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By the Commission.

William Cody,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 350

[Docket No. FMCSA-2022-0079]

State Inspection Programs for Passenger-Carrier Vehicles

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

ACTION: Request for comment on withdrawn advance notice of proposed rulemaking.

SUMMARY: On November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) was enacted, directing FMCSA to solicit additional comment on the Agency’s April 27, 2016 advance notice of proposed rulemaking (ANPRM) concerning the potential establishment of requirements for States to implement annual inspection programs for commercial motor vehicles (CMVs) designed or used to transport passengers (passenger-carrying CMVs).

DATES: Comments must be received on or before June 9, 2022.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2022-0079 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2022-0079/document>. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or

(202) 366-9826 before visiting Dockets Operations.

- *Fax:* (202) 493-2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments. **FOR FURTHER INFORMATION CONTACT:** Ms. Loretta Bitner, Chief, Passenger Carrier Safety Division, Office of Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 385-2428, Loretta.Bitner@dot.gov. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this request for comment (FMCSA-2022-0079), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2022-0079/document>, click on this request for comment, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act

(5 U.S.C. 552), CBI is exempt from public disclosure. If your comments contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the request for comment, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2022-0079/document> and choose the document to review. To view comments, click this request for comment, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

C. Privacy

DOT solicits comments from the public to better inform its regulatory process, in accordance with 5 U.S.C. 553(c). DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL 14—Federal Docket Management System), which can be reviewed at www.transportation.gov/privacy.

II. Background

On April 27, 2016, in accordance with section 32710 of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112-141, 126 Stat. 405, 815), FMCSA published in the **Federal Register**, an ANPRM titled “State Inspection Programs for Passenger-Carrier Vehicles” (Docket No. FMCSA-2014-0470, 81 FR 24769). The ANPRM

announced that FMCSA was considering a requirement that States establish a program for annual inspections of passenger-carrying CMVs. FMCSA requested information from all interested parties that would enable the Agency to assess the risks associated with improperly maintained or improperly inspected passenger-carrying CMVs. The ANPRM also sought public comments concerning the effectiveness of the current FMCSA annual inspection standards, and data on the potential costs and benefits of a Federal requirement for each State to implement a mandatory inspection program. FMCSA inquired about how the Agency might incentivize States to adopt such programs.

The comment period closed on June 27, 2016, and 22 comments were received, with a plurality (10 of 22) of commenters expressing general opposition to the mandatory State inspection requirement discussed in the ANPRM. After reviewing all the public comments, FMCSA determined there was not enough data and information available to support moving forward with a rulemaking action. As a result, on May 1, 2017, the Agency withdrew the ANPRM.¹ (82 FR 20311)

On November 15, 2021, the IJA was enacted, Public Law 117–58, 135 Stat. 429 (H.R. 3684, Nov. 15, 2021). Section 23008(a) directed the Agency, within 1 year after the date of enactment, to solicit additional comments on the ANPRM to determine if data and information exist to support moving forward with a rulemaking.

III. Request for Public Comment

As discussed above, FMCSA will use information gathered through this request for comment to further consider the issues associated with State inspections of passenger-carrying CMVs. Questions from the 2016 ANPRM are reprinted here to guide commenters in their responses.² The Agency encourages interested parties to provide information about the impact that such a rulemaking would have on State agencies that would be compelled to establish inspection programs, motor carriers' safety performance, operating costs, business practices, and any other aspects of transportation services

¹ The ANPRM and the ANPRM withdrawal are available in the docket for this request for comments.

² The questions reprinted here are identical to those in the ANPRM with the exception of two locations where the term "bus" is replaced with the more accurate term "passenger-carrying CMV" and removal of question 40, which the Agency now deems irrelevant.

provided by interstate passenger carriers.

FMCSA requests data on and responses to the following issues and questions. The Agency also encourages commenters to describe any applicable regulatory inspection process under which they operate.

Existing State Mandatory Vehicle Inspection Programs for Passenger-Carrying CMVs

1. Does your State or the States in which you register your passenger-carrying CMV conduct mandatory inspections of such vehicles? Please indicate the State(s) in which your passenger-carrying CMVs are registered.

2. What vehicle types are included in the mandatory passenger-carrying CMV inspection program (e.g., motorcoaches, school buses, mini-buses, 9- to 15-passenger vans, etc.) and which are not included?

3. If your State has a mandatory program, briefly describe your inspection procedures and indicate which vehicle components are inspected.

4. How many total inspections are performed by your State annually for each of the following types of vehicles?

- a. Motorcoaches
- b. School buses
- c. Mini-buses
- d. 9- to 15-passenger vans
- e. Other

5. What is the estimated time required to complete each vehicle inspection?

6. What procedures are used to record the vehicle inspection?

7. If a vehicle does not pass an inspection, who addresses the issues? If it is done by someone other than the inspecting entity, is there a second inspection after the issues are addressed? On average, how many follow up inspections does it take to pass a vehicle?

8. Are mandatory vehicle inspections performed by State employees, by third-party inspectors authorized by the State, or by passenger carrier employees through a State-authorized self-inspection program?

9. If vehicle inspections are conducted by a State-authorized third party or by passenger-carrier employees authorized by the State, are there differences in safety outcomes between those conducted by State employees and those conducted by third-party inspectors or through a passenger carrier's State-authorized self-inspection facilities?

10. Are there any specific benefits or concerns related to using third-party inspectors or by others?

11. If inspections are conducted by third-party inspectors or by passenger carrier-employed mechanics or technicians, what oversight is or should be required?

12. Should self-inspection or third-party inspections be options for compliance with a mandatory State inspection?

13. How does/would the cost of inspections differ between those conducted by State employees or by third-party inspectors?

14. What might be other preferable options?

Measuring Effectiveness of Inspection Programs

15. Does your State have information on violations discovered during inspections that are attributable to maintenance issues that should have been found during a required vehicle inspection?

16. Has your State considered implementing a mandatory passenger-carrying CMV inspection program, but declined to do so? If so, what are your State's reasons for not implementing a program?

17. If your State imposes mandatory inspection of passenger-carrying CMVs, how is the effectiveness of that program measured?

18. What are the most common vehicle defects discovered during these mandatory vehicle inspections? What safety conclusions do you draw from the results of these inspections?

19. Has your State or organization collected data related to crashes, injuries, or fatalities attributable to improperly maintained or inspected passenger-carrying CMVs? If so, please provide summary information or links to detailed data associated with these areas.

20. Has the occurrence of passenger-carrying CMV-involved crashes, injuries, or fatalities before and after the implementation of a mandatory inspection requirement been evaluated? If so, please provide summary information or links to detailed data associated with these areas.

21. After a State inspection requirement was instituted, what changes were observed over time in the number of safety violations discovered during inspections, if any.

22. Do programs that inspect only a sample of vehicles have significantly different outcomes than those where all vehicles are inspected, please provide examples of how they differ?

Inspection Facilities and Locations

23. Where does your State conduct mandatory passenger-carrying CMV

inspections (e.g., State owned/leased facility, third party facility, carrier's place of business, or other type of facility)?

24. Where should mandatory passenger-carrying CMV inspections be performed?

25. If mandatory passenger-carrying CMV inspections are conducted at the carrier's place of business, what accommodations must be made to ensure appropriate access (e.g., pits, lifts, etc.) to conduct full inspections of motorcoaches and other large passenger vehicles?

26. How does facility location or accessibility for mandatory inspections impact inspections or compliance?

27. What delays may the State experience in completing mandatory inspections (e.g. lack of sufficient number of inspection facilities)?

Costs

28. What is the cost per mandatory vehicle inspection to the carrier?

29. Do inspection fees differ based on the type of vehicle being inspected?

30. Do vehicle inspection fees differ based on location of the inspections?

31. How much does it cost the State to establish and run inspection programs on an annual basis?

32. If a vehicle does not pass an inspection, is there an additional cost for the second inspection?

33. If fees are collected by the State, does the State dedicate the revenue to the administration of the program?

Uniformity of Mandatory Vehicle Inspection Programs

34. What qualifications should be applicable to individuals authorized to perform mandatory passenger-carrying CMV inspections?

35. Should minimum training elements be required for passenger-carrying CMV inspections? If so, how much training should be required and who should administer the training?

36. What should be the minimum vehicle components inspected under a mandatory passenger-carrying vehicle CMV inspection program?

37. How does the existence of different vehicle inspection requirements among the States affect carrier business practices?

38. How might business practices change under a uniform mandatory passenger-carrying vehicle CMV inspection program?

Current Federal Standards

39. How effective are existing Federal standards for the inspection of passenger-carrying CMVs in (1) mitigating the risks associated with improperly maintained vehicles and (2) ensuring the safe and proper operating condition of the vehicles?

Federal Authority

41. How should FMCSA incentivize the States to establish mandatory passenger-carrying CMV inspection programs?

Robin Hutcheson,

Deputy Administrator.

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