

Compliance, Safety, and Accountability: Be Accountable for Your Score
What you Need to Know About Submitting Challenges in DataQs.



The DataQs system was made available in February 2004 as a way to challenge data maintained in the Motor Carrier Management Information System, but since the launch of the Federal Motor Carrier Safety Administration (FMCSA) Compliance, Safety, and Accountability program (formerly CSA 2010), the questions and answers surrounding efficient and appropriate use of DataQs as part of a carrier’s safety program has become a seemingly unsolvable maze.

This paper will address some of the most frequently asked questions we receive regarding DataQs, including what can and cannot be challenged through the system, state vs. federal review policies, and how court rulings apply to the challenge process.

Background.

The new Compliance, Safety, and Accountability program, resulted in more than 50,000 safety warning letters to fleets in the first months of interventions.¹ These letters, administered by the FMCSA, were sent to fleets with a “deficient” score in one of the seven Behavior Analysis and Safety Improvement Category (BASIC) measures.

The 50,000 motor carriers to receive warning letters represent nearly 8% of carriers in the FMCSA database – compared to the 2% of carriers that qualified for intervention under the previous SafeStat system.²

This increase was anything but unexpected, however. Seventy to 80 percent of the points now accrued under CSA are tied to violations that were never included in SafeStat scores.³

As the reality of so many BASIC deficiencies has arrived – in writing – more focus has been placed on CSA compliance management at the motor carrier level. And specific attention has been called to DataQs, the centralized system through which carriers can review and request corrections to data affecting their scores.

What is DataQs?

As a quick refresher, motor carrier CSA scores are calculated through a combination of crash and inspection data collected at roadside inspection or during a compliance review. This information is compiled within the Motor Carrier Management Information System (MCMIS), where FMCSA maintains a comprehensive safety performance record.

The DataQs system was established as an electronic way for the FMCSA to ensure the “quality, utility, objectivity and integrity”⁴ of the MCMIS data they analyze. DataQs provides drivers, motor carriers, the general public as well as Federal and State agencies with access to a formal, standardized method to file concerns with data maintained in the MCMIS.

The BASICS

Examples

Unsafe Driving	Speeding, reckless driving, failure to use a seatbelt, improper lane change
Fatigued Driving	Hours of service, logbook violation, driving while out-of-service
Driver Fitness	Failure to produce valid or appropriate CDL, operating with more than one CDL, failure to produce valid or appropriate medical certificate
Controlled Substance	Use or possession of controlled substances or alcohol, including inappropriate use of prescription or over-the-counter medications
Vehicle Maintenance	Mechanical defects such as breaks, lights, tires, etc.
Cargo-Related	Unsafe handling of hazardous materials, improperly securing loads
Crash Indicator	Rating of the frequency and severity of crash involvements

¹Mele, Jim. *FMCSA says CSA intervention estimates too high*. Fleet Owner. October 5, 2010.

²*CSA Problems for Fleets: FMCSA Readies 23,000 Letters warning of Deficiencies*. Transport Topics Magazine. March 7, 2011.

³Britton, Diana. *Lifelines*. Heavy Duty Trucking. February, 2010.

⁴U.S. Department of Transportation Federal Motor Carrier Safety Administration. *DataQs User Guide and Manual*. First Edition. January 2011. https://dataqs.fmcsa.dot.gov/Data/Guide/DataQs_Users_Guide_and_Best_Practices_Manual.pdf



What Can I Challenge in DataQs?

There are 22 RDR categories available to you in DataQs.

The system is meant for challenging incorrect or inaccurate information associated with crash data regarding a commercial motor vehicle or data documented during a roadside safety inspection.

Crash

Incorrect Crash Data - Any notification of inaccurate or incomplete information regarding a reported crash.

Wrongly Assigned to Carrier - Crash records are matched to USDOT numbers and MC / MX identification numbers. Brokering, Leasing, Parent / Subsidiary relationships, Out-of-date paperwork may all contribute to confusion and lead to a crash being wrongly assigned to the carrier.

Commercial Driver Data - Any notification of inaccurate or incomplete information regarding the commercial driver(s) involved in the crash.

Duplicate - Duplication within the MCMIS crash file may mean that the same crash has been submitted as multiple occurrences of that records contain redundant values.

Missing from Report - A reportable crash is missing from the motor carrier's MCMIS crash file.

Not Reportable - Does not meet FMCSA reportable crash guidelines: No fatality, injury or tow-away occurred as the result of the reported crash. Reasons error may occur: State definitions of 'traffic accidents' and 'motor vehicles' sometimes vary from the FMCSA definition. For example, in the state of Kansas a reportable crash is any incident that results in \$1,000 or more in vehicular damage. While states must actively determine which crash data are submitted to the FMCSA database, either manually or through automated filtering systems, mistakes do happen.

Inspection

Incorrect Violation Data - Any inaccurate or incomplete information regarding the violations noted when the vehicles and / or drivers that underwent inspection.

Incorrect Data (Other) - Any inaccurate or incomplete information regarding the driver or vehicle that underwent inspection (i.e. USDOT Number, Driver identification details, VIN, etc.)

Wrongly Assigned to Carrier - Inspection records are matched to carrier registration information in the MCMIS database. Brokering, Leasing, Parent / Subsidiary relationships, Out-of-date paperwork may all contribute to confusion and lead to an inspection being wrongly assigned to the carrier.

Commercial Driver Data - Any notification of inaccurate or incomplete information regarding the commercial driver(s) involved in the inspection.

Duplicate - Notification that the same roadside inspection is listed more than once in a motor carrier's record.

Missing from Report - One or more roadside inspection is missing from the motor carrier's MCMIS file.

Other

RDR category made available to filers when no other RDR category seems to apply.

Alphabet Soup:

BASIC – Behavior Analysis and Safety Improvement Categories

CSA – Compliance, Safety and Accountability

CSP – Cooperative Safety Plan, required by carriers flagged as high risk for crashes

DataQs – FMCSA system used to collect challenges to Federal and State crash and inspection reports, compliance review and/or intervention results and enforcement actions

FMCSA – Federal Motor Carrier Safety Administration

FMCSR – Federal Motor Carrier Safety Regulations

HHG – Household Goods

MCMIS – Motor Carrier Management Information System

MCSAP – Motor Carrier Safety Assistance Program

NOV - Notice of Violation

NOC – Notice of Claim

OOS – Out-of-Service

PIN – Personal Identification Number

RDR – Request for Data Review

SFD – Safety Fitness Determination



There are several, additional RDR categories available via DataQs; however, these requests are actually considered ineligible for review and correction within the DataQs system. They have been made available as an option to carriers, because, for many, DataQs is the most convenient way to communicate with the FMCSA.

When a carrier submits one of the following RDRs, the information will be passed along to the appropriate state or federal office and changed within the DataQs system to a status of “closed no action taken.”

Carrier Information - Carriers are required to file an MCS-150 with FMCSA every 24 months. If the most current information in the MCS-150 filing has not been updated in the motor carrier’s MCMIS file, a motor carrier may submit an RDR. Keep in mind, however, that the Motor Carrier Safety Measurement System is updated monthly. If you have already submitted your information, it is likely to be uploaded early in the following month. If you have not yet submitted your updated information, you must do so either by downloading the MCS-150 form at <http://www.saferys.org> or by requesting a hard copy at 1-800-832-5660.

Interstate Carrier (Unregistered) – All interstate carriers must have a USDOT Number. This number is utilized to compile information regarding safety performance. And RDR of this type is typically submitted by a state agency to report a carrier that is operating while unregistered.

Safety Rating Review Requests – To request a safety rating review, reference [49 CFR 385.17](#), which allows a motor carrier that has taken action to correct the deficiencies that resulted in a rating of ‘conditional’ or ‘unsatisfactory’ to request a rating change at any time.

Safety Audit – A new carrier that believes incorrect or incomplete information was collected during a safety audit may submit an RDR through DataQs; however, the data analyst will refer the filer to [49 CFR 385.327](#), which outlines the appropriate process for requesting an administrative review of a failed safety audit. This request should be made to the Field Administrator of the FMCSA Service Center and include all of the appropriate supporting material outlined in [49 CFR 385.327](#).

Operating Authority – If a carrier has run into difficulty obtaining operating authority or if a carrier was inaccurately cited for not having the appropriate operating authority, the carrier may request a review of its application status through DataQs. The DataQs analyst will check the status of the application on the [SAFER website](#) and provide you with this information.

Resolving Insurance Information – If you enter an RDR because you believe incorrect or incomplete financial responsibility data was collected by safety officials, a DataQs analyst may confirm the financial responsibility that should be assigned and provide this information to you. However, DataQs is not the appropriate process to correct this information. In accordance with [49 CFR 385.15](#), you will be asked to submit your complaint in writing to the Chief Safety Officer, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590-0001.

Response to Notice of Claim – If you submit a response to an enforcement action (i.e. Notice of Claim or Notice of Violation) via DataQs to contest violations identified during a safety investigation, it will be passed to the appropriate FMCSA Service Center and closed with the status of “no action taken.” [49 CFR 386.14](#) provides detailed instructions for the appropriate methodology and information required to respond to FMCSA notices of claim.

Resolving Household Goods Complaints – Household Goods issues are handled by the HHG staff of the FMCSA Commercial Enforcement Division. An RDR submitted through DataQs regarding Household Goods Complaints will be forwarded to this group and handled according to their processes



In addition to the RDR categories listed on the prior page, there is one additional RDR category that will not result in a change to your safety data – at least for now.

Crash Not Preventable – Crash preventability is not currently part of the reportable crash criteria. FMCSA does not entertain a request to review data if the basis of the crash data dispute is “preventability”. At this point, the RDR will be automatically closed with no action taken.

However, The FMCSA is working on a system that will allow The Administration to bring accountability into the safety equation. As early as January 2012, the FMCSA hopes to launch a program which will allow accident reports to be screened within the DataQs system. A crash score might then be weighted based upon the carrier’s “accountability” in each event.⁵

One instance in which the FMCSA does take crash preventability into consideration is in the application for a hazardous materials safety permit.⁶ Carriers who are denied a hazardous materials safety permit as a result of their crash rating may appeal the decision if they are able to prove that one or more of the crashes on the record were non-preventable events. The supporting evidence in this case will be passed along to the District Attorney for a decision. It is not necessary to submit an RDR through DataQs during this process.³

DataQs Best Practices.

In January 2011, the FMCSA published a [DataQs User Guide and Manual](#) for state agency users. This manual outlines the FMCSA’s guidelines for best practices regarding how to file and manage challenges in DataQs. While it was written for state users, the guide provides helpful, behind-the-scenes insight for driver and motor carrier users.

The FMCSA states that challengers should be allowed to file an RDR for up to 24 months after the initial safety event. This timeline seems reasonable since Carrier CSA scores are calculated by utilizing 24 months of safety data; however, some states are rumored to have implemented more stringent policies regarding challenge timelines. According to Doug Marcello, Esq., the state of Pennsylvania requires a carrier to submit their challenge within 12 months of the citation, while drivers must submit within 3 months.⁷

With regard to timing, it may go without saying that the sooner you can submit a supported challenge, the better. Certainly, the fresher the incident, the more readily available supporting documentation should be for both the carrier and / or driver and the DataQs analyst. Also, CSA weights BASIC scores based upon the recency of the incident. Events that have occurred within 6 months receive a multiplier of 3; within 12 months, a multiplier of 2, and after 12 months, no multiplier.⁸

For example, “*Failure to Use a Seat Belt While Operating a Vehicle*” carries a severity weight of 7 points. However, when you apply the time-weight to this violation, it will apply 21 points (7x3=21) to your BASIC score for six months from the time of the incident at which point, its value will be decreased to 14 (7x2=14) for another 6 months. A year after the actual incident, the violation will only apply 7 points (7x1=7) to your BASIC score. And 24 months after the initial inspection, the incident will disappear from your record.

Logs, lamps and speeding are by far the highest CSA point generators.¹¹

The sooner you are able to submit a viable challenge, the more significant the impact to your CSA score if you are successful.

You may note that we’ve used terms like “supported challenge” and “viable challenge” above. This is because supporting documentation is absolutely vital to successful use of DataQs. Supporting documentation significantly increases the likelihood that action will be taken based upon your challenge.

⁵Safety & Compliance: CSA and Crashes: When it’s Not Your Fault. Heavy Duty Trucking. August 2011. http://digital.heavydutytrucking.com/heavydutytrucking/201108?sub_id=MBVM3G9P9MVL#pg42

⁶FMCSA to Consider Preventability in Crash Rate Permits for Hazmat Carriers. Transport Topics. September 17, 2008. <http://www.ttnews.com/articles/basetemplate.aspx?storyid=20546>.

⁷Doug Marcello. Marcello & Kivisto, LLC. <http://www.articlesbase.com/law-articles/traffic-tickets-csa-scores-and-pennsylvania-trucking-law-3752474.html#ixzz1RRogr3AI>

⁸FMCSA. Compliance Safety Accountability Safety Measurement System Methodology. Version 2.1. December 2010. <http://csa.fmcsa.dot.gov/Documents/SMSMethodology.pdf>

¹¹Marcello & Kivisto. CSA Wisdom for the Future. April 12, 2011. <http://www.cdl-law.com/blog/csa-wisdom-for-the-future/>

According to FMCSA data, 74% of challenges involving crash data submitted with supporting documentation were successfully closed with action taken compared to 59% of challenges filed without documentation. The success rates hold true when comparing challenges regarding inspection data as well. 71% closed with action taken compared to 53%.⁴ Despite these figures, according to several state agencies, the overwhelming majority of challenges submitted through DataQs lack any supporting documentation.

Randall Harrison is a former Corporal with the Arkansas Highway Police and has recently taken on the role of C.S.A. Coordinator at P.A.M. Transportation Services, Inc. As someone who has sat on both the issuing and receiving side of the inspection process, he offers his two-step advice for DataQs success:

1. Make sure you're in the right.
2. Then, provide EVERY supporting document you can.

“The Feds have made [the process] as easy as possible,” Harrison says, commenting on the simple ‘Add Supporting Documentation’ button on the challenge submission screen. “It’s up to the carrier to make the most of the opportunity.” In the same breath, Harrison warns against “blanket challenges”, or the practice of challenging every possible violation. “It’s about credibility and reputation. When I send a challenge in, if I’ve dealt with [the state] before, I want their full attention. You won’t get that if you challenge everything that comes through.”

Appealing a DataQs Ruling.

According to the FMCSA website, “there is no standard appeal process for DataQs rulings.” However, the DataQs User Guide and Manual maintains that a user may challenge the same data in DataQs twice. Before you submit a second challenge; however, make sure you understand why your initial challenge was rejected.

While the intention of the FMCSA User Guide and Manual is to provide “standardized processes and techniques to address and resolve”⁴ challenges in the DataQs system, the FMCSA considers each state’s Motor Carrier Safety Assistance Program (MCSAP) agency the “owner of all commercial motor vehicle crash and inspection data generated by its agency or sub-agencies.”⁶

Challenges to inspection or compliance data that initiated within a state are forwarded to that office for review. The states are considered the final decision makers on any data that initiated in their office, and policies constituting a change to safety data vary from office to office, agent to agent.

For example, the FMCSA best practices guide states, that if an inspection challenge is substantiated by a court dismissal of a citation for the same incident, the DataQs analyst should “practice good judgment by reviewing the specifics of the judge’s dismissal. If the citation was dismissed because the violation cited was cited erroneously, then the record should be removed from the motor carrier’s inspection file.”

However, Arizona is one state that has actively decided not to review observed moving violations (speeding, following distance, lane change, etc.) documented on an inspection report – whether or not a citation of the incident has been overturned in court.

Unfortunately, deviations from the best practices or state policies are not required to be published. So, before you submit a second challenge for the same data, consider reaching out to the agent that issued the initial ruling to find out what, if any, additional supporting documentation would be required to have the data corrected.

“It’s about credibility and reputation. When I send a challenge in, if I’ve dealt with [the state] before, I want their full attention. You won’t get that if you challenge everything that comes through.”

Randall Harrison, C.S.A. Coordinator
P.A.M. Transportation Services, Inc.

Three Common Misconceptions.

1. My citation was dismissed by a judge; it should be overturned in DataQs. As in the example of state policies we just mentioned, there are states that may not consider a ruling on a citation as evidence that a violation should be removed from an inspection report. Additionally, even those states that do consider court rulings as part of their data analysis are not required to remove a violation from an inspection report, even if the citation was dismissed by a judge. Keep in mind that there are different types of dismissals.

A **plea-bargain dismissal** typically results in the reduction of a fine associated with the citation, but does not overturn the validity of the citation itself.

A **nolle prosequi** is a court's choosing not to prosecute a particular charge. This dismissal, however, is based solely on the court's inaction rather than court findings and is, therefore, unlikely to hold bearing on an inspection violation.

A **not-guilty dismissal** comes at the end of an actual trial or hearing. If this not-guilty dismissal cites the violation as erroneous, then the FMCSA recommends that the inspection file be corrected.

2. Challenging Warnings and Citations in DataQs. The data being challenged within DataQs are crash and inspection data. A driver's roadside inspection may document that he was speeding, and the driver may have been issued a separate warning or citation for the incident; however, it is the inspection data (not the warning or citation) that is being challenged in DataQs. If the driver and / or carrier feel the points allocated for speeding on the inspection report are erroneous, they may file a challenge in DataQs. The difficulty in challenging a moving violation that did not result in a citation is that a driver or carrier has no opportunity to have the charge dismissed in court prior to submitting a challenge. However, any supporting documentation that would have been utilized at a court hearing may be submitted as supporting documentation in DataQs.

3. Anyone may submit a challenge to DataQs. This is absolutely true. A wife may submit a DataQs challenge on behalf of her driver-husband or vice versa. A third party representative or organization such as a lawyer or consulting group may submit on their clients' behalf. However, because a motor carrier is pre-verified in the system through its Personal Identification Number (PIN), the review process is simplified for the state or federal agent when the motor carrier files a challenge itself.

Differentiating Between a Citation and a Violation.

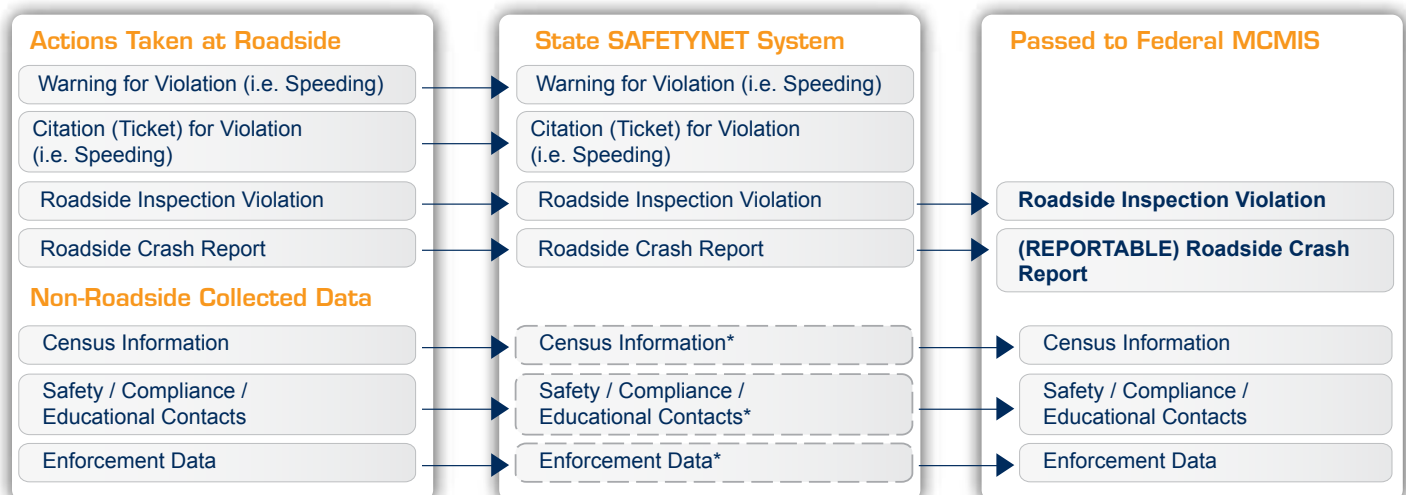
These terms are often used interchangeably, but they are, in fact, very different things.

A **citation** is issued by the state when a **violation** of state regulations has occurred. It usually has a fine associated with it.

A **violation** is a breach of a regulation. In a roadside inspection, it is specifically a violation of a Federal regulation.

Most states have adopted Federal regulations at the state level, it is often possible to be issued **citations** in conjunction with **violations** at a roadside inspection; however, **citation** information is not passed through to the Federal MCMIS and cannot be challenged in DataQs.

What information is included in MCMIS?



* If data is collected by a State Agency, it passes through the state database. If it is conducted by a Federal Agent, it is reported directly in MCMIS

Why Bother Challenging Data?

The FMCSA has predetermined thresholds for classifying carrier BASIC scores. If a carrier exceeds the threshold for any BASIC, the carrier will be subject to intervention from the FMCSA. Intervention from FMCSA ranges from an early contact warning letter to an Operation Out-of-Service (OOS) Order depending upon the severity of violations.

Intervention Thresholds

Percentile

BASIC	General	HazMat	Passenger
Unsafe Driving	65%	60%	50%
Fatigued Driving	65%	60%	50%
Crash Indicator	65%	60%	50%
Driver Fitness	80%	75%	65%
Controlled Substance	80%	75%	65%
Vehicle Maintenance	80%	75%	65%
Cargo-Related	80%	75%	65%

Carriers are placed within categories according to number of inspections within each BASIC category. Scores are then ranked among all carriers within a given category and given percentile values with 0 representing the lowest measure and 100 representing the highest.

Taking action against incorrect data in your MCMIS file may help you to avoid additional, targeted roadside inspections for your drivers, paper-heavy investigations, or fines.

Consider the fact that even improperly-coded inspection information may inadvertently put your company in a “deficient” position. If, for instance, a Reckless Driving incident is miscoded as an Hours of Service incident, your Fatigued Driving BASIC would be hit with points rather than your Unsafe Driving BASIC. If you were already in a marginal position in the Fatigued Driving category, this is exactly the type of data error you need to challenge, otherwise you may risk FMCSA intervention.

Proactive data monitoring such as this can save a fleet from more severe intervention measures as well. An unacceptable score in Unsafe Driving or Fatigued Driving or two scores above the threshold in any combination of the other BASIC categories will result in an “Unfit” classification, requiring immediate action on the part of the carrier or an immediate halt of business.

CSA has made safety data management a serious operation for fleets everywhere.

About Open Road Drivers Plan

Multi Service® established Open Road Drivers Plan®, a legal referral service for professional drivers, as a safety and retention tool for fleet owners. Since 1989, professional truck drivers have been utilizing this unique service to gain local, licensed attorneys for their traffic citations. Open Road Drivers Plan works in accordance with fleets to improve safety initiatives and driver appreciation throughout the trucking industry.

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