

The



NATC Advantage

Winter 2010

Vol. 25 No. 1

CSA 2010 A New Start

By: J.P. Gibbons

For over a year the FMCSA has been field testing CSA 2010 in four (4) initial states. Now they have expanded the field testing and in 2010 they will go national with CSA 2010. Several questions arise when discussing CSA 2010 and I will attempt to answer them here.

What is CSA 2010?

It is a whole new approach to tracking and responding to a carriers and drivers safety performance. It is based on seven (7) basics which center on drivers with four (4), vehicle equipment with one (1), securement/hazardous material with one (1) and crash data with one (1). The FMCSA response or interaction with a carrier or driver will depend on the ratings each of the basics have. The data will be updated monthly and will change according to the latest information in the database.

Where Does the Data Come From?

The data is supplied by the states through roadside inspections and crash reports. You may challenge data entries through the DataQ process once it is uploaded. It is your responsibility to verify the accuracy of the data in your file. Drivers as well as carriers will have files kept on them and accessible by enforcement personnel and others.

What about My SEA Numbers?

It is scheduled that in the summer of 2010 the SafeStat system which uses SEA Numbers will be replaced with CSA 2010 and the new SMS standards which use the seven basics. Instead of the current four (4) SEA numbers you will receive a score on each of the seven basics in the program as noted above.

How will I know When My Performance is Unacceptable?

Under CSA 2010 once a basic reaches a preset score the color of the score will change color to yellow and then red. Yellow is warning and red is unacceptable.

How Much Time Do I have to Correct a Problem Basic?

It is currently planned that you will have two months to correct a problem area before

intervention. This means that once your score changes your color to yellow or red you have one complete cycle (a month) to improve before intervention is initiated by FMCSA. If your basic remains yellow or red for two (2) months in a row a letter or other intervention will take place.

Will CSA 2010 change my Safety Rating?

At the present time only a Compliance Review (CR) can change your safety rating. However, problems with a basic can lead to a Notice of Violation or Notice of Claim without a CR being performed. There are plans to change the regulations to allow for a carrier's safety rating to be changed through CSA 2010. This change will require a rulemaking which is scheduled for sometime in 2010.

If My SEA Numbers are Low Now Should I be Concerned?

YES, low SEA Numbers are based on Out of Service (OOS) violations for driver and vehicle. Under CSA 2010 all violations shown on a roadside will have a weighted point value and effect your basic rating. As such, carriers without a high Out of Service level will receive intervention due to non-OOS violations and there perceived effect on crash events.

EVERYTHING COUNTS UNDER CSA 2010 INCLUDING MARKER LIGHTS.

Where can I get more information on CSA 2010?

The **NATC** free website: www.49CFR.com or directly from FMCSA at their website: www.FMCSA.dot.gov (go to their section on CSA 2010).

When Should My Company Get Involved?

How about in 2004 when it started? Since we can not go back in time, now is a good starting point in time. Do not wait until the summer of 2010. Remember once the switch is flipped and CSA 2010 becomes operational nationally, the data will go back for 24 months. As such, what is occurring on the roadways today will be in CSA 2010 next year.

Hazardous Materials Security Plans

Sometimes the "A" Paper Just Doesn't Make the Grade.

By: Wayne M. Sinclair

There once was (and possibly still is) a common thought among college students that when writing a paper - the weight of the paper helps to determine the grade. In many ways that thought process has transferred to the working world as well.

In the post 9-11-01 world there has been a series of federal rule makings designed to enhance the security of our nation's hazardous materials storage and transportation. One such rulemaking was HM 232 - Hazardous Materials: Security Requirements for Offerors and Transporters of Hazardous Materials. This final rule (dated 3-25-03) required compliance effective September 25, 2003.

The requirement to develop and implement a security plan as promulgated by this rule applies to persons who offer for transportation or transport hazardous materials specified in § 172.800 of the Hazardous Materials Regulations. Each security plan must include an assessment of possible transportation security risks for shipments of the listed hazardous materials and appropriate measures to address those risks. As provided in § 172.802 - each security plan must address personnel security, unauthorized access, and en route security, at a minimum.

In the rush to get on board with the security plan requirements of HM-232 (49 CFR §172.800 through §172.804), many hazmat companies were lured into purchasing expensive "commercial security plans" that became available from an assortment of vendors. Sure, they looked impressive on the outside, some up to three inches thick for only a couple of chemicals involved (hence the old college "A" paper adage).

continued on page 2

Hazardous Materials Security Plans *continued from page 1*

Sadly, many of these plans fell short of their intended benefit – to enhance hazmat transportation security. To make them look good to the client, these plans were full of fat with very little muscle – and many remain that way today.

Most of these “one size fits all” plans were simply hastily prepared cookie cutter templates. After the hazmat company filled out a generic question and answer sheet, the “security” plan was built by the contractor using only the information provided. There were no site visits, no real security assessments which is the fatal violation of such plans. The end product was simply an impressive (looking) document that now resides on a bookshelf with no life, taking up space, collecting dust, and remaining unexercised.

49 CFR §172.800 through §172.804 sets a “performance standard” providing hazmat shippers and carriers with the flexibility necessary to develop security plans which take into account their individual situation and operational environment. That said, each security plan will usually differ because they must be based on a shipper or carrier’s individualized assessment of the security risks associated with the specific

hazardous materials it handles.

For companies with more than one facility, each individual facility must have a security plan tailored to the specific hazardous materials handled at the facility, the physical characteristics of the facility, and the operational procedures in place at the facility. Individual facilities may utilize a security plan format developed by corporate leadership for all facilities owned by the corporation however, each facility must adapt such format to ensure its security plan addresses all security vulnerabilities unique to that facility.

Completion of the initial security plan does not in and of itself bring closure to the requirement to have one. Plans must be routinely reviewed for compliance with its content or changes to company practices / procedures. For example, if the security plan calls for visitors to sign in at the main entrance, then the practice must be used without exception. Management needs to lead this by example and demand compliance by employees.

If during the security assessment it is determined that you need to add security improvements in the future, and in fact do, then an update needs to be made to the plan

as appropriate. For example, in 2006 you determined that fencing and equipping access gates with timed closure devices should be done, and those improvements were finally made, then the plan must be revised to reflect the improved security measures.

Perhaps the golden rule of any security plan is that it must be realistic. A security plan that claims to do pie in the sky security practices is easily exposed as inadequate or unrealistic to investigators. Remember if you are not doing what is in the plan, you are probably in violation.

Finally, a security plan that is unknown to the hazmat employees makes the security plan a worthless document. Employees who are assigned critical roles in a security plan need to be trained in their roles. In fact, the training requirements of 49 CFR 172.700 assign this as part of, both initial and recurrent training.

When it comes to security plans, the only “A Paper” is one that covers all of the requirements of the regulations - specific to the company it is written for - and one that is regularly reviewed for accuracy/effectiveness and updated.

CSA 2010 – Hang On for the Ride *By: J. P. Gibbons*

This year the FMCSA will roll out CSA 2010 which will replace many of the systems and databases used to rate the performance of motor carriers and their drivers. This has been a very intense internal effort by FMCSA Chief Safety Officer **Rose A. McMurray** and her team. Since 2004 there have been public meetings and attempts to get input from the regulated industry. Most of these efforts have had less than a resounding response. I know I have been involved from the start as one of the few non-association or lobbying attendees. We should all thank FMCSA and CSO **Rose A. McMurray** for the openness shown in the past and hope that it continues throughout the process. I find CSA 2010 to be very impressive and insightful in its attempt to more effectively utilize limited federal resources and get the bigger bang for the buck we all talk about. I find CSA 2010 to be very disheartening in that it appears the federal government will replace experienced field agents with

computer models which do not take into consideration some of the realities of the highway transportation industry.

(Since this is my publication, I get to tell it like I think and if I am wrong I am sure someone will be pleased to let me know in a positive way.)

I am very concerned that the CSA 2010 system does not distinguish between a driver who is 15 minutes over the 11 or 14-hour rules and one who is two (2) or more hours over. Experience shows us that the driver who shows 15 minutes over is logging accurately and not a fatigued driver. However, the data used to create the seven (7) basics which make up the core of CSA 2010 never distinguished at that level. Over hours is over hours and considered a fatigued driver issue.

I am also concerned that the database driving this program originates from state impute which historically has had many quality and timeliness issues. The amount of DataQs expected once CSA 2010

becomes operational nationally will not only test the system but will crash the system. I have heard no specifics concerning time lines for states to respond or resolve DataQ challenges that effect their performance. **NATC** has discovered and reported to FMCSA several serious uniformity issues with roadsides performed by different states and the restrictions placed on the states by their laws and procedures. How will such issues be resolved and will negative data be removed until validated like required under the Fair Credit Reporting standards? I for one hope and pray so.

Since I am in favor of maximum utilization of limited resources, I would like to propose that carriers who agree to specific performance standards should be given access to tools and data which will assist the industry in removing unsafe drivers and equipment. Let us start with publishing the names of all drivers who have tested

continued on page 4

Welcome to CSA 2010

By: John F. Christman, CLP



The following information courtesy of the FMCSA website.

For those of you who have not heard, “CSA 2010” is upon us. Just what is CSA 2010? Simply put the purpose of the CSA 2010 initiative is to develop more effective and efficient methods for the Federal Motor Carrier Safety Administration (FMCSA), to achieve its mission of reducing commercial motor vehicle (CMV) crashes, fatalities, and injuries.

KEY FEATURES OF CSA 2010

- Increase contact with carriers and drivers.
- Improve performance measurements for identifying high risk motor carrier and driver behaviors.
- Correct high risk behaviors before they become chronic and habitual.

Comprehensive Safety Analysis 2010, CSA 2010, is a Federal Motor Carrier Safety Administration (FMCSA) initiative to improve large truck and bus safety and ultimately reduce commercial motor vehicle (CMV)-related crashes, injuries and fatalities. It introduces a new enforcement and compliance model that allows FMCSA and its State partners to contact a larger number of carriers earlier in order to address safety problems before crashes occur. When the program is fully rolled out by the end of 2010, FMCSA will have a new nationwide system for making the roads safer for motor carriers and the public alike!

In the development of the CSA 2010 program, FMCSA sought to incorporate several key attributes.

- **FLEXIBILITY - Adapt to Changing Environment.** Accommodates changes to the transportation environment, such as evolutions in technology and changing programmatic responsibilities.
- **EFFICIENCY - Maximize Use of Resources.** Improves Federal and State enforcement staff productivity, as well as the safety performance of members of the motor carrier community.
- **EFFECTIVENESS - Improve Safety**
- **PERFORMANCE - Identifies behaviors associated with safety risk; focuses compliance, enforcement and remediation efforts on those unsafe behaviors.**
- **INNOVATION - Leverage Data and Technology.** Improves safety through the innovative use of technology to track and update safety performance data.
- **EQUITABILITY - Be Fair & Unbiased.** Assesses and evaluates motor carrier safety and enforces Federal laws and safety regulations to ensure consistent treatment of similarly situated members of the motor carrier community.

As CSA 2010 is implemented in pilot states and is rolled out to all carriers, there is no grace period. Your company's new BASIC scores will be calculated retroactively using the most recent 24 months of violation and crash history. Because the scoring is retroactive, you need to begin preparations and make changes now. Your most recent 6 months of history are weighted the heaviest, so make an impact by starting now.

Ninth State Joins CSA 2010 Pilot Program

In November, Delaware became the 9th state to join the CSA 2010 Operational Model (OM) Test. The OM Test now includes 92,094 motor carriers and the results show:

- Safety Investigators are conducting 20% more investigations per investigator.
- Approximately 50% of investigations have resulted in a follow-on intervention such as a Cooperative Safety Plan, Notice of Violation or Notice of Claim.
- More than 4,000 warning letters have been sent to motor carriers, and about half of those carriers have followed up to learn more about their safety performance.

CSA is slated to be rolled out nationally mid-2010 with states coming on board gradually throughout the latter half of next year as enforcement personnel are trained. Motor carrier and driver safety performance will be rated in 7 different Behavioral Analysis Safety Improvement Categories (BASICS) in the CSA 2010 Safety Measurement System (SMS). The seven BASICS are:

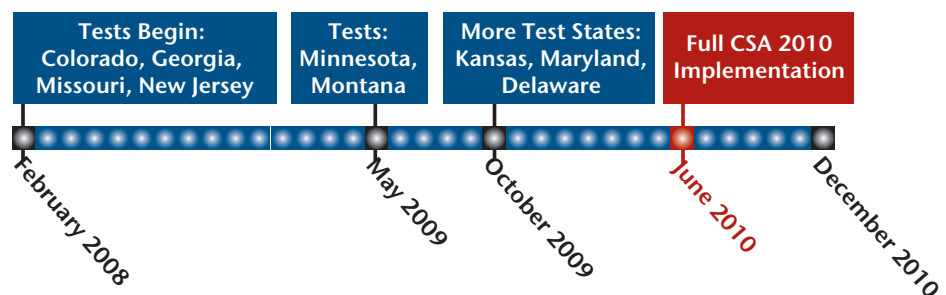
1. Unsafe Driving
2. Fatigued Driving
3. Driver Fitness
4. Drugs/Alcohol
5. Vehicle Maintenance
6. Cargo Related
7. Crash Indicator

NATC has been involved in the test period of CSA 2010 from the ground level and as such has gained enormous experience in the complex workings of the CSA 2010 program. Let NATC use this experience and expertise to your advantage in complying with CSA 2010. Please contact NATC at (609)-426-0555 and let NATC help you be CSA 2010 compliant.

UPCOMING MILESTONES

- Access to driver database for pre-employment decisions (December 2009)
- Proposed regulation changes RE: Safety Fitness Determinations (expected March 2010)
- Access to CSA 2010 data for all carriers (expected April 2010)
- SafeStat shutdown and CSA 2010 SMS rollout (proposed July 2010)
- Roll out interventions as states are ready (July - December 2010)
- Finalized regulations RE: Safety Fitness Determinations

CSA 2010 Timeline



JP's TIPS



Welcome to 2010 and the renewal of the **NATC Advantage**. This will be a year of great challenges for the transportation industry. The EPA has the new engine emission requirements. The FMCSA has CSA 2010. PHMSA is under fire for being to close to the industry it regulates and has agreed to review the Special

Permit Program. **NATC** turns 25 years old and remains as independent as ever.

This issue spotlights CSA 2010 as the most critical of the regulatory initiations. Highway transportation safety will never be the same once CSA 2010 becomes fully operational. A federal agency charged with overseeing the national uniformed

safety program to reduce accidents and make the highways safer will turn control of its carrier and driver monitoring program over to a computer which is driven by roadside inspections and data supplied by state agencies.

The new administration which started 2009 with some arrogance has been somewhat humbled by the reality of a continuing war, high unemployment, lack of access to credit and political infighting. Why do we in the transportation world care? Simply put because in 2010 the administration may look at the option of working with industry to achieve its goals and not dictating to it like an all-knowing presence. This one change in attitude may allow us all to not only survive but also improve in 2010. Good luck to all and enjoy **The Advantage** and check out our improved free website at www.49CFR.com.

CSA 2010 – Hang On for the Ride *continued from page 2*

positive for controlled substances or found under the influence of alcohol while driving a CMV. Let us just disqualify these people for life. We disqualify drivers for other offences but why not for these serious violations? Make all carrier subject to FMCSR report all positive results under Part 382 or subsection 392.5. Such a requirement would improve the Drug and Alcohol basic under CSA 2010.

Also let carriers and drivers have direct access to the CDLIS like the states do at roadside inspections. Carriers who pull abstracts are not finding disqualifications, revocations and suspensions on their driver's records because they do not have the same access. Usually a carrier does not know a driver has a problem until the inspector tells their driver he/she is Out of Service due to a suspension in some state

for a parking ticket or other violation they may not have known. Stop letting states use the CDL program to collect old tickets that have little if anything to do with safe driving. Set up a national standard for disqualifying a driver's CDL and make that the Out of Service standard for the Unfit Driver Basic. We recently came across a 19 year old ticket in NY which was not on the driver's record two years ago but is now and resulted in the driver being placed Out of Service.

For those who have not had the chance to review the data and materials put out by FMCSA on CSA 2010 be warned. There are lots of companies holding webair meetings and training sessions on CSA 2010 who are putting out incorrect information. The driver and equipment violations from roadsides will be on your

record for a 24 month period not 36 months as some are saying. Misinformation is a big problem when major programs are about to take effect. My strong recommendation is to visit the FMCSA website and go to their CSA 2010 section for accurate information. I also strongly encourage everyone to pay close attention to public meetings and information sessions being offered by FMCSA throughout the country and attend one for the sake of your company and its future. Shippers should also attend so they understand what the data is that they will be relying on when SafeStat is replaced this summer with CSA 2010 and its SMS data.

As they say buckle up and hang on for the ride. If you are not prepared for this one you may not survive the trip.

NORTH AMERICAN TRANSPORTATION CONSULTANTS, INC.

Your Total Transportation and Safety Consultants

P.O. Box 1404 • Hightstown, NJ 18520 • 609-426-0555