

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****[Docket No. FMCSA–2022–0066]****Enhanced Carrier Safety Measurement System (SMS)**

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice; response to public comments.

SUMMARY: FMCSA announces enhancements to the Safety Measurement System (SMS) used to identify motor carriers for safety interventions and addresses comments received in response to FMCSA's **Federal Register** notice titled, "Revised Carrier Safety Measurement System (SMS)." These enhancements build on the Agency's efforts to continually improve SMS, which it first implemented in 2010.

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SUPPLEMENTARY INFORMATION:**I. Background**

In December 2010, FMCSA implemented SMS to identify high risk motor carriers for investigations (75 FR 18256, Apr. 9, 2010). Section 5305(a) of the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114–94; 129 Stat. 1312; Dec. 4, 2015) requires FMCSA to ensure, at a minimum, that a review is conducted on motor carriers that demonstrate, through performance data, that they are among the highest risk carriers for 4 consecutive months. FMCSA and its State enforcement partners also use SMS to identify and prioritize motor carriers for inspections and less resource-intensive interventions, such as automated warning letters.

SMS also provides motor carriers and other stakeholders with safety performance data, which is updated monthly, through the public website at <https://ai.fmcsa.dot.gov/SMS>. Under section 5223 of the FAST Act, FMCSA removed SMS percentiles and alerts from the public SMS website for motor carriers transporting property. Passenger carrier percentiles and alerts remain publicly available, as well as inspection,

investigation, crash, and registration data for all carriers.

On February 15, 2023, FMCSA proposed the following changes to its SMS and announced a 90-day preview and comment period for stakeholders (88 FR 9954):

1. Reorganized and Updated Safety Categories (Now "Compliance Categories"), Including New Segmentation;
2. Consolidated Violations;
3. Simplified Violation Severity Weights;
4. Proportionate Percentiles Instead of Safety Event Groups;
5. Improved Intervention Thresholds;
6. Greater Focus on Recent Violations; and
7. Updated Utilization Factor.

During the 90-day preview and comment period, motor carriers could log in to the Prioritization Preview¹ to see what their own prioritization results would be under the proposed SMS methodology. The public was able to view what a logged-in carrier would see using example data. In addition, FMCSA held three question-and-answer sessions in March 2023 for the industry and the public, where participants were able to ask questions about the proposed changes and receive real-time responses. The comment period ended on May 16, 2023. Following the comment period, the Agency has continued to make the Prioritization Preview site available to industry and other safety stakeholders, so they have ample time to review and understand the impacts of the enhancements.

II. Summary of Public Comments and Response

FMCSA received 176 comments in response to the February 2023, notice. Of these, 111 submissions contained comments specific to the changes proposed in that notice; 65 submissions contained comments that were not relevant to the notice. The commenters included motor carriers, drivers/owner-operators, industry associations, and safety advocates. The following entities submitted relevant comments: Advocates for Highway and Auto Safety (Advocates), American Bus Association (ABA), American Trucking Associations, Inc. (ATA), Chamber of Commerce and Industry, et al. (Arizona Organizations), Arizona Trucking Association, Commercial Vehicle Safety Alliance (CVSA), Downeast Shipping LLC, Driver iQ, Drivewyze Ltd (Drivewyze), FedEx Corporation (FedEx), Greyhound Lines, Inc.

¹ Available at <https://csa.fmcsa.dot.gov/prioritizationpreview/>.

(Greyhound), Independent Carrier Safety Association (ICSA), International Foodservice Distributors Association (IFDA), Motor Carrier Insurance Education Foundation (MCIEF), Minnesota Trucking Association (MTA), National School Transportation Association (NSTA), National Tank Truck Carriers, Inc. (NTTC), Owner-Operator Independent Drivers Association (OOIDA), Roehl Transport, Inc., SambaSafety, Schneider National, Inc. (Schneider), Shippers Preferred Express, Tour Up, Truck Safety Coalition (TSC), Veolia North America (Veolia), Yellow Corporation, Zoom Transportation Inc., Adrienne Anderson, Kellie Case, Dmitri Kachan, Adam Loutsch, Brian Loysen, Kathleen Ravin, Elizabeth St. Clare, Riky Von Honaker, and individuals who did not identify their organizations. Many stakeholders provided comments on multiple proposed changes and topics. Comments outside the scope of the February 2023 notice are not discussed in this notice.

Most of the comments on the February 2023, notice voiced support for the proposed changes. Some comments voiced concerns that this notice will address. The proposals for reorganized safety categories, consolidated violations, simplified violation severity weights, and greater focus on recent violations generated the most comments. In addition, many commenters suggested alternative approaches to a proposed change or requested that FMCSA provide further analysis or solicit additional input. The following sections provide a summary of the comments received and the Agency's responses for each proposed change.

1. Reorganized and Updated Safety Categories (Now "Compliance Categories"), Including New Segmentation

A. Changing "BASICS" to "Safety Categories" (Now "Compliance Categories")

The vast majority of commenters did not address the proposal to replace the term Behavior Analysis and Safety Improvement Categories, or BASICS, with "safety categories." Three commenters (ATA, ABA, and Driver iQ) agreed with the proposal to replace "BASICS" with another term but suggested alternative terminology to "safety categories."

ATA suggested using "compliance categories," rather than "safety categories," commenting that "[r]eferring to the BASICS as 'Compliance Categories' simplifies the

terminology to a more understandable and relatable reference. It also will allow motor carrier operations and the enforcement community to more accurately pinpoint and address compliance concerns.” ABA supported ATA’s view, suggesting that “‘compliance categories’ . . . more accurately depicts the information categorized.” Driver iQ also echoed ATA’s comments.

Two of the four commenters (MCIEF and Riky Von Honaker) that addressed this proposal did not agree with it. MCIEF requested that FMCSA continue to use BASICS as it emphasizes the purpose of the Compliance, Safety, Accountability (CSA) program to analyze safety behavior, identify issues, and help carriers improve with the goal of preventing crashes. Riky Von Honaker expressed concerns that the new terminology could be used against carriers in litigation.

FMCSA Response

FMCSA acknowledges ATA, ABA, and Driver iQ’s suggestion to replace “BASICS” with “compliance categories” instead of “safety categories.” FMCSA’s analysis has demonstrated a strong relationship between each “BASIC” or category and safety; under the enhanced methodology, the group of carriers prioritized in any category has a crash rate of 7.77 crashes per 100 power units (PUs), which is 10 percent higher than the current methodology—and higher than the national crash rate for the same time period of 5.00 crashes per 100 PUs.² However, FMCSA acknowledges the public comments and has decided to move forward with “compliance categories” instead of “safety categories” as this will provide simpler and more relatable terminology.

B. Reorganized Safety Categories (Now “Compliance Categories”): Unsafe Driving and Vehicle Maintenance

i. Unsafe Driving

Four commenters (ABA, ATA, MTA, and Adrienne Anderson) expressed support for the new Unsafe Driving Compliance Category, which incorporates: (1) Controlled Substances/Alcohol (CS/A) violations and (2) all Operating while Out-of-Service (OOS) violations. ATA stated that moving CS/A violations is “logical,” as drug and alcohol impaired driving is a form of unsafe driving, and that grouping all Operating while OOS violations under Unsafe Driving will help “enforcement

personnel more easily identify motor carriers who have violated OOS orders.” ABA noted that these changes “better reflect compliance realities and connections to actual safety risks.”

Three commenters (Advocates, NTTC, and an anonymous commenter) did not agree with moving CS/A violations to Unsafe Driving. Advocates and NTTC expressed the concern that this change may dilute the severity of CS/A violations and make it harder to identify carriers that employ drivers engaged in unsafe behaviors related to the use of controlled substances and alcohol. Advocates also pointed out that “aside from increasing the number of carriers prioritized, [this change] appears to have little impact on the population of prioritized carriers from the aspects of crash rate and violation rate.” An anonymous commenter also concurred that CS/A violations should remain separate from Unsafe Driving without further explanation.

Tour Up did not agree with moving violations related to operating while OOS to Unsafe Driving. Tour Up disagreed because being placed OOS for a “chafed airline under the tractor that [the driver] was unaware of” is not comparable to “reckless driving and speeding.”

FMCSA Response

FMCSA acknowledges the comments from Advocates, NTTC, and the anonymous commenter. The sparsity of CS/A violations inhibited the CS/A BASIC’s ability to identify high crash risk carriers. FMCSA’s Exploratory Factor Analysis showed that the CS/A violations were strongly associated with the Unsafe Driving BASIC. By integrating CS/A violations into the new Unsafe Driving Compliance Category, the Agency will continue to hold carriers and drivers accountable for drug and alcohol compliance, while focusing its investigative resources on carriers with higher crash rates. FMCSA’s analysis shows that the group of carriers prioritized in the new Unsafe Driving Compliance Category would have a crash rate of 10.63 crashes per 100 PUs, which is 3 percent higher than the Unsafe Driving BASIC in the current methodology.³

With regards to Tour Up’s comment, FMCSA moved operating while OOS violations to the new Unsafe Driving Compliance Category because they reflect a type of unsafe driving behavior: a driver or motor carrier continuing to

operate after receiving an OOS Order. Operating while OOS is similar to other violations in the Unsafe Driving Compliance Category, such as texting, speeding, and reckless driving, as they all indicate the driver made an unsafe driving decision related to operating a commercial motor vehicle (CMV).

ii. Vehicle Maintenance

Nine commenters (Arizona Organizations, ATA, Brian Loysen, Elizabeth St. Clare, FedEx, IFDA, MTA, OOIDA, and Shippers Preferred Express) supported the reorganization of the Vehicle Maintenance category into two categories: (1) a new Vehicle Maintenance: Driver Observed Compliance Category and (2) a Vehicle Maintenance Compliance Category. ATA and FedEx emphasized that the new Vehicle Maintenance: Driver Observed category more accurately reflects how carriers perform maintenance and assess compliance. ATA noted that it “will allow for greater distinction between vehicle maintenance violations that are indicative of vehicles in poor maintenance condition regardless of the thoroughness of the driver performing a pre- or post-trip inspection that day.” ATA, IFDA, MTA, and OOIDA also noted that the new Vehicle Maintenance: Driver Observed category has the potential to protect drivers from being held accountable for violations that they could not have reasonably discovered during a pre-trip inspection. Elizabeth St Clare added that this category would be useful for “targeted training.”

While supportive of the new Vehicle Maintenance: Driver Observed category, ATA and MTA also recommended that the Agency engage industry stakeholders in determining which violations should be included in the category and conduct analysis to measure the category’s effectiveness.

Downeast Shipping LLC pointed out that this new category highlights a larger issue about “driver controllable violations” and suggests that these violations be removed from a carrier’s results.

FMCSA Response

Regarding ATA and MTA’s suggestion to solicit industry input on the violations in the Vehicle Maintenance: Driver Observed Compliance Category and conduct analysis to measure the effectiveness of the category, FMCSA developed the new Vehicle Maintenance categories by leveraging results from an Exploratory Factor Analysis showing which violations were strongly associated with each other

² Available in table 23 of the Prioritization Foundational Document https://csa.fmcsa.dot.gov/Documents/New_Methodology_for_Prioritization_Foundational_Document_112222_508.pdf.

³ Available in table 23 of the Prioritization Foundational Document https://csa.fmcsa.dot.gov/Documents/New_Methodology_for_Prioritization_Foundational_Document_112222_508.pdf.

along with Intermodal Equipment Provider “Pre-Trip” designations, developed with input from industry and enforcement. For more details on the development of the new compliance categories, see the Prioritization Preview Foundational Document.⁴

FMCSA disagrees with Downeast Shipping LLC’s suggestion to remove violations in the Vehicle Maintenance: Driver Observed Compliance Category from carriers’ results. Carriers have a responsibility to ensure that their drivers understand and comply with the Federal Motor Carrier Safety Regulations.

C. New Segmentation: Driver Fitness and Hazardous Materials Compliance Categories

Five commenters (ATA, IFDA, MTA, Schneider, and Veolia) voiced support for the proposed segmentation in Driver Fitness Compliance Category by Straight and Combination carriers and in Hazardous Materials Compliance Category by Cargo Tank and Non-Cargo Tank carriers. ATA noted that this new

segmentation “addresses inequities that have existed in the current CSA SMS” and “will allow for greater accuracy in identifying safety controls.” Three commenters (Advocates, FedEx, and NTTC) specifically expressed support for segmentation in the Hazardous Materials Compliance Category. NTTC mentioned that segmenting this category by Cargo Tank and Non-Cargo Tank carriers “is believed to tremendously reduce the opportunity for a cargo tank truck to get more violations than a van truck due to many inherent trailer differences.” Advocates tentatively supported segmentation but requested that the Agency provide more data. FedEx also expressed support for this change and encouraged the Agency to explore further segmentation between small package and palletized freight.

Kellie Case and an anonymous commenter asked for additional clarification. Case asked if the Agency has considered normalizing between carriers that occasionally transport hazardous materials (HM) and those that are dedicated HM carriers. The

anonymous commenter asked how carriers with both Straight and Combination vehicles would be treated in the Driver Fitness Compliance Category.

FMCSA Response

In response to Kellie Case’s question, the Hazardous Materials Compliance Category focuses solely on the portion of a carrier’s operation that is hauling HM, and whether the carrier frequently or rarely hauls HM should not have an impact on the carrier’s ability to comply with the Hazardous Materials Regulations.

Regarding the anonymous commenter’s question, Straight and Combination segmentation would work the same way it does for the Unsafe Driving and Crash Indicator BASICS in the current SMS. A carrier’s designation of Straight or Combination in the Driver Fitness Compliance Category depends on the percentage of those types of vehicles in its operations, as outlined in the table below.

TABLE 1—STRAIGHT AND COMBINATION CARRIER CRITERIA

Carrier type	Criteria
Straight Carrier	More than 30 percent of the total Power Units (PUs) in their fleet are Straight trucks/other vehicles.
Combination Carrier	70 percent or more of the total PUs in their fleet are Combination trucks/motorcoach buses.

2. Consolidated Violations

Nine commenters (ABA, ATA, IFDA, MTA, NSTA, NTTC, OOIDA, Veolia, and an anonymous commenter) expressed support for reorganizing the existing 959 roadside violations into 116 violation groups. ABA, IFDA, and MTA agreed with FMCSA that the change will make the system easier for carriers and other stakeholders to understand and help improve consistency in enforcement of violations with similar underlying safety issues. NSTA stated that the change will “reduce confusion for operators.” NTTC added that this is “a positive change which will permit companies to [more easily] facilitate training topics . . . for their personnel.” The anonymous commenter wrote that the reorganization allows “more clear insight into areas of concern” for carriers, but pointed out that there are still areas of overlap between violation groups, citing the “HOS Requirements” and “HOS Requirements—Nominal” violation groups in the Hours of Service Compliance Category and the “Brakes—OOS” and “Brakes” violation groups in

the Vehicle Maintenance Compliance Category.

Three commenters (Advocates, CVSA, and FedEx) shared concerns about the new reorganization. Advocates believes the change “could diminish the importance of some violations and ignore flagrant violators of the Federal Motor Carrier Safety Regulations.” CVSA is concerned that the combination of this change and the simplified severity weights “may not accurately reflect a motor carrier’s safety performance.” FedEx asked whether this change would lead to less visibility and requested that FMCSA retain the granular level of violation data provided today on the SMS website.

FMCSA Response

FMCSA agrees with the anonymous commenter’s assessment that there are still areas of overlap between the “HOS Requirements” and “HOS Requirements—Nominal” and the “Brakes” and “Brakes—OOS” violation groups. In response, FMCSA has consolidated these overlapping

violation groups to further prevent inconsistencies in how violations are cited for the same underlying safety issue. See the Reorganization of Violations section of this notice for details.

In response to Advocates’ concern, FMCSA’s analysis indicated that grouping violations will not reduce their importance for prioritization purposes. The Agency’s analysis shows that, in terms of prioritization, determining whether a safety issue is identified is more important than determining how many ways it was documented. Grouping carrier violations before analyzing the data ensures that carriers are treated fairly by holding similar carriers with similar safety issues to the same standard—regardless of how those issues were documented.

Regarding CVSA’s concern, FMCSA analyzed the overall effectiveness of the proposed changes compared to the current SMS. FMCSA found that these changes would increase the number of carriers prioritized for intervention by 3 percent—and that this group of

⁴ Available at https://csa.fmcsa.dot.gov/Documents/New_Methodology_for_Prioritization_Foundational_Document_112222_508.pdf.

prioritized carriers would have a crash rate 10 percent higher than those currently prioritized by SMS. Therefore, CVSA's belief that the proposed changes, taken together, may not accurately reflect a carrier's safety performance was not substantiated.

FMCSA is committed to ensuring that its SMS methodology for prioritizing motor carriers for interventions accurately reflects carriers' safety performance. The Agency will continue to evaluate the SMS methodology's effectiveness and propose improvements when needed. For more details on overall effectiveness of the proposed changes, see the Prioritization Preview Foundational Document.⁵

In response to FedEx's question, the new violation groupings will not change the level of violation information available; details on individual violations will continue to be displayed in the Inspection History tab on the SMS website.

3. Simplified Violation Severity Weights

Four commenters (CVSA, FedEx, Veolia, and Adrienne Anderson) agreed with FMCSA's proposal to move from a 1 to 10 scale for violation severity weights to simplified 1 or 2. FedEx stated that this change "will be easier to administer . . . [and] the weights could help stabilize scores . . . by reducing the impact of outlier violations." Adrienne Anderson commented that the "weights make more sense and [make it] more attainable to get below thresholds."

Three commenters (Adam Loutsch, MTA, and Roehl Transport, Inc.) agreed with the change while proposing modifications to the weighting of specific violation types. Loutsch suggested that some "serious" moving violations receive higher weights than "regular" moving violations. MTA recommended that FMCSA should add a level to the weighting approach to "address minor 'administrative' violations such as form and manner violations." Roehl Transport, Inc. echoed MTA and suggested "administrative" violations that do not contribute to crashes should receive a weight of 0.

Six commenters (ABA, ATA, Drivewayze, ICSA, IFDA, NSTA, NTTCC, and Dmitri Kachan) agreed with FMCSA's proposal to move away from the 1 to 10 scale, but expressed concerns with moving to a 1 or 2 scale. ABA commented that this change could reduce the system's effectiveness by

masking the individual violation's correlation to safety risk. NTTCC expressed a similar concern that the new weighting "may not accurately reflect the increased likelihood of a vehicle being involved in an accident." ATA, Drivewayze, ICSA, IFDA, NSTA, and Dmitri Kachan all expressed the same concern that a simplified scale will make it difficult to distinguish between less severe and more severe violations.

Riky Von Honaker disagreed with the proposal, suggesting that the new weighting system will show which carriers get the most violations, rather than which carriers should be prioritized.

FMCSA Response

FMCSA's analysis shows that assigning a customized weight to all violations was not as important as noting that the violation occurred. The number of violations a carrier has is a strong indicator of its safety compliance, or lack thereof. Carriers with poor safety management practices have patterns of violations across the compliance categories—regardless of each violation's level of egregiousness. Conversely, carriers with strong safety management practices have fewer violations per inspection. In addition, moving toward a simplified scale for severity weights does not inhibit SMS from identifying carriers with high crash rates. Of the three approaches to simplified severity weights evaluated by FMCSA, this 1 or 2 scale approach identifies the highest crash rate for carriers prioritized in any category at 6.95 crashes per 100 PUs. In addition, this crash rate is 39 percent higher than the national crash rate over the same analysis period of 5.00 crashes per 100 PUs. For more information on the analysis for the simplified severity weights, view the Prioritization Preview Foundational Document.⁶

4. Proportionate Percentiles

Seven commenters (ATA, MTA, NSTA, NTTCC, OOIDA, Veolia, and Zoom Transportation Inc.) voiced support for moving from the safety event groups used in SMS to proportionate percentiles to eliminate large percentile changes that occur for non-safety-related reasons. OOIDA stated that ". . . this proposal is sound and should help protect small-business truckers from witnessing radical jumps in their [percentile] without reason," and Zoom Transportation Inc. agreed,

noting that proportionate percentiles are "excellent in terms of classification and reducing percentile jumps." NSTA also pointed out that proportionate percentiles would "result in a more accurate identification of 'at-risk operators.'"

Two commenters (ABA and Greyhound) expressed concerns about motorcoach comparisons with other carrier types and requested that the prioritization methodology only compare motorcoaches to other motorcoaches.

Two commenters (FedEx and SambaSafety) requested additional information on how proportionate percentiles would work in the new prioritization methodology.

FMCSA Response

FMCSA recognizes ABA and Greyhound's suggested approach to only compare motorcoaches to other motorcoaches. However, of the 764,117 interstate carriers subject to FMCSA assessment, only 0.03 percent (1,963) are considered motorcoaches⁷—this subset is not large enough to provide stable carrier-to-carrier comparisons or accurately indicate how a motorcoach's performance is trending from month to month.

Regarding FedEx and SambaSafety's request for more information on proportionate percentiles, step-by-step instructions for calculating proportionate percentiles are available in Table 9 of the Prioritization Preview Foundational Document.⁸ In addition, FMCSA is working on a set of communications materials that will be available when the final methodology is implemented.

5. Improved Intervention Thresholds

Six commenters (ABA, ATA, MTA, NTTCC, Schneider, and Veolia) submitted comments supporting the changes to the Intervention Thresholds for Vehicle Maintenance, Vehicle Maintenance: Driver Observed, Driver Fitness, and Hazardous Materials Compliance Categories. ATA stated that "these changes are justified as they place a greater focus on prioritizing intervention for safety categories that have the greatest correlation to crash risk." FedEx also commended FMCSA on its "risk-management driven

⁷ FMCSA defines *motorcoaches* as those registered to transport passengers and defined as a "motorcoach" in the Moving Ahead for Progress in the 21st Century (MAP-21) Act. More information on MAP-21 is available at <https://www.transportation.gov/map21>.

⁸ Available at https://csa.fmcsa.dot.gov/Documents/New_Methodology_for_Prioritization_Foundational_Document_112222_508.pdf.

⁵ Available at https://csa.fmcsa.dot.gov/Documents/New_Methodology_for_Prioritization_Foundational_Document_112222_508.pdf.

⁶ Available at https://csa.fmcsa.dot.gov/Documents/New_Methodology_for_Prioritization_Foundational_Document_112222_508.pdf.

approach” to the Intervention Thresholds in the Driver Fitness and Hazardous Materials Compliance Categories.

Two commenters (OOIDA and an anonymous commenter) offered critiques of the Intervention Threshold changes. OOIDA questioned whether the Agency should use the Driver Fitness or Hazardous Materials Compliance Categories to assess safety risk if a carrier has to be worse than 90 percent of their peers in order for the Agency to prioritize them. The anonymous commenter suggested without further explanation that the Intervention Thresholds for all the categories should be adjusted to 80 percent.

FMCSA Response

FMCSA acknowledges OOIDA’s concern about the high thresholds for the Driver Fitness and Hazardous Materials Compliance Categories. FMCSA’s analysis shows that every category has a different relationship to crash rate, with some having a higher correlation than others. Adjusting the thresholds ensures that the Agency focuses its enforcement program on carriers with the highest crash risk. In addition, the Driver Fitness and Hazardous Materials Compliance Categories can help carriers identify and improve patterns of noncompliance that contribute to their companies’ overall safety, regardless of whether the carriers are over the threshold in these categories.

6. Greater Focus on Recent Violations

Ten commenters (ABA, ATA, CVSA, ICSA, Kathleen Ravin, MTA, NSTA, NTTCC, OOIDA, and Veolia) expressed support for calculating percentiles only for carriers with cited violations in the past 12 months. This change applies to the Hours of Service, Vehicle Maintenance, Vehicle Maintenance: Driver Observed, Hazardous Materials, and Driver Fitness Compliance Categories. ABA “strongly endorses” this change, noting that it will benefit the Agency by “better targeting resources towards carriers that pose a greater safety risk” and will “incentivize carriers to more aggressively manage compliance problem areas.” NSTA concurs with ABA that this change could help the Agency focus on “more prevalent at-risk operators.” ICSA and Ravin also echoed the importance of incentivizing continuous improvement and behavior change. ICSA noted that “it’s especially important to smaller fleets that otherwise could be unfairly penalized by past mistakes.” CVSA voiced agreement, noting that this

change will “provide a more accurate assessment of the motor carrier’s current safety performance.” ATA also expressed support and suggested that this change should be applied to all categories.

Schneider noted that this standard for calculating a percentile provides a “logical threshold for the industry’s many small carriers” but suggested that this standard be applied differently for larger fleets by considering (1) whether a small number of violations in past 12 months is at an “acceptable” threshold and (2) the percentage of a larger carrier’s “clean” inspections (inspections without violations).

Two commenters (TSC and Advocates) expressed concern with the proposal, stating that the new data sufficiency standard does not consider carriers that either have not received an annual inspection or have never been reviewed by the Agency at all.

FMCSA Response

FMCSA acknowledges Schneider’s suggestion to account for the percentage of “clean” inspections or an “acceptable” number of violations per inspection for larger carriers when calculating percentiles. However, the purpose of this change is to account for smaller carriers that have not received inspections with violations in the past 12 months, thereby focusing the Agency’s enforcement efforts on those with more recent safety issues. In addition, under the current SMS, there is no need for a percentile exemption or adjustment for carriers that receive more frequent inspections. When frequently inspected carriers have a relatively low number of violations per inspection, they will have a low percentile reflecting better than average compliance, and thus not be subject to prioritization.

FMCSA recognizes TSC and Advocates’ concern that this updated standard does not account for carriers that have not received an annual inspection or have never been reviewed by the Agency. However, FMCSA has other enforcement tools to help to minimize the number of carriers that are not reviewed by the Agency or its State Partners. For example, the New Entrant program includes a safety audit on all new carriers entering in interstate commerce operations while the Inspection Selection System encourages law enforcement to inspect drivers and vehicles managed by carriers with little to no recent inspection history.

7. Updated Utilization Factor

Three commenters (MTA, Veolia, and Yellow Corporation) support the

extension of the Utilization Factor from carriers that drive up to 200,000 Vehicle Miles Traveled (VMT) per average PU to carriers that drive up to 250,000 VMT per average PU. MTA indicated that a “safely operating carrier must receive credit” for its traveled miles and not be “limited by an artificial mileage ceiling.” Yellow Corporation voiced support for the change and recommended that the Agency consider incorporating driver information from Question 27 in the Motor Carrier Identification Report (MCS–150) in the Utilization Factor to better account for carriers with “significant city operations.”

Two commenters (Advocates and ATA) expressed concern with the extension of the Utilization Factor to 250,000 VMT per average PU. Advocates pointed out that the “benefits from reporting higher VMT could incentivize carriers to overestimate their usage.” ATA believes the Utilization Factor should remain capped at 200,000 VMT per average PU. ATA stated that its own data analysis indicates that the average miles per truck per year have decreased significantly since 2009, citing that in 2022 “for-hire truckload carriers had an average miles per truck of 95,829, which was 10.5 percent below that of 2009 (107,112 miles).”

FMCSA Response

FMCSA acknowledges that its self-reported carrier data may show lower average miles per truck in 2022, similar to ATA’s analysis. However, higher-utilization carriers that drive between 200,000 and 250,000 VMT per average PU still exist, and the updated Utilization Factor is designed to account for them. In addition, FMCSA revisited its analysis of carrier-reported VMT from 2016, using more current data from the December 2020 Motor Carrier Management Information System snapshot, and confirmed that the conclusions from 2016 are still accurate. Results from this analysis are available in the Prioritization Preview Foundational Document.⁹

In response to Yellow Corporation’s suggestion, the current Utilization Factor uses a carrier’s VMT per average number of PUs, or vehicles, to account for different levels of on-road exposure to inspections and crashes. Question 27 in the MCS–150 form¹⁰ asks carriers to report the number of interstate and intrastate drivers who operate CMVs for

⁹ Available at https://csa.fmcsa.dot.gov/Documents/New_Methodology_for_Prioritization_Foundational_Document_112222_508.pdf.

¹⁰ Available at <https://www.fmcsa.dot.gov/registration/form-mcs-150-and-instructions-motor-carrier-identification-report>.

their company on an average workday, as well as the total number of drivers regardless of employment status and total of number of drivers that hold a valid commercial driver’s license. FMCSA believes that incorporating carrier-reported driver information from the MCS–150 would increase the Utilization Factor’s complexity and lead to less accurate results.

III. Other Changes Considered and Not Proposed

1. Item Response Theory Modeling

The vast majority of commenters did not address FMCSA’s analysis and decision not to move forward with an Item Response Theory (IRT) model for prioritization due to the model’s complexity and inability to accurately identify motor carriers for safety interventions. Of the seven commenters that addressed it, five commenters (ABA, Advocates, ATA, CVSA, and ICSA) voiced support for FMCSA’s decision. ABA stated, “We endorse every effort to address issues of complexity, and ensure that the tool is understandable, accessible, and user-friendly to the greatest extent possible.” ATA added, “[We believe] that the ability to easily explain CSA SMS methodology to drivers and motor carriers alike is important.” ICSA echoed the views held by ABA and ATA.

OOIDA acknowledged the difficulties with applying an IRT model to the motor carrier industry while expressing concern that the decision not to move forward with IRT could indicate that the Agency has not properly considered the other recommendations from the National Academies of Science (NAS).

TSC disagreed with FMCSA’s decision, stating that IRT could run parallel to SMS and be used as a tool to provide enhanced carrier oversight.

FMCSA Response

FMCSA explained its decision not to adopt an IRT methodology and provided

an overview of the limitations and challenges with using an IRT model for prioritization purposes in the February 2023 notice.

This notice focuses on addressing comments on the proposed changes to SMS, which were developed as a result of exploring the feasibility of the first NAS recommendation to develop an IRT model for prioritization.

2. Geographic Variation

Three commenters (ATA, IFDA, and OOIDA) expressed disappointment that FMCSA did not address geographic variation—that is, differences in CMV inspection and violation rates by State—commenting that this may lead to unfair SMS results for carriers that operate primarily in States with higher-than-average enforcement rates. ATA noted that while a State-focused approach may work for speeding violations, it may not for vehicle maintenance violations that need to be applied consistently in any operating condition, and that “. . . CSA SMS scores are often a reflection of where a motor carrier operates, not how safely it does so.” OOIDA commented, “If the agency is going to create a universal safety rating for carriers that prioritizes different kinds of enforcement, by frequency or even in enforcement oversight, then they must account for those varying philosophies in how States enforce the Federal Motor Carrier Safety Regulations.”

FMCSA Response

FMCSA explored the feasibility of incorporating a model to address geographic variation during the design stage of the Agency’s IRT model and revisited this analysis while developing the proposed methodology. Based on the results of these models, FMCSA concluded that it would not improve the Agency’s ability to identify high-risk carriers. Further, it would undermine the goals of the Motor Carrier Safety Assistance Program, the Agency’s grant program that provides financial

assistance to States to reduce the number and severity of crashes, and resulting injuries and fatalities, involving CMVs and to promote the safe transportation of passengers and HM. For more on the varying challenges States face related to crash reduction and why it is important for FMCSA to encourage States to tailor their crash reduction strategies to local conditions and challenges, see the February 2023 notice.

IV. Additional Changes to SMS

In addition to the changes to SMS outlined above, FMCSA made additional changes based on analysis conducted and issues identified during the preview and comment period.

1. Reorganization of Violations

The following changes were put into effect in the preview, and in the current SMS methodology where applicable, to align with the needs of FMCSA’s enforcement program.

FMCSA moved violation 390.3E from Unsafe Driving to Driver Fitness and added 392.15 to Driver Fitness to reflect the root of the underlying safety issue more accurately. Violations 390.3E and 392.15 both relate to operating a CMV while prohibited from performing safety-sensitive functions per § 382.501(a) in FMCSA’s Drug and Alcohol Clearinghouse. Since these violations address whether a driver meets drug and alcohol requirements to perform safety-sensitive functions, they are more closely aligned with the Driver Fitness Compliance Category, which covers driver requirements for the safe operation of CMVs, including training, experience, licensing, and medical qualifications. Additional information on 390.3E and 392.15, including violation code descriptions, and the new violation group in the Driver Fitness Compliance Category, is provided in the table below.

TABLE 2—UNSAFE DRIVING VIOLATION MOVING TO THE DRIVER FITNESS COMPLIANCE CATEGORY

Violation group	Federal violation code	Violation code description
Operating While Prohibited (New)	390.3E	Prohibited from performing safety-sensitive functions per 382.501(a) in the Drug and Alcohol Clearinghouse.
Operating While Prohibited (New)	390.15	Driver prohibited from performing safety sensitive functions per §382.501(a) in the Drug and Alcohol Clearinghouse.

To further prevent inconsistencies that occur when multiple violations are cited for a similar underlying issue, FMCSA made additional changes to the violation groups in Hours of Service and

Vehicle Maintenance Compliance Categories.

FMCSA moved HOS violations in the “HOS Requirements—Nominal” violation group to the “HOS

Requirements” group. A list of the “nominal” violations that were consolidated is provided in the table below.

TABLE 3—“HOS REQUIREMENTS—NOMINAL” VIOLATIONS MOVING TO THE “HOS REQUIREMENTS” VIOLATION GROUP

Federal violation code	Violation code description
395.3A2–PROPN	Driving beyond 14-hour duty period (Property carrying vehicle)—Nominal Violation.
395.3A3–PROPN	Driving beyond 11 hour driving limit in a 14-hour period. (Property carrying vehicle)—Nominal Violation.
395.3B1–PROPN	Driving after 60 hours on duty in a 7-day period. (Property carrying vehicle)—Nominal Violation.
395.3B2–NOM	Driving after 70 hours on duty in an 8-day period. (Property carrying vehicle)—Nominal Violation.
395.5A1–PASSN	Driving after 10 hour driving limit (Passenger carrying vehicle)—Nominal Violation.
395.5A2–PASSN	Driving after 15 hour driving limit (Passenger carrying vehicle)—Nominal Violation.
395.5B1–PASSN	Driving after 60 hours on duty in a 7-day period. (Passenger carrying vehicle)—Nominal Violation.
395.5B2–PASSN	Driving after 70 hours on duty in an 8-day period. (Passenger carrying vehicle)—Nominal Violation.

In addition, FMCSA consolidated the single Vehicle Maintenance violation in the “Brakes—OOS” violation group under the “Brakes” group. The “OOS” violation is listed in the table below.

TABLE 4—“BRAKES—OOS” VIOLATION MOVING TO THE “BRAKES” VIOLATION GROUP

Federal violation code	Violation code description
396.3A1BOS	BRAKES OUT OF SERVICE: The number of defective brakes is equal to or greater than 20 percent of the service brakes on the vehicle or combination.

In February 2024, FMCSA also moved 13 Vehicle Maintenance violations from the Lighting violation group to Clearance Identification Lamps/Other violation group in the current and preview SMS methodologies. This change will be carried over to the new methodology, where the violations will be part of the Clearance Lamp violation group in the new Vehicle Maintenance: Driver Observed Compliance Category. This update aligned the current SMS and the enhanced methodology with the latest changes to violations recorded as part of the roadside inspection program. A list of the Lighting violations that were moved to the Clearance Lamp violation group is provided in the table below.

TABLE 5—LIGHTING VIOLATIONS MOVING TO “CLEARANCE LAMP” VIOLATION GROUP

Federal violation code	Violation code description
393.9A–LIL	Lighting—Identification lamp(s) inoperative.
393.9A–LLPL	Lighting—License plate lamp inoperative.
393.9A–LSML	Lighting—Side marker lamp(s) inoperative.
393.9B–LIL	Lighting—Identification lamp(s) obscured.
393.9B–LLPL	Lighting—License plate lamp obscured.
393.11A1–LIL	Lighting—Identification lamp(s) missing.
393.11A1–LLPL	Lighting—License plate lamp missing.
393.11A1–LPL	Lighting—Parking lamp(s) missing.
393.11A1–LSML	Lighting—Side marker lamp(s) missing.
393.17A1–LDCL	Lighting—Driveaway, clearance lamp(s) missing on front of towing vehicle.
393.17A2–LDSML	Lighting—Driveaway, side marker lamp(s) missing on front of towing vehicle.
393.17B1–LDSML	Lighting—Driveaway, side marker lamp(s) missing on rearmost towed vehicle.
393.17D–LDSML	Lighting—Driveaway, side marker lamp(s) missing on intermediate towed vehicle.

2. Frequency of Updates to Data Inputs for SMS

Currently, FMCSA updates the SMS website once a month with SMS results for motor carriers. Complete prioritization results are available to motor carriers and enforcement personnel that are logged into the SMS website.¹¹ Logged-in motor carriers can only view their own data, while logged-in enforcement users can view safety data for all carriers.

FMCSA will continue to calculate the SMS results monthly, but in alignment with FMCSA’s commitment to

continuous improvement, the Agency is exploring the feasibility and impacts of providing more frequent updates to the inspection and crash data that is displayed on the SMS website. The Agency will share its decision and supporting findings in the follow-up notice announcing the enhanced SMS methodology.

V. Next Steps

FMCSA thanks industry stakeholders and enforcement personnel for engaging in an inclusive preview and comment period to continually improve its SMS methodology. Opportunities for more information, including a webinar series on the changes, will be announced on

the Prioritization Preview website¹² in the coming months. A follow-up notice in the **Federal Register** will announce the launch date of the enhanced SMS website.

Vincent G. White,

Deputy Administrator.

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¹¹ Available at <https://ai.fmcsa.dot.gov/sms>.

¹² Available at <https://csa.fmcsa.dot.gov/prioritizationpreview>.