

Documented Carrier Selection: A Practical Framework for Freight Brokers, Shippers, Attorneys, and Insurers

A Transportation Risk-Management Whitepaper

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The information herein reflects the authors' understanding of publicly available regulatory data, industry publications, and legal developments as of the date of publication and may not reflect subsequent judicial, regulatory, or market changes.

DOTScreeener does not define, establish, or prescribe a legal standard of care. The standard of care for carrier selection is determined by courts, informed by expert testimony, industry practice, and the facts of each case. DOTScreeener does not certify carriers, guarantee safety outcomes, eliminate liability exposure, or serve as a substitute for qualified legal counsel or professional insurance advice. No software tool can prevent accidents, guarantee regulatory compliance, or ensure a favorable outcome in litigation. DOTScreeener is a documentation and workflow platform that helps users create contemporaneous evidence of their carrier-selection process. Users remain responsible for exercising independent judgment, consulting qualified advisors, and making their own operational decisions. The

framework described in this whitepaper is offered as a contribution to industry discussion, not as a prescriptive legal standard.

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1. Executive Summary

The United States freight transportation system moves approximately 11.46 billion tons of goods annually, generating over \$940 billion in revenue. (Bureau of Transportation Statistics, *Freight Facts and Figures*, 2024.) This system depends on the carrier-selection decisions made daily by thousands of freight brokers and shippers — decisions that, until recently, attracted limited legal and regulatory scrutiny.

That has changed. Large-truck crashes have resulted in approximately 5,800 to 6,000 fatalities and over 160,000 injuries annually in the United States in recent years. (NHTSA, *Traffic Safety Facts: Large Trucks*, 2023; FMCSA, *Large Truck and Bus Crash Facts*, 2022.) The financial severity of trucking-accident litigation has escalated, with verdicts exceeding \$10 million becoming a recurring feature of the landscape. (American Transportation Research Institute, *Understanding the Impact of Nuclear Verdicts on the Trucking Industry*, 2020.)

Simultaneously, the legal environment has shifted. In multiple jurisdictions, courts have permitted negligent-selection claims against freight brokers to proceed. The scope of federal preemption under the FAAAA continues to be litigated and varies by jurisdiction — readers should consult counsel regarding current status. Plaintiffs' counsel now routinely seek discovery into the substance and documentation of the broker's carrier-selection process — not just whether the broker checked a carrier's record, but how, under what standards, and whether the process was preserved contemporaneously.

Despite this heightened scrutiny, most freight brokerages in the United States operate without a standardized, documented carrier-selection workflow. FMCSA's active carrier registry includes over 1,000,000 registered entities, the vast majority of which carry no formal FMCSA safety rating. (FMCSA SAFER database, 2024.) The industry's reliance on informal, undocumented practices creates a structural vulnerability for brokers, shippers, and their insurers alike.

This whitepaper presents a practical framework for documented carrier selection — a repeatable, evidence-preserving workflow that supports reasonable-care standards. It does not claim that any tool or process eliminates liability, prevents accidents, or guarantees compliance. It addresses a specific operational gap: the absence of contemporaneous, policy-evaluated, preserved carrier-selection evidence that can be produced when it matters most — in a claim, in discovery, in underwriting, or in an operational review.

The framework is offered as an industry contribution — a starting point for discussion among brokers, shippers, attorneys, insurers, and compliance professionals. DOTScreeener is one platform designed to operationalize this framework. Other implementations are possible and encouraged. The value lies in the documented process, not in any particular tool.

2. Scope, Purpose, and Limitations of This Whitepaper

This whitepaper is an educational and operational resource. It describes a framework for documented carrier selection, discusses the legal and economic environment in which carrier-selection decisions occur, and presents a technology platform designed to support that framework. It is intended for transportation professionals, legal counsel, insurance professionals, and compliance officers.

This whitepaper is not legal advice. Nothing in this document establishes, interprets, or prescribes a legal standard of care. The legal standard of care for carrier selection varies by jurisdiction, is fact-dependent, and is determined by courts — not by whitepaper authors or software platforms. Organizations should consult qualified transportation counsel before implementing any carrier-selection policy.

DOTScreener does not certify carriers as safe. The platform evaluates publicly available FMCSA data against user-configurable policy thresholds. It does not conduct physical inspections, audit carrier operations, verify driver qualifications independently, or certify that any carrier is safe to operate. A carrier that passes a DOTScreener screening has met the user's configured policy criteria based on available public data — nothing more.

DOTScreener does not eliminate liability. No software product, compliance program, or operational workflow can guarantee that a broker or shipper will not face a negligent-selection claim, or that such a claim will be resolved favorably. DOTScreener supports reasonable-care workflows by helping users create documented, contemporaneous evidence. The legal significance of that evidence in any particular case depends on facts, jurisdiction, and judicial interpretation beyond the platform's control.

These limitations are stated at the outset — not as fine print, but as foundational principles. The credibility of any risk-management framework depends on intellectual honesty about what it can and cannot accomplish.

A Note on Data and Sources

This whitepaper cites publicly available data from federal agencies, industry research organizations, and published reports. Statistics drawn from public data may be subject to reporting lags, methodological variations, or subsequent revision. Readers should verify current data from authoritative sources before relying on any specific figure for business, legal, or underwriting decisions.

3. The Changing Broker and Shipper Risk Environment

3.1 The Traditional Model: Informal Carrier Selection

For much of the modern freight brokerage era, carrier selection was governed more by custom than by any formal standard. A broker received a load, searched a carrier database or relied on an existing relationship, confirmed the carrier held active authority and insurance, and dispatched the freight. Documentation, to the extent it existed, might have consisted of a printout, an email chain, or a certificate of insurance filed in a folder.

This model persisted in part because the legal environment did not demand more. The Federal Aviation Administration Authorization Act of 1994 (FAAAA) was widely interpreted as preempting state-law negligence claims against freight brokers related to their brokerage services. That interpretation is no longer universal, and the trend in a number of jurisdictions is moving against it.

3.2 The Scale of the Problem: Industry Data

According to FMCSA's *Large Truck and Bus Crash Facts*, there were approximately 523,796 police-reported crashes involving large trucks in a recent reporting year, resulting in approximately 5,936 fatalities and 154,993 injuries. (FMCSA, *Large Truck and Bus Crash Facts 2022*, published 2024.) Fatal crashes involving large trucks have increased substantially over the past decade. (NHTSA, *Traffic Safety Facts*, annual reports 2013–2023.)

Within this population, the distribution of risk is not uniform:

- FMCSA's active carrier registry includes over 1,000,000 registered motor carrier entities. (FMCSA MCMIS database, 2024.)
- The vast majority of these carry no formal FMCSA safety rating and are classified as "Unrated" or "None." (FMCSA SAFER data; DOT OIG.)
- Recent CVSA International Roadcheck results reported a vehicle out-of-service rate of approximately 20.0%–21.5% and a driver out-of-service rate of approximately 5.5%–6.5%. (Commercial Vehicle Safety Alliance, *International Roadcheck Results*, 2023.)
- New-authority carriers — those with operating authority granted within the preceding 18 months — have historically been associated with higher crash and OOS rates than established carriers, though individual carrier performance varies significantly.

These numbers frame the operational reality: brokers and shippers selecting carriers from a large, heterogeneous population — the majority of which carry no formal safety rating — must rely on available data, applied judgment, and documented process to make defensible decisions.

Industry Snapshot

Metric	Value	Source
Annual police-reported large-truck crashes	~523,800	FMCSA, 2022
Annual fatalities in large-truck crashes	~5,936	FMCSA, 2022
Annual injuries in large-truck crashes	~154,993	FMCSA, 2022
Registered motor carrier entities	>1,000,000	FMCSA MCMIS, 2024
Carriers with no formal safety rating	Vast majority	FMCSA SAFER; DOT OIG
National average vehicle OOS rate	~20–21.5%	CVSA Roadcheck, 2023
National average driver OOS rate	~5.5–6.5%	CVSA Roadcheck, 2023

3.3 Negligent Selection: The Core Theory of Liability

Negligent selection — sometimes framed as negligent hiring, negligent entrustment, or negligent retention in analogous employment contexts — is a common-law theory holding that a party who selects an incompetent or unfit agent or contractor may be directly liable for injuries caused by that incompetence. Applied to freight brokerage, the theory posits that a broker who selects a carrier it knew or should have known was unsafe may bear direct liability for a resulting accident, independent of the carrier's own negligence.

The elements typically include: (1) a duty to exercise reasonable care in selecting the carrier; (2) breach of that duty by selecting an incompetent, unfit, or unsafe carrier; (3) the breach as a proximate cause of the plaintiff's injuries; and (4) resulting damages.

The critical question is what constitutes "reasonable care" in the selection process. There is no federal regulation that prescribes exactly how a broker must vet a carrier. The standard is developed through case law, industry custom, and expert testimony — meaning it is evolving, jurisdiction-dependent, and often defined after the fact by what a reasonable broker *should* have done.

3.4 The Evolving Judicial Landscape

In multiple jurisdictions, courts have permitted negligent-selection claims against freight brokers to proceed past the pleading stage, and the scope of FAAAA preemption for broker safety-related negligence claims remains an active area of litigation. The practical effect is that freight brokers in many jurisdictions now face potential direct liability for their carrier-selection decisions. The specific scope and status of FAAAA preemption varies by jurisdic-

tion and continues to evolve — readers should consult qualified transportation counsel for current guidance.

This development has implications across the transportation supply chain:

- **For brokers:** Carrier selection is no longer a purely operational decision insulated from tort exposure. The process by which a carrier was selected — or not rejected — becomes central evidence.
- **For shippers:** The analysis does not stop at the broker. Shippers who select brokers, or who direct brokers to use specific carriers, face analogous negligent-selection theories.
- **For insurers:** The underwriting of contingent-cargo, motor-truck-cargo, errors-and-omissions, and excess liability policies increasingly requires evaluation of the insured's carrier-selection practices.
- **For attorneys:** Defense strategy must now include the substantive quality of the broker's carrier-selection process and the evidentiary record supporting it.

3.5 What "Ordinary Care" Requires in Practice

The standard of ordinary care in carrier selection is not static. It is influenced by:

- **Available data:** As more FMCSA data becomes publicly accessible, the expectation that a broker will review it increases.
- **Industry tools and practices:** As documented screening workflows become widely adopted, the argument that "nobody does this" becomes less tenable.
- **Prior knowledge:** A broker that previously identified safety concerns about a carrier but later dispatches without re-evaluation faces a difficult deposition.
- **Load characteristics:** Hazardous materials, oversized loads, or high-value freight may warrant a higher diligence standard.
- **Internal policy:** A broker that has adopted a carrier-selection policy but fails to follow it faces the worst of both worlds — the policy proves the broker recognized the need for diligence, and the failure to follow it shows the broker did not exercise it.

Operational Risk

Having a carrier-selection policy and not following it is often worse, from a litigation perspective, than having no policy at all. If you adopt a policy, enforce it consistently and document compliance.

4. The Economics of Carrier Selection Failure

4.1 Verdict Severity and the Changing Litigation Landscape

Large jury awards in trucking-accident cases have become a significant concern for the industry. ATRI has studied verdict trends in trucking-related litigation and found that verdict severity has increased substantially in recent years. (ATRI, *Understanding the Impact of Nuclear Verdicts on the Trucking Industry*, 2020.) Individual verdicts exceeding \$10 million — and in some cases far exceeding that threshold — have been reported in published case records.

Factors contributing to increased verdict severity include plaintiff trial strategies that frame trucking-accident cases around community safety and corporate accountability; broader social-inflation trends toward larger awards; documentation failures that lead juries to draw adverse inferences when defendants cannot produce records a reasonable company would maintain; and multi-party proceedings in which each party's documentation (or lack thereof) affects the others.

4.2 Defense Costs — Win or Lose

The economic impact of a serious carrier-selection claim is not limited to adverse verdicts. Even in cases resolved favorably for the broker, defense costs are substantial — encompassing discovery (production of carrier-selection records, email correspondence, screening histories, policy documents), expert witnesses, depositions of key personnel, and trial preparation. Industry sources indicate that defense costs for serious trucking-accident claims can reach six and seven figures, even in cases that settle before trial.

The critical insight is that **defense costs are incurred regardless of outcome**. Documented carrier-selection evidence does not eliminate litigation risk, but it may reduce the duration and cost of discovery, strengthen the defense posture early in the case, and improve the likelihood of favorable resolution.

4.3 Insurance Market Pressure

The commercial-auto and trucking-liability insurance markets have experienced sustained hardening in recent years, with rates increasing for numerous consecutive quarters. (Council of Insurance Agents & Brokers, *Commercial Property/Casualty Market Survey*, quarterly reports.) Contributing factors include rising claim severity, litigation funding, and tighter underwriting standards.

For freight brokerages, the practical consequences include higher premiums for contingent-cargo, motor-truck-cargo, and errors-and-omissions coverage; more stringent underwriting

questionnaires with increasing attention to carrier-selection practices; higher self-insured retentions; and difficulty obtaining or renewing excess and umbrella coverage.

Insurance Market Context

A broker's documented carrier-selection process — or the absence of one — may become a factor in coverage availability, pricing, and renewal terms. This is not a prediction of specific insurer behavior; it is an observation about directional market trends that brokerages should be aware of.

4.4 Excess, Reputational, and Operational Consequences

Many freight brokerages carry primary liability policies with limits of \$1 million to \$5 million, supplemented by excess or umbrella layers. In the current verdict environment, these primary limits may be exhausted rapidly, exposing excess carriers — or the brokerage itself — to significant loss. The quality of the broker's carrier-selection documentation may influence whether excess carriers participate in defense, whether coverage disputes arise, and the ultimate allocation of loss.

Beyond litigation and insurance, a serious accident involving an undocumented carrier-selection decision can produce customer loss (particularly among enterprise shippers with vendor-management programs), regulatory scrutiny, internal disruption, and talent-recruitment effects.

4.5 The Business Case for Documented Workflows

The cost of implementing a documented carrier-selection workflow — adopting a platform, configuring a policy, training staff, generating evidence packets — is modest relative to the potential cost of a single serious incident without documentation. This is not a claim that documented workflows eliminate risk. It is an observation that the return on investment in documentation infrastructure is driven not by the frequency of incidents — which any individual broker hopes is zero — but by the potential severity of a single incident without a defensible file.

5. Why FMCSA Data Alone Is Not Enough

5.1 The Limitations of Public Safety Data

FMCSA maintains extensive public records on registered motor carriers, including authority status, insurance filings, safety ratings, crash data, inspection results, out-of-service rates,

and CSA SMS data. These data sources are indispensable to any carrier-selection program. They are also insufficient, standing alone, to constitute a documented carrier-selection workflow.

Public FMCSA data has several inherent limitations:

Reporting lag. FMCSA data is not real-time. Crash data may not appear in the system for weeks or months after an incident. Insurance filing updates may lag behind actual policy changes.

Incompleteness. Not all relevant safety information is captured. A carrier's internal maintenance practices, driver qualification file compliance, hours-of-service management, and operational competence are not directly observable. With the vast majority of registered carriers unrated, the absence of a rating is the norm — meaning most carrier-selection decisions are made about entities for which the most authoritative assessment does not exist.

Ambiguity. Raw data requires interpretation. A carrier with 500 power units and 8 crashes over 24 months has a crash rate of 0.016 per unit. A carrier with 5 power units and 2 crashes has a rate of 0.40 per unit — 25 times higher. Raw counts obscure this distinction.

No policy application. FMCSA data does not tell a broker whether a particular carrier meets the broker's internal standards. The data provides the inputs; the broker's policy provides the evaluation framework.

5.2 The Documentation Gap

Consider two brokers who both check a carrier's FMCSA record before dispatching:

Broker A logs into the FMCSA website, reviews the record, and proceeds. Two years later, after a serious accident, Broker A's representative testifies: "We always check FMCSA." When asked to produce documentation of the specific review, Broker A has nothing.

Broker B uses a documented workflow that captures a point-in-time snapshot of the carrier's FMCSA data, applies the brokerage's internal policy thresholds, flags concerns for review, obtains a carrier operational confirmation where warranted, records the dispatcher's review and decision, and preserves the entire file in a dated, tamper-evident evidence packet.

Both brokers "checked FMCSA." Only one can demonstrate it.

5.3 From Data Access to Evidence Preservation

The gap that documented carrier-selection platforms address is not access to FMCSA data — that data is publicly available. The gap is the distance between *looking at data* and *creating a preserved, policy-evaluated, timestamped evidence record of what was reviewed, what it showed, what the policy required, what the carrier confirmed, and what decision was made*. This is the difference between a carrier-lookup tool and a transportation risk-management platform.

6. Common Areas of Post-Accident Discovery Scrutiny

When a catastrophic trucking accident results in serious injury or death, and the injured party's counsel identifies a freight broker or shipper in the chain of transportation, discovery will seek to reconstruct every aspect of the carrier-selection decision. Understanding the common areas of scrutiny is essential to designing a program that creates a contemporaneous, defensible record.

6.1 Authority and Operating Status

Whether the carrier held active, authorized operating authority at the time of the tender. Whether the authority was newly granted. Whether there were any pending actions, revocations, or restrictions. A broker that dispatches to a carrier without active authority has virtually no defense to a negligent-selection claim on that point.

Operational Risk

New-authority carriers — those with operating authority granted within the preceding 90 to 180 days — present a specific evaluation challenge. They may lack inspection data, crash history, or SMS BASIC scores. The absence of negative data is not the same as the presence of positive data. A documented program should address how new-authority carriers are evaluated and how the decision to tender (or not) is preserved.

6.2 Insurance Verification

Whether the carrier maintained the required BIPD liability coverage at the time of the tender. Whether the broker verified the insurance was active and adequate. Whether there were pending cancellations, coverage gaps, or discrepancies between FMCSA filings and the carrier's actual coverage. FMCSA requires motor carriers to maintain minimum levels of financial responsibility — \$750,000 for general freight and \$5,000,000 for certain hazardous materials. (49 CFR Section 387.9.)

6.3 Safety Rating and Out-of-Service History

The carrier's FMCSA safety rating, OOS orders, and driver/vehicle/hazmat out-of-service rates compared to national averages (approximately 20.0%–21.5% for vehicles and approximately 5.5%–6.5% for drivers per CVSA's *International Roadcheck Results*, 2023). A carrier whose rates substantially exceed these benchmarks presents a documentable concern.

6.4 Crash and Inspection Records

The carrier's crash history, crash rates normalized to fleet size, inspection results and violation patterns, and CSA SMS BASIC scores. Patterns of crashes, high crash rates relative to fleet size, and elevated SMS BASIC scores create a record that experts will use to evaluate whether the carrier's safety profile warranted additional scrutiny — and whether the broker's process identified and addressed the concern.

6.5 Carrier Identity and Entity Verification

Whether the carrier is actually a motor carrier — or a broker-only entity. Whether the carrier's identity matches the entity in FMCSA records. Whether shared contact information, addresses, or officers link the carrier to previously revoked or failed entities. A documented program should include a mechanism for surfacing and evaluating these indicators where data is available.

6.6 Broker-Carrier Communication Records

What communications occurred between the broker and the carrier before, during, and after the tender. Whether the broker asked the carrier about safety, operational capacity, driver qualification, or equipment condition. Whether those communications were preserved.

6.7 Internal Policy Compliance

Whether the broker had a written carrier-selection policy. Whether the broker followed its own policy for the load at issue. Whether exceptions were documented and justified. This is among the most consequential areas of scrutiny.

6.8 Unaddressed Warnings and Undocumented Exceptions

Whether the broker's systems or personnel identified safety concerns and whether those concerns were acted upon. If a broker's system identifies a concern, the broker must either (a) address it and document the resolution, (b) decline to tender, or (c) document a reasoned justification for proceeding. Proceeding without documentation creates a gap that is difficult to explain in any context.

7. Two Brokers, One Accident: A Hypothetical Comparison

The following scenario is entirely hypothetical. It does not depict any real company, individual, incident, or legal proceeding. It is presented solely to illustrate the practical differences between docu-

mented and undocumented carrier-selection processes. It does not predict or guarantee any legal outcome.

A tractor-trailer operated by Carrier X is involved in a serious multi-vehicle accident on an interstate, resulting in one fatality and several severe injuries. Carrier X was dispatched by a freight broker. The decedent's family files suit against the carrier, the driver, and the freight broker, alleging (among other theories) negligent selection.

Two freight brokerages — Broker A and Broker B — both use Carrier X regularly. Their carrier-selection practices are very different.

Broker A has no formal policy. Dispatchers check the FMCSA SAFER website to confirm active authority; a certificate of insurance is requested at the start of the relationship and filed in a shared folder. No records are kept of what FMCSA data showed on the date of any particular dispatch. No OOS rates, crash histories, or SMS BASIC scores are reviewed. No carrier confirmations are obtained. No audit trail exists. The COI on file for Carrier X is 14 months old. When discovery begins, Broker A's file for the load at issue contains a rate confirmation sheet, an email thread about pickup time, and the 14-month-old COI.

Broker B uses a documented workflow: each screening captures a point-in-time FMCSA snapshot; the brokerage has a written, version-controlled policy with defined thresholds; each screening applies the policy and produces a classification. Carrier X's screening identified two concerns — a driver OOS rate of 14.2% (above the brokerage's 10% warning threshold) and authority granted 11 months prior. The elevated OOS rate triggered a Carrier Compliance Confirmation, completed by Carrier X's safety director, confirming driver qualification, HOS compliance, and ELD use. The dispatcher reviewed the screening, acknowledged the concerns, and documented the decision to proceed based on the confirmation and the carrier's 34 completed inspections with no recent violations. A Carrier Selection Defense Packet was generated, containing the FMCSA snapshot, policy evaluation, carrier confirmation, reviewer signoff, and tamper-evident audit trail.

In discovery, Broker A produces a rate confirmation and an email chain. The operations manager testifies "we always check FMCSA" but cannot answer what the carrier's OOS rate was at the time of the dispatch or whether the broker has a policy. Plaintiff's expert testifies that a reasonably prudent broker would have reviewed the carrier's OOS rates and crash history, and notes that the broker has no documentation demonstrating that this data was reviewed.

In discovery, Broker B produces the Carrier Selection Defense Packet, the policy version in effect at the time, and the carrier's Compliance Confirmation. The dispatcher testifies: "I reviewed the screening report, which showed a driver OOS rate of 14.2%. Our policy flagged this as a warning. We obtained a Compliance Confirmation from the carrier's safety director, who confirmed driver qualification and HOS compliance. I reviewed the carrier's recent inspection history. I documented my review and the basis for my decision." Plaintiff's expert

may still argue additional steps should have been taken, but cannot argue the broker failed to review available data, failed to identify concerns, or failed to document the decision.

This hypothetical does not suggest Broker B is guaranteed a favorable outcome. Litigation outcomes depend on facts, jurisdiction, jury composition, and many variables. What it demonstrates is the practical difference between having a contemporaneous, documented record and not having one. Broker B has a preserved, dated evidence file created before the accident; documentation of what data was reviewed and what it showed; a written policy with objective criteria, consistently applied; a record of identified concerns and how they were addressed; carrier representations captured and preserved; a named reviewer with a documented rationale; and a tamper-evident audit trail. Broker A has none of these. The difference in litigation posture, insurer confidence, and jury perception is significant — even though neither outcome is certain.

8. The Reasonable-Care Carrier Selection Framework

The following framework represents a structured, documented approach to carrier selection designed to support reasonable-care standards. It is not the only permissible approach, and it should be adapted to the specific operational context, risk tolerance, and legal requirements of each organization. Organizations should consult qualified transportation counsel before adopting or modifying any carrier-selection policy.

8.1 Stage 1: Identify the Carrier

Identify the carrier with precision: MC number and/or USDOT number, legal name as registered with FMCSA, DBA names, physical address, and entity type (carrier, broker, or dual authority). Precise identification ensures that the safety data reviewed corresponds to the correct legal entity — errors here undermine the entire downstream analysis.

8.2 Stage 2: Verify Authority

Confirm the carrier holds **active** operating authority of the correct type, is authorized to transport the commodity at issue, and faces no pending FMCSA actions. Authority verification is the threshold question; this should be a hard stop in any documented policy.

8.3 Stage 3: Review Safety and Operational Indicators

With authority confirmed, review the carrier's safety and operational profile:

- **Safety rating:** Satisfactory, Conditional, Unsatisfactory, or Unrated. Given that the vast majority of registered carriers are unrated, the absence of a rating is not disqualifying

but means other indicators carry greater weight.

- **Out-of-service rates:** Driver OOS %, Vehicle OOS %, and Hazmat OOS % (if applicable), compared to CVSA national averages.
- **Crash history:** Total, fatal, injury, and towaway crashes over the preceding 24 months, normalized to fleet size. Normalization is essential — raw crash counts without reference to fleet size are misleading.
- **SMS BASIC scores:** Unsafe Driving, Hours-of-Service Compliance, Vehicle Maintenance, Controlled Substances/Alcohol, Driver Fitness, Crash Indicator, and Hazmat Compliance (where applicable).
- **Inspection history:** Total inspections, violation patterns, inspection frequency relative to fleet size.
- **Fleet size and operational scope:** Number of power units and drivers, informing normalization of crash and inspection data.
- **MCS-150 currency:** Whether the carrier's biennial update is current.

A single elevated metric does not necessarily disqualify a carrier, but a pattern of elevated metrics across categories — or a single extreme outlier — warrants additional scrutiny.

8.4 Stage 4: Review Insurance and Filing Indicators

Confirm an active BIPD liability filing meeting federal minimums (49 CFR Section 387.9), check cargo insurance status, watch for pending cancellations, review the 24-month filing history for patterns of policy churn, and evaluate coverage adequacy for the specific load.

8.5 Stage 5: Apply Internal Policy

This is where the carrier-selection process transitions from data review to decision-making. The policy should define threshold values, classification logic (e.g., Standard Review, Additional Verification, Enhanced Review, Disqualifying Condition), hard disqualifiers, and escalation triggers. The policy should be documented, version-controlled, and consistently applied. Each screening should record which version of the policy was in effect at the time.

Legal Context

When asked "What was your carrier-selection policy on the date of this tender?" the broker must produce the specific policy version that was in effect — not the current version. A system that records the policy version applied to each screening eliminates this vulnerability.

8.6 Stage 6: Escalate Concerns

When the policy identifies concerns, the workflow should provide for additional verification (the reviewer investigates and requests additional information), supervisory review, docu-

mented override (recorded with rationale, approver identity, timestamp, and scope), and rate-comparison documentation when the carrier presenting a concern is also the lowest-cost option.

8.7 Stage 7: Obtain Carrier Operational Confirmation

For carriers requiring additional verification — or as a standard practice — the broker may obtain a Carrier Compliance Confirmation. This is a structured set of operational representations by the carrier, tailored to the specific risk indicators identified during the screening. Discussed in greater detail in Section 12.

8.8 Stage 8: Preserve a Dated Evidence Packet

The culmination of the screening process is a preserved evidence record — a Carrier Selection Defense Packet — containing the FMCSA data snapshot, the policy version applied, results for each indicator, concerns and dispositions, the carrier's Compliance Confirmation (if obtained), reviewer identity and timestamp, escalation/override records, the final tender decision, and a tamper-evident audit trail. The packet should be generated contemporaneously with the screening — not reconstructed later.

8.9 Stage 9: Re-screen When Needed

A single screening does not provide indefinite assurance. Re-screening should be triggered by a new tender to a carrier not screened recently, a change in load characteristics, a report of a safety incident, a change in internal policy, or periodic review intervals. Each re-screening should be a fresh evaluation, generating its own evidence packet.

9. Why Documentation Matters More Than a Score

9.1 The Score-as-Shield Fallacy

There is a temptation to reduce carrier evaluation to a single number and to treat that number as a defense. The reasoning is intuitive: "The carrier scored 85 out of 100, so we acted reasonably." This approach is incomplete and potentially counterproductive.

A single score invites immediate follow-up questions: What factors went into it? What thresholds were used? Who set them? Was the data current? Were there concerns the score obscured — for example, a carrier that scored well overall but had a very high driver OOS rate? Did anyone actually review the underlying data, or did they just look at the number? A

score is a summary statistic; summaries are useful for triage, but not a substitute for the underlying analysis.

9.2 The Process Is the Defense

The defensible value in a carrier-selection program comes not from any score but from the documented process — what was reviewed, when, by whom, under what policy, what concerns were found, what the carrier confirmed, what decision was made, and why. A process that answers these questions — and preserves the answers contemporaneously — creates a record that defense counsel can work with, that an insurer can evaluate, and that a factfinder can follow. A number, by itself, does none of these things.

9.3 What a Defensible Record Actually Looks Like

A defensible record is not a score. It is a narrative, told through contemporaneous documentation, of a reasonable decision-making process: "On [date], [reviewer] evaluated [carrier] for [load] using our organization's carrier-selection policy (version [X], effective [date]). The review identified the following: [indicators with values]. The policy classified this carrier as requiring [classification]. [Concerns identified and addressed]. The carrier was asked to confirm [representations] and responded on [date]. Based on the totality of the review, the decision was to [tender / not tender / tender with conditions]. This decision was [made by / approved by] [name/title]." That narrative — supported by the underlying data, policy, and evidence — is what an insurer evaluates and what counsel can present.

10. The Evolving Standard of Care in Carrier Selection

10.1 How Standards of Care Develop

The legal standard of care is not a fixed rule established by statute or regulation. No federal regulation prescribes exactly how a broker or shipper must evaluate a motor carrier before tendering. The standard is a common-law concept — typically defined as what a reasonably prudent entity would do under the same or similar circumstances — and is shaped by case law, industry practice, expert testimony, technology and data availability, and regulatory guidance.

10.2 Factors Influencing the Emerging Standard

Several factors suggest the standard is in transition:

- **Data accessibility.** FMCSA data once requiring FOIA requests is now available through public APIs and web interfaces. The argument that a broker "could not have known" is increasingly untenable.
- **Tooling availability.** Documented carrier-selection platforms make it operationally feasible for even small brokerages to implement structured screening. The argument that documented screening is impractical weakens.
- **Insurer expectations.** Underwriters are increasingly asking about carrier-selection practices in application questionnaires.
- **Litigation discovery.** As more cases involve discovery into carrier-selection practices, the evidentiary record informs expert testimony and judicial expectations.
- **Industry association guidance.** Transportation industry associations have published guidance on carrier-selection practices that may influence the perceived standard.

10.3 The Role of Technology Adoption

This whitepaper does not claim that DOTScreeener or any platform defines the standard of care. However, it is reasonable to observe that the *availability* of documented screening technology — and its *adoption rate* — are among the factors that may influence how courts and juries evaluate the reasonableness of a broker's process. The parallel to healthcare (electronic health records), financial services (AML screening), and other industries is instructive: in each case, the availability and adoption of technology shifted what was considered reasonable practice — gradually, unevenly, but directionally.

10.4 The Carrier Selection Maturity Model

To help organizations assess where they stand, the following model describes five levels of carrier-selection practice.

Level	Description	Characteristics
Level 1: Informal / Undocumented	Carrier selection based on relationships, verbal checks, and ad-hoc lookups.	No written policy. No data snapshots. No audit trail.
Level 2: Basic FMCSA Checks	Dispatchers verify authority and insurance via the FMCSA website.	Authority and insurance confirmed, but no data preserved. No policy thresholds.
Level 3: Policy-Based Review	The organization has a written policy with defined criteria, applied to carrier evaluations.	Written thresholds. Carriers classified by tier. Policy may not be version-controlled. Documentation may be inconsistent.
Level 4: Documented Workflow	Each screening produces a contemporaneous, dated evidence record with reviewer identity, policy results, and decision rationale.	Point-in-time snapshots. Consistent policy application. Carrier Compliance Confirmations for elevated concerns. Override justifications documented. Evidence packets generated.
Level 5: Evidence-Preserving Risk-Management Framework	Carrier selection integrated into broader risk-management, insurance, and legal-preparedness programs.	Full audit trail. Policy versioning. Exception monitoring. Insurer and counsel engagement. Continuous process review.

Most freight brokerages currently operate at Level 1 or Level 2. The framework described in this whitepaper is designed to enable organizations to operate at Level 4 or Level 5. The model is intended as a self-assessment tool, not a certification standard.

11. Operational Reality and Human Review

11.1 The Compliance-Bypass Problem

The most comprehensive policy is worthless if dispatchers bypass it. Freight brokerage operations are fast-paced; dispatchers may handle dozens of loads per day; carriers must be booked quickly. Any workflow that adds significant friction will be circumvented — not out of malice, but out of operational necessity. When a process takes 30 or 45 minutes per carrier, dispatchers find ways around it. And when they do, the organization has the worst possible outcome: a documented policy that its own personnel do not follow.

11.2 Designing for Operational Reality

An effective documented workflow must be designed with the dispatcher's reality in mind:

- **Speed:** The screening process should take minutes, not hours. A sub-60-second workflow that produces a comprehensive evidence record is operationally viable.
- **Minimal additional steps:** Evidence should be generated *by* the screening process, not *in addition to* it. If documentation requires a separate manual step, it will be skipped.
- **Clear, actionable results:** Dispatchers need a clear answer — proceed, proceed with conditions, or do not proceed — not a lengthy compliance report.
- **Escalation, not bottleneck:** Concerns should escalate to the appropriate reviewer without stopping the dispatcher's other work.
- **Automatic evidence preservation:** Evidence packets should be generated automatically upon completion of the screening.

The operational litmus test: *Would a dispatcher with 30 loads to cover today actually use this process for every load?* If the answer is no, the workflow needs simplification.

11.3 Technology Assists — Humans Decide

No software platform — including DOTScreeener — makes carrier-selection decisions. Technology gathers data, applies policy thresholds, identifies concerns, and preserves records. The decision to tender is a human decision, made by a transportation professional with knowledge of the operational context.

Automated screening tools operate on publicly available data. They cannot observe a carrier's actual operations, evaluate a driver's competence, inspect a vehicle's mechanical condition, or assess organizational culture. They cannot account for a long track record of reliable performance, a recently resolved safety issue not yet updated in public records, or a load-specific requirement that does not map to standard screening criteria.

Effective platforms are designed to support human oversight: surfacing concerns rather than hiding them; requiring affirmative acknowledgment and documented disposition rather than silent click-through; preserving reviewer identity, review of concerns, and documented rationale; and supporting escalation when concerns exceed the reviewer's authority.

12. Carrier Compliance Confirmation: Operational Attestation

12.1 Why Carrier Confirmation Matters

A carrier's FMCSA record tells a broker what the government has recorded. It does not tell the broker what the carrier knows about its own current operations. A carrier may hold active authority and satisfactory insurance filings while simultaneously operating with under-qualified drivers, deferred vehicle maintenance, or systemic hours-of-service violations.

A Carrier Compliance Confirmation — a structured set of operational representations captured contemporaneously with the screening — puts the carrier on record affirmatively stating that authority is active, insurance is in force, drivers are qualified, vehicles are maintained, and the carrier is prepared to handle the load safely. It creates a contemporaneous record of carrier representations; supports a reliance defense if those representations later prove inaccurate; and reduces ambiguity about pre-tender communications.

12.2 Designing an Effective Confirmation Workflow

A 50-question compliance questionnaire that takes 45 minutes will not be completed — or will be completed perfunctorily, undermining its value. The confirmation should be **targeted** (focused on indicators identified during screening), **concise** (completable in minutes), **neutral** (a standard operational-readiness confirmation, not an interrogation), **regulatory-grounded** (referencing specific requirements where applicable), and **captured and preserved** (timestamped, associated with a named individual, included in the evidence file).

12.3 Risk-Adaptive Modules

Rather than applying a uniform confirmation to every carrier, a well-designed system assembles modules dynamically based on the specific risk indicators identified.

Module	Triggered By	What the Carrier Confirms
Base Module	All confirmations	Active authority, insurance in force, no pending FMCSA actions, authority to bind the carrier
Driver Qualification	Elevated driver OOS rate, SMS Unsafe Driving or Driver Fitness alerts	Drivers hold valid CDLs, medically certified, completed required training
Hours of Service	Elevated driver OOS rate, SMS HOS alerts, team/expedited loads	Drivers HOS-compliant, ELD-equipped, pre-trip inspections completed
Vehicle Maintenance	Elevated vehicle OOS rate, SMS Vehicle Maintenance alert	Vehicles inspected and maintained; no known safety defects
Conditional Rating	Conditional FMCSA safety rating	Compliance plan in place
New Authority	Authority less than 90–180 days old	Operational readiness, safety management systems in place
Insurance / COI	Insurance data gap, pending cancellation	Insurance active through delivery; willing to provide COI
Hazmat	Hazmat load profile	Valid endorsements, placarding compliance, emergency procedures
Oversize / Heavy-Haul	Oversize or heavy-haul load profile	Permits obtained, pilot cars arranged, specialized equipment
Authority Control	Dual authority, identity mismatch	Load will not be re-brokered; carrier's own equipment and drivers

12.4 What a Confirmation Is — and Is Not

A Carrier Compliance Confirmation is a set of representations by the carrier. It is not a substitute for the broker's independent review of FMCSA data, a warranty of future performance, a legal opinion, a transfer of liability, or an independent verification of operational facts. What it *is* is an additional layer of the evidence file — a documented record that the broker obtained contemporaneous representations and that the carrier's authorized representative made them with knowledge of their significance.

12.5 Handling Non-Response

Not every carrier will complete a confirmation. If confirmation is recommended but not required, the broker may proceed with documentation that confirmation was requested and not received. If required by policy, non-response should result in either a policy exception

(documented with justification) or a decision not to tender. Non-response should be recorded in the evidence file — the absence of a confirmation is itself a data point.

13. One Implementation: DOTScreeener's Evidence Layer

The framework described in this whitepaper can be implemented through manual processes, internal systems, or purpose-built platforms. DOTScreeener is one such platform. Other implementations that achieve the same documentation and evidence-preservation objectives are equally valid.

13.1 FMCSA Data Snapshot

At the moment a screening is initiated, DOTScreeener queries FMCSA's publicly available data sources — including the QCMobile public feed and Licensing and Insurance system — and captures a point-in-time snapshot: entity information, authority status and grant date, safety rating, insurance filings (active and 24-month historical), fleet size, crash data, inspection data and out-of-service rates, SMS BASIC scores, and out-of-service order status.

The snapshot is frozen — it captures what the FMCSA record showed at the time of the screening, not what it shows when the file is later reviewed. The relevant question is what was known or available at the time of the decision. DOTScreeener does not fabricate, estimate, or infer data not present in the FMCSA record. When a field is unavailable, the system records it as such and flags it for secondary verification.

13.2 Policy-Based Review and Pass/Warn/Fail Indicators

Each screening is evaluated against the organization's configurable carrier-selection policy: threshold values for key indicators, Pass/Warn/Fail bands, hard disqualifiers, load-specific adjustments, and policy versioning. Each indicator is assigned a status — PASS (meets threshold), WARN (warning range), FAIL (exceeds threshold), or UNKNOWN (data unavailable, secondary verification required).

These per-indicator statuses produce a classification:

Classification	Meaning
Standard Review	All thresholds met; normal tender workflow
Additional Verification	One or more indicators warrant further review
Enhanced Review	Significant concerns; supervisor review or policy exception may be required
Disqualifying Condition	Hard disqualifier present; tender requires exceptional justification

13.3 Documented Override Justification

When a reviewer proceeds despite identified concerns, DOTScreeener captures the identity of the approver, a required written rationale, a rate comparison if the carrier is also the lowest-cost option, the scope of the override (single load, 7-day, or 30-day expiration), an acknowledgment that the approver reviewed the specific warnings, and a frozen result snapshot at the moment of approval.

13.4 Carrier Compliance Confirmation

As described in Section 12, DOTScreeener's carrier confirmation system assembles risk-adaptive modules based on indicators identified during screening. The confirmation is delivered through a secure, token-protected URL and captures each question, the carrier's responses, the responding representative's name and title, timestamps, and the regulatory reference for each representation. The full confirmation is preserved in the evidence file and reproduced in the Defense Packet.

13.5 Tamper-Evident Audit Trail

Every event in the screening lifecycle is recorded in an append-only audit log. The database enforces the append-only constraint at the schema level. Each event captures event type, timestamp (ISO 8601), actor, payload, previous-event hash, and current-event hash (SHA-256, computed from previous hash, payload, and timestamp). Modifying any prior event would change its hash, breaking the sequence for all subsequent events. A verification endpoint allows the integrity of the audit trail to be independently confirmed.

13.6 The Carrier Selection Defense Packet

The culminating output is a comprehensive PDF document generated at the conclusion of the screening process, containing: carrier and load identification; risk assessment summary; rule-by-rule evaluation (indicator value, policy threshold, result, plain-language explanation); a litigation-readiness analysis of common lines of inquiry; data sources consulted; data gaps; required mitigations and completion status; the full Carrier Compliance

Confirmation; the complete audit trail with hash sequence; broker signoff certification; and an insurance summary with 24-month filing history.

The packet is designed to be filed as part of the broker's load file and produced if needed, allowing counsel to quickly identify the relevant evidence and present the decision-making process in an organized, chronological format.

13.7 Evidence Preservation

The evidence layer's value depends on the integrity and availability of records. DOTScreeener preserves screening data through point-in-time snapshots, append-only storage, hash-sequence integrity, policy version association, and a machine-readable evidence API (a structured JSON companion to the PDF packet for integration with claims, compliance, and risk-management systems).

14. What DOTScreeener Does Not Do

The credibility of any risk-management platform depends on clarity about its limitations.

- **DOTScreeener does not certify carriers.** The platform evaluates publicly available FMCSA data against user-configurable policy thresholds. It does not conduct physical inspections, audit carrier facilities, observe driver behavior, or issue any safety certification.
- **DOTScreeener does not predict future crashes or safety events.** No algorithm or score can predict whether a specific carrier will be involved in a future accident. Past performance is not a guarantee.
- **DOTScreeener does not guarantee regulatory compliance.** The platform evaluates certain publicly available data points; it does not audit compliance with all applicable regulations.
- **DOTScreeener does not replace insurance underwriting.** The platform's risk assessment is not an actuarial evaluation or underwriting determination.
- **DOTScreeener does not replace legal review.** The platform is not a law firm, does not provide legal advice, and does not substitute for qualified counsel.
- **DOTScreeener does not replace operational judgment.** The decision to tender is ultimately a human decision.
- **DOTScreeener does not eliminate negligent-selection claims.** No tool can prevent a claim from being filed or guarantee favorable resolution.
- **DOTScreeener does not independently verify every operational fact.** The platform relies on publicly available FMCSA data and carrier self-reported representations.

- **DOTScreener does not define the standard of care.** The standard of care is determined by courts, informed by expert testimony, industry practice, and the specific facts of each case.

These are not disclaimers buried in fine print. They are design principles. DOTScreeener is designed to do one thing well: help transportation professionals create a documented, contemporaneous, evidence-preserving record of their carrier-selection process.

15. Shipper Oversight and Supply-Chain Risk Governance

15.1 The Shipper's Own Exposure

Shippers who select carriers directly face the same negligent-selection theories as brokers. Shippers who use freight brokers face exposure through negligent selection of the broker itself (choosing one with inadequate carrier-vetting practices), vicarious-liability theories depending on the degree of control exercised, and direct negligence when the shipper overrides a broker's carrier-selection decision (e.g., directing a specific carrier the broker had flagged).

For large enterprise shippers — manufacturers, retailers, distributors — transportation risk is a component of broader enterprise risk management and supply-chain governance.

15.2 Vendor Risk Management and Broker Oversight

Enterprise shippers typically manage vendor risk through structured procurement programs evaluating financial stability, operational capability, insurance, regulatory compliance, and performance. Transportation vendors are increasingly subject to these frameworks. Shippers are beginning to ask: Does the broker have a documented carrier-selection policy? Is it consistently applied? What data sources does the broker use? Can the broker produce evidence of its process for specific loads? Does the broker maintain an exclusion list? What happens when a carrier fails to meet criteria?

For shippers that rely on brokers to select carriers, the broker's carrier-selection process is a critical supply-chain control point. A documented platform provides a more granular and verifiable mechanism for oversight: screening evidence on demand, policy-consistency verification, exception monitoring, and compliance documentation incorporated into the shipper's own files.

15.3 Third-Party Logistics and Enterprise Compliance

Third-party logistics providers (3PLs) and managed-transportation providers face a dual exposure: to the shipper client as a vendor whose practices are subject to contractual obligations, and to potential claimants as a party whose carrier-selection decisions may be scrutinized in litigation. A documented platform serves both an operational and compliance function — supporting risk management while creating evidence that can be shared with shipper clients.

Large enterprise shippers increasingly operate under compliance frameworks that extend to transportation operations — SOX and internal controls, ESG reporting, contractual compliance with their own customers, and insurance program requirements regarding transportation-vendor oversight. The trajectory mirrors broader vendor-risk management: from contractual requirements stating what the vendor should do to operational verification confirming what the vendor actually does.

16. How Insurers Could Use This Type of Workflow

The insurance industry's relationship to freight brokerage has historically been characterized by limited visibility into broker operations. Underwriters assess broker risk based on revenue, fleet relationships, commodity types, and loss history — but often lack insight into the broker's carrier-selection practices, which are among the most significant determinants of actual risk exposure.

The following observations are offered as analytical discussion, not predictions of specific insurer behavior.

16.1 Underwriting Differentiation

Insurers evaluating freight brokerage accounts could consider whether the applicant uses a documented, systematic carrier-selection process. The *information asymmetry* between insurer and insured could be meaningfully reduced by criteria that evaluate the insured's carrier-selection documentation practices.

Insurance Perspective

The underwriting question is not "Does the broker use a specific platform?" It is: "Does the broker have a documented, repeatable, evidence-preserving carrier-selection process that can be produced in the event of a claim?" The existence and quality of such a process is a risk-relevant characteristic, independent of the specific tool used.

16.2 Loss-Control and Behavior Visibility

Insurers providing loss-control services could recommend documented carrier-selection workflows as a loss-control measure — a natural complement to existing recommendations around driver qualification, vehicle maintenance, and compliance management.

A documented workflow could also provide a mechanism — with the insured's consent — to evaluate screening patterns, policy compliance rates, exception frequency, and carrier quality metrics as part of renewal underwriting. This could move brokerage underwriting from a historical-loss-driven model toward a behavior-informed model.

16.3 Post-Claim Evidence and Portfolio Assessment

When a claim arises from a serious accident, the availability of a documented carrier-selection file may affect coverage determination, defense strategy, subrogation and contribution arguments, and reserve adequacy. Early access to a documented screening file may allow more accurate reserve setting, reducing the uncertainty that inflates reserves.

Across a portfolio of brokerage accounts, aggregate data from documented programs could provide insurers with a more granular understanding of broker risk profiles: how many carriers were screened, what percentage triggered concerns, how concerns were resolved, and whether actual practices are consistent with represented risk-management programs.

16.4 How an Insurer Might Use a Documented Screening File

To illustrate how documented evidence might flow through the insurance lifecycle: at **notice of claim**, the broker produces the Carrier Selection Defense Packet generated at the time of the tender. The claims adjuster can immediately review what FMCSA data was available, the broker's thresholds, how the carrier was classified, whether concerns were identified, whether a Compliance Confirmation was obtained, and the documented rationale. **Reserve setting** can proceed with specificity rather than speculation. **Defense counsel** receives the packet in the initial file — not after months of document requests — allowing earlier case-posture assessment. **Discovery response** uses the organized evidence packet rather than a fragmented collection of emails and screenshots. At **renewal**, the underwriter evaluates the broker's claim history alongside its screening practices, using behavioral data that complements traditional loss-history analysis.

17. How Transportation Attorneys Could Use This

17.1 Preserved Review Records

The single most valuable element of a documented program, from defense counsel's perspective, is the existence of a contemporaneous record. Litigation typically occurs months or years after the underlying events. Witnesses' memories fade. Documents are lost or never created. A preserved screening record — generated at the time of the decision, not reconstructed for litigation — provides defense counsel with something to show, not just something to say. The difference between "we always check FMCSA" and "here is the specific record of what we reviewed, what it showed, and what we did about it on [date]" is often the difference between a credible defense and a credibility gap.

17.2 Consistent Policy Logic and Escalation Records

Defense counsel benefits from a client that can demonstrate consistent application of an objective policy. Consistency does not mean perfection — it means the same standards were applied to every carrier, that exceptions were documented and justified, and that the policy was not selectively enforced.

Escalation and override records demonstrate that the broker did not ignore concerns. When a screening identifies a risk indicator, and the broker documents the concern, escalates it, obtains additional information, considers the totality of the record, and makes a reasoned decision to proceed — that record tells a different story than a blank file.

17.3 Evidence Packets for Discovery

The Carrier Selection Defense Packet is designed with discovery in mind. Its structure corresponds to the categories of information commonly sought in carrier-selection discovery requests. A complete packet can respond to document requests with a single, comprehensive record; demonstrate early in litigation that the broker has a substantive file; provide the factual foundation for expert testimony; and support authentication through the tamper-evident audit trail.

17.4 Carrier Confirmations as a Defense Tool

The Carrier Compliance Confirmation provides counsel with the carrier's own representations about its operations, captured before the incident, signed by a named representative, and preserved in the evidence file. If those representations prove inaccurate — for example, if the carrier confirmed HOS compliance but the driver was operating in violation — the confirmation becomes evidence that the broker sought and obtained representations before tendering, that the carrier made specific representations, that the broker's reliance is docu-

mented, and that the carrier bore responsibility for the accuracy of its own representations. This does not eliminate the broker's independent duty of care, but may support arguments regarding the reasonableness of reliance, the carrier's comparative fault, and the allocation of responsibility.

18. Recommended Best Practices

The following practices are offered as recommendations for organizations implementing or improving a carrier-selection program. They are not legal requirements and should be reviewed by qualified counsel in the context of each organization's operations, risk profile, and jurisdictional exposure.

1. **Do not rely on screenshots alone.** A screenshot lacks context — it does not show what policy was applied, whether concerns were identified, how they were addressed, or what decision was made. Preserve structured evidence records, not just images.
2. **Document who reviewed the carrier and when.** "Someone in the office checked it" is not a credible response under examination.
3. **Use consistent thresholds.** Apply the same criteria to every carrier. Selective enforcement creates a pattern that can be identified and questioned.
4. **Preserve data snapshots, not links.** A link to a carrier's current record does not show what it said on the date of the tender. Preserve point-in-time snapshots.
5. **Avoid undocumented exceptions.** If a carrier triggers a concern and the broker proceeds, the exception must be documented. An undocumented exception is an undefended exception.
6. **Re-screen when conditions change.** A screening has a shelf life. Re-screen on new tenders to previously screened carriers, on load-characteristic changes, or on reported safety events.
7. **Train staff.** A policy is only as effective as the people who implement it. Train dispatchers, carrier managers, and operations staff on the policy, workflow, and importance of documentation.
8. **Keep policy language neutral and professional.** Internal policies and carrier communications should be written in professional, neutral language — not adversarial or accusatory.
9. **Involve counsel in policy design.** The policy may be produced in discovery and evaluated by experts. It should be reviewed by qualified transportation counsel.
10. **Maintain an exclusion list.** Tendering to a carrier on the organization's own "Do Not Use" list is extremely difficult to defend.

11. **Establish a re-screening cadence.** Consider periodic re-screening of active carrier relationships to identify changes in safety profiles.
12. **Separate rate decisions from safety decisions.** If a carrier with identified concerns is also the lowest-cost option, document the basis for the decision independent of rate.

Operational Best Practice

The most effective programs treat documentation as an embedded operational practice, not a compliance burden. When documentation is generated automatically as part of the normal workflow — rather than created as a separate task — it does not require additional effort. The evidence is created by doing the work, not by creating extra paperwork about the work.

19. Implementation Roadmap

Implementing a documented program does not require a complete operational overhaul. It can be adopted in phases.

Phase 1: Standardize Screening (Weeks 1–2). Adopt a platform that captures FMCSA data snapshots at the time of screening. Ensure every screening produces a dated record with reviewer identity. Establish the habit of screening before tendering. *Value:* Immediately creates a contemporaneous evidence trail.

Phase 2: Configure Policy (Weeks 3–4). Establish threshold values for key indicators. Define classification tiers and hard disqualifiers. Have the policy reviewed by qualified transportation counsel. *Value:* Transforms subjective judgment calls into documented, consistent decisions.

Phase 3: Require Carrier Confirmation (Weeks 5–8). Configure which indicators trigger a confirmation requirement. Establish procedures for non-response. Begin capturing carrier representations as part of the evidence file. *Value:* Creates a documented record of carrier operational representations.

Phase 4: Preserve Defense Packets (Ongoing). Configure packet generation as a standard step. Establish file-retention policies. Verify the audit trail is functioning and intact. *Value:* Comprehensive, tamper-evident evidence for every decision.

Phase 5: Review Exceptions (Monthly). Review frequency and justification of policy exceptions. Identify carriers repeatedly approved via override. Evaluate whether patterns indicate a need to adjust thresholds or relationships. *Value:* Demonstrates ongoing management oversight.

Phase 6: Involve Counsel and Insurers (Quarterly). Share the policy with outside counsel for review. Discuss the program with the organization's insurance broker or underwriter. Consider whether the program should be discussed with key shipper clients as a differentiator. *Value:* Aligns the program with the organization's legal strategy and insurance program.

20. Limitations and Disclaimers

Candor about limitations is essential to the credibility of any risk-management framework.

- **DOTScreener is not a law firm, and this whitepaper is not legal advice.** Nothing in this document or the platform constitutes legal advice, creates an attorney-client relationship, or substitutes for qualified transportation counsel.
 - **DOTScreener does not define, establish, or prescribe a legal standard of care.** The standard is determined by courts, informed by expert testimony and industry practice.
 - **DOTScreener does not guarantee compliance or prevent liability.** No software tool can eliminate the risk of negligent-selection claims or guarantee a favorable outcome.
 - **FMCSA data may be incomplete, delayed, or inaccurate.** DOTScreeener explicitly surfaces data gaps rather than concealing them.
 - **No software eliminates the need for human judgment.** The decision to tender is ultimately a human decision, informed by data and documentation but not dictated by software.
 - **Carrier confirmations are representations, not guarantees.** Those representations may be inaccurate or false.
 - **Policies should be reviewed by qualified counsel.** Default thresholds provided by DOTScreeener are starting points, not legal standards.
 - **Past performance does not predict future events.** A carrier that passes screening today may present a different risk profile tomorrow.
 - **The legal landscape is evolving.** Law governing broker and shipper liability for carrier selection is developing rapidly and varies by jurisdiction.
 - **Statistics cited herein are subject to revision.** Industry data reflects published sources as of the date of publication and may be updated. Readers should verify current data.
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21. Conclusion: The Emerging Infrastructure of Transportation Risk Management

The freight transportation industry is in the early stages of a structural transition — not driven by any single court decision, regulatory mandate, or technology platform, but by the convergence of forces reshaping how carrier-selection decisions are made, documented, and evaluated.

- **Legal accountability is expanding.** The judicial trend toward permitting negligent-selection claims against brokers — and the analogous exposure of shippers — has created a new dimension of liability.
- **Economic severity is escalating.** Large verdicts, rising defense costs, hardening insurance markets, and the financial consequences of inadequate documentation have transformed carrier selection from an operational task into a financial risk-management function.
- **Data availability has increased.** FMCSA data once difficult to access is now publicly available. The information asymmetry between what a broker *could* know and what it *does* know has narrowed significantly.
- **Technology has made documentation feasible.** Workflows that would have been operationally impractical a decade ago are now accessible through purpose-built platforms.
- **Insurer and shipper expectations are rising.** Underwriters are asking more detailed questions. Enterprise shippers are incorporating carrier-selection documentation into vendor-management frameworks.

These forces point in a single direction: toward an industry in which documented, evidence-preserving carrier-selection workflows become the expected practice, not the exceptional one. This is not a software trend. It is an infrastructure shift — comparable to the adoption of electronic logging devices, the transition from paper-based to digital freight matching, or the evolution from informal driver qualification to structured compliance programs. Each of these moved the industry from informal, memory-based practices to structured, documented, verifiable processes. Carrier selection is following the same trajectory.

The question for every freight broker, shipper, insurer, and transportation attorney is not *whether* this transition is occurring. The question is *where* their organization stands relative to it.

DOTScreener is one platform in this emerging ecosystem. It does not define the standard of care. It does not guarantee outcomes. It does not replace human judgment, legal counsel, or insurance coverage. What it does is make it operationally feasible for freight brokers and shippers to create a documented, contemporaneous, evidence-preserving record of their carrier-selection process — the kind of record that defense counsel needs, that insurers eval-

uate, that shippers expect, and that courts may increasingly consider as a benchmark of reasonable care.

The framework described in this whitepaper is offered as a contribution to industry discussion. The organizations that invest in documented practices will not be immune from risk — no one is — but they will be better prepared for the environment in which they operate.

22. About DOTScreeener

DOTScreeener is a transportation risk-management platform purpose-built for documented carrier selection. Developed by professionals with direct experience in freight brokerage operations, the platform addresses a specific gap in the transportation industry: the absence of standardized, documented, evidence-preserving carrier-selection workflows.

What DOTScreeener does:

- Captures point-in-time FMCSA data snapshots at the moment of each screening
- Applies configurable, organization-specific carrier-selection policies with objective thresholds
- Classifies carriers into review tiers based on documented criteria
- Surfaces potential risk indicators and data gaps with professional, neutral language
- Generates risk-adaptive Carrier Compliance Confirmations tailored to identified concerns
- Preserves the complete screening lifecycle in a tamper-evident, append-only audit trail
- Produces a Carrier Selection Defense Packet — a comprehensive evidence record designed for the file, for claims, and for discovery
- Supports both broker-to-carrier and shipper-to-broker screening workflows

What DOTScreeener does not do:

- Certify carriers as safe or fit
- Define, establish, or prescribe a legal standard of care
- Predict future safety events
- Guarantee compliance or liability protection
- Replace human judgment in carrier-selection decisions
- Substitute for qualified legal counsel or insurance advice
- Fabricate data or fill in gaps with assumptions
- Independently verify carrier operational facts

- Promise specific insurance, litigation, or regulatory outcomes

DOTScreener is available at dotscreener.com.

For inquiries regarding the platform, the framework presented in this whitepaper, or potential integration with insurance, legal, or compliance programs, contact:

DOTScreener

dotscreener.com

info@dotscreener.com

23. Appendices

Appendix A: Glossary of Terms

Term	Definition
BASIC	Behavior Analysis and Safety Improvement Category — the seven safety categories in FMCSA's Safety Measurement System: Unsafe Driving, Hours-of-Service Compliance, Driver Fitness, Controlled Substances/Alcohol, Vehicle Maintenance, Hazardous Materials Compliance, and Crash Indicator
BIPD	Bodily Injury and Property Damage liability coverage
Carrier Compliance Confirmation	A structured set of operational representations by a motor carrier, captured as part of the carrier-selection process
Carrier Selection Defense Packet	A comprehensive, dated evidence record assembled from the carrier-screening process
COI	Certificate of Insurance
CSA	Compliance, Safety, Accountability — FMCSA's enforcement and compliance program
CVSA	Commercial Vehicle Safety Alliance
DOT Number	A unique identifier assigned by FMCSA to commercial motor carriers
Evidence Layer	The technical architecture through which carrier-selection decisions are documented, evaluated, confirmed, and preserved
FAAAA	Federal Aviation Administration Authorization Act of 1994
FMCSA	Federal Motor Carrier Safety Administration
L&I	Licensing and Insurance — the FMCSA system that tracks carrier insurance filings
MC Number	Motor Carrier number — an identifier assigned by FMCSA to for-hire carriers and brokers
MCS-150	The biennial update form required of all registered motor carriers
Negligent Selection	A common-law tort theory holding that a party may be directly liable for injuries caused by an incompetent or unfit agent or contractor it selected
OOS	Out of Service
QCMobile	FMCSA's publicly accessible carrier safety data feed
SMS	Safety Measurement System — FMCSA's system for analyzing safety data

Term	Definition
Social Inflation	The trend of rising claim costs driven by broader societal factors including litigation funding and jury attitudes
Tamper-Evident Audit Trail	An append-only, sequentially linked event log where each entry includes a SHA-256 hash connecting it to the previous entry
3PL	Third-Party Logistics provider

Appendix B: FMCSA Data Sources Referenced

Data Source	Information Provided	Access Method
FMCSA QCMobile	Carrier registration, authority status, safety rating, fleet size, crash data, inspection data, SMS BASIC scores	Public API
FMCSA Licensing and Insurance (L&I)	Insurance filings, coverage amounts, effective dates, filing history	Public query
FMCSA Out-of-Service Orders	Active OOS orders against carriers, drivers, or vehicles	Public query
FMCSA SAFER System	Carrier snapshots, safety data, registration information	Public web interface
FMCSA SMS Website	SMS BASIC percentiles, inspection and crash details	Public web interface

Appendix C: Suggested Policy Threshold Ranges

The following ranges are reference points for organizations developing carrier-selection policies. They are not legal standards and should be reviewed and adjusted by qualified counsel in the context of each organization's operations, risk tolerance, and jurisdictional requirements.

Indicator	Pass	Warning	Fail	National Benchmark
Driver OOS Rate	Below 10%	10%–20%	Above 20%	~5.5–6.5% (CVSA 2023)
Vehicle OOS Rate	Below 20%	20%–35%	Above 35%	~20–21.5% (CVSA 2023)
Hazmat OOS Rate	Below 5%	5%–10%	Above 10%	Varies by year
Crash Rate (per power unit, 24-month)	Below 0.15	0.15–0.35	Above 0.35	Varies by fleet size
Authority Age	Over 180 days	90–180 days	Under 90 days (elevated scrutiny)	N/A
Fatal Crashes (24-month)	0	—	Any (requires review)	N/A
Minimum Inspections	1 or more	—	0 (insufficient data)	N/A

Note: National average OOS rates are updated periodically by CVSA and FMCSA. The thresholds above are starting points; organizations should calibrate thresholds based on current benchmark data and their own risk tolerance.