



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**49 CFR Parts 350**

**[Docket No. FMCSA-2014-0470]**

**RIN 2126-AB84**

**State Inspection Programs for Passenger-Carrier Vehicles; Withdrawal**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Advance notice of proposed rulemaking; withdrawal.

**SUMMARY:** FMCSA withdraws its April 27, 2016, advance notice of proposed rulemaking (ANPRM) concerning the establishment of requirements for States to implement annual inspection programs for commercial motor vehicles (CMVs) designed or used to transport passengers (passenger-carrying CMVs). FMCSA sought information from all interested parties that would enable the Agency to assess the risks associated with improperly maintained or 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. After reviewing all the public comments, and in consideration of the comments provided by individuals attending the three public listening sessions held in 2015, FMCSA has determined there is not enough data and information available to support moving forward with a rulemaking action.

**DATES:** The ANPRM “State Inspection Programs for Passenger-Carrier Vehicles,”

published on April 27, 2016 (81 FR 24769), is withdrawn as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Loretta Bitner, Chief, Commercial Passenger Carrier Safety Division at 202-385-2428, or via email at Loretta.Bitner@dot.gov, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 0001. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**Background/Topics Addressed During the Comment Period**

In accordance with § 32710 of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) (Pub. L. 112-141, 126 Stat. 405, 815), FMCSA published an ANPRM in the Federal Register on April 27, 2016 (81 FR 24769). The Agency sought information from industry and other stakeholders on the maintenance and inspection of passenger-carrying CMVs that would help FMCSA decide whether to propose a rule that mandates States to impose an annual inspection process.

FMCSA requested information from commercial passenger carriers and other stakeholders in order to consider proposing a rule that would require the States to establish annual inspection programs for passenger-carrying CMVs. The requested information was necessary to assist FMCSA in quantifying the economic benefits and costs of potentially moving forward with establishing an inspection program and in assessing risks associated with improperly maintained or inspected passenger-carrying CMVs. The ANPRM also was intended to provide information on the effectiveness of

existing Federal inspection requirements in mitigating risks and ensuring safe and proper operations.<sup>1</sup> In the effort to gather relevant data, FMCSA posed a series of questions addressing the following matters:

- Existing State Mandatory Vehicle Inspection Programs for Passenger-Carrying CMVs.
- Measuring Effectiveness of Inspection Programs.
- Inspection Facilities and Locations.
- Costs.
- Uniformity of Mandatory Vehicle Inspections Programs.
- Current Federal Standards.
- Federal Authority.

### **Discussion of Comments**

The Agency received 22 public comments, with 10 commenters expressing general opposition to the mandatory State inspection requirement discussed in the ANPRM. Seven commenters supported the establishment of such a requirement; four commenters neither supported nor opposed a possible requirement, and one commenter's issue was out-of-scope. Many commenters indicated that the existing standards for annual inspections prescribed in the Federal Motor Carrier Safety Regulations (FMCSRs) or their own programs were sufficient. Commenters also indicated that current standards are effective at mitigating risk when properly enforced. Several commenters made their support contingent on factors such as uniformity in inspection standards, standardization

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<sup>1</sup> Subsequent to publication of the ANPRM, FMCSA issued a rule that eliminated the option of relying on roadside inspections as satisfying the periodic inspection requirement. See 81 FR 47722 (July 22, 2016).

of inspector training, a self-inspection option, and required reciprocity, whereby States would be required to recognize inspections conducted outside their States.

Several commenters, including State agencies in Michigan, Pennsylvania, and Texas, addressed questions aimed at measuring the effectiveness of inspection programs. However, none of these commenters was able to determine whether the establishment of an inspection program reduced the number of safety violations detected. Michigan's Department of Motor Vehicles indicated it improved its inspection process by educating carriers on the required State inspection criteria in 2013; it has since observed a 10% increase in vehicles passing their initial safety inspection.

Few commenters addressed how FMCSA might incentivize the States to establish mandatory inspection programs. The South Carolina Transport Police noted that a mandate would be a strain on its resources. The Michigan Department of Transportation noted that a program should be subsidized with Federal funding. A representative from Pennsylvania suggested providing additional Federal highway funding to those States with well-defined programs.

### **FMCSA Decision**

FMCSA withdraws the April 2016 ANPRM because the Agency is not aware of data or information that supports the development of a notice of proposed rulemaking to require the States to establish mandatory annual inspection programs for passenger-carrying vehicles.

The Agency held a series public listening sessions<sup>2</sup> concerning this subject prior

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<sup>2</sup> The listening sessions were conducted at the American Bus Association Marketplace in St. Louis, Missouri on January 13, 2015, a United Motor Coach Association meeting in New

to publication of the ANPRM. Those sessions provided interested parties with the opportunity to share their views on the merits of requiring State inspections of passenger CMVs. Transcripts of the sessions are available in the public docket noted above. Stakeholders' remarks and comments proved valuable in developing the questions posed in the ANPRM, but the information they provided was not sufficient to support moving beyond the ANPRM. The Agency received a broad range of comments identifying issues FMCSA would need to consider in a rulemaking, such as the costs of mandatory inspection programs, the value of a nation-wide uniform inspection standard, and the need for national training of inspectors to eliminate inconsistencies in how inspection standards are applied. Both industry and the enforcement community expressed concerns about the cost of an inspection program. Stakeholders' estimates of costs for program administration and individual inspections varied significantly.

The Agency does not foresee the availability of Federal funding to incentivize the States to adopt such programs under its existing grant programs.

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Daphne Y. Jefferson,  
Deputy Administrator

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Orleans, Louisiana on January 18, 2015, and a Commercial Vehicle Safety Alliance workshop in Jacksonville, Florida on April 14, 2015.

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