

3 PROBLEMS MOTOR CARRIERS FACE WITH THE SMS MODEL



THE MISCOMMUNICATION AND MISUSE OF MOTOR CARRIER DATA

When assessing the safety of a commercial auto operation, there is more freely available information today than ever before. As with all data that is easily accessible in the information age, there are people trying to capitalize on how this information is used. In a prior article, [CAB Usage in Underwriting Truckers](#), we discussed how insurance companies and underwriters utilize this data to try and better determine the safety culture of an operation. However, the use and interpretation of this data is not limited to the insurance industry, which is leading to disputes over the measurements gathered and the availability of data.

First, let's quickly establish what data we're talking about. The Federal Motor Carrier Safety Administration (FMCSA) created the Safety Measurement System (SMS), the source of this data, and its associated scoring methodology as part of the CSA 2010 initiative. The intent of the initiative was to make the roadways safer by identifying those trends in motor carriers that might show a direct connection to loss frequency. Determinations for trends and scores are based on the aggregated history of all DOT violations that are discovered during the roadside inspection of a motor carrier, and it is this violation data – ranging from a cracked windshield to speeding in a school zone – that is the focus of the current dispute.

THE PROBLEM WITH THE DATA

1. The relative scale on which a motor carrier's SMS score is determined suggests that there will always be a subsection of motor carriers (10%) on the road that are deficient and should be removed from the roadways. Without question, the intent of the SMS model is to make the roadways safer, and eliminating those motor carriers who are presenting a greater hazard to the public by their actions is one of the best ways to go about doing this. However, without establishing a true baseline by which motor carriers can be judged, a situation is created where the same operation which has been deemed acceptable today may be deemed deficient at the next review. Similarly, an operation in one peer group may be deemed acceptable while an operation with the same history in a separate peer group would be deemed deficient.

The strongest argument in support of the relative scale is that the flexible nature encourages motor carriers to constantly better their operations, and that the number of new entrants into the market will offset the percentages that are being removed from the roadways. Were peer groups not a factor in the model, the argument would have a stronger footing, but with its inclusion in the model, there is still an inconsistency whereby the same quality risk may be deemed both acceptable and unacceptable based solely on the peer group in which they fit.

2. The [methodology](#) used to determine the severity weights for each violation has been brought into question by insurers and associations that represent motor carriers, as the stated score isn't necessarily indicative of an accident. The most frequently cited example of a questionable score is a seat belt violation – where a driver failing to wear his or her seat belt is assigned a severity weight of 7, and considered a greater indicator of accident frequency than violations such as following too close, failing to yield right of way, and failing to obey a traffic control device.
3. SMS is incomplete without the passing and establishment of the updated Safety Fitness Determination (SFD) rules. The purpose of the SFD is to provide an "absolute" score on whether or not the FMCSA deems a risk safe to operate on public roadways, and determinations of the score will be based primarily on the SMS model. While not yet finalized, it is presumed this determination will be made available to the public (i.e., a risk is fit, marginal or unfit) and as such, there will be less onus on the part of insurers, shippers and brokers to conduct due diligence in reviewing and interpreting a motor carrier's SMS information, since a federally assigned determination of whether or not a risk should be operating on the roadways will be available.

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THE PROBLEM WITH THE AVAILABILITY

Knowing that the dataset is flawed allows those who are familiar with it to look beyond its issues, but because the data is freely available, violations are left open for public debate and interpretation. The FMCSA curtails any liability for the accuracy of this data by stating that the information captured is for the use of the FMCSA in determining who to single out for inspection, but this doesn't stop its public use.

Very few motor carriers that have had a roadside inspection have no violations. Long-haul vehicles are on the road upwards of 110,000 miles annually, and in that period there is likely to be a situation where one of the bulbs on the back of the tractor goes out or when the straps holding down equipment on a flatbed shows signs of fraying. Motor carriers have a significantly higher opportunity for a small violation to occur simply due to the number of miles that they're traveling annually. On top of that, they are held to a higher standard than the general motoring public. Due to the nature of their operations, there are few who would question that this higher standard is necessary, but it is something to consider when looking at the SMS information on an individual inspection level.

Focusing too heavily on the individual inspections instead of the risk's history as a whole may present an inaccurate representation of a motor carrier. That's not to say that high severity infractions don't warrant special attention; however, for minor violations the focus should be given to any trends that would indicate a continuous or conscious disregard for DOT rules in order to get a complete perspective of a risk.

On May 27, USA Today published an article regarding an accident in Detroit involving a gasoline tanker that overturned on the roadway. The article specifically references the motor carrier having faulty brakes on a prior roadside inspection. What the article does not mention is that, of the nine recorded inspections, only one had brake violations and that occurred in August of 2013, nearly two years prior to the accident. Since that time, the motor carrier has been without a single brake violation, and has an SMS score well below the intervention threshold. Regardless of the circumstances surrounding the accident, and regardless of the merits of the SMS model, using a single instance to paint a motor carrier in a particular light has the potential to create an incomplete picture and may severely impact the trucking industry as a whole.

Public opinion is powerful, especially in the courtroom where the potential for an inaccurate representation of a motor carrier is likely to affect the judgment. Tort lawsuits continue to plague the industry, and while there are very likely offenders whose judgments are justified, increased use of FMCSA information in the courtroom – despite their own statement that it is not to be used to draw conclusions about a motor carrier – will only exacerbate this issue. As a result of the misuse of a flawed dataset, fewer insurers will enter the transportation marketplace, and motor carriers that would have otherwise been deemed fit or satisfactory by the FMCSA will have a greater difficulty finding coverage and will pay higher premiums. In addition, insurers and shippers, who are also weary of public opinion with respects to SMS data, may find themselves obligated to consider it or face potential inclusion in a future suit.

WHAT IS BEING DONE ABOUT THE PROBLEM WITH THE DATA?

The biggest push to counter the availability of this data can be found in [H.R. 1371](#). Under the title of the Safer Trucks and Buses Act of 2015, Representative Lou Barletta (R-PA-11) introduced language that would both ensure that the carrier safety data found within SMS would not be made available to the public (except law enforcement personnel) and that the data will not be used in a civil action for damages resulting from an incident. The bill would also formalize an agreement between the Department of Transportation and the National Academy of Public Administration to create a study on how the CSA initiative (of which SMS is one part) can be further improved.

[Similar language was introduced in 2014](#) without success, but it appears that Rep. Barletta is looking to move forward with this until it is heard in Washington. It is uncertain whether Congress will take any action on the bill as presented, but industry associations such as the Motor Carrier Insurance Education Foundation have written letters in support of facets of the bill, most notably supporting the position that flawed SMS data should not be used as a means of accelerating claims costs. As of the publication of this article, the bill has been referred to the Subcommittee on Highways and Transit.

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In addition to the steps being taken on the Hill, other parties with an investment in the transportation industry are consistently putting out recommendations and commenting on legislative action in that sector. In particular, the [American Transportation Research Institute](#) has been engaged in studies of the industry since 1954, and the [American Trucking Associations](#) have published reports and made recommendations to Congress since its founding in the early 1930s. While there is no lack of players in this space, it will ultimately fall to Congress to take action and remove any bias that might exist in the studies that are put forth.

Lastly, the FMCSA is regularly updating the rules to better realize the intent of the CSA initiative. The latest [proposal for changes](#) (labeled “enhancements”) was published on June 29, 2015 and attempts to combat one of the current issues on the floor, which is the implicit suggestion that all seven categories and their respective scores are equal. The proposed measurement takes loss correlation, largely determined by the latest [SMS Effectiveness Test](#), and both re-organizes the layout of the categories and assigns an updated intervention threshold. The change should present better clarity to those reviewing the data – and should better prepare the FMCSA for a time when the SFD becomes accessible by the public.

WHAT BENEFITS DOES THE DATA STILL HOLD?

The greatest attribute of the present model is that a motor carrier is held publicly accountable for their safety record. Brokers, shippers and insurers have a tool by which they can track the negative trends of a motor carrier and, when used properly, focus and loads can be given to those operations that are doing their due diligence in operating in accordance with the DOT guidelines. Many in the industry are building out their own analytics based on the SMS in order to counter the known issues – while these are still early in their development and the logic is still being tweaked as more accident data comes in, these parties are taking the SMS data and finding a way to use it for its intended purpose: to make the roadways safer.

Despite its flaws, there is also merit to simply having the information publically available. Most motor carriers take pride in their work and the vast majority of drivers have made this their career. However, there will always be drivers and carriers who take shortcuts or don’t take the time to learn how best to operate. Having a public record of their violation history serves as a countermeasure to those motor carriers who might not dedicate as much time to their safety culture were it not for the SMS data’s existence.

IS THERE A CLEAR SOLUTION TO THE PROBLEM?

While there is no solution that responds to every issue at hand, a few targeted actions should counter the majority of the issues. Revisiting the methodology in the SMS data itself, and working with industry associations to better target motor carriers, will begin to address the underlying inaccuracies, and the ultimate establishment of the revised SFD will provide a concrete reference point by which the public can see whether the risk has been deemed fit to operate. The exposure presented by the availability of the SMS information still exists, and there still are some concerns not addressed above – such as the difficulty motor carriers have eliminating erroneous data from their company profiles – but with better education on the issues, positive steps would be taken toward seeing the SMS meeting its intent.

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