Recent Trends

- Crashes
- Compliance Investigations
- Roadside Inspections

Preparing for DOT Audits/Investigations

- Background on Audits
- What to expect during an Audit
- Conducting a Self Audit
- Audit Do's and Don'ts
- Key Takeaways

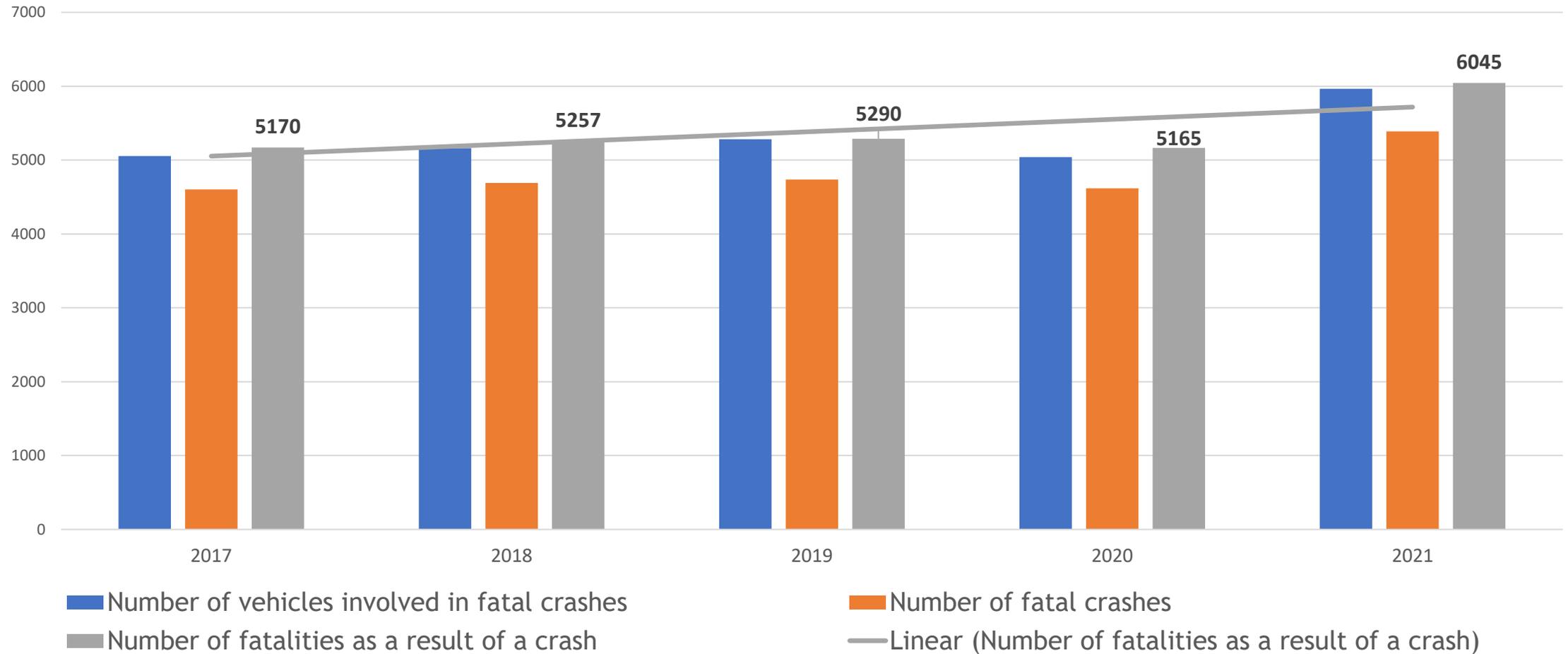
RECENT TRENDS

CLUES IN THE DATA



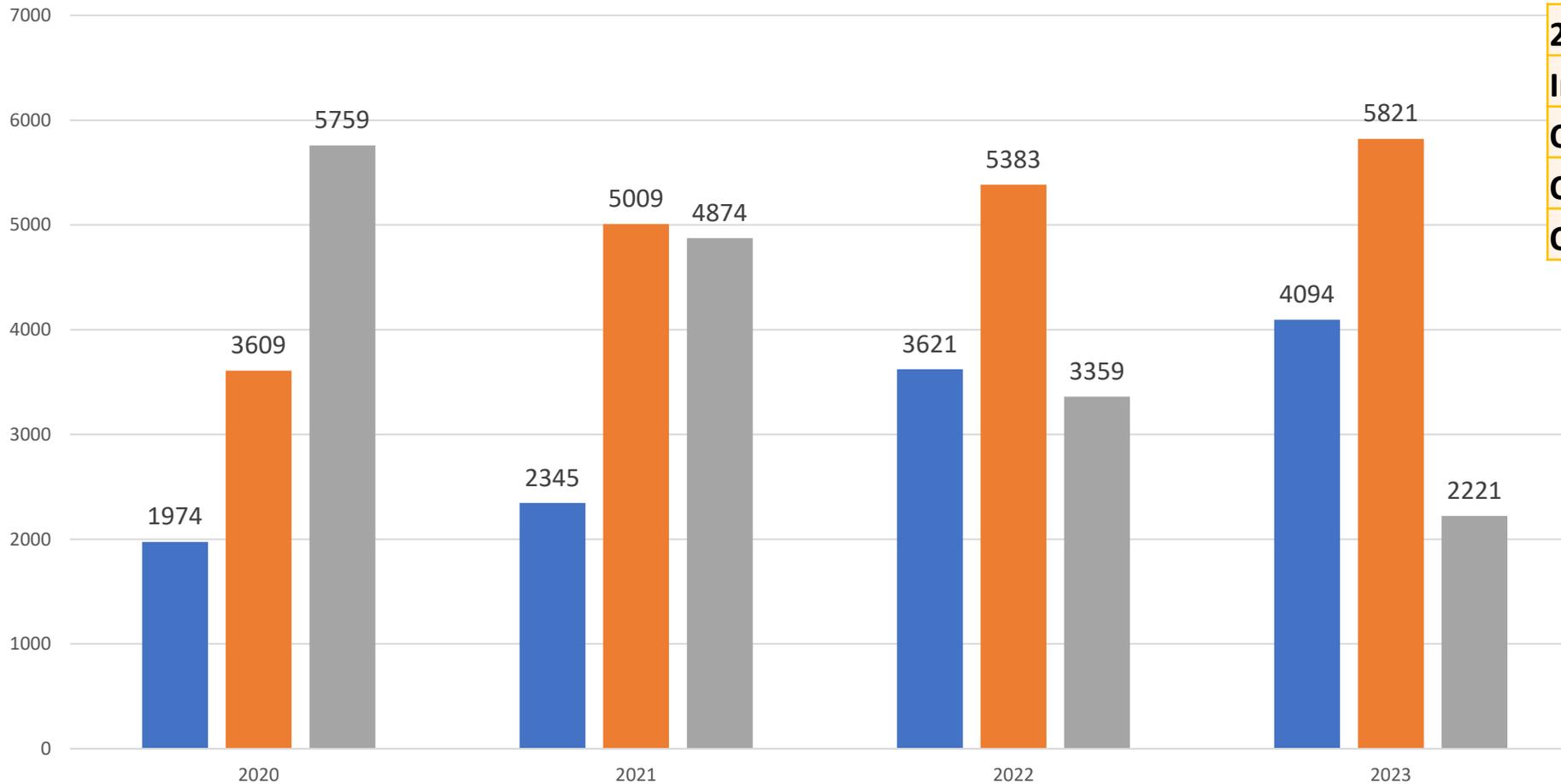
LARGE TRUCK AND BUS FATAL CRASHES

FARS Data



COMPLIANCE INVESTIGATIONS

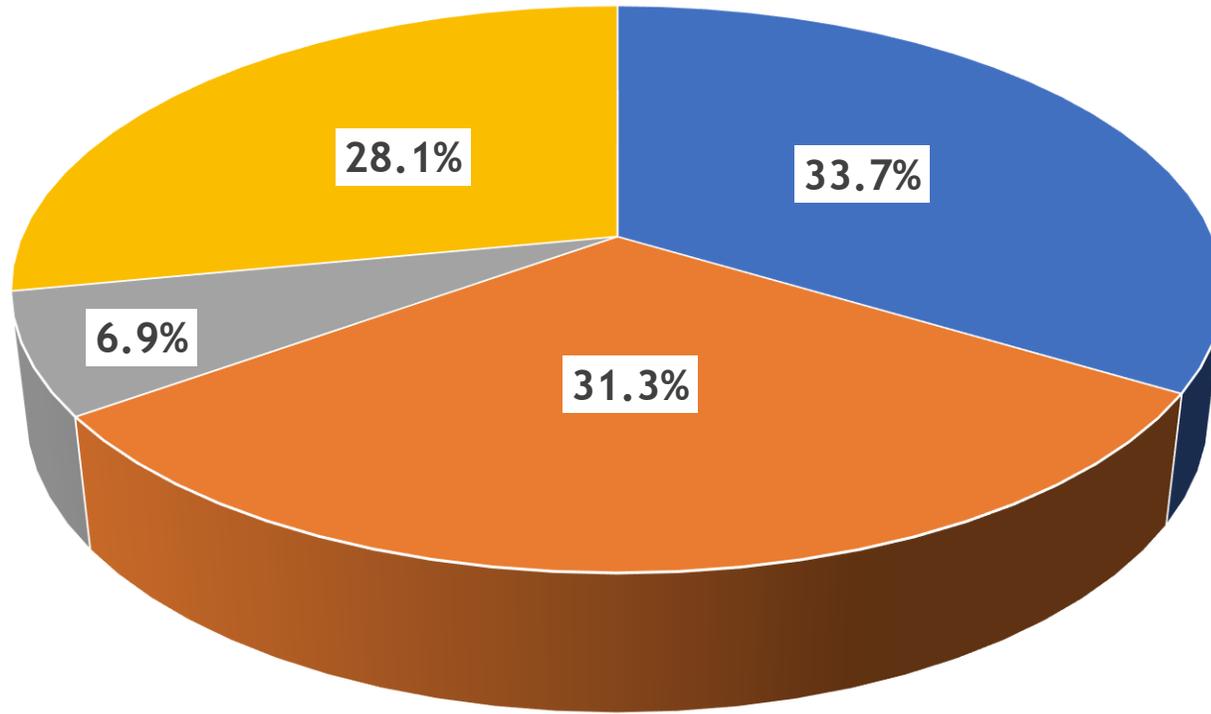
Investigation Type



2020-2023
Investigations: + 7.8%
Onsite Comprehensive: + 107.4%
Onsite Focused: + 61.3%
Offsite: - 159.3%

SAFETY RATINGS

2023



■ Satisfactory ■ Conditional ■ Unsatisfactory ■ Not Rated

2020-2023
Ratings: + 82%
Satisfactory: + 83.5%
Conditional: + 115.5%
Unsatisfactory: + 239.2%
Not Rated: + 40.3%

2023 SAFETY INVESTIGATIONS ACUTE VIOLATIONS

Overall Rank	Violation Code	Violation Description	# of Investigations	# of Violations	% of Total Violations
13	396.17A	Using a CMV not periodically inspected	1272	1393	1.71%
15	383.37A	Allowing driver to drive with suspended/revoked/etc. CDL	1357	1371	1.68%
18	391.51A	Failing to maintain driver qual. file on each driver	1093	1192	1.46%
21	391.11A	Using an unqualified driver (positive or refused drug test)	919	1115	1.36%
23	396.3B	Failing to keep minimum records of inspection and maintenance	923	983	1.2%
30	382.115A	Failing to implement an alcohol and/or drug testing program	745	746	0.91%
41	383.37B	Allowing driver with more than one CDL to drive a CMV	452	465	0.57%
49	382.3052	Failing To Randomly Test For Drugs And/Or Alcohol	369	369	0.45%
51	382.215	Using a driver who has tested positive for a drug	360	360	0.44%
73	387.7A	No proof of financial responsibility - Freight Carrier	170	170	0.21%

2023 SAFETY INVESTIGATIONS CRITICAL VIOLATIONS

Overall Rank	Violation Code	Violation Description	# of Investigations	# of Violations	% of Total Violations
1	392.2	Violation of Local Laws	4839	8386	10.26%
3	395.8E1	False reports of records of duty status	3021	4296	5.26%
5	395.8A1	Not using the appropriate method to record hours of service	1845	2107	2.58%
9	382.301A	Using a driver before receiving a pre-employment result	1686	1693	2.07%
10	395.3A2	Requiring or permitting driver to drive after 15 hours on duty	1491	1672	2.05%
11	391.51B2	Inquiries into driving record not kept in DQ file	1454	1567	1.92%
14	395.3A3I	Driving beyond 11 hour driving limit in a 14 hour period. (Property Carrying Vehicle)	1197	1390	1.7%
28	395.8K1	Failing to preserve supporting documents for 6 months	686	826	1.01%
32	395.3A3II	Driving beyond 8 hour driving limit since the end of the last on duty, off duty, or sleeper period of at least 30 minutes	646	686	0.84%
34	382.305B2	Failing to do random drug tests at applicable annual rate	643	645	0.79%

BACKGROUND ON DOT AUDITS

TYPES OF REVIEWS AND TRIGGERS



INTERVENTIONS

- Warning Letter
 - Alerts carriers to safety issues and consequences of failing to correct them
 - Chance to improve without further FMCSA intervention
- Investigations
 - Offsite (done remotely): conducted via documentation requests; addresses emerging problems
 - Onsite Focused (at business site): focuses on specific compliance areas
 - Onsite Comprehensive (at business site): addresses compliance across a carrier's entire operation

WHAT TRIGGERS A CI?

Risk Level	Qualifications
High Risk Carriers	Two or more of the following CSA BASICs at or above the 90 th percentile for two consecutive months: Unsafe Driving, Crash Indicator, HOS Compliance, Vehicle Maintenance; no onsite interventions last 18 months
Moderate Risk Carriers	Two or more of the above CSA BASICs at or above the alert threshold for two consecutive months; no interventions in the last 12 months and no warning letters in the last six months
Risk	One or more BASIC at or above threshold or with unresolved Acute or Critical Violations; no interventions in the last 12 months and no warning letters in the last six months

- Especially focused on HOS, Vehicle Maintenance and Unsafe Driving
- Recent focus on vehicle maintenance

ARE THERE RULES FOR CIS?



49 CFR 385 - Safety Fitness Procedures

- Safety Management Controls
- Safety Fitness standard and safety ratings
- Procedures for challenging ratings
- List of critical and acute violations - Appendix B

Electronic Field Operations Training Manual

- Wait, What?
- <https://www.fmcsa.dot.gov/foia/electronic-field-operations-training-manual-efotm-version-708-0>

WHAT ARE INVESTIGATORS LOOKING FOR?

Critical Violations -- those where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls.

Acute Violations -- those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier.

All other violations

Factors	Section
General	387; 390
Driver	382; 383; 391
Operational	392; 395
Vehicle	393; 396; 12 months of inspection data
HazMat	171; 177; 180; 397
Accident	Recordable rate

CURRENT SAFETY RATING PROCESS

- Ratings are issued based on investigation findings and do not take into account roadside inspection data
- A rating may result from an Onsite or Offsite Investigation
- Current process is outlined in 49 CFR Part 385
 - Acute and Critical Violation List in Appendix B
 - 110 violations
- SFD Rulemaking has been proposed

Note: Drivers are not rated, and they do not have an SFD

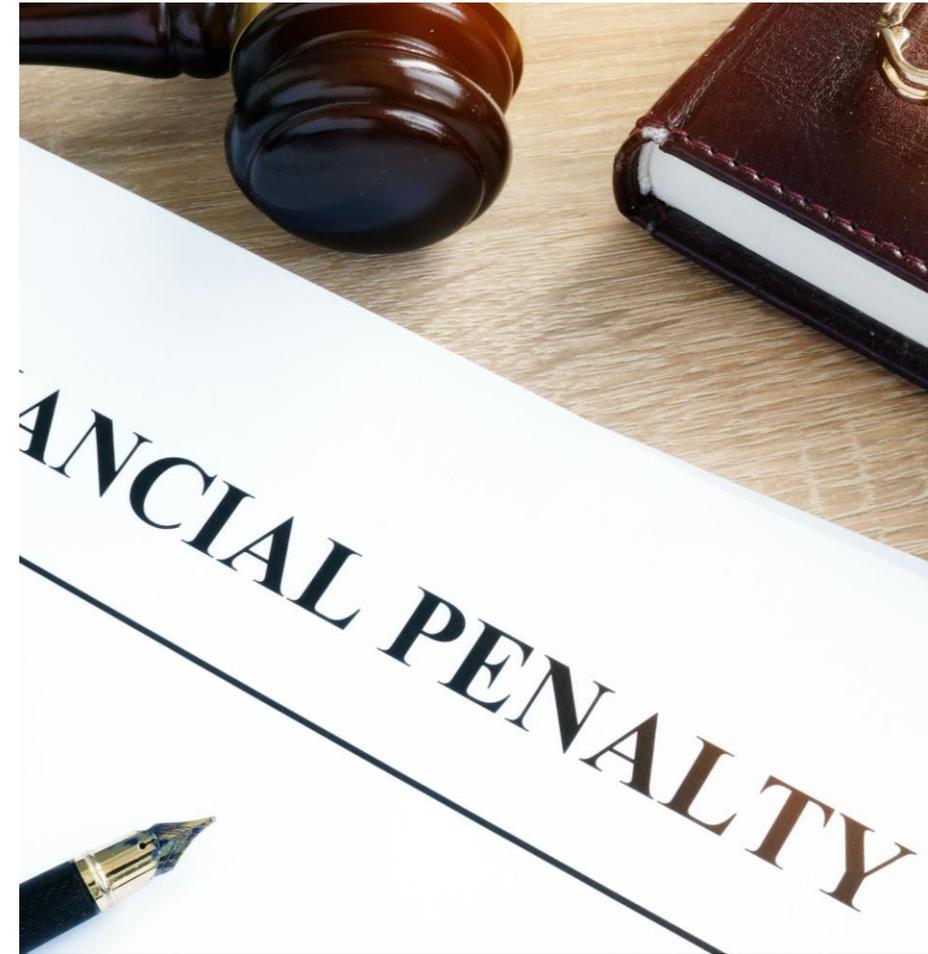
WHAT ARE THE CI OUTCOMES?

Comprehensive CIs

- Safety Rating Assignment (Part 385)
 - Satisfactory
 - Conditional
 - Unsatisfactory
- NOC = fine \$\$
- NOV = corrective action required to avoid penalty
- Out of Service Orders

Off-site and focused audit

- Typically does not result in safety rating, but can be
 - Notice of Claim (NOC) or Notice of Violation (NOV)
 - NOC = fine \$\$
 - NOV = corrective action required to avoid penalty
 - Enforcement action taken on both carriers and drivers



WHAT ABOUT ENFORCEMENT?

- Enforcement action factors/considerations
 - Whether State has already initiated enforcement action (e.g., roadside citation)
 - State enforcement action does not preclude FMCSA from also taking action
 - If violation was corrected in a timely manner
 - If the violation continued or was repeated by others
- 49 CFR Part 386
 - Subpart G, Penalties
 - 386.81 identifies factors to consider when assessing penalties
 - Appendix A: Penalty Schedule, violations of notices and orders
 - Appendix B: Penalty Schedule, violations and monetary penalties



WHAT TO EXPECT DURING AN AUDIT

THE STEPS OF AN AUDIT

FIRST CONTACT

MCS-150 contact receives notification of an audit

Sets expectations

Initial document request (to be emailed or uploaded via CSA portal)

- Driver list
- Vehicle list
- Accident register
- MCS 90
- Questionnaire

SECOND CONTACT

- Investigators use lists/documents provided in first request, along with CDLIS, MCMIS, CSA portal, and other data sources to make follow-up record request
- To include:
 - DQ Files, HOS Records, Vehicle Maintenance Files, Drug and Alcohol testing records, HazMat records (if applicable)
 - Will be a subset of initial requested documents based on performance data and other factors
 - Will be a sampling of records based primarily on carrier size
- Files to be produced by carrier within 48 hours (390.29)
 - More time often provided depending on the investigator's schedule?

RECORD SELECTION

How does safety investigator determine which drivers and records will be audited?

- Recordable interstate crashes
- OOS during roadside inspections
- Violations during roadside inspections

RECORD SELECTION

How does safety investigator determine which vehicles and records will be audited?

- Recordable interstate crashes
- OOS during roadside inspections
- Violations during roadside inspections

RECORD SELECTION

How does safety investigator determine how many records will be investigated?

- Sampling Tables in the eFOTM
- Varies by area
- Based primarily on size of operation, number of drivers and vehicles
- Depends on type of review, Onsite, Offsite or CBI

WHAT IS THE SAFETY MANAGEMENT CYCLE (SMC)?

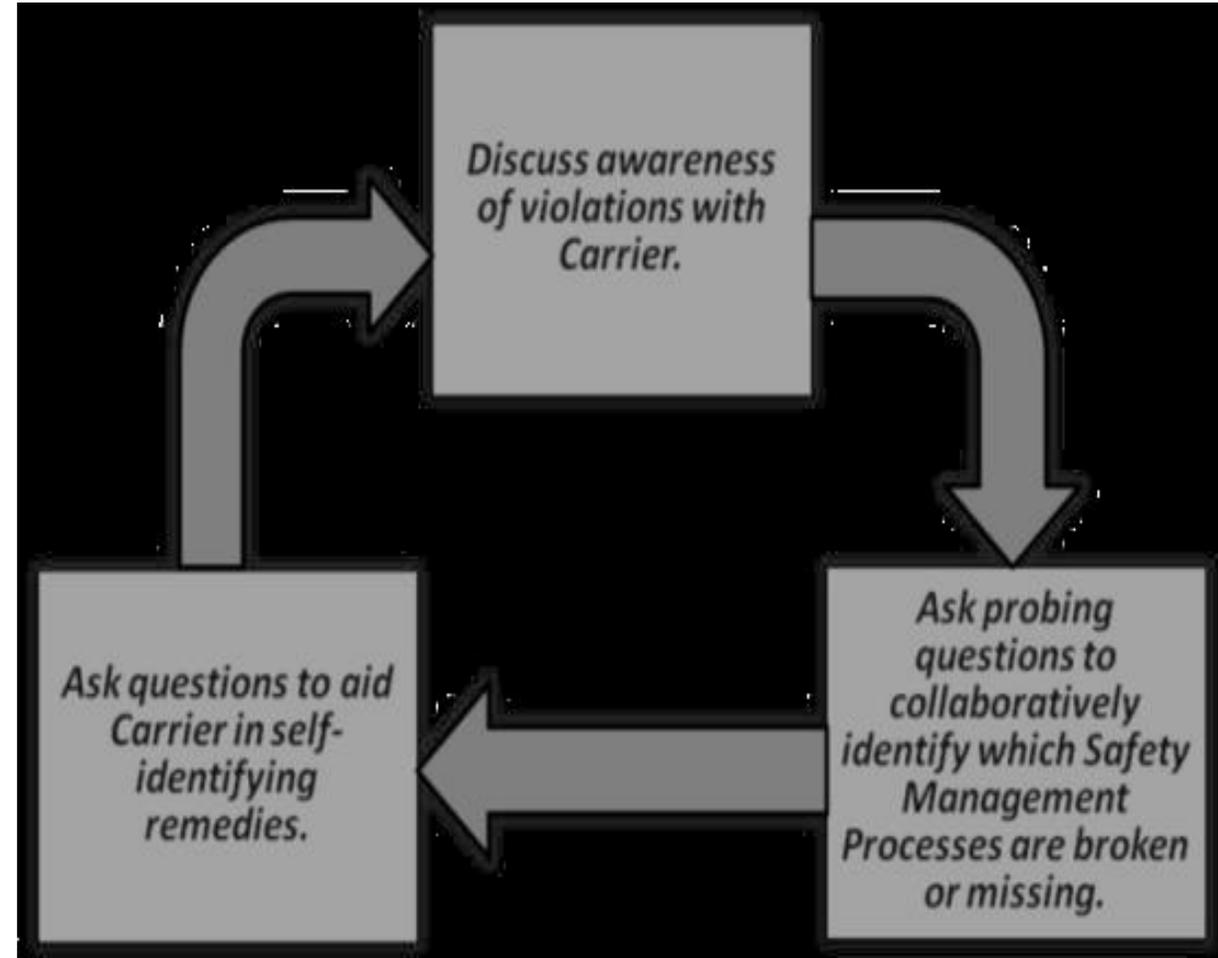


Step-by-step process consists of six SMPs

QUESTIONING CYCLE

Process Breakdown identification and remedy development used for violations meeting the following criteria:

- Violations associated with Roadside-Identified BASICS and/or BASICS associated with complaints
- Acute and/or Critical Violations
- Violations for which enforcement action (NOV or NOC) will be pursued
- Violations that adversely impact the carrier's safety rating



CONDUCTING A SELF-AUDIT

EMULATING FMCSA TACTICS TO EVALUATING COMPLIANCE

WHAT TO DO?

- Ensure your company knows the applicable safety regulations (FMCSA Motor Carrier Safety Planner can help).
- Ensure your company has updated compliance policies and procedures, including disciplinary policies.
- Train all drivers and staff on safety rules, compliance obligations, recordkeeping, etc.
- Create and implement an internal compliance auditing process.
 - Quickly self-correct violations and document corrections.

WHAT TO DO?

- Use the FMCSA Safety Management Cycle to ask yourself the tough questions.
- FMCSA provides tools describing a good SMC by BASIC to assist carriers with this process at:
<https://csa.fmcsa.dot.gov/HelpCenter/Resources.aspx?type=topic&vID=44546>
- Consider using FMCSA-provided crash, driver and vehicle roster spreadsheets to speed up the process (STC has examples and can email excel sheets...)



DRIVER QUALIFICATION FILES - DRIVER FACTOR

- Determine sample size based on # of drivers
- Investigator to select drivers based on:
 - Red Flag violations
 - Crash involvement
 - OOS violations
 - DSMS Score (can use violation rate as proxy)
 - Recently hired drivers

RED FLAG VIOLATIONS

BASIC	FMCSR Part	Violation Description
Driver Fitness	383.21	Operating a commercial motor vehicle (CMV) with more than one driver's license
Driver Fitness	383.23(a)(2)	Operating a CMV without a valid commercial driver's license (CDL)
Driver Fitness	383.51(a)	Driving a CMV (CDL) while disqualified
Driver Fitness	383.51A-SIN	Driving a CMV while CDL is suspended for a safety-related or unknown reason and in the state of driver's license issuance
Driver Fitness	383.51A-SOUT	Driving a CMV while CDL is suspended for safety-related or unknown reason and outside the driver's license state of issuance.
Driver Fitness	383.91(a)	Operating a CMV with improper CDL group
Driver Fitness	391.11	Unqualified driver
Driver Fitness	391.11(b)(5)	Driver lacking valid license for type of vehicle being operated
Driver Fitness	391.11(b)(7)	Driver disqualified from operating CMV
Driver Fitness	391.15(a)	Driving a CMV while disqualified
Driver Fitness	391.15A-SIN	Driving a CMV while disqualified. Suspended for safety-related or unknown reason and in the state of driver's license issuance.
Driver Fitness	391.15A-SOUT	Driving a CMV while disqualified. Suspended for a safety-related or unknown reason and outside the driver's license state of issuance.
Controlled Substances/Alcohol	392.4(a)	Driver uses or is in possession of drugs
Controlled Substances/Alcohol	392.5(a)	Possession/use/under influence of alcohol less than 4 hours prior to duty
Fatigued Driving (HOS)	395.13(d)	Driving after being declared out-of-service (OOS)
Vehicle Maintenance	396.9(c)(2)	Operating an OOS vehicle

Any driver violations identified and addressed during carrier investigations that are not corrected may result in a driver Notice of Violation or Notice of Claim.

DRUG TESTING - DRIVER FACTOR

- Pre-employment Drug Testing
- Sample selected based on driver list according to sampling chart
- Verify test results were received before dispatch
- Verify test results were not received more than 30 days before hire
- If gaps are found, dispatch records will be requested
- Post-accident testing
- Sample all drivers involved in crashes requiring testing
- Review results to ensure
 - Tests were conducted within allotted time (8 hours for Alcohol; 32 for Drugs)
 - Tests not conducted = Justified?
 - If positive discovered, check dispatch records

DRUG TESTING

Random Testing

- Evaluate previous calendar year
 - Randomly test 50% of CDL drivers for drugs annually
 - Randomly test 10% for alcohol
 - Account for growth in driver pool
 - Selection to be spread out evenly throughout the year, typically quarterly
- Review any positive random results and compare with dispatch records to ensure driver didn't drive after disqualification.

Example Testing Methodology –Four Sampling Periods Annually				
Testing Period	No Drivers	of	Formula	Tested drivers
1	51		Tests = $.5 \times \frac{51}{4}$	6.38
2	45		Tests = $.5 \times \frac{45}{4}$	5.6
3	46		Tests = $.5 \times \frac{46}{4}$	5.75
4	49		Tests = $.5 \times \frac{49}{4}$	6.13
Annual Testing Total				24

DRUG TESTING

- Clearinghouse Compliance
- Pull Clearinghouse Compliance Report from Portal.
- Check all drivers hired in the last year to ensure drivers were not dispatched before full query was returned.
- Verify that current drivers have had at least one query in the previous 12 months.
- Drug and alcohol testing policy -- 49 CFR 382.601
 - Review policy to ensure all 12 elements are included
 - Driver certification/signature
- Annual MIS reports
 - Review for accuracy with testing records

Critical and acute violations include using a driver who failed or refused a test; using a driver before the negative test was obtained; failing to meet annual random rates.

HOURS OF SERVICE COMPLIANCE - OPERATIONAL FACTOR

Driver selection

- Identify drivers who have operated a CMV in the last 6 months.
- Use sampling table to determine number of records checked.
- **Select drivers in this order**
 - Red Flag violations
 - High DSMS HOS BASIC
 - Crashes
 - Drivers with OOS violations
 - Poor records (recent Unsafe Driving violations)
 - Recently hired
 - Highest paid
- For each driver selected, choose 30 days. Choose days with crashes, inspections and/or violations.

HOURS OF SERVICE

Inspecting HOS Records

- Investigate for 11/14/60/70/rest break violations/false logs
- Begin focus on drivers operating at or near the HOS limit
 - Compare logs with supporting documentation
 - Scrutinize off-duty time that occurs in the middle of a shift (compare with fueling reports)
- Look closely at PC and yard move notations, review ELD reports and compare with logs
- Review annotations to make sure they are understandable, review ELD edit report and compare with logs
- Inspect UDT Report
 - Focus on longer moves (1 hour or 50 miles)
 - Compare with supporting documents to determine if violations occurred

Critical and acute - violating HOS rules (critical) and disabling or failing to retain ELD data (acute)

VEHICLE MAINTENANCE FILE INSPECTION

1

Identify eligible vehicles

- All vehicles (power or trailing) under the carrier's control for at least 30 days in the last year
- Compare list with SMS report to find missing vehicles

2

Identify sample size

- Based on FMCSA sampling chart
- Include trailing equipment too

3

Select vehicles

- Start with vehicles involved in a recordable crash
- Placed OOS in the last 12 months
- Violations in the last 12 months
- Randomly

INSPECTING VEHICLE MAINTENANCE FILES

Vehicle identification (#, VIN, Make, Year, Tire Size)

Evidence of a systemic preventative maintenance program

- Schedules, work orders, company policies

Roadside inspection reports

- Completed and returned within 15 days?
- Related work orders/DVIRs

Periodic Inspections

- Must be kept for 14 months. Verify complete within last 12.
- Compare gaps with dispatch records to ID violations

VEHICLE MAINTENANCE

OOS Orders

- Review all OOS orders
- Compare with work orders and/or inspection reports to verify repair

DVIRs

- Identify all roadside inspections of selected vehicles
- Compare with DVIRs to ensure one was completed that day.
- Only required when defects noted
- Review service records to see if DVIRs were warranted

Critical violations - no DVIR, failing to correct OOS defects; no periodic inspection. Acute - Jumping OOS

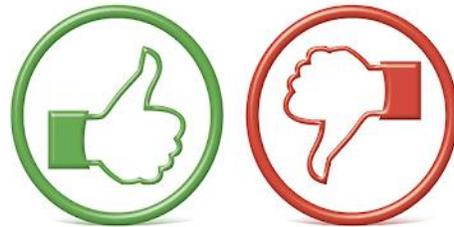
A stack of papers and folders is visible in the top-left corner of the slide, set against a blue background. The papers are in shades of blue and white, and the folders are light-colored.

ACCIDENT FACTOR

- Compare crash registry with DOT accident registry
- Rectify discrepancies (company register usually includes the same or more crashes than SMS)
- Ensure crash records include a copy of the PAR and other investigative records.

Critical violation = failing to maintain copies of accident reports.

AUDIT DOS & DON'TS



AUDITS - DOS



- Do verify the credentials of the safety investigator..they expect it
 - Request email, verify it comes from agency email account -
 - e.g. FirstName.LastName@dot.gov
- Do ask about the reason for the audit
- Do respond timely to records request
- Do cooperate, but
 - Don't volunteer more info/data than requested
 - Don't argue with the investigator

AUDITS - DOS



- Do ask questions, respectfully
- Do make notes/keep copies of all records requested and uploaded to safety investigator
- Do ask for compliance and safety-related recommendations
 - Demonstrates interest
- At completion, do ask/understand next steps

AUDITS - DON'TS



- Don't ignore a phone call, email or data request
- Don't upload more documents than requested
- Don't admit violations
- Don't assume safety investigator is correct on a particular issue
- Don't sign any documents, except the audit report
 - This simply means you received it

TAKE ADVANTAGE OF DATAQS

Correct inaccurate data

- *Roadside inspection data*
- *Crash data*
- *Audit data*
- *Registration & company data*
- *Crash preventability*
- *Obtain Inspection Reports*

- Also use the Crash Preventability Determination Program!

Drug and Alcohol Clearinghouse

Select the reason why you would like FMCSA to review your Clearinghouse information for acceptable reasons for a petition.

- Accuracy of data in driver record
- Actual knowledge violation did not result in conviction
- Actual knowledge violation did not comply with reporting requirements
- Refusal to test violation did not comply with reporting requirements

KEY TAKEAWAYS

- FMCSA Investigation trends are constantly changing
- Complaint focused audits have increased
- The best way to prepare for an audit is to perform a self audit
- Focus on critical and acute violations, put notes on all violations discovered
- Pay close attention to the Driver and Operational Factors
- Run each potential violation to ground
- Consider how you'll transmit and display files for the investigator
- Have good policies and practices in place
- Create, document and use an internal auditing system
- Establish a regular audit schedule
- Cooperate with the safety investigator
- Understand why the audit is happening or could happen
- Upload all requested records (but not more)
- Provide explanation why some records are unavailable
- Be prepared
- Call us if you need help...

QUESTIONS?



Hours of Service (and ELD) Compliance

DOT Safety Workshop
April 15



P. Sean Garney
Co-Director

Hours of Service & ELD Issues

P. Sean Garney
Co-Director

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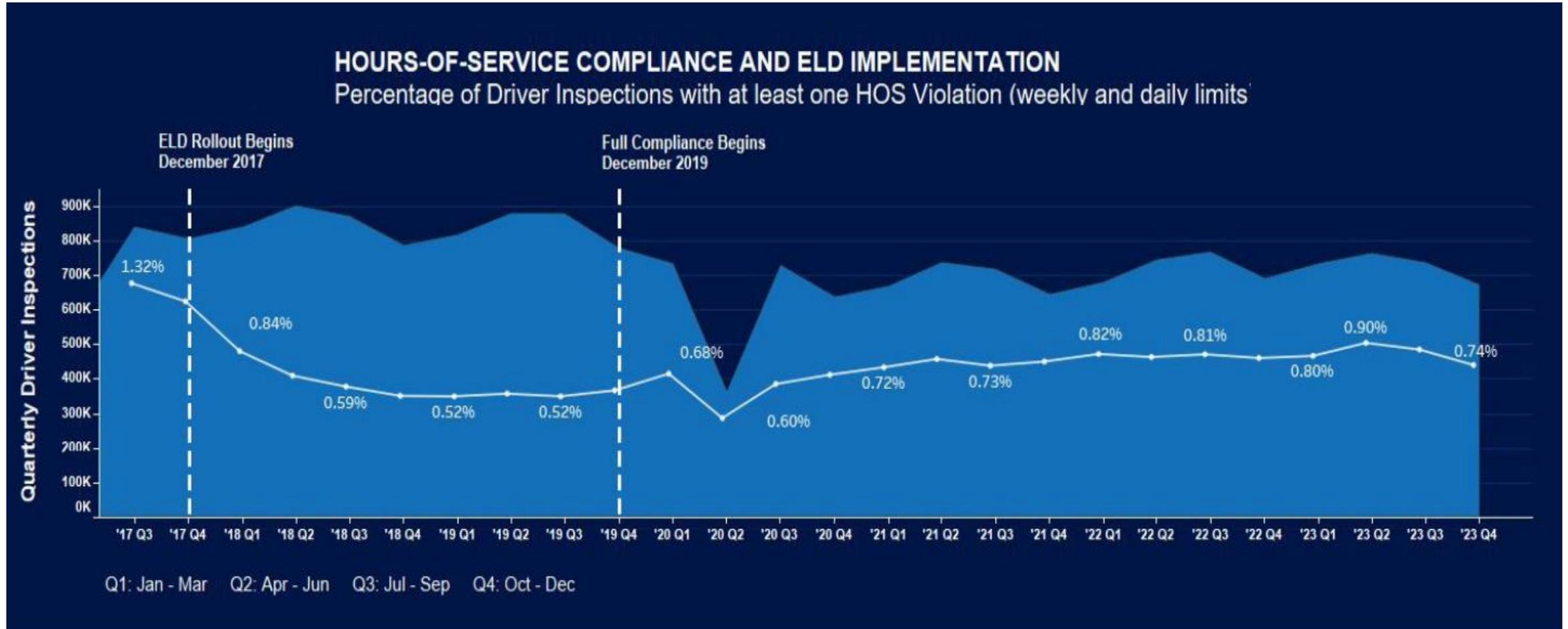
AGENDA

- Enforcement Priorities
- Yard Moves
- Personal Conveyance
- ELDs
- Q & A

ENFORCEMENT PRIORITIES

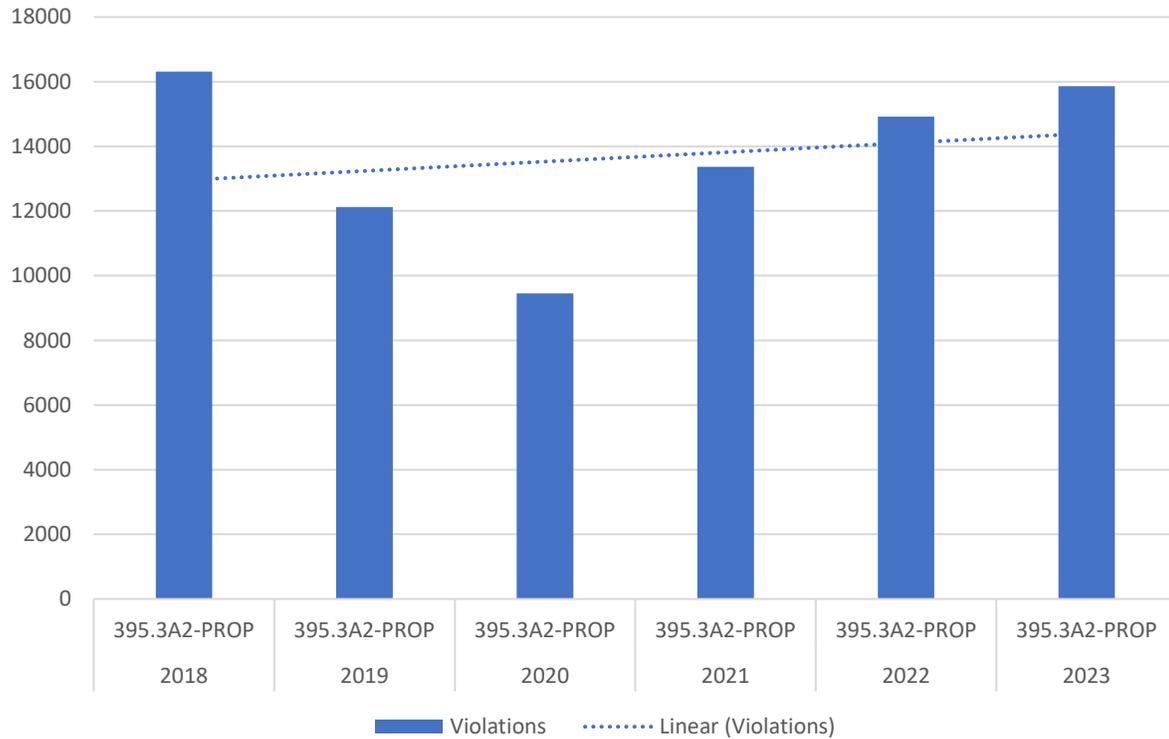
- ELDs have changed the focus and method of enforcement
- False logs have emerged as most common HOS Violation
- Hours violations have stayed steady

ELD ENFORCEMENT DATA



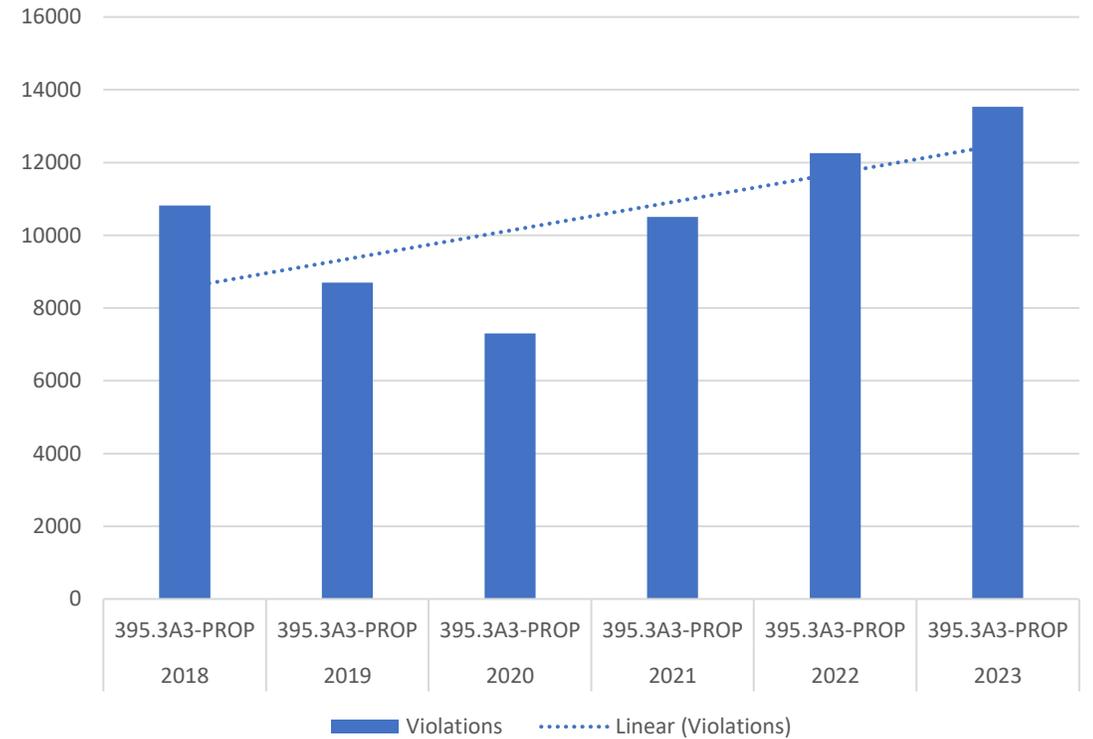
HOURS OF SERVICE VIOLATIONS

14-hour Rule Violations



2018-2023 = 2.8% decrease

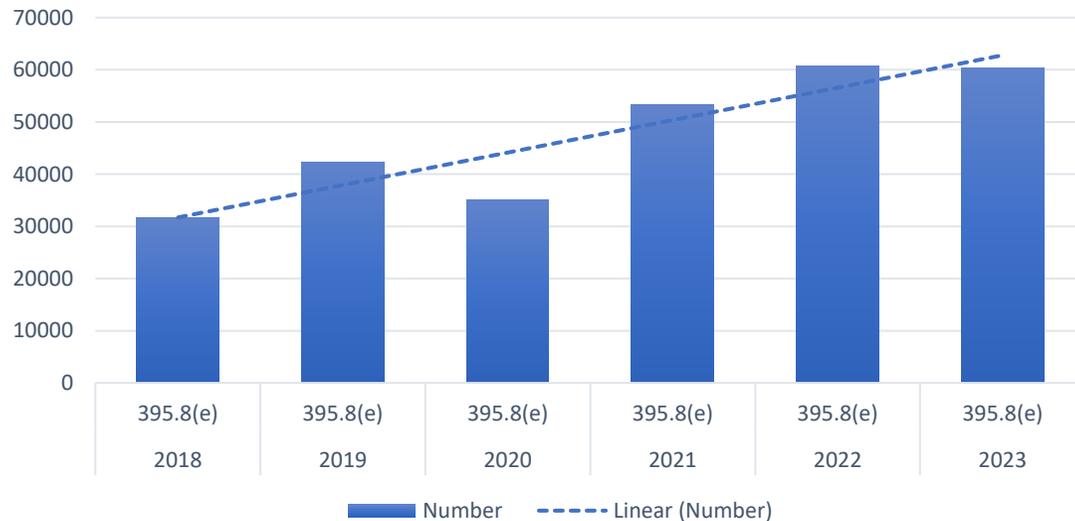
11-Hour Violations



2018-2023 = 25% increase

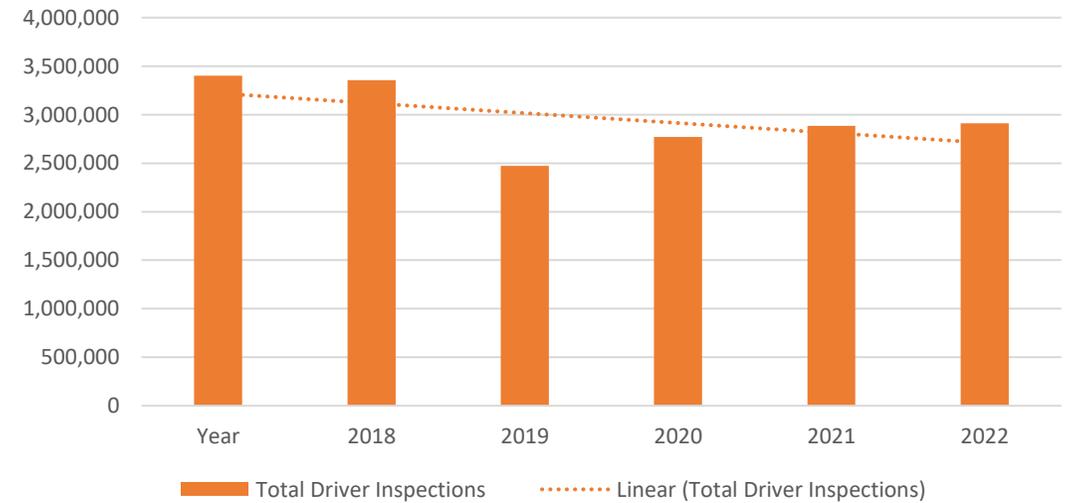
HOURS OF SERVICE VIOLATIONS

False Log Violations



2018-2023 = 91% increase

Total Driver Inspections



2018-2023 = 14.5% decrease

False Log is now the #1 HOS Violation and the 3rd most cited driver violation

HOURS OF SERVICE VIOLATIONS

- What is a false log?
 - A required RODS does not accurately reflect the driver's duty statuses. . . And the inaccuracy disguises the driver being over either the 11 or 14-hour rule.
 - Inaccurate logs are considered “failure to prepare.”
- Biggest source of False Log?
 - Yard Moves and Personal Conveyance

YARD MOVES

Yard Moves -

- Time “where the vehicle may be in motion but a driver is not necessarily in ‘driving status.’”
- Occurs on private property within the confines of a yard and not on a public road.
- ODND
- Guidance updates coming:

YARD MOVE GUIDANCE

Guidance: A driver may record time operating a CMV for yard moves as on-duty not driving under [49 CFR 395.8\(b\)](#) only if the movement of the CMV occurs in a confined area on private property (or intermodal facility or briefly on public roads, as described below). Examples of properties that may qualify as yards include, but are not limited to:

- An intermodal yard or port facility.
- A motor carrier's place of business.
- A shipper's privately-owned parking lot.
- A public road, but only if and while public access to the road is restricted through traffic control measures such as lights, gates, flaggers or other means. For example, if a driver must operate on a public road briefly to reach different parts of a private property, the movement may be considered a yard move if public access is restricted during the move.

Examples of properties that do not qualify as yards, include, but are not limited to:

- A public road without the traffic control measures in paragraph (a)(4) above.
- Public rest areas.

PERSONAL CONVEYANCE

IS

- Time spent operating a CMV for personal use/reasons.
- Laden or unladen
- Commuting from lodging to entertainment
- Moving at the request of LE

IS NOT

- Enhancing the operational readiness
- Continuation of a trip to fulfill a business purpose
- Transporting a CMV for maintenance
- Traveling to MC terminal after delivery

AUDITING ELD RECORDS

- Relying on timers and compliance reports may not be enough.
- Audit all roadside inspection violations
- Focus on Special Categories and off-duty
 - **Red Flags**
 - Lots of short off-duty segments
 - Long PC segments
 - Long YM segments
 - Driving - YM
- Audit supporting documents to discover source of truth

UNAUTHORIZED DRIVING TIME

- Often overlooked
- Top 10% of violations written during compliance review
- UDT sometimes used to conceal violations (unplugging ELD or failing to log in)
- Annotation is key
- Establish rules to categorize repetitive moves

QUESTIONS?



Emerging Safety Technology

*What's Out There?
What Do You Need to Know?*

April 14, 2024



David O'Neal, *Senior Associate*

Safety Technology and How to Manage

David O'Neal

Senior Associate

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AGENDA

- Growth of Data
- Traditional Data Sources
- Data Management Challenges
- New(ish) Tech Types
- Supplier Considerations
- Supplier Questions

EXPONENTIAL GROWTH OF DATA

There were 5 Exabytes of information created between the dawn of civilization through 2003.

But that much information is now created every two days.

-Eric Schmidt
Former CEO of Google

UNIT	ABBREVIATION	STORAGE
Bit	B	Binary Digit, Single 1 or 0
Nibble	-	4 bits
Byte/Octet	B	8 bits
Kilobyte	KB	1024 bytes
Megabyte	MB	1024 KB
Gigabyte	GB	1024 MB
Terabyte	TB	1024 GB
<u>Petabyte</u>	PB	1024 TB
<u>Exabyte</u>	EB	1024 PB
<u>Zettabyte</u>	ZB	1024 EB
<u>Yottabyte</u>	YB	1024 ZB

Storage units (www.byte-notes.com)

COMMON DATA MANAGEMENT CHALLENGES

- Data received in different parts of your organization

Human Resources

Safety

Finance

Operations

Maintenance

- Once / irregular / regular

COMMON DATA MANAGEMENT CHALLENGES

- Noise versus signal
- Figuring out the distinction is critical for:
 - Safety
 - Compliance
 - Productivity
 - Efficiency
 - Profitability

WHAT ARE WE TRYING TO SOLVE FOR?

- Reduce the number of accidents
- Ensure compliance
- Improve driver productivity
- Increase overall fleet efficiency

WHAT'S OUT THERE TO HELP ANSWER THE QUESTION?

- Advanced Driver Assistance Systems (ADAS)
- Integrated Dashboards
- AI / AVs
- Intelligent Speed Assist (ISA)
- Smart Trailers

ADAS - ADVANCED DRIVER ASSISTANCE SYSTEMS

Four main categories

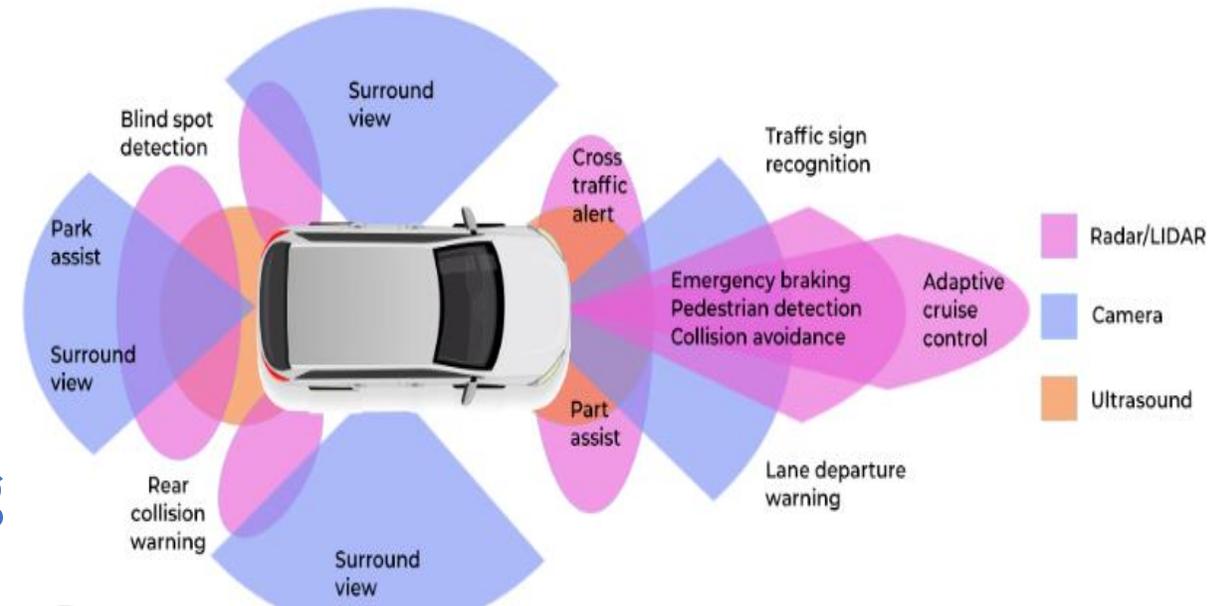
Braking

Steering

Warning

Monitoring

HOW ADAS WORKS



ADAS - BRAKING

Automatic emergency braking (AEB)



Proposed rule 2023

Adaptive cruise control (ACC)

Electronic stability control (ESC)

Air disc brakes (ADB)

ADAS - STEERING

Lane keep assist (LKA)

Lane centering (LC)

Adaptive steering control (ASC)

ADAS - WARNING

Lane departure warning (LDW)

Forward collision warning (FCW)

Blind spot warning (BSW)

ADAS - MONITORING

Driver-facing / road-facing cameras

Camera-based mirror systems

ADAS - IIHS/HLDI STUDY

Automatic emergency braking

- ↓ 50% Front-to-rear crashes
- ↓ 56% Front-to-rear crashes with injuries
- ↓ 14% Claim rates for damage to other vehicles
- ↓ 24% Claim rates for injuries to people in other vehicles
- ↓ 41% Large truck front-to-rear crashes

Automatic emergency braking with pedestrian detection

- ↓ 27% Pedestrian crashes
- ↓ 30% Pedestrian injury crashes

Lane departure warning

- ↓ 11% Single-vehicle, sideswipe and head-on crashes
- ↓ 21% Injury crashes of the same types

Blind spot detection

- ↓ 14% Lane-change crashes
- ↓ 23% Lane-change crashes with injuries
- ↓ 7% Claim rates for damage to other vehicles
- ↓ 8% Claim rates for injuries to people in other vehicles

Rear automatic braking

- ↓ 78% Backing crashes (when combined with rearview camera and parking sensors)
- ↓ 9% Claim rates for damage to the insured vehicle
- ↓ 29% Claim rates for damage to other vehicles

Rearview cameras

- ↓ 17% Backing crashes

Rear cross-traffic alert

- ↓ 22% Backing crashes



ADAS - ISSUES IMPACTING ADOPTION

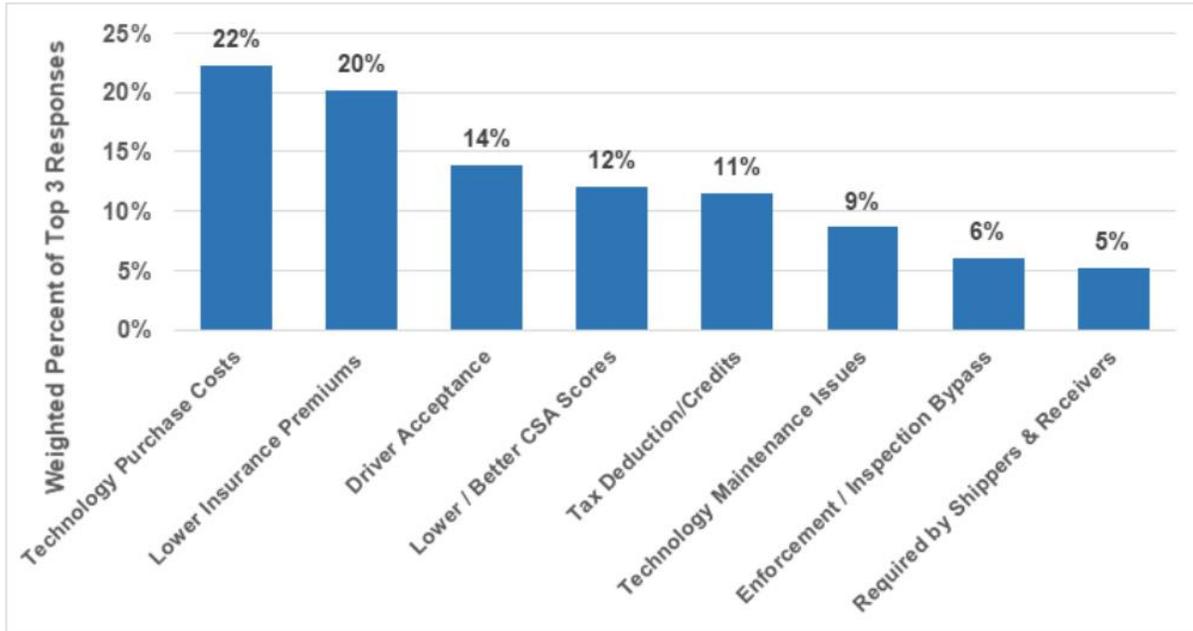


Figure 17. Bar graph. Motor carrier executives: Top-ranked issues impacting ADAS adoption.

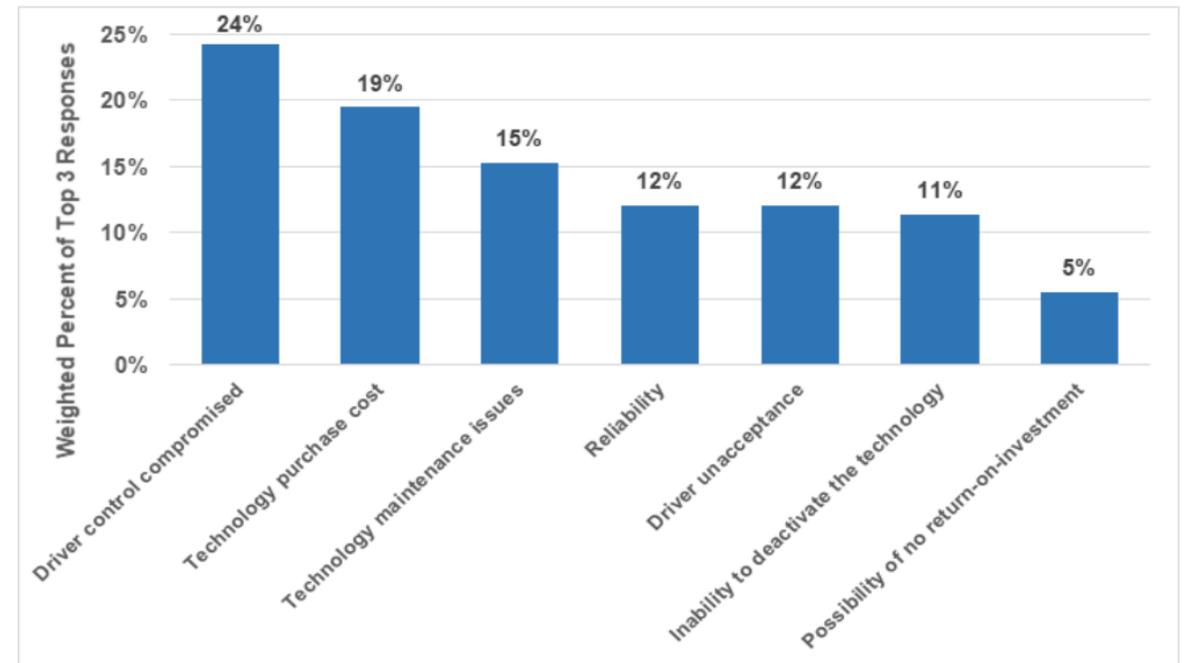
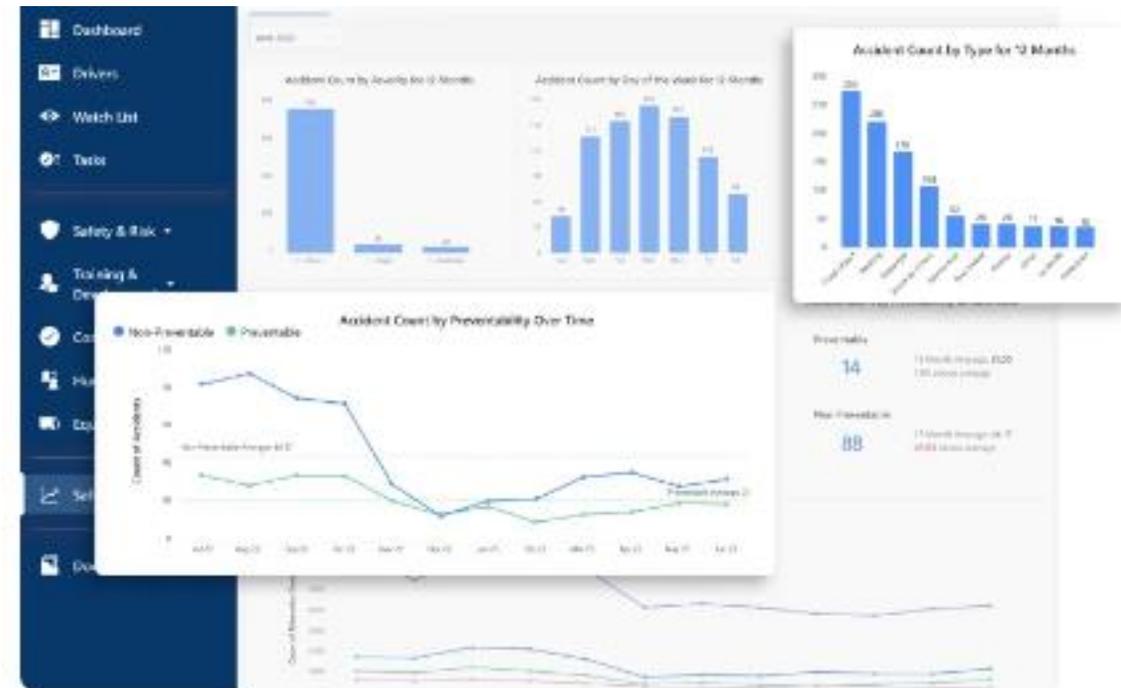
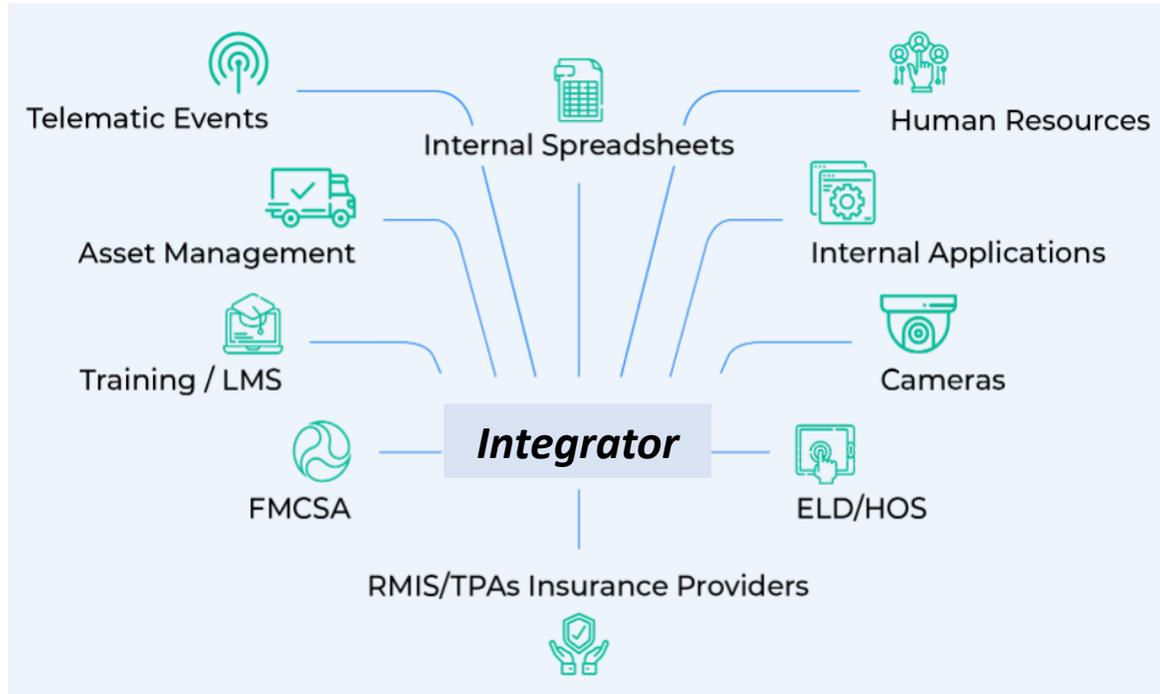


Figure 21. Bar graph. Truck drivers: Top-ranked reasons for not adopting ADAS technologies.

INTEGRATED DASHBOARDS



AI AND AVS

*Autonomous trucking, once regarded as the stuff of **science fiction**, is gradually moving closer to **VIABILITY** in **real-world freight operations** after years of investment, development work and on-road testing and validation.*

-<https://www.ttnews.com/articles/autonomous-trucks-reshaping-freight-industry>

AI AND AVS - WHY?

Safety

Efficiency / Productivity

Labor

Environment

AI AND AVS

EVOLUTION TO AUTONOMOUS TRUCKING

Automated Technologies



Platooning



Assisted Driving



Fully Autonomous



INTELLIGENT SPEED ASSIST (ISA)

Technologies that use GPS data interacting with accurate

digitally mapped speed limit data for an entire network

OR

vehicle-based speed limit sign recognition

INTELLIGENT SPEED ASSIST (ISA)

Varying degrees of interaction/engagement

Information only

Visual/audible alerts (open-system)

Accelerator resistance (half-open)

Mandatory speed compliance

ISA VS. SPEED LIMITERS

- FMCSA's long, winding, and delayed road to a speed limiter rule
 - Most recently pushed to a mid-2024 for a SNPRM
- Historically, speed limiters (“governors”) were vehicle specific; controlled through the ECU...
- ...Versus ISA which can utilize GPS and/or camera readers
- Open question: will FMCSA embrace ISA as part of its (potential) (future) rulemaking

SMART TRAILERS

- Equipped with integrated IoT technology
- Provides details into the “health and status” of the trailer and its cargo
- Communicates with drivers, company personnel, repair facilities, etc.

SMART TRAILERS

Reefer Smart Trailer Sensors

Please click on a sensor below to learn more information.



QUESTIONS FOR SUPPLIERS

- Cost / pricing / ROI
- Case studies
- Customization options
- Training and support
- Data and analytics
- Integration with existing fleet management systems

SUPPLIER EXPECTATIONS

- Reliable and user-friendly solutions
- Ongoing support and training for drivers and staff
- Regular updates and maintenance
- Transparent communication and a strong partnership

QUESTIONS?

ABOUT SCOPELITIS TRANSPORTATION CONSULTING

- A wholly-owned subsidiary of Scopelitis, Garvin, Light, Hanson & Feary; a specialized consulting and advisory business serving the safety, regulatory, compliance and business needs of the transportation industry.
- More than 100 years of combined transportation-related experience and knowledge.
- Reacts quickly to changes in the transportation industry by providing advisory and implementation services to help ease the process of adapting to rules and regulations.
- Services include:
 - **Mock Audits / Gap Analyses**
 - **CSA Support**
 - **General Consultations**
 - **Program implementation**
 - **Virtual webinars and on-site training**
 - **Keynote presentations and written content**
 - **Government relations**

*LinkedIn: Scopelitis Transportation Consulting
Scopelitisconsulting.com*

Overview of Hazardous Material Regulations for Transporters

Timothy W. Wiseman
Partner

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AGENDA

- General Overview
- Applicability of Hazardous Material Regulations (HMR)
- Motor Carrier Requirements
- Risks and Liabilities
- Modes of Transportation
- Summary of Applicable HMR Requirements

GENERAL OVERVIEW

U.S. Hazardous Materials Regulations

- Hazardous Materials Regulations (HMR) - Regulated by USDOT, OSHA and EPA
 - USDOT enforces HMR related to all transportation aspects, including loading of products in trucks
 - OSHA regulates hazardous products handled in workplace (non-transportation)
 - Both the USDOT and OSHA use the same hazmat classification system
 - Both the USDOT and EPA regulate hazardous waste
- Govern transportation of hazmat to, from, or through the United States by all modes
- Different requirements may apply depending on mode of transport (road, air, water, rail)

GENERAL OVERVIEW

Key Definitions - Under USDOT Regulations

- “Hazardous Material” = “a substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and has designated as hazardous....”
- “Hazmat Employee” = anyone employed by a hazmat employer who directly affects hazmat transportation safety, including anyone who:
 - Loads, unloads, or handles hazmat
 - Prepares hazmat for transportation (any pre-transportation functions, such as determining hazard class, preparing shipping papers, marking, labeling, securing closures, reviewing shipping papers, etc.)
 - Is responsible for safety of transporting hazmat
 - Operates a vehicle transporting hazmat
- “Hazmat Employer” = includes any person who employs or uses at least one hazmat employee to transport or cause hazmat to be transported in commerce

GENERAL OVERVIEW

Nine Classes of Hazardous Materials

Class 1: Explosives

Divisions: 1.1, 1.2, 1.3, 1.4, 1.5, 1.6



Class 6: Poison (Toxic) and Poison Inhalation Hazard

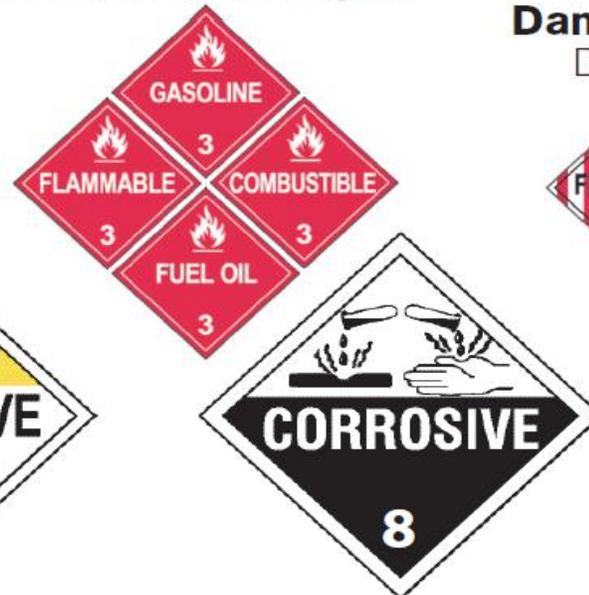
Class 2: Gases

Divisions: 2.1, 2.2, 2.3



Class 7: Radioactive

Class 3: Flammable Liquid and Combustible Liquid



Class 8: Corrosive

Class 4: Flammable Solid, Spontaneously Combustible, and Dangerous When Wet

Divisions 4.1, 4.2, 4.3



Class 9: Miscellaneous

Class 5: Oxidizer and Organic Peroxide

Divisions 5.1, 5.2



Dangerous

Revised 04/13

PRE-TRANSPORTATION FUNCTIONS

- Determine the hazard class of a material
- Selecting a packaging
- Filling a packaging
- Securing the closures on a filled or partially filled packaging
- Marking and labeling a package
- Providing a shipping paper
- Providing and maintaining emergency response information
- Certifying that a hazardous material is in proper condition for transportation

MOTOR CARRIER REQUIREMENTS

- Requirements for non-placarded hazmat shipments:
 - FMCSA hazmat authority
 - All drivers must receive DOT hazmat training
 - \$1 Million of Liability Insurance on file with FMCSA
 - CHP hazmat license if hazmat product weighs more than 500 pounds (California only)

MOTOR CARRIER REQUIREMENTS

- Placarded shipments of hazardous material
 - FMCSA hazardous material authority
 - PHMSA hazmat registration
 - CHP hazmat license (California only)
 - \$1,000,000 of filed liability insurance with FMCSA
 - \$5,000,000 for certain types of hazardous material
 - Drivers must have DOT training and Hazmat Endorsement on Commercial Drivers License (CDL)
 - Hazmat Safety Permit (HMSP) for certain types of extremely hazardous products such as explosives, flammable gases, and poisons
 - Less than 1% of authorized hazmat carriers in the U.S. have a HMSP

MOTOR CARRIER REQUIREMENTS

§387.9 Financial responsibility, minimum levels.

The minimum levels of financial responsibility referred to in §387.7 of this subpart are hereby prescribed as follows:

SCHEDULE OF LIMITS—PUBLIC LIABILITY

Type of carriage	Commodity transported	January 1, 1985
(1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,001 or more pounds)	Property (nonhazardous)	\$750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,001 or more pounds)	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Division 1.1, 1.2 and 1.3 materials, Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403	5,000,000
(3) For-hire and Private (In interstate or foreign commerce, in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,001 or more pounds)	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below	1,000,000
(4) For-hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,001 pounds)	Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403	5,000,000

[73 FR 76496, Dec. 16, 2008]

MOTOR CARRIER REQUIREMENTS

HazMat Class	Label Name	Placarding/ PHMSA Registration	\$5 Million ¹ of Liability Insurance	FMCSA Hazmat Safety Permit
1.1	Explosives 1.1	Any Amount	Yes	Yes (55 lbs.)
1.2	Explosives 1.2	Any Amount	Yes	Yes (55 lbs.)
1.3	Explosives 1.3	Any Amount	Yes	Yes (55 lbs.)
1.4	Explosives 1.4	1,001 lbs.	No	No
1.5	Explosives 1.5	1,001 lbs.	No	Yes (1,001 lbs.)
1.6	Explosives 1.6	1,001 lbs.	No	No
2.1	Flammable Gas	1,001 lbs.	Yes (3,500 water gallons)	Yes (Methane content of at least 85% and in 3,500 gallon containers)
2.2	Non-Flammable Gas	1,001 lbs.	Yes (3,500 water gallons)	No
2.3	Poisonous Gas	Any Amount	Yes (Hazard Zone A)	Yes (Hazard Zone A)
3	Flammable Liquid	1,001 lbs.	No	No
4.1	Flammable Solid	1,001 lbs.	No	No
4.2	Spontaneously Combustible	1,001 lbs.	No	No
4.3	Dangerous When Wet	Any Amount	No	No
5.1	Oxidizer		No	No
5.2	Organic Peroxide	Any Amount	No	No
6.1 (Materials poisonous by inhalation (\$ 171.8))	Poisonous Inhalation Hazard	Any Amount	Yes	Yes (1 liter)

¹ Per 49 C.F.R. § 387.9, \$5 Million of liability insurance is also required for any hazardous substance (defined in 49 C.F.R. § 171.8) transported in cargo tanks, portable tanks or hopper-type vehicles with capacities in excess of 3,500 water gallons.

MOTOR CARRIER REQUIREMENTS

HazMat Class	Label Name	Placarding/ PHMSA Registration	\$5 Million ¹ of Liability Insurance	FMCSA Hazmat Safety Permit
6.1 (Other than poisonous by inhalation)	Poison	1,001 lbs.	Yes (PGI, Hazard Zone A)	No
6.1 (Inhalation hazard, Zone A or B)	Poison inhalation hazard	Any Amount	Yes (PGI, Hazard Zone A)	Yes
6.2	Infectious Substance	1,001 lbs.	No	No
7	Radioactive	Any Amount	Highway Route Controlled Quantities (HRCQ)	Yes (HRCQ)
8	Corrosive	1,001 lbs.	No	No
9	Class 9	1,001 lbs.	No	No

H:\Users\kchimento\WPWIN\WPDOS\TWW\EF\Echo Global Logistics\Hazmat Procedures\Hazmat Class Chart 7-2-18.docx

MOTOR CARRIER REQUIREMENTS

Hazardous Material Approval Guide

Hazmat Class	Packaging Group I	Packaging Group II	Packaging Group III
Class 1			
1.1	x	x	x
1.2	x	x	x
1.3	x	x	x
1.4	x	Δ	Δ
1.5	x	Δ	Δ
1.6	x	Δ	Δ
Class 2			
2.1	Δ	Δ	Δ
2.2	Δ	Δ	Δ
2.3	x	x	x
Class 3	Δ	Δ	Δ
Class 4	Δ	Δ	Δ
Class 5	Δ	Δ	Δ
Class 6	x	Δ	Δ
Class 7	x	x	x
Class 8	Δ	Δ	Δ
Class 9	Δ	Δ	Δ

Internal Use Only

RISKS AND LIABILITY

- Offerors and carriers of hazmat are subject to civil penalties of up to \$89,678 for each violation (adjusted for inflation annually).
 - Fines can be assessed by FMCSA, PHMSA, FRA and FAA
 - FMCSA most often enforces hazmat regulations against carriers
 - PHMSA investigates and initiates enforcement against offerors and package manufacturers
 - FRA against rail carriers, and FAA against air carriers
- Each day of a continuing violation constitutes a separate offense.
- Criminal penalties can also be assessed if a hazmat violation results in injury or death.

RISKS AND LIABILITY

- Common hazmat violations resulting in civil penalties:
 - No hazmat shipping paper
 - Inadequate training for “hazmat employees”
 - Failing to include emergency response number on hazmat shipping paper
 - Failing to properly mark or label hazmat packaging
 - No required hazmat placarding on bulk containers or trailers
 - Failing to disclose hazmat on relevant packaging or shipping papers

RISKS AND LIABILITY

- ⚠️ Nuclear verdicts are a real threat against motor carriers and third parties involving in the arrangement of transportation such as shippers and brokers
 - ⚠️ \$ 1 billion verdict in Florida (drivers involved were using cell phone, driving over HOS limit, improperly licensed, and not properly qualified).
 - ⚠️ According to one study, the average verdict size for a lawsuit above \$1 million involving a truck crash increased from \$2.3 million to \$22.3 million from 2010 to 2018.
 - ⚠️ Broker and shippers are viewed as potential deep pockets to bring into lawsuit under negligent selection theories of liability.

MODES OF TRANSPORTATION

Air/Vessel

- Know mode of transport
 - Most product likely moving by truck, but on occasion we may ship smaller quantities with an air carrier, such as FedEx, DHL or UPS
- Different requirements often apply to transportation by air or vessel
 - May need to check international regulations for shipments delivering outside of the U.S.
- Separate quantity limitations listed in Column 9 of HMT



IDENTIFICATION OF HAZMAT

- Key questions to identify potential hazmat shipment
 - Is material regulated for transportation?
 - Obtain Safety Data Sheet (SDS) from shipper
 - Confirm DOT hazmat classification in Section 14 of each SDS
 - Is material listed by name in the DOT hazardous material table (HMT)?
 - What special provisions or exceptions apply based on the quantity to be shipped?

IDENTIFICATION OF HAZMAT

Safety Data Sheet Classification Information

Material Safety Data Sheet

Section 14 transport information points you to proper entry in HMT

Issuing Date 20-Sep-2012

Revision Date 01-Feb-2013

Revision Number 1

1. PRODUCT AND COMPANY IDENTIFICATION

Product Name Mio Blueberry Lemonade Liquid Water Enhancer

Product Code(s) UPC 4300000549

UN-Number UN3265

Recommended Use Dilute with water to prepare beverage

Synonyms None.

Supplier Address

Kraft Foods
Three Lakes Drive
Northfield, IL
60093

Emergency Telephone Number Chemtrec 1-800-424-9300

Section 14: Transport Information

US DOT Information

Shipping Name: Non-Flammable Aerosols,

Hazard Class: 2.2

Packing Group: Not Applicable

ID Number: UN1950

DOT - Exempt as limited Quantity Special Permit 13601.

Transport in bulk according to Annex II of MARPOL 73/78 and the IBC Code: Not applicable.

IMDG

Shipping Name: Non-Flammable Aerosols,

Hazard Class: 2.2

Packing Group: Not Applicable

ID Number: UN1950

IATA

Shipping Name: Non-Flammable Aerosols,

Hazard Class: 2.2

Packing Group: Not Applicable

ID Number: UN1950

INCIDENT REPORTING TO USDOT

- As soon as practicable, but no later than 12 hours after occurrence of any reportable incident, persons in possession of hazmat must provide notice by telephone to National Response Center on 800-424-8802 or <http://www.nrc.uscg.mil>
- Reportable Incidents:
 - Include, where, as a direct result of hazmat, (1) a person is killed or injured requiring hospitalization, (2) general public is evacuated for an hour or more, (3) a major transportation artery or facility is closed or shut down for an hour or more, (4) fire, breakage, spillage or suspected contamination occurs involving radioactive material or infectious substances other than regulated medical waste, or (5) release of specified quantities of marine pollutants
- Detailed Hazardous Materials Incident Report, DOT Form F 5800.1 within 30 days of discovery of certain incidents including those noted above as well as any incident involving unintentional release of hazmat, discovery of undeclared hazmat, and fires or other dangerous evolution of heat occurring as a result of a battery or battery-powered device

HAZMAT TRAINING REQUIREMENTS

- All “hazmat employees” must be trained within 90 days and every 3 years.
- Training is required in the following areas:
 - General awareness
 - Function specific
 - Safety
 - Security awareness

HAZMAT TRAINING MATRIX

General Awareness	Driver	Dockworker	Dispatcher	Safety Officer	Admin Staff
Overview of HazMat Training	X	X	X	X	JS
Hazardous Material Regulations	X	X	X	X	JS
Hazard Classes	X	X	X	X	JS
The Hazardous Materials Table	X	X	X	X	JS
HazMat Shipping Papers	X	X	X	X	JS
HazMat Placarding	X	X		X	
HazMat Labeling	X	X		X	
HazMat Marking	X	X		X	
Segregation of Freight	X	X	X	X	

JS = Job Specific. Training here is required if the person's job functions are impacted by the topic.

HAZMAT TRAINING MATRIX

Function Specific	Driver	Dockworker	Dispatcher	Safety Officer	Admin Staff
HazMat Registration	✘		JS	✘	JS
Planning your HazMat Route	✘		✘	✘	
Tunnels and Railroad (RR) Crossings	✘		✘	✘	
HazMat Special Permits	✘	JS	✘	✘	
Safety Equipment for HazMat Vehicles	✘			✘	
HazMat Loading and Unloading	✘	✘		✘	
>Fuel Tanker Loading and Unloading	JS			P	
HazMat on Passenger Vehicles	JS			P	
Cargo Tanks	JS			P	

JS = Job Specific. Training here is required if the person's job functions are impacted by the topic.

HAZMAT TRAINING MATRIX

Safety	Driver	Dockworker	Dispatcher	Safety Officer	Admin Staff
Emergency Response Information	×		JS	×	
> Emergency Response Guidebook	JS		JS	×	
> Safety Data Sheets	JS	×	×	×	
Methods and Procedures for Avoiding HazMat Accidents	×	×		×	
Personal Protection Equipment (PPE)	×	×		×	
Reporting Procedures for HazMat Accidents	×	×	×	×	
Security	Driver	Dockworker	Dispatcher	Safety Officer	Admin Staff
Security Risk Awareness	×	×	×	×	
Methods of Transportation Security	×	×	×	×	
Recognize and Respond to Security Threats	×	×	×	×	

JS = Job Specific. Training here is required if the person's job functions are impacted by the topic.

HAZMAT TRAINING REQUIREMENTS

- OSHA hazard communication training can substitute as required U.S. DOT training.
- Hazmat employers are required to retain records of training in the event of a U.S. DOT investigation. Such records must state the hazmat employee's name, training completion date, description of the training materials, the name and address of the person providing the training, and certification that the hazmat employee has been trained.

QUESTIONS?

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