

OBTAINING A NEW DOT NUMBER TO “WASH OUT” BAD PAST EXPOSURE

A question that has been posed to me by a number of agents in the past few weeks – “My insured is having difficulty obtaining loads because of their high CSA score, so they are thinking about getting (or have gotten) a new DOT# under a different name – Is this a good idea?”

NO -- NO -- NO is my answer!

Starting a new trucking company and obtaining a new DOT# to “wash out” a bad CSA score is like having a truck’s battery go dead so the truck will not start and getting a “jump” without fixing the problem (battery replacement/alternator). It might give immediate relief but for the “long haul” it will fail. **Why?**

FMCSA is aware of “bad” motor carriers getting a new DOT# so they have stepped up their efforts to make it harder to do. This will be addressed later.

Let’s look at what happens when a motor carrier applies for a DOT#. How do I know? I read the regulations and in fact earlier in the year, I applied for a DOT# to better understand the process.

Look up the FMCSA’s “New Entrant Safety Assurance Program”. A business applying for a DOT identification number in order to initiate operations in interstate commerce is defined as a “new entrant”. All this can be done on line. The form is the MCS150. As noted in an article in Overdrive’s 10/12 edition by Max Hene titled, “An Alert for New Entrants”, he notes FMCSA has added new regulations that took effect July 20th. He goes on to say, “The biggest challenge is the New Entrant audit.” If FMCSA finds any deficiency the entrant has only 15 days to submit a plan of correction. If the motor carrier does not respond in 15 days, they are put out-of-business. FMCSA regulations list 16 items for audit such as pre-employment screening, drivers, hours-of-service requirements, and drug-testing requirements for example. If the new entrant fails one of the items then the 15 days start.

I made application and in a couple of weeks I received a letter sent to the mailing address on my 150. In part it stated:

The Federal Motor Carrier Safety Administration (FMCSA) is responsible for ensuring the safe operation of commercial motor vehicles on our nation’s highways. FMCSA has received your application for USDOT New Entrant registration to operate in interstate commerce.

Please contact FMCSA support staff at 1-877-905-8016, Monday-Friday 8:00 AM to 8:00 PM EST, to complete the process for new entrant registration.

Once validation has been completed, you will be contacted by the appropriate office to schedule a new entrant safety audit. As a new entrant motor carrier, Services to Distributors, Inc. must undergo a required safety audit. The safety audit usually takes from 2-4 hours to complete. In preparation for the safety audit additional information may be found at FMCSA's website: <http://www.fmcsa.dot.gov>.

Listed below are some of the requirements the FMCSA will verify when a safety audit is conducted:

- A Drug & Alcohol Program (if applicable);
Including Random Drug & Alcohol Testing, Pre-Employment Drug Testing and other testing as required
- Periodic (annual) inspection
- Records of Duty Status (if applicable)
- The required minimum level of Financial Responsibility (insurance) (if applicable)
- Drivers with proper Commercial Drivers License (if applicable)

In accordance with 49 CFR Section 385.337, failure to permit a safety audit to be performed may result in the revocation of Services to Distributors, Inc.'s (my company's) USDOT New Entrant registration and Services to Distributors, Inc.'s operation being placed out of service. Additionally the refusal to submit to a safety audit may also subject a new entrant motor carrier to the penalty provisions in 49 U.S.C. 521(b)(2)(A), as adjusted for inflation.

Being on the road a lot, I did not call the number so exactly 30 days after I received the first letter a follow-up letter reminding me I must make the call or my New Entrant registration will be rescinded and my company will be placed out-of-service.

If someone checks in SAFER and finds that a motor carrier is reflected as being "out-of-service" with no violations, it will in most cases, be because of the new entrant not returning the call.

I made the call. It took about 20 minutes and they asked about who my company was, my past history and have I or any of my family members owned or operated a motor carrier company previously. I was asked if I had reviewed the federal safety requirements and if I understood them and would abide by the regulations.

They then sent electronically a 90-page document reflecting the FMCSA rules and regulations. I was reminded at the end of the phone call that I could operate but would be visited by a state DOT officer at my location in 18 months (with the Highway Bill signed in July, the visit is now in 12 months). The DOT officer will send a letter advising me about the visit and I will be provided a list of items that will be reviewed.

At the visit, two things will happen – if the DOT officer does not find that I have a safe operation, my registration will be rescinded and/or I will be fined. In the Overdrive article, it was noted that one new entrant was visited and the DOT officer found violations and the new entrant was fined \$23,830.

The bottom line is if a new entrant is not operating safely, then they will be shut down and/or fined during the first 12 months of their operation under their new DOT#. So like the dead battery, just getting a jump start will not last long and getting a new DOT# to “fix” the bad rating will get the new entity shut down and possibly fined.

Remember, they have up to 12 months to visit - How about the time between obtaining the new DOT# and before the audit. The new entrant will be stopped for an inspection more often, in most cases, than the old company would have been stopped with a bad history. This is due to the Inspection Selection System (ISS-D) which gives guidelines to a DOT officer on how they should select a motor carrier to inspect.

The ISS Inspection Value is based on the motor carrier's safety performance data when there is sufficient motor carrier safety performance data available. When a motor carrier has little information in their file, the ISS Inspection Value is based on an “Insufficient Data Algorithm” which determines the inspection value by weighting the carrier size and the number of past inspections.

In a memo written by Dan Taylor, Senior Vice President of Melton Truck Lines, Inc. he notes:

There is an additional component to the ISS scoring process that all carriers and shippers need to be aware of: the “data sufficiency” standards. If the FMCSA does not have enough data on a carrier (no or very few roadside inspections), the carrier is given either the “Inspect” or “Optional” recommendation (depending on how much data the FMCSA has – none will lead to an “Inspect” recommendation while some can lead to a recommendation of “Optional”). Also, if a carrier is “one inspection away” from having a score in a BASIC, the system gives the carrier the “Inspect” recommendation.

This “data sufficiency” element of the system is an important point to understand. Many carriers see that the SMS is not calculating BASIC scores on them (due to the FMCSA not having enough data) and think this is a “good thing”. However, not having scores in BASIC’s leads to carriers being given the “Inspect” or “Optional” recommendation, which as was mentioned earlier will lead to the carrier seeing a lot more roadside inspections. Going one step further, carriers also need to understand that once the additional needed data is collected (for example, the carrier has one more inspection) and the carrier gets a score, it may not be a good one if the inspection results in a violation.

So what does that mean? When a business applies to the FMCSA to be a motor carrier within a month they will get a phone interview and within 12 months they will be visited by a DOT officer. This process is to verify the new entity is not a chameleon (a motor carrier who has bad safety rating getting a new DOT#) and that the new entrant understands and abides by the FMCSA’s rules and regulations. While operating the unit with the new DOT# on its side, the vehicle will be stopped more often in most cases than it would be stopped using the old “bad” rated DOT#. If the motor carrier is not operating within the FMCSA standards, the new number will not have a favorable score for long.

If they have addressed the problems and are now operating under the rules and regulations, I would suggest they are better off operating with their current number. The “I” in BASIC is improvement and the warning letter received suggests that the motor carrier improves. If they are improving that is the purpose of SMS. Each inspection and the resulting valuation have a time weight value within the first six months of a violation, there is a 3 x time factor applied after six months the factor is reduced by a 1 down to 2 and after a year down to 1. With improvement in operations their bad score will also be improved in a short time.

Insurance is another factor the motor carrier must consider. Some insurance carriers will not provide insurance to a motor carrier without three years’ experience with their own insurance. If the insurance carrier does provide insurance to an insured with less than three years’ experience, there is normally a surcharge so the cost of insurance is increased.

A large number of insurance carriers who provide coverage in this segment of the market use the Central Analysis Bureau (CAB). CAB’s service provides a lot of information in a very effective format. Information provided is the ISS Rating which goes beyond the SMS. More importantly, CAB will provide the following information to the insurance carrier:

Has there been or is there a business with a DOT# at the address or with the same phone number of the DOT# of the insured?

CAB will also report on the vehicle seeking coverage if that vehicle has been inspected under another DOT# and information about the company the unit was operating for at the inspection

The user of CAB then would reject the risk because of being a chameleon at worst and ask questions at best

To avoid this screening the “chameleon” carrier would have to have a new address, a new phone number and the units would have to be owned by the new entrant.

If any motor carrier tells you they are thinking about obtaining a new DOT# to address problems with their current DOT#'s bad rating, my suggestion is to tell them DO NOT! A better plan is to address the problems and become a safer operation. Avoid inspections by operating within the allowed speed. Have daily maintenance inspections. If safety improvements are made, scores will improve quickly.

If you are a retail agent, I would hope you are in a position to help your insured (or possible insured) with their problems. Let them know the importance of keeping good scores. If you are an insurance customer you need to be aware of these news steps to keep “chameleons” out of business.