



IN THIS ISSUE:
(Click to jump to article)

Managing Your Drug and Alcohol Testing Program Part 4

Addressing the CSA BASICS: Improper Loading/Cargo Securement

SAFETY MESSAGE: Unlocking CSA 2010 Benefits

Resource Library

Best Practices for Ordering MVRs

A Motor Vehicle Record (MVR) can be an important defense against negligent hiring claims involving workers who drive any type of company vehicle. The MVR can be used to verify the driver has a current license, provide information regarding the driver's address, current license status, license restrictions, driving violations and convictions, and collisions and irresponsible driving behaviors.

The Federal Motor Carrier Safety Regulations (FMCSR) in [49 CFR 391.23\(a\)&\(b\)](#) require motor carriers to order MVRs for each newly qualified driver from each state where the driver held a license or permit during the preceding 3 years in order to evaluate and determine if the driver meets minimum eligibility requirements. Copies of these MVRs must be placed in the new driver's qualification file within 30 days of the date of hire. However, to reduce the exposure of negligent hiring/contracting of a driver, it is critical to receive the MVR prior to releasing them on their first dispatch to determine if they do not meet your minimum eligibility criteria, or if their license is currently suspended.

If the state(s) from which the MVRs are ordered do not respond to the request, the motor carrier must document they made the effort to obtain the information or certify that such records do not exist in that state(s). This situation rarely occurs. However if it does, you need to verify that you have the correct information that is required to order an MVR. If it continues to not be found, you need to immediately meet with the driver to determine the reason. The license could be invalid for numerous reasons, including fraud.

Motor carriers must order an MVR at least once every

12 months

for each currently employed driver.

Furthermore, according to [49 CFR 391.25](#), **motor carriers must order an MVR at least once every 12 months for each currently employed driver** from each state where the driver held a commercial motor vehicle (CMV) operator's license or permit during the preceding 12 months. These MVRs must be reviewed to determine if each driver continues to meet the CMV driver minimum eligibility requirements and must also be placed in the driver's qualification file.

Although ordering MVRs on new and existing drivers according to the above guidelines will keep your company in regulatory compliance, you may want to **consider ordering MVRs on a more frequent basis to ensure that you detect and deal with any "problem drivers" much sooner.**

Ordering MVRs on a more frequent periodic basis will alert you more quickly to situations such as:

► Unreported violations.

By just ordering MVRs on an annual basis, motor carriers might have no knowledge of a specific driver's more recent violations/accidents or those occurring while the driver is off duty if the driver chooses not to tell them. Ordering MVRs on a more frequent basis will help the motor carrier become more informed about the behavior of their drivers so they can take corrective and/or disciplinary action. This is vital to maintaining the safe operation of vehicles, especially when the recorded violations are more serious in nature, such as driving under the influence of drugs or alcohol, speeding, reckless driving, hit and runs, etc.

► **Developing patterns of violations.**

Analyzing all the drivers' MVRs frequently will permit motor carriers to more readily recognize when a specific driver is frequently being cited for violations or when many of the drivers are often being cited for a certain type of violation. Any MVR(s) showing a history of small violations or a single major violation can then be closely examined by management. This helps the motor carrier decide where and how to direct their driver retraining efforts in order to eliminate these specific violations on a more immediate basis.

► **Drivers unaware of license cancellations.**

Since many drivers move around frequently or are not home often enough, they could be unaware they received a notice from the state regarding cancellation of their license and continue to drive with an invalid license. The MVR will reveal the license cancellation to the motor carrier so they can remove the driver from the road immediately.

► **Unreported driver license suspensions.**

Drivers can lose their license for a variety of reasons, including failure to provide proof of insurance coverage or, in some states, failure to pay child support payments. Some drivers who may be facing financial difficulties may be repeatedly falling behind on child support payments and frequently have their license suspended until the payments are made. In the meantime, they continue to drive with a suspended license. Sometimes the MVR will identify a "pending" suspension, so the motor carrier can address the issue with the driver before the suspension becomes effective. As a best practice, many motor carriers will place drivers with MVRs showing numerous suspensions on a list as a reminder that these MVRs should be reviewed on a more frequent basis.

► **Drivers who should be terminated or placed on probation.**

Through ordering more frequent MVRs, the motor carrier may uncover a driver with egregious violations who no longer or barely meets their company's and/or the FMCSA's minimum eligibility requirements. This allows the motor carrier to intervene with the individual much sooner and perhaps prevent an accident from happening. Each specific case will need to be evaluated as to whether to terminate the individual or put them on probation. Obtaining even more frequent MVRs, perhaps on a monthly basis, could be established as a condition for placing the driver on probation instead of being terminated, with the understanding that all future MVRs must be free of any new violations.

Post-collision MVRs should be ordered following any preventable collision. This will give you an opportunity to further determine if the driver is developing a pattern of unsafe driving maneuvers that may have led up to the collision. It will also help you determine if they continue to be within your minimum driver eligibility requirements.

As a best practice, Baldwin & Lyons, Inc. recommends that motor carriers establish procedures to order and evaluate their drivers' MVRs on a frequent periodic basis, such as semi-annually or quarterly, with some ordered even more frequently for "problem drivers." Remember, **under CSA 2010, the performance of each and every driver affects the Safety Fitness Determination (SFD) of the entire company**, and a poor SFD rating could quite likely generate an FMCSA intervention.



Consider ordering MVRs on a more frequent basis to ensure that you detect and deal with any "problem drivers" much sooner.



Managing Your Drug and Alcohol Testing Program PART 4

Editor's Note: Since this article is focused on DOT regulations and their definitions, the term "employee" and "employer" will be used as defined in [49 CFR, Part 40](#), [Part 382](#) and/or [Part 390.5](#) of the Federal Motor Carrier Safety Regulations (FMCSR).

To help you remain compliant with federal drug and alcohol testing regulations found in [49 CFR Part 40 and Part 382](#), the previous three issues of *The Quill* addressed six common violations and challenges motor carriers have regarding drug and alcohol testing. This final article in our series will discuss the **lack of oversight of collection sites and procedures.**

The U.S. DOT gives you three choices for administering your drug and alcohol testing program:

1. Administer your program internally.
2. Outsource some of the program to service agents.
3. Outsource the entire program to a "consortium" or "third-party administrator."

Whatever process you choose, please remember **your company is responsible for the administration of your drug and alcohol testing program, even if you hire service agents or other third parties to administer the program for you.**

If your company administers its own drug and alcohol testing program, **performing collections on-site at your own facility can limit the possibility of an employee cheating** on the drug tests by substituting or diluting their urine samples. If the employee is required to immediately submit to an on-site collection and not permitted to go to a locker, car, or elsewhere before providing the specimen, the opportunity to cheat is greatly reduced.

Although FMCSR require physicians who perform DOT urine drug screening to be certified according to DOT requirements, some collection facilities and occupational medicine practices are not aware of these requirements. If the collector is not certified, a drug test could later be challenged and determined invalid. In addition, the Federal Motor Carrier Safety Administration (FMCSA) has found some third-party administrators were using unqualified individuals as Medical Review Officers (MROs) and Substance Abuse Professionals (SAPs). For example, an unqualified SAP was issuing return-to-duty reports for drivers that had not completed their recommended treatment. Therefore, if your company outsources part or all of its program to any type of service agency, it is important to **research the credentials of the MROs, SAPs, and persons performing the collections.**

In another instance, the FMCSA found a third-party administrator was not randomly selecting drivers for drug testing at the required 50 percent rate and the motor carrier did not monitor the sample sizes.

Inadequate or limited oversight of these agencies by motor carriers can easily lead to poor compliance or non-compliance. Remember, the FMCSA will not and cannot

Summary: [49 CFR Part 40](#)

This regulation covers employer responsibilities and requirements related to:

- Urine drug tests
- Testing laboratories
- Medical Review Officers
- Testing sites
- Alcohol testing and equipment
- Confidentiality
- Service agents, and more

levy penalties against your service agent or third-party administrator. It only has the authority to fine the motor carrier that uses the service agent or third party.

Whether your company administers its own drug and alcohol testing program or contracts with other agencies to administer part or all of the program, make sure the ***Procedures for Transportation Workplace Drug and Alcohol Testing (49 CFR Part 40)***, and the ***Controlled Substances and Alcohol Use and Testing (49 CFR Part 382)*** rules are followed completely. See summaries in side bars.

Summary: 49 CFR Part 382

This regulation covers the following topics:

- General purpose, applicability, and testing procedures
- Prohibitions, such as on-duty and pre-duty use
- Tests required, including pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing
- Handling of test results, record retention, and confidentiality
- Consequences for drivers engaging in substance use-related conduct
- Information on employer drug and controlled substances policy, supervisor training, referral, evaluation, and treatment

Verify that your collection site uses the appropriate required forms. These forms include the **Federal Drug Testing Custody and Control Form** for DOT drug tests and the **Department of Transportation Alcohol Testing Form** for DOT alcohol tests. Furthermore, analysis of all drug tests must be performed at Department of Health and Human Services (DHHS) certified laboratories. [Click here](#) for an updated listing of DHHS certified laboratories.

In addition, if your company utilizes a third-party administrator, you are permitted to have the third party maintain some or all of your drug/alcohol testing records as long as they are kept in a secure location with controlled access. Although your company is not required to keep duplicates of these records, it is responsible for making sure all record keeping procedures are accurate, current, and saved according to the FMCSA regulations in **49 CFR 382.401**. Your company must also make all records available for inspection at your principal place of business within two business days after a request has been made by an FMCSA representative.

For additional guidance and best practices regarding DOT drug and alcohol testing regulations, refer to the following DOT publications:

- ▶ [What Employers Need To Know About DOT Drug And Alcohol Testing](#)
- ▶ [Best Practices For DOT Random Drug And Alcohol Testing](#)
- ▶ [Employer Record Keeping Requirements For Drug & Alcohol Testing Information](#)

Baldwin & Lyons' insureds may contact your assigned Loss Prevention Specialist for further assistance in establishing and implementing a drug and alcohol testing program that meets or exceeds federal regulations.

This concludes our series on Managing Your Drug and Alcohol Testing Program.

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Addressing the CSA **BASICS**: *Improper Loading/Cargo Securement*

Previous issues of *The Quill* discussed several CSA 2010 BASICS categories and provided strategies for improving your company's and your drivers' safety performance and rating in each category. This article addresses the BASIC involving improper loading and cargo securement.

Defining this BASIC

The Federal Motor Carrier Safety Administration (FMCSA) defines this BASIC as failure to properly prevent shifting loads, spilled or dropped cargo, and unsafe handling of hazardous materials on a commercial motor vehicle (CMV). (Refer to definition of a CMV in [49 CFR Part 390.5](#)).

This BASIC has the largest number of

potential violations

compared to the other BASICS.

This BASIC includes violations of the Federal Motor Carrier Safety Regulations (FMCSR) in [49 CFR, Parts 392, 393, 397](#) and **Hazardous Materials Violations**. Among the extensive requirements, the regulations require all cargo to be firmly immobilized or secured on or within a vehicle by structures of adequate strength, dunnage or dunnage bags, shoring bars, tiedowns, or a combination of these.

Examples of violations of this BASIC include:

- Failure to properly secure the load or vehicle equipment
- Use of damaged or insufficient tiedowns
- Using a tool likely to cause damage to the closure of any package or container
- Failure to re-examine cargo and load securement devices during transportation
- Lack of or improper markings on a hazmat load
- Violations related to hazmat packaging
- Lack of proper hazmat documentation
- Improper hazmat routing

How this BASIC is measured

Data used in evaluating this BASIC include:

1. Roadside inspection violations related to load securement, cargo retention, and hazardous materials handling
2. Crash reports citing shifted loads or spilled/dropped cargo as a cause or contributing factor

As with the other BASICS, performance related to loading/securing cargo is measured by using the carrier's cargo-related violations over the previous 24 months (or 36 months for individual drivers). The violations are assigned a severity weight based on how likely the violation is to cause a crash, with 10 representing the highest risk. The severity weight for any violation resulting in an out-of-service order is increased by 2. This severity weight is then adjusted for age of the violation (when it occurred) and the time of the inspection (when the inspection occurred). More recent violations and inspections carry a heavier weight than older ones. The final measure is then compared to other carriers' performances in cargo loading and securement to determine a "percentile rank" for each carrier.

Cargo loading and securement violations that carry the highest severity weight of 10 include those instances for which the driver is responsible that are in violation of the FMCSR as described in Parts:

- *177.834, 177.834(a), 177.834(f),*
- *392.9 through 392.9(a)(2) and 392.9 (b)(2)*
- *392.62(c)(1) through 392.62 (c)(3)*
- *393.100 through 393.136(f)*

For a complete listing of improper loading/cargo securement violations and their corresponding severity weight, refer to the [CSA 2010 Improper Loading Cargo and Hazmat Securement Violation Severity Chart](#) starting on page 15.

Strategies to improve performance

Since this BASIC has the largest number of potential violations compared to the other BASICs, improved performance will depend greatly upon your drivers' compliance with all cargo-related regulations and their proficiency in properly securing and caring for the cargo they transport. Providing extensive driver training on the proper loading and securement of hazardous and/or non-hazardous cargo is essential to preventing violations and cargo-related losses.

Best Practices for safety management include:

- Drivers should know how to properly distribute and secure their load. Conduct driver training that provides a thorough understanding of the general cargo securement rules applicable to all types of cargo and any additional commodity-specific rules applicable to the type of cargo transported.
- Remind your drivers that they are required to stop within the first 50 miles after beginning a trip and periodically whenever the driver makes a change in his/her duty status or after every 150 miles or 3 hours of driving (whichever comes first) to recheck their cargo and load-securing devices. (Refer to [49 CFR Section 392.9.](#)) However, [392.9\(b\)\(4\)](#) is the exception and states, "The rules in this paragraph (b) do not apply to the driver of a sealed commercial motor vehicle who has been ordered not to open it to inspect its cargo or to the driver of a commercial motor vehicle that has been loaded in a manner that makes inspection of its cargo impracticable." If hours-of-service documents do not reflect required inspections, a violation can occur.
- **Give special attention to training on flatbed cargo securement procedures and devices.** Inadequate and/or defective tiedown straps on cargo are not only illegal, but also extremely dangerous. Wear, age, or damage to any component will greatly reduce its strength. The FMCSA advises motor carriers and drivers to pay particular attention to the number of tiedown assemblies, the condition and strength of the tiedowns and anchors, and any chocking or bracing devices. Webbing, chains, cables, and tiedown anchors must be inspected for wear and damage, and the blocking and bracing must be inspected for adequacy before any load is transported.
- Instruct your drivers to perform pre-trip inspections that include checking for anything that could possibly fall off the vehicle. Objects that might potentially fall off the vehicle include the cargo and other equipment, such as chains, spare tires, loading/unloading ramps, chock blocks, pallets, buckets, tailgates, doors, tarpaulins, cargo securing equipment, and other equipment used in the vehicle's operation.



Have your maintenance department approve and properly secure any type of equipment that is carried outside the tractor-trailer.

- **Have your maintenance department approve and properly secure any type of equipment that is carried outside the tractor-trailer.**

Best Practices for drivers include:

- Know and comply with all FMCSR cargo securement requirements.
- Secure the load and all equipment and recheck while driving.
- Have your maintenance department periodically inspect your vehicle and equipment to check for any equipment that could become loose and fall off the vehicle.

Training Materials

The FMCSA offers a free online [Drivers' Handbook on Cargo Securement – A Guide to the North American Cargo Securement Standard](#) that covers the fundamentals of cargo securement and the general and commodity-specific cargo securement requirements with corresponding illustrations.

Another source of information to review with your drivers is the Practical Cargo Securement book, available for purchase through the [American Trucking Associations' Business Solutions](#) or [CVSA Online Store](#). This guidebook is based on the North American Cargo Securement Standards adopted by the United States (*49 CFR Parts 392 and 393*) and Canada. The book contains over 600 illustrations and covers the general cargo requirements and the eleven specific commodities addressed in the regulations. This is the same tool used by law enforcement for roadside inspections.

Also refer to our [Resource Library](#) for video training programs on trailer loading and cargo securement.

For further information regarding the CSA 2010 BASICS, visit the FMCSA's [CSA 2010 website](#).

NEWS FLASH: CSA 2010 Rollout: What is happening when?

The FMCSA has revised its schedule for implementing CSA 2010. Refer to the [CSA May 27, 2010 news release](#) for the new rollout timeline.

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SAFETY MESSAGE:
Unlocking CSA 2010 Benefits

Like treasure in a chest, the Federal Motor Carrier Safety Administration's (FMCSA's) Comprehensive Safety Analysis (CSA) 2010 contains many benefits ready to be unlocked. Baldwin & Lyons, Inc. recognizes these benefits and has the keys ready to assist motor carriers in unlocking the CSA 2010 treasure chest.



Get ready to take a major step forward for safety.

CSA 2010 offers significant benefits because it:

- Provides carriers a more effective means to track safety performance of company drivers through analyzing their performance in the seven BASICS.
- Allows carriers to have immediate access to the Safety Measurement System via the Internet at any time.
- Permits carriers to better evaluate driver applicants and monitor current drivers, which will result in a positive impact on the carriers' loss history and compliance ratings.
- Helps carriers identify specific behaviors, deficiencies, or problems *early* so corrective actions can begin sooner to improve the carrier's overall safety performance, thus creating a safer driver force by enabling carriers to better identify and remove drivers exhibiting poor safety behaviors and performance.
- Allows carriers to clearly identify needed areas for training, monitoring, and performance enhancement and make better safety-based decisions.
- Uses various FMCSA "interventions" as a tool to improve carriers' safety performance and provide guidance on corrective actions.
- Tailors any FMCSA "interventions" to just the specific deficiencies of each carrier rather than conducting a one-size-fits-all, time-consuming inspection on all carriers.
- Unites all divisions and job responsibilities of a carrier under the banner of developing their Safety Culture.

The ultimate goal of CSA 2010 is to improve safety on our nation's roadways by achieving a greater reduction in large truck and bus related crashes, injuries, and fatalities. **Get ready to take a major step forward for safety** by educating and training your drivers and other personnel on CSA 2010 compliance and taking advantage of all the powerful data that is now available to you.

For further information on CSA 2010, refer to The Quill article series on "Addressing the CSA 2010 BASICS" and/or visit the FMCSA's [CSA 2010 website](#). Baldwin & Lyons' insureds may contact your assigned Loss Prevention Specialist for additional assistance in CSA 2010 compliance.

Yours in Safety,

Dennis L. Shinault, CDS
Director of Loss Prevention, Baldwin & Lyons, Inc.



RESOURCE LIBRARY:

These resources are available for loan to Baldwin & Lyons' insureds for a period of 14 days. You may borrow up to three programs at one time. Programs are available in VHS tapes only unless otherwise indicated. To borrow these materials, please contact our Loss Prevention Department Resource Library at (317) 636-9800 or email thequill@baldwinandlyons.com.



Dry Van Cargo Securement (2nd Edition)

BY: J. J. Keller & Associates, Inc. • **LENGTH:** 18 minutes

This program addresses the dry van cargo securement requirements found in FMCSRs 392.9 & 393. It covers proper securement techniques, working load limit and aggregate working load limit standards, determining the number of tiedowns, when to re-examine and adjust cargo, pre-trip inspections, cargo distribution, securement devices, rechecking cargo, personal safety, and more. The program includes an Instructor's Guide, Driver Handbook, a reprint of FMCSRs 392.9 & 393, and a Trainer's Tools CD-ROM.



Flatbed Cargo Securement Training Program (2nd Edition)

BY: J. J. Keller & Associates, Inc. • **LENGTH:** 21 minutes

This program will give your drivers a basic understanding of cargo securement rules and safe practices. It includes cargo securement tiedown guidelines effective 6/22/06. Topics covered include securement definitions, importance of pre-trip inspections, gross weight limits, personal safety, weight distribution and gravity of loads, cargo securement devices, working load limit and aggregate working load limit, and monitoring your load. The program includes an Instructor's Guide, Driver Handbook, a reprint of FMCSRs 392.9 & 393, and a Trainer's Tools CD-ROM.



CSA 2010: A Driver's Guide (DVD only)

BY: J. J. Keller & Associates, Inc. • **LENGTH:** 45 minutes

Under the FMCSA's CSA 2010 initiative, drivers' actions will impact their safety performance evaluation and the safety ratings of their employer. This program explains CSA 2010 and shows drivers why they must comply with the driving and safety regulations for the benefit of their careers and their company. The program explains the key fundamentals of CSA 2010 as follows:

- Main components of CSA 2010 – 1) data collection, 2) safety evaluation, 3) safety measurement, 4) interventions
- Seven Behavior Analysis Safety Improvement Categories (BASICS)
- Driver's role in improving, maintaining, or degrading their company's and their own safety fitness evaluation
- What drivers can do to prevent "high point" violations and have "good inspections"

The program includes the DVD, CSA 2010 Overview, Driver Handbook, and a 24-page Discussion.

