

September 17, 2014

The Honorable Anthony R. Foxx
Secretary of Transportation
West Building, 1200 New Jersey Ave., SE, Ninth Floor
Washington, DC 20590-9898

Dear Secretary Foxx:

The undersigned industry stakeholders support the letter to you dated August 22, 2014 from ten trade associations, requesting the immediate removal of individual motor carriers' SMS scores from any and all public web sites maintained by the Federal Government, including but not limited to the Federal Motor Carrier Safety Administration (the "Agency").

This request is nothing new or novel, nor is a wealth of supporting evidence that SMS methodology is systemically flawed. The Agency was admonished in 2003 by the Inspector General to replace SafeStat, a previous database which unfairly branded carriers as less than fit for use and which the Agency insists was similar to SMS. From the first publication of SMS methodology in December 2010, the statistical flaws of SMS have been pointed out to the Agency and have been shamelessly and repeatedly ignored in Agency publications. As early as November 4, 2011, a study by Anthony Gallo of Wells Fargo demonstrated no correlation between SMS data and crash predictability among large carriers.

Six months later, Professor Gimpel's study demonstrated that the law of large numbers and a lack of sufficient data precludes the Agency from accurately analyzing and ranking the small carriers which make up 85% of the regulated universe. (James Gimpel: "Statistical Issues in the Safety Measurement and Inspection of Motor Carriers," May 2012.)

Dr. Inam Iyooob reached similar conclusions in another 2012 study, entitled "SMS BASIC Scores are Not Valid Predictors of Crash Frequency." He demonstrated that average trend lines used by the Agency to bolster its conclusions about SMS data inaccurately portrayed individual carrier performance in Unsafe Driving and Fatigued Driving (hours of service), the two BASICs which the Agency claims are most relevant as crash predictors.

Ever since the Agency agreed to settle *NASTC et al. v. FMCSA* in 2011 by posting on-line disclaimers that SMS scores are not safety ratings, it has played mere lip service to that disclaimer and to its duty under Section 31144 to determine motor carrier safety fitness. Instead, the Agency has continued to tout unproven SMS methodology as an alternative standard to be used by the public in selecting carriers. The Agency's advocacy of SMS has been seized upon by the plaintiffs' personal injury bar, thereby causing great harm to shippers, brokers and carriers. The harm to those parties results from a rash of lawsuits for "negligent selection" of carriers with SMS percentile scores above "alert" levels arbitrarily established by the Agency.

Using the Agency's own data, a study was developed showing that 49 percent of the small carriers which the Agency claims exceed the enforcement or "alert" threshold in three or more areas actually have no crashes. This data, as well as documented statistical concerns about peer group anomalies, enforcement disparities among the States, flaws in the Agency's appeal process

known as DataQs, and the absence of any Agency mechanism for determining crash preventability, all were presented to the Agency in response to its requests for comments in July 2012 (Docket No. FMCSA 2012-0074) and again in January 2014 (Docket No. FMCSA 2013-0392). Faced with all the third-party studies cited above, the Agency has ignored the Data Quality Act and instead has taken refuge in a single uncritical report prepared by its affiliated Volpe Center. When the Agency announced its most recent SMS website changes in July of 2014, it did not even address the above issues – all of which go to the heart of the validity, accuracy and usefulness of SMS data and methodology.

Members of the undersigned groups, including carriers threatened with loss of business and shippers and brokers exposed to greater tort liability, have repeatedly made their case over the past four years for taking down the published SMS data for individual carriers. They have made this case in writing to the Administrator, in meetings with the Agency, in hearings before the Small Business Administration, in Congressional testimony, and in declarations before the Agency's own Motor Carrier Safety Advisory Committee, all to no avail.

Clearly, SMS methodology and published SMS scores have not stood the test of time nor withstood scrutiny by industry and independent government agencies. The undersigned applaud the signatories to the August 22 letter for joining us in recognizing this fact, and we urge your approval of the relief they have sought.



A handwritten signature in black ink that reads "Tom Sanderson".

Tom Sanderson, President
**Alliance for Safe, Efficient and
Competitive Truck**



A handwritten signature in black ink that reads "David Owen".

David Owen, President
**National Association of
Small Trucking Companies**



A handwritten signature in black ink that reads "Brandon Fried".

Brandon Fried, Executive Director
Airforwarders Association



A handwritten signature in black ink that reads "Joseph Rajkovacz".

Joseph Rajkovacz, Director of
Governmental Affairs
**California Construction
Trucking Association**



A handwritten signature in black ink that reads "Bill Schroeder".

William P. Schroeder
**Auto Haulers
Association of America**



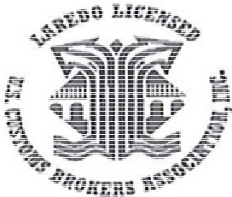
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Jeffrey E. Patterson, President
**Air & Expedited Motor
Carrier Association**



Chuck King, President
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Sincerely,

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