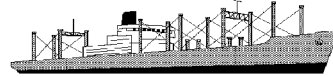
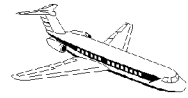




Rollin' On [®]



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CSA – PAPERWORK, IMPLEMENTATION, AND COLLATERAL DAMAGE

The federal government's mission to improve highway safety through increased oversight of commercial motor vehicles has been with us now for quite some time. CSA (compliance, safety, accountability) is a work in progress. By some accounts, way too slow, or too fast, but then yet again, be careful what you wish for.

As of this time, we do know, or can surmise, that CSA brings with it an emphasis on paperwork, with the aim of documenting what carriers are or are not doing in regard to highway safety.

The government is urging a communal effort to improving safety, by involving carriers, drivers, the insurance industry, and government itself, both state and federal.

Violations of the regulations have lasting negative consequences for carriers. Through its Safety Measurement System (SMS), CSA assigns a percentile ranking for each of the seven BASICS listed below. Violations negatively impact the carrier's SMS data for 24 months, which is a long time. The way to clean the record is through time, coupled with clean inspections.

Here are some of the documents that will be pertinent to the BASICS:

1. Unsafe Driving.

Driver training certificates

Written route plan (for explosives)

Motor carriers are required by regulations to keep these documents which are used in evaluating a carrier's operations.

2. Fatigued Driving (Hours of Service).

The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship

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Bills of lading
Carrier pros
Freight bills
Dispatch records
Electronic mobile communication/
tracking records
Gate record receipts
Weigh/scale receipts
Fuel receipts

These are the kind of documents that carriers must retain and are subject to review by the government.

3. Driver fitness.

Driver qualification files
Medical certificates
State driving records
Annual review of driving records
Employment applications

These records will be reviewed in assessing the carrier and how it deals with drivers.

4. Controlled substances/alcohol

Records of verified positive controlled substances test results
Documentation of refusals to take required alcohol and/or controlled substances tests
Driver evaluations and referrals

Carriers are required to maintain a controlled substance and alcohol testing program.

5. Vehicle Maintenance.

Roadside inspection reports
Vehicle maintenance files
Annual vehicle inspection reports
Driver vehicle inspection reports
Equipment repair receipts
Accident reports

These documents will reveal how the carrier maintains its equipment.

6. Cargo-related

Evidence of driver training on load securement
HM incident reports
HM security plan
HM shipping papers
Cargo tank manufacturer's cert
Evidence of HM training

Carriers are required to properly secure the loads in accordance with standards set forth in the regulations.

7. Crash Indicator.

Carrier data/accident register
Accident reports

Carriers are required to provide updates on their MCS-150 reports which must be filed every two years.

One of the interesting aspects of CSA is that its implementation did not amend the FMCSA regulations. Instead, CSA changed how FMCSA prioritizes carriers for enforcement and how it enforces compliance.

This maneuver by FMCSA was not without controversy. FMCSA has been sued for publicizing what has been viewed as erroneous percentile rankings, all without a formal rulemaking procedure in operation. Traditionally, a carrier has been allowed to operate unless it has an unsatisfactory safety rating or was put out of service.

As it is, FMCSA continues to use CSA's methodology to qualify carriers. The net result is that all is not clear at this time what to make of CSA. As time passes by, more of this will get sorted out, but in the meantime there are carriers who may become collateral damage.

That's it for now. Until next time, keep the cargo *rollin'*!

Short Bio

Admitted to the state bars of Oregon, Alaska and Florida. Practicing law for over 30 years and emphasizing transportation law, business law and related matters and litigation