



# Regulatory Compliance Safety Review:

Utilizing FMCSA's Safety  
Measurement System to aid  
in evaluating a motor carrier's  
compliance metrics.



Companies are subject to portions of the Federal Motor Carrier Safety Association's (FMCSA) Regulations in 49 CFR, Subtitle B, Chapter III, Parts 300-399 if they operate commercial motor vehicles in interstate commerce. When an organization's operations are regulated by FMCSA, a public profile of their motor carrier registration, inspection, and violation data is available. This information can be accessed by searching an organization's name, motor carrier number, or Department of Transportation (DOT) number. Utilizing this publicly available database when reviewing credentials and safety records of a for-hire carrier, or internally for benchmark and quality review purposes, is a good step in managing transportation safety risks for your organization.

This resource has been developed to provide a basic overview of the key elements within the Safety Measurement System (SMS) and how your organization can view these factors from a risk management perspective. Elements and examples in this document are not all-inclusive and do not represent all types or instances of FMCSA regulatory compliance. CNA takes no responsibility for the accuracy or completeness of this material and recommends consultation with competent legal counsel and/or other professional advisors before applying this material.

### Identifying Authority:

All organizations with a DOT number will have an indicator of whether they have for-hire operating authority with FMCSA. When "no authority" is provided, this is stating that the company is not registered with the DOT to be compensated for interstate transport of passengers, property, or household goods<sup>1</sup>.

When choosing a company to transport goods on your behalf, consider selecting an organization with "for hire" operating authority in place. You will also be able to verify the number of vehicles and drivers registered with this motor carrier. Licensing and insurance (L&I) are generally outlined on the homepage of the carrier's profile. Take time to verify that the quantities and licensing line up with the services they offer. For example, if the L&I space outlines that they do not have for-hire authority for property and you have contracted them to transport materials from your location to a destination, this is a red flag and warrants investigation.

When the authority and entity profile are verified as accurate, the SMS portal can also be used to evaluate safety and compliance performance as it pertains to the regulated fleet. The rest of this resource will provide a brief overview of each element within FMCSA's Behavior Analysis & Safety Improvement Categories (BASIC).

### Reviewing FMCSA's BASIC Categories:

The SMS provides insights into the number of violations issued to the motor carrier based on seven key compliance areas. In addition to the number of violations issued, FMCSA also compares the percentage of out-of-service violations against an overall industry average and outlines the out-of-service percentage (OOS%) compared to the industry average of OOS violation percentages. These visual cues provide a quick point of reference on what elements of compliance an organization can focus on for improvement. FMCSA has also outlined several factors to consider for improvement when a motor carrier has an OOS% greater than industry averages in the SMS Help Center.

FMCSA has many inspection levels<sup>2</sup>, and based on the inspection level, a variety of checks and regulatory elements may be reviewed. Violation types are categorized into one of the seven elements noted below. Violations are categorized in alignment with 49 CFR, Subtitle B, Chapter III, Parts 300-399. Some applicable specific regulatory sections have been identified for each category below.



#### Unsafe Driving

Regulatory Elements: 49 CFR Parts 392, Driving of Commercial Vehicles and Part 397, Transportation of Hazardous Materials; Driving and Parking Rules.

Violations in this category are designated towards unsafe driving acts such as driving while impaired, excessive speeding, equipment and/or vehicle issues that may cause unsafe driving acts, lack of seatbelt use, failure to obey traffic control devices or signage, and other risky driving behaviors. Impairment is not defined solely by the use of Alcohol or illegal substances, as fatigue, illnesses, medicine, or other legally prescribed and administered substances, and driver distractions<sup>3,4</sup> may also cause impairment.



#### Crash Indicator:

Regulatory Elements: 49 CFR Part 390.5, Definitions

The crash indicator provides an overview of the number of accidents in which vehicles registered to the applicable DOT number have been involved. Accidents<sup>5</sup> investigated by FMCSA are flagged as either preventable or non-preventable, and crash indicator ratings are calculated based on this factor coupled with the severity of the accident and injuries sustained by those individuals involved.

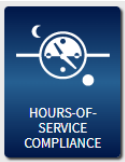
1 FMCSA, Operating Authority Status, Question & Answer

2 <https://www.cvsa.org/inspections/all-inspection-levels/>

3 49 CFR §390, Federal Motor Carrier Safety Regulations; General

4 <https://ai.fmcsa.dot.gov/SMS/HelpCenter/Index.aspx#Improve>

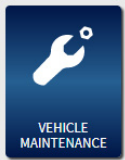
5 49 CFR §390, Federal Motor Carrier Safety Regulations; General



### Hours-of-Service Compliance

Regulatory Elements: [FMCSR Part 392, Driving of Commercial Motor Vehicles](#), and [Part 395, Hours of Service of Drivers](#)<sup>6</sup>.

Hours of service (HOS) components outline the number of hours drivers can operate within a shift, day, and week. These regulations govern the maximum time drivers are allowed to drive, the minimum time required for breaks and off-duty status, record of duty status, and vehicle requirements concerning electronic logging devices (ELDs). There are exceptions to the HOS requirements based on adverse driving conditions, emergency conditions, agricultural operations, and radius of operations (such as 150 air miles). The [FMCSA Hours of Service Website](#) outlines all exceptions and provides additional information within the [Summary of Hours of Service Regulation](#) webpage.



### Vehicle Maintenance:

Regulatory Elements: [49 CFR Part 392, Driving of Commercial Vehicles](#), [Part 393, Parts and Accessories Necessary for Safe Operations](#), and [Part 396, Inspection, Repair, and Maintenance](#)

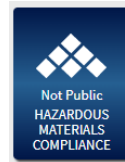
Operating routinely maintained vehicles is an integral part of FMCSA regulatory compliance. The vehicle maintenance section summarizes any violations applicable to the vehicle inspection, testing, repair, and maintenance of commercial vehicles. A weight rating is provided for each violation type based on the severity of the violation. Some violations applicable in this section include inoperative vehicle equipment and safety features, inaccurate or no documentation of pre- and post-inspection checks, tire and brake condition, and improper load or cargo securement.



### Controlled Substances and Alcohol:

Regulatory Elements: [49 CFR Part 382, Controlled Substances and Alcohol Use and Testing](#), and [Part 392, Driving of Commercial Motor Vehicles](#)

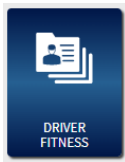
All commercially licensed drivers must comply with FMCSA drug and alcohol requirements. The FMCSA Drug and Alcohol Clearinghouse allows employers to review CDL (commercial driver's license) and CLP (commercial learner's permit) drug and alcohol compliance, testing, violations, test refusals, and return-to-duty plans. Violations applicable to controlled substances and alcohol use are noted in this section and include elements such as driving under the influence or impaired, pre-duty or following an accident, refusal to submit for a drug or alcohol test, or failure to comply with necessary documentation and retention records.



### Hazardous Materials Compliance:

Regulatory Elements: [49 CFR Part 397, Transportation of Hazardous Materials; Driving and Parking Rules](#) and US Department of Transportation Hazardous Materials Regulations.

Specific guidelines are outlined when a motor carrier is involved in the transportation of hazardous materials. This includes endorsements and permits authorizing the transport of hazardous materials. Violations applicable to the HazMat compliance element are often attributed to improper or lack of securement, placarding, and/or shipping papers outlining details of the hazardous materials being transported<sup>7</sup>.



### Driver Fitness:

Regulatory Elements: [49 CFR Part 383 Commercial Driver's License Standards; Requirements and Penalties](#), and [Part 391, Qualifications of Drivers and Longer Combination Vehicle \(LCV\) Driver Instructors](#)

Driver fitness includes verifying that the driver is physically able to operate the vehicle for which they are licensed to operate. Violations such as the driver's failure to have a medical certificate, possession of an expired license, or no license at all, unqualified drivers or driving with an incorrect endorsement, and non-English speaking drivers may be issued under this element<sup>8</sup>.

Understanding the trends of where violations are issued during inspections allows you to implement or require corrective action within your organization's fleet or with those motor carriers you choose to hire.

Prioritize areas for improvement in the sections where violations occur. Take time to evaluate all areas of the regulation and consult with legal counsel on specific elements that require clarification. Reference [Regulated Vehicles Guidelines](#) or FMCSA for additional information about the applicability of regulations for your operating profile. Additional insights on corrective action and behaviors can be found in [FMCSA's Help Center](#).

CNA has identified industry-leading organizations that can assist companies in implementing critical fleet safety program components. Our [Allied Vendors](#) offer a suite of services aimed at improving your organization's overall fleet safety and driver management profile.

6. 49 CFR §395, Hours of Service of Drivers

7. J.J. Keller Compliance Network, Top 3 Hazmat Violations in 2021

8. 49 CFR §383.133, Commercial Driver's License Standards; Requirements and Penalties, Test Methods, "Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner."