

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

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May 2, 2002

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OFFICE OF TRANSPORTATION

File No.: 060.010197.2002-0679b

Docket Management Facility
U. S. Department of Transportation, Room PL-401
400 Seventh Street, SW
Washington, DC 20590-0001

Re: Docket No. FMCSA-2001-11060 - 32

The California Highway Patrol's (CHP) primary focus in evaluating this Notice of Proposed Rulemaking (NPRM) is to determine if it would be likely to improve the safety performance of motor carriers operating on California's highways. The CHP has primary jurisdiction over enforcement of motor carrier safety issues in the State of California and, therefore, has concerns with carriers entering the state from foreign jurisdictions and the potential negative impact on highway safety, without appropriate oversight.

The specific intent of this NPRM is to adopt or amend existing Federal Motor Carrier Safety Regulations (FMCSR) by designating current safety fitness regulations and adding Certification of Safety Auditors, Safety Investigations, and Safety Inspections regulations. The CHP provides the following comments concerning the proposed amendment:

Some concerns do exist with the language contained in the NPRM's background portion and proposed amendment to Section 211 of Motor Carrier Safety Improvement Act of 1999 (MCSIA). This area required the Secretary of Transportation to complete a rulemaking to improve training and provide for the certification of motor carrier safety auditors to conduct safety inspection audits and reviews. The CHP supports this premise and currently has this training program in place. However, we are concerned the language contained in the NPRM infers the Secretary of Transportation would be the only person designated to provide this specific type of training. There is no mention of states being able to continue using their existing training programs nor any allowance for the unique geographical and jurisdictional concerns of individual states.

This NPRM gives the Secretary of Transportation oversight responsibility for the motor carrier safety auditors and investigators he certifies, including the authority to decertify them, as enacted by Section 211(a), Title 49, United States Code, Section 31148(b) and (c).



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The CHP has concerns with the language and believes each state should have the responsibility for oversight concerning the certification and de-certification of any motor carrier safety auditor or investigator employed within their agencies.

The NPRM also seeks comments on the advisability of certifying non-governmental employees (third-party inspectors) who meet all training and experience criteria to conduct safety reviews. The CHP has concerns regarding this issue. The CHP feels using third-party non-governmental employees (private industry) for the purpose of conducting safety reviews has the potential of creating inconsistencies within the review process due to a lack of continual or proper training. The inconsistencies would affect the safety review process and create a negative impact on highway safety throughout all states.

Thank you for the opportunity to provide comments on these matters. Should you desire further information regarding this matter, please do not hesitate to contact me, or Captain Andrew Jones of our Commercial Vehicle Section at (916) 445-1865.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. H. Perez', written over the word 'Sincerely,'.

S. H. PEREZ, Chief
Enforcement Services Division