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Owner-operator maintenance controls.

Are permanently leased owner-operators ruining your SMS Vehicle Maintenance BASIC score? Federal Motor Carrier Safety Regulations (FMCSR) place the responsibility for maintenance squarely on the shoulders of the motor carrier even if you don't own the equipment. Improperly maintained vehicles operating under your authority reflect poorly on your organization. Poorly maintained leased-on equipment can:

- Lead to accidents and missed deliveries due to breakdowns
- Negatively impact your Safety Measurement System (SMS) Vehicle Maintenance score, raising concerns among customers, insurers and potential drivers
- Raise your Inspection Selection Score (ISS), which results in all trucks in your fleet being pulled over more frequently for inspection

To control these outcomes, organizations need to have adequate controls in place, including:

- Utilization of the Pre-employment Screening Program (PSP)
- Pre-lease equipment inspections
- Maintenance reporting requirements
- Violation management policies
- Maintenance escrows
- Comprehensive leases

Pre-Employment Screening Program (PSP).

Today, most carriers obtain a Federal Motor Carrier Safety Administration (FMCSA) Pre-employment Screening Program (PSP) report on every driver they are considering qualifying. Drivers with poor violation histories are being rejected by other companies who are checking the PSP. If you are not using the PSP, you may be qualifying owner-operators that others have rejected.

The PSP report provides you with three years of a driver's roadside inspection violation history and five years' worth of DOT recordable crashes. If an owner-operator has had continual maintenance violations over the previous three years, it is a good indication they are not able to keep their equipment maintained properly. The violations are likely to continue while operating for you, impacting safety and your Vehicle Maintenance BASIC score. For more information on enrolling in the PSP, see our Pre-Employment Screening Program technical bulletin.

Pre-lease vehicle inspection.

All permanently leased owner-operator vehicles should undergo a documented pre-lease inspection that is conducted at a maintenance facility of **your** designation. The inspection should be as thorough as a periodic inspection (also referred to as an annual inspection), as required by **FMCSR 49 C.F.R. § 396.17**. Do not rely on inspection reports provided by the owner-operator or equipment owner. Equipment found to not meet minimum FMCSR criteria should not be allowed to operate under your authority until repaired and re-inspected.

Maintenance reporting.

All permanently leased owner-operators should be required to provide a 30-day record of maintenance and repairs in compliance with **FMCSR 49 C.F.R. § 396.3**. If the owner-operator also provides the trailer, a separate 30-day record form should be completed for each unit. This is to ensure all vehicles are being inspected and maintained on a regular basis. These records must be maintained for one year while the vehicle is under the control of the motor carrier, and retained for six months after the vehicle leaves the carrier's control. Organizations are also required to obtain a copy of the periodic inspection and maintain it for a period of 14 months after the inspection. It is considered a best practice to have the periodic inspection conducted at a maintenance facility of your designation, as well. Establish a tracking system to ensure 30-day record of maintenance documents and periodic inspections are up to date.

Violation management.

Leased-on drivers should be required to report the results of a roadside inspection within 24 hours, along with documentation that violations have

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been corrected. Out-of-service violations should be reported immediately. Proof of repair for all defects should be obtained from the owner-operator and maintained at the motor carrier in accordance with **FMCSR 49 C.F.R. § 396.3**.

If an inspection results in an out-of-service maintenance violation, the driver should be required to provide a new periodic inspection or equivalent within a reasonable timeframe to ensure the vehicle meets FMCSR requirements.

To encourage leased-on drivers to do a better job maintaining their equipment, many organizations establish a reward and corrective action system into their lease. Drivers who pass roadside inspections with no violations are given a bonus ranging from $50 to $200. A graduated scale is often used to reflect the level of the inspection (I-III). Some carriers also increase the bonus amount for consecutive inspections with no violations. Drivers who have violations are fined, with the fine size relative to the severity of the violation. Often the CSA FMCSA weight scale for violations (1-10) is used.

Another best practice to discourage violations among leased-on operators is to require quarterly periodic inspections be completed for a period following an out-of-service violation. The quarterly inspections continue until the operator has had two consecutive quarters of acceptable inspections. The inspections are performed at a shop of your choice but paid for by the operator.

Maintenance escrow.

To assist owner-operators with big-ticket routine or unexpected vehicle maintenance costs, a motor carrier may offer or require them to establish a maintenance escrow account. Motor carriers who choose to do this should also establish parameters for withdrawing from the escrow account to avoid depleting the account on routine repairs or preventive maintenance items. The motor carrier also needs to ensure that funds in the owner-operator's escrow account are separately accounted for and comply with the requirements outlined in the Federal Leasing Regulations under **FMCSR 49 C.F.R. § 376**. Be sure to consult tax and legal council when establishing a maintenance escrow.

Comprehensive lease agreement.

Organizations cannot overlook the importance of a carefully written and executed lease agreement. This document clearly defines the roles and responsibilities for both the motor carrier and the lessor. The lease agreement should place the responsibility for vehicle maintenance of the leased vehicle(s) and violations squarely on the shoulders of the owner-operator. Any reporting requirements, incentives or penalties related to vehicle inspection or maintenance should also be defined in the lease agreement. Competent legal council who specialize in the trucking industry should assist in the development of the lease.

Conclusion.

Properly managed, permanently leased owner-operators can be an invaluable asset to the growth and success of any motor carrier. Not all owner-operators are created equal, though, so a motor carrier must carefully select their lessors and then monitor them closely during the duration of the lease. With a little forethought and planning, owner-operator equipment can be a positive representation of the motor carrier.

Providing solutions to help our members manage risk.®

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For your risk management and safety needs, contact Nationwide Loss Control Services: 1-866-808-2101 or lcs@nationwide.com.