

Holding Drivers Accountable

An Individual May Be Fined for Unsafe Behavior Discovered During Carrier Investigations

By Daniel P. Bearth
Senior Features Writer

Safety accountability falls heavily on truck drivers under the Comprehensive Safety Analysis. By identifying drivers' frequent or serious violations of safety regulations, the Federal Motor Carrier Safety Administration seeks to crack down on carriers that employ the worst offenders and dramatically reduce the number and severity of truck-involved crashes.

There is concern, however, that the new safety regimen and stricter enforcement will push a significant number of drivers out of a job if carriers see them as a risk. That situation could exacerbate what many industry observers believe is a looming shortage of freight-hauling capacity.

One FMCSA official attempted to assuage that concern.

"We've heard that CSA 2010 will put 175,000 drivers out of work," said Gary Woodford, FMCSA's chief program manager for CSA. "That's simply not true."

Woodford said information already available from roadside inspections, crashes and traffic enforcement activity will be reported and analyzed in a way that identifies drivers and carriers posing the greatest safety risks.

"It's simply an investigative tool," Woodford said. "What we're doing is taking the driver violations at roadside and looking at them through a CSA 2010 window."

That analysis features a calculation of points and percentiles in seven safety categories, called BASIC. It's a process that few drivers — or anyone else — readily understand, but its consequences are enormous.

"Both carriers and drivers will have to be more on their toes at roadside," Woodford said. "That's simply because every violation will now count. In the past it was simply out-of-service

violations and certain moving violations [that counted]."

He said the industry attempts to "game" the SafeStat system that is being replaced.

"If I know something is not going to count, I can look by that. Under CSA 2010, that's not going to be the case any longer," Woodford said.

Some fleets are not waiting for full implementation of CSA to take action.

Jay Thomas, vice president of safety and risk management for Freight Exchange of North America and a former safety director for Packard Transport Inc., Channahon, Ill., has been looking at driver scores since July 2009, using a program that

Driver Enforcement Approach

Driver enforcement will result from motor carrier investigations. Officials will be on the lookout for serious driver violations, such as:

- Driving while disqualified.
- Driving without a valid CDL.
- Making a false entry on a medical certificate.
- Committing numerous hours-of-service violations.

NOTE: Action will be taken directly against the driver for these violations. The carrier may also receive enforcement action when it bears responsibility for driver violations.

CSA 2010

mimics the federal analysis. He counsels drivers on how to clean up their scores.

“We’ve implemented a very aggressive discipline policy,” Thomas said.

Drivers flagged for serious safety violations, such as exceeding hours of service, are put on probation automatically for one year, Thomas said.

A second violation during the probationary period results in termination of a company driver or cancellation of an owner-operator’s lease.

For less serious safety violations, drivers are given a “three strikes and out” proposition.

“In the past 30 days, I have removed 19 drivers from the fleet,” Thomas said. The company has 350 drivers, of which 95% are owner-operators.

For the majority of the 3.3 million truck drivers in the United States, Thomas said, CSA “will have little or no impact whatsoever.”

As many as 25% of drivers, however, will be affected, and Thomas figures about 10% of those drivers “will have a very difficult time and may not be able to find employment in trucking.”

Every Violation Will Be Scored

Karen Miklic, senior vice president of Packard Transport, a flatbed carrier, said some drivers don’t understand that all roadside safety violations count under CSA, not just those that result in the driver being placed out of service.

“We try to help drivers understand what they’re doing wrong and change,” she said.

As an incentive, Miklic said, the company pays up to \$150 for clean Level 1, Level 2 and Level 3 roadside inspections, and will suspend drivers from being dispatched if violations are recorded.

“We’ve let go some operators,” she said.

Some of the concern about job losses may be based on the rollout of a separate Pre-employment Screening Program (PSP), in which a driver’s safety history is provided to employers to aid in selecting new-hires. Applicants give permission for release of their data from previous employers. The program, requiring payment for service, will become functional soon.

PSP will give carriers access to drivers’ safety performance history. How carriers choose to use that information to make hiring decisions “is up to them,” said William Quade, FMCSA’s associate administrator for enforcement and field activities. “In some cases, we imagine that insurance companies will put pressure on carriers about who they hire.”

While drivers may be cited and fined for safety violations, Quade emphasized that CSA will not be used to place drivers out of service or to assign safety fitness ratings to drivers.

CSA, however, will rank individual drivers with a scoring percentile, as measured against all other drivers.

“We’re using the Driver Safety Measurement System to target our interventions against carriers. Where we find egregious violations, we may do enforcement against the driver. That’s no different than what we do today,” Quade said.

While there is no intervention threshold for drivers, as there is for carriers, FMCSA does list 11 serious infractions, called “red flag” violations that could trigger enforcement actions against

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Comprehensive Safety Information (CSI) Federal Motor Carrier Safety Administration			
Overview	Carrier Measurement	Driver Measurement	Inspection Measurement
Driver Measurement Summary			
DRIVER INFORMATION			
Last Name:		First Name:	
License Number:		License State:	
Driver ID#:			
DRIVER PERFORMANCE			
Rate of Most Recent Activities	0%	Carrier Name	
0/0/0/0/0			
0/0/0/0/0			
0/0/0/0/0			
0/0/0/0/0			
0/0/0/0/0			
ORDER ACTIVITY (within 1 year)			
# of Orders:	4	# of Orders with Violations or Failures:	0
# of Transports:	0	# of IM Failures:	0
INSPECTION ACTIVITY (within 1 year)			
Driver Inspections:	0	IM Inspections:	0
DRIVER SAFETY MEASUREMENT			
BASIC	Measure	Percentile*	# Inspections resulting in violations of BASIC
1. Driver's Duties	11.06	99.9	7
2. Fatigued Driving	2.08	75.8	4
3. Driver Fitness	0.00	8.8	0
4. Controlled Substances and Alcohol	0.00	99.9	0
5. Vehicle Maintenance	13.22	99.9	6
6. Inspection Location/Carrier Self-Report	4.31	75.3	1
INSPECTION			
1. Control Substances	0.00	99.9	0

* The percentile is shaded in yellow when the **Inspection Scorecard** is greater than or equal to 90%. Otherwise there is no shading.

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FMCSA’s prototype scorecard for drivers draws on three years of data and shows weighted safety measurements and percentile rankings for the seven BASICS. An intervention threshold is highlighted.

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the driver. These include driving under the influence of drugs or alcohol and operating a vehicle without a valid commercial driver license.

State-issued CDLs “will remain the mechanism for taking unsafe drivers off the highway,” Quade said.

Violations issued to drivers in their personal vehicles will not figure in CSA scores. Likewise, CSA violations issued while on the job do not count against a driver’s personal driving record (except for moving violations issued because of roadside inspections).

Quade said FMCSA may consider issuing safety fitness ratings to drivers at a later date — perhaps in 2012 or 2013. To do that, however, the agency may need to get approval from Congress, he said.

Many companies, meanwhile, are evaluating current drivers to determine what will be acceptable standards for new hires.

“I think it will have a significant impact on the driving population,” said Kimberly Theken, implementation manager for TenStreet LLC, Tulsa, Okla., a company that provides software to help trucking companies recruit and retain drivers.

“If a driver has a history that can potentially give him a nega-

tive safety rating, and that rating, in turn, could have a negative impact on the carrier’s overall rating, the driver should be concerned about their employability,” Theken said.

Since January, Theken said, the number of driver applications has slowed significantly.

FMCSA’s William Quade emphasized that CSA 2010 will not be used to place drivers out of service or to assign safety fitness ratings to drivers.

“Drivers are aware of the scrutiny they may be under applying for a position with another company, and rather than job-hopping, they might be more inclined to continue with their current employer,” Theken said.

Don Osterberg, senior vice president of safety and driver training for Schneider National Inc., Green Bay, Wis., said he

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Red Flags

Serious Driver Violations Could Trigger Enforcement

CSA BASIC	FMCSA PART	VIOLATION
Fatigued driving	395.13(d)	Violating out-of-service order
Controlled substances, alcohol	392.4(a)	Possessing, using, under influence of controlled substance
Controlled substances, alcohol	392.5(a)	Possessing, under influence, using alcohol within 4 hours of duty
Driver Fitness	383.37(b)	Allowing driver to operate with more than 1 CDL
Driver Fitness	383.21	Operating CMV with more than 1 CDL
Driver Fitness	383.23(a)	Operating without valid CDL
Driver Fitness	383.51(a)	Driving while disqualified
Driver Fitness	391.11(b)(5)	Driving without valid operator’s license
Driver Fitness	391.15(a)	Driving while disqualified
Driver Fitness	391.45	False entry on medical examiner’s certificate
Vehicle Maintenance	396.9(c)	Operating out-of-service vehicle before making repairs



Freight Exchange of North America

At the El Paso, Texas, terminal of Freight Exchange of North America, Jay Thomas, vice president of safety, conducts a CSA training class for drivers.

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expects the Pre-employment Screening Program to become the “de facto standard” in screening applicants. Drivers with high scores under CSA 2010 “probably” will become unemployable, he said.

“Lawyers will have a field day if a carrier chooses not to use the data” to screen driver applicants, he said.

Eric Zalud, litigation partner in the Cleveland law firm Benesch, Friedlander, Coplan & Aronoff LLP, said the imposition of CSA, combined with retirements from an aging driver workforce and an uptick in business activity, will “lead us back to a driver shortage.”

An enforcement crackdown also could affect the dynamic between shippers and carriers as drivers take extra steps, such as refusing loads, to reduce the risk of violations, Zalud said.

Osterberg said he’s heard estimates of lost capacity ranging from 3% to 20% and that a former Schneider associate who heads a truckload carrier in one of the CSA pilot states thinks the figure “could be higher” than 20%, or one of every five truck drivers.

Not everyone is sounding the alarm about drivers.

David Mitchell, director of risk control and safety for Aon Risk Services, Little Rock, Ark., said he doubts there will be a dramatic reduction in the number of drivers because of implementation of CSA.

“The transition will be really tough,” he said. “Some drivers may not like it. It’s like a physical checkup in which you are required to do 20 push-ups. Now, it’s 40 push-ups, 50 sit-ups and 10 chin-ups. You’ve raised the bar and changed what you’re measuring.”

From an insurance perspective, Mitchell said some carriers may decide to have fewer owner-operators or farm out freight to other carriers to reduce their exposure.

CSA also will cast some carriers in a different light in terms of safety.

“A dry van carrier does not have the same risk as a flatbed carrier,” Mitchell said. “A flatbed fleet is likely to have more violations. It’s not a level playing field.”

Over time, Mitchell expects companies with good safety scores to get more favorable treatment from insurers. He said drivers who can avoid roadside safety violations “will have the best job security.”

Thomas already has received shippers’ contracts that state the carrier must not be “deficient” in any of the seven CSA safety improvement categories.

“It’s important for carriers to make sure that the drivers they have moving their freight are safe and do not receive roadside violations,” Thomas said. “The drivers now hold the keys to the company in more than a literal sense.”