



# American Trucking Associations

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## **PETITION**

### **SUBJECT**

Raising the safety performance standards for carriers moving Department of Defense's most sensitive and secret-level shipments.

### **PETITIONING PARTY**

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### **PROPOSAL**

ATA proposes that the Surface Deployment and Distribution Command (SDDC) adopt a new requirement for all motor carriers in Transportation Protective Service to maintain a safety performance at the 50<sup>th</sup> percentile or better for both Driver and Vehicle Safety Evaluation Areas (SEAs) in the Safety Status Measurement System (SafeStat) maintained by the US Department of Transportation.

### **JUSTIFICATION**

#### **Improving SDDC Safety Oversight of Motor Carriers Hauling High Security and Highly Hazardous Shipments**

Together, industry and DOD have done much to address security concerns related to the movement of arms, ammunition, explosives and classified materials collectively referred to as Transportation Protective Services (TPS). Over the past several years, increased security measures include:

1. Robust vetting requirements for carriers' personnel (DOD-Secret clearance);
2. Direct routings for CAT I&II shipments;
3. Security Escort Vehicles (SEVs) for certain shipments and circumstances;
4. Satellite tracking of power units (tractors) pulling TPS loads;
5. Wireless panic buttons for driver teams; and

6. More recently, trailer tracking for dry-van trailers.

However, ATA believes that SDDC may be able to pursue greater balance between security and safety by bringing safety up to a commensurate level with security. Currently, SDDC hires contractors to perform audits at TPS carriers' headquarters. This includes a review of the carrier's maintenance records, personnel drug testing, and a confirmation with Department of Transportation that the carrier is rated as Satisfactory. However, we believe that it would be in the public interest for this small and highly specialized sector of the trucking industry to adopt a modestly higher standard. Specifically, ATA proposes that for TPS shipments, safety performance should exceed the 50<sup>th</sup> percentile of the nation's total carrier population for driver and vehicle SEAs.

### **Background on the Motor Carrier Safety Status Measurement System (SafeStat) and its Safety Evaluation Area (SEAs)**

The Federal Motor Carrier Safety Administration (FMCSA) oversees analysis of a motor carrier's safety performance using the SafeStat system. SafeStat includes four measured areas called Safety Evaluation Areas (SEAs) as follows: 1) Accident; 2) Driver; 3) Vehicle; and, 4) Safety Management. A composite of these four SEAs is referred to as a carrier's overall "SafeStat" score.

The accident SEA is fraught with data quality problems that make it unreliable.<sup>1</sup> Because the Accident SEA is a factor in calculating the Overall SafeStat score, it too is tainted and unreliable and not available to the public.<sup>2</sup>

The purpose of the SEAs is to assist carriers in measuring and improving their safety performance, and they serve as a tool for the FMCSA to provide motor carrier safety oversight by identifying carriers with the greatest need of such assistance. It is generally agreed that the Driver and Vehicle SEAs are measures with the most timely, accurate and complete data. Accordingly, ATA believes that Driver and Vehicle SEAs have merit as measures by which SDDC may assess the driver and vehicle-related safety performance of carriers vying to haul DoD's sensitive cargoes in CONUS.

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By definition the proposed SDDC standard would be entirely impractical for commercial general freight commodities as well as most civilian hazardous materials commodities. Recognizing that safety and security are two separate considerations, a culture of safety that consistently produces Driver and Vehicle SEA scores that outperform 50 percent of the industry may be a more fertile environment to support security awareness and focus. We believe that the TPS commodities justify a higher level of safety achievement by virtue of the nature of the commodities in transit and their particular intended uses. Therefore, ATA proposes that in general,

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<sup>1</sup> See June 19, 2007 SafeStat Investigation Letter and Attachments from Calvin Scovel III to The Honorable Thomas Petri, Committee on Transportation & Infrastructure, U.S. House of Representatives

<sup>2</sup> In August 2004, the Federal Motor Carrier Safety Administration removed from public view on its website all motor carrier Accident SEA scores and all Overall SafeStat scores due to data quality problems.

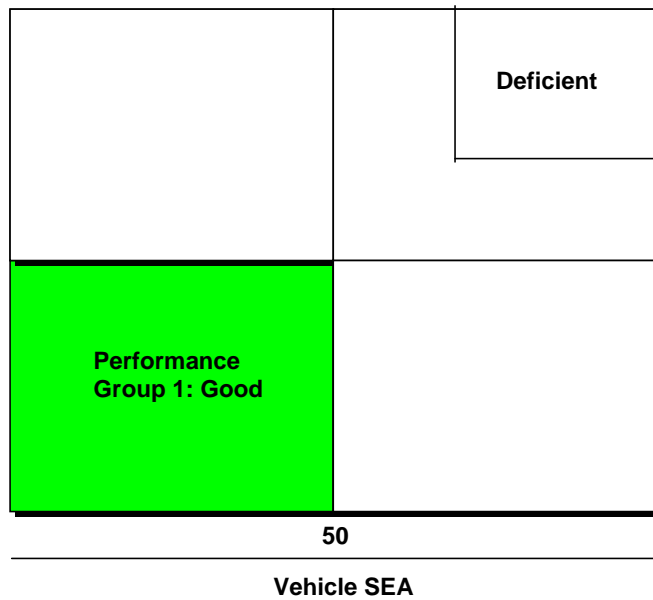
- A TPS carrier should have an SEA score for Drivers and Vehicles of less than 50;
- That this level of achievement should be a prerequisite to entrance into the TPS field;
- That SDDC should verify the SEAs of each TPS qualified carrier no less than twice per year;
- If a TPS carrier falls below this level of safety performance, it should be required to report it to SDDC's carrier qualification office within 5 business days upon discovery;
- Such carrier would have 180 days from the date of such report to restore its SEAs to the required level; and
- That failure to do so would result in non-use for TPS transportation until the SEAs are restored to the required level.

### **Safety Performance Measures and Monitoring**

Currently, DoD accepts less-than-average performing carriers that meet only the minimum Department of Transportation (DoT) standards for transporting DoD's most sensitive and capable warfighting commodities. We believe this standard should be elevated for TPS operations. Some carriers may not meet the minimum criteria to transport high explosives but are allowed to transport other non-hazardous TPS shipments. We would argue that based on their benign chemical composition, such shipments are not hazardous in terms of hazmat regulations or their chemical properties, but they are hazardous for different reasons, the chief of which is that they embody government secrets and are designed for the intended purpose of aiding the efficient destruction property. Therefore, we further believe that the general public would be justified in preferring carriers which have earned better than average SEAs.

ATA encourages SDDC to take a more proactive stance on safety. While crashes and incidents may occur when hauling TPS commodities, being able to demonstrate such proactive measures can provide DoD with a fortified defense in the court of public opinion. The Department of Energy (DOE) has established a Motor Carrier Evaluation Program to evaluate potential carriers and monitor on-going performance. The on-going program measures

Driver SEA



Source: DOT SafeStat (February 2009)

carriers' safety performance from the publicly available Department of Transportation (DoT) SafeStat database (<http://ai.fmcsa.dot.gov/safestat/SafeStatMain.asp>) and incorporates the individual SEA scores into a total score and rank. This program has, in part, resulted in an accident rate for DoE-approved carriers that is 64%<sup>3</sup> better than the general population of carriers that hold the standard hazardous materials safety permit.

#### CHANGE TO EXISTING DOD REGULATIONS AND POLICY

To implement this recommended new policy, ATA proposes that MFTRP No. 1C-R, or its successor, be amended as follows:

#### **“ITEM 2**

#### **MOVEMENT OF SHIPMENTS REQUIRING TPS OR AMMUNITIONS AND EXPLOSIVES**

“1. Carriers transporting secret materials or sensitive weapons and munitions, or any shipment, regardless of commodity, which requires a Transportation Protective Service (TPS) will not be used,

a) If the safety rating is less than satisfactory; or

<sup>3</sup> Ashok Kapur, Safety Engineer, Office of Packaging and Transportation at the Department of Energy (DOE), 8 December 2008.

b) If a carrier's DOT Safety Evaluation Area (SEA) score for Driver or Vehicle is 50 or higher, then the carrier shall be placed on a watch list and have 180 days to achieve an SEA score below 50. If after 180 days of such notice a carrier still does not comply with this performance measure SDDC shall not use such carrier for TPS shipments, and a carrier shall not offer its services for TPS shipments, until the carrier's score is again below the 50<sup>th</sup> percentile for both Vehicle SEA and Driver SEA. Carriers shall be responsible to work with the Federal Motor Carrier Safety Administration (FMCSA) to restore the required SEA status and for communicating that evidence to SDDC. SDDC shall publish the Driver and Vehicle SEA of all carriers authorized to transport TPS shipments at least quarterly. No carrier with a Driver or Vehicle SEA score at or above 50 will be accepted for initial qualification to transport TPS shipments. [1]

“Carrier further agrees to comply with, and meet, all criteria for TPS as defined in the SDDC Freight Rules Publication No 1C (MFTRP No 1C) and reissues thereto. Any carrier found to be involved in the brokerage of shipments requiring TPS, as defined by the Department of Transportation (DOT), of DOD freight traffic will have its approval revoked.”

## **SUMMARY**

ATA recommends that SDDC should only consider using carriers with scores below the 50<sup>th</sup> percentile in the Driver and Vehicle SEAs since this constitutes “Good” performance according to DoT and comprises Performance Group 1. A score of 50 or higher indicates that more than 50% of the carrier population has a better safety performance in that area than that carrier. While not perfect, Driver and Vehicle SEA data are more accurate, complete and timely than other SEA data used in SafeStat. It is transparent and available for all motor carriers for which sufficient data has been collected. By adopting this new safety standard, SDDC would raise the standard on safety in keeping with other risk management measures that have already been taken.