
National Safety Code Review:

Improving Commercial Vehicle Safety in BC

April 2013

*Review of the British Columbia National Safety Code Program and
actions for improvement*

Acknowledgements

The Ministry of Transportation and Infrastructure would like to thank the following members of the trucking industry for their contribution and expertise in recommending improvements to the National Safety Code Program in BC.

Mary Anne Arcand, Executive Director, Central Interior Logging Association

Rick Bandstra, Owner, Bandstra Transportation Systems

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Kevin Johnson, Director, Corporate Governance, Coastal Pacific Xpress Ltd.

Paul Landry, Former President and CEO, British Columbia Trucking Association

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Executive Summary

In June 2010, the ministry created a joint industry – government task force to review BC’s National Safety Code (NSC) program based on a request by the BC Trucking Association. The primary objective of this review would be to improve the effectiveness of the NSC program as a tool to monitor and rate carriers and to improve the overall safety of the trucking industry.

The task force met six times in 2011. Discussions were focused in four key areas: Education and Enforcement, Trucking Company Safety Profiles, NSC Applications and NSC Facility Audits. A significant amount of research was completed and presented, which was used to support discussions with the Task Force regarding all aspects of the NSC. Experiences, lessons learned and existing best practices of other Canadian jurisdictions and countries were explored in an effort to apply an evidence-informed lens to the review.

The key elements of the review focused on ensuring carriers know and abide by their NSC responsibilities, enforcement is predictable and fair, the audit process is focused on factors known to impact crash risk, the penalty point and risk band groupings ensure a fair comparison between carriers, and egregiously unsafe carriers expeditiously lose their NSC certificate.

Recommendations were developed as follows:

Education and Enforcement

1. Enforcement consistency and appeal

Examine hiring processes to ensure appropriate competencies for enforcement staff and review and update training programs to ensure focus on administrative fairness, customer service and understanding of industry perspectives. Any updated training would be mandatory for both new and existing employees.

Formalize and communicate dispute resolution mechanisms for complaints from industry about CVSE enforcement actions.

2. Safety Focused Enforcement

Increase the number of Focused Inspections Team (FIT) campaigns. Use the results of previous campaigns, enforcement results and vehicle crash causation factors to inform subsequent FIT programs.

Identify safe and compliant carriers so enforcement resources can be focussed on carriers whose safety risk is high or unknown; link safe and compliant carriers with reward programs (e.g., Premium Carrier and Weigh2GoBC programs).

Trucking Company Safety Profiles

3. NSC Carrier Profiles and other Safety Performance Indicators

Undertake a detailed review of the Carrier Safety Rating program, including the penalty point system, risk band groupings and thresholds at which interventions are conducted.

Once the review is complete and the Task Force and CVSE is satisfied that the Carrier Safety Rating program accurately depicts the safety performance of carriers, offer public access to limited carrier information.

NSC Applications

4. Assessment of Applications

Improve the current application evaluation process to more adequately screen applicants for a NSC Safety Certificate.

Develop a rigorous examination on NSC requirements to be administered to all NSC applicants.

5. Switching of NSC Certificates

Investigate the extent to which unsafe carriers may be switching fleets to dormant and unblemished NSC certificates or requiring individual owner-operators in their fleet to acquire and use their own NSC certificates.

NSC Facility Audits

6. Audits and Safety Risks

Review the audit system to ensure that the audit instrument conducts a risk-based assessment of the elements known to cause or contribute to commercial motor vehicle crashes and improved road safety and include a rating of “excellent” to recognize exceptionally safe carriers.

7. Random Audits

Establish a program of random audits and compliance reviews to increase the proportion of industry that is exposed to CVSE assessment and to maintain the integrity of the audit system.

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Objective

The primary objective of this review is to improve the effectiveness of the Province's National Safety Code (NSC) program as a tool to monitor, rate carriers and to improve the overall safety of the trucking industry.

A collaborative approach is fundamental to achieving effective changes to the NSC program. By working together with industry, an improved NSC program will respect commercial carriers' needs for efficient business practices and a level playing field while also achieving the province's need for effective and efficient enforcement practices. The end result will benefit all road users by improving road safety.

Background

The NSC program is guided by a set of national standards established in 1987 by the Canadian Council of Motor Transportation Administrators (CCMTA) and is supported by provincial regulations for motor carriers, drivers and vehicles operating in Canada. The NSC program ensures a base level of safety for all carriers across Canada. It establishes standards for safety ratings, facility audits, driver and carrier profile systems, trip inspection reports, driver hours of service, commercial vehicle maintenance and inspections, and load security. BC along with the other Canadian provinces have each adopted the NSC standards and used them to develop their own regulations. Each Canadian province has the authority and responsibility to regulate all commercial motor vehicle carriers operating within their respective borders.

In BC, Division 37 of the *Motor Vehicle Act Regulations (MVAR)* comprises the Safety Code; it prescribes the legal requirement to obtain a safety certificate in order to operate a commercial motor vehicle in the province. It sets out constraints on the rights of a carrier that is issued a certificate, grants powers to the Director of the Commercial Vehicle Safety Enforcement (CVSE) branch, and allocates the respective responsibilities of the carrier. Since its introduction, NSC standards have evolved and the policies in place to support the standards have developed accordingly.

The ministry is responsible for developing and maintaining fair and reasonable standards, monitoring and enforcing those standards, and keeping industry informed and updated on any changes. Industry's responsibility is to know and understand NSC requirements and to safely manage their fleet.

Safety is a top priority for the industry and the ministry. Trucking safety in BC has been improving over the last 10 years. While the volume of commercial traffic has increased by 20%, the number of serious crashes on BC highways involving heavy vehicles has decreased by 30%. Nonetheless, heavy commercial vehicles are involved in approximately 1,100 injury crashes in BC each year and it is our mutual obligation to do what we can to reduce this number.

In 2010, the ministry agreed to undertake a review and update of the NSC program with a focus on industry wide carrier safety at the request of the British Columbia Trucking Association (BCTA). BCTA identified specific areas of concern, including:

- 1) Inconsistent enforcement - operators were being subject to different enforcement actions and/or requirements in different areas of the province
- 2) Enforcement focused on easy to identify items rather than safety related items
- 3) Carrier profiles did not align with other safety performance indicators such as ICBC discount levels
- 4) Point thresholds before action was taken were high and there may have been errors in calculating provincial medians
- 5) The point system may not be appropriate
- 6) The standards for larger carriers are higher than those for smaller carriers
- 7) The assessment process for new NSC applications is not adequate and it is too easy to switch to dormant NSC certificates
- 8) Audits don't adequately assess safety risk and there are too few random audits

The Task Force agreed that its discussions would be governed by the following principles:

- National Safety Code standards and processes are designed, implemented and managed to ensure that, from a safety perspective, only knowledgeable and responsible carriers are permitted to enter and remain in the trucking industry.
- Government is responsible for developing and maintaining fair and reasonable NSC standards and keeping industry informed and up-to-date. It is industry's responsibility to develop and maintain a sound knowledge of and acceptable justification for non-compliance.
- Enforcement of the NSC standards should be premised on a level playing field amongst carriers regardless of domicile, fleet size or industrial sector.
- The cost and consequences of non-compliance with the NSC should be greater than the cost of investing in safe practices, drivers and equipment.
- Potential economic and financial consequences associated with NSC penalties and cancellations should not be mitigation factors in NSC disciplinary processes. Carriers and shippers who, by commission or omission, make poor choices regarding matters of public safety should live with these consequences.
- Reasonable but firm expectations imposed on new NSC entrants at the application stage should relieve the burden on the downstream monitoring, enforcement and disciplinary stages.

In addition to these governing philosophical principles, the Task Force was guided by the following practical principles in deriving and considering recommendations:

- Task Force members agreed that every effort would be made to reach consensus on all recommendations.
- Although efforts were made to ensure that all recommendations were pragmatic, given the timeframe, the Task Force was unable to thoroughly assess considerations for acceptance and implementation of all the recommendations. The Task Force expected that government would undertake thorough analysis of the feasibility of each of these recommendations and would develop and implementation strategy and timeline.
- All recommendations were crafted to provide a principles-based framework for change, and to avoid prescribing specific program or policy characteristics. This was intentionally done to enable government to act on the input of industry stakeholders while having the flexibility to enact these recommendations in the manner it determines to be the most efficient and effective use of its resources.
- While the focus of the discussions, and therefore the recommendations, was the NSC program itself, industry recognized that there is ample room for its own contribution to improved safety practices and measures, and expected that some of the responsibility of implementation would be shared between government and industry.
- The Task Force recognized that some of the recommendations may involve additional cost to the Ministry of Transportation and Infrastructure generally and to the Commercial Vehicle Safety and Enforcement Branch specifically. While the Task Force is not prescriptive on how these financial challenges could be addressed, the Task Force believes industry could be convinced of the benefit of introducing fee-for-service and/or other similar cost-recovery mechanisms. These types of options would obviously be difficult to implement due to the current financial structure of the provincial government in which government revenue is not generally dedicated to specific business streams or departments.
- The Task Force attempted to limit its recommendations, wherever possible, to actions that would not involve legislative amendments.

Approach

CVSE and industry met six times in 2011 and focused discussions on several areas of the NSC and its application. Discussions were structured around four key program review areas:

- *Education and Enforcement*
 - To address issues around provincial consistency and the safety focus for enforcement.

- *Trucking Company Safety Profiles*
 - To consider the penalty point system, risk band grouping of carriers and thresholds for intervention.
- *NSC Applications*
 - To review the application process with a focus on ensuring new carriers are aware of their safety responsibilities.
- *NSC Facility Audits*
 - With a focus on safety risk factors.

The following key questions guided the research, analysis, and discussion of these review areas:

- What improvements can be made to the NSC application process to ensure carriers know the NSC requirements and their responsibilities when operating in BC?
- What improvements can be made to the NSC program to ensure that enforcement is predictable and fair across the industry?
- What improvements can be made to the facility audit process to ensure it contributes to increased safety?
- How should carriers be grouped to ensure fair and accurate comparisons between NSC certificate holders that have the same risk profile? What behaviours should be considered when they are compared and at what point and what type of interventions should take place?

A significant amount of research was completed and presented which was used to support discussions with industry regarding all aspects of NSC. Experiences, lessons learned and existing best practices of other Canadian jurisdictions and countries were explored in an effort to apply an evidence-informed lens to the review.

CVSE representatives and researchers from the Office of the Chief Information Officer's Knowledge and Information Services developed research and background materials, which were used to support discussion and inform recommendations.

The project steering committee reviewed the materials provided and consulted with subject matter experts in order to develop a set of proposed recommendations for review and consideration by the Task Force. The Task Force received and was subsequently briefed on the background materials, attended subject matter expert presentations, and discussed the proposed recommendations. All members were free to table further recommendations for discussion.

Ministry staff have already begun work on implementing many of the recommendations. As a consequence, this report contains both recommendations emanating from the Task Force, as well as ministry interpretation and action related to each of the recommendations.

Recommendations

The following discussion represents the recommendations of the National Safety Code Review Task Force. These recommendations and corresponding actions as well as action outcomes are designed with the intent of leading to measurable and significant positive effects on truck safety in BC. They are intended to be principles-based and to provide a framework for change, therefore are not presented in any ranked or prioritized order.

Education and Enforcement

Industry members of the task force raised a concern about unfair enforcement across the province. Industry has identified situations where, depending on the area of the province, there are different requirements for the same operation. In addition, enforcement can focus on infractions that are easy to identify rather than safety related items.

Predictable, fair and reasonable enforcement practises are the key to a balanced and effective NSC program.

CVSE representatives noted that retirements and turnover in staff has created an influx of new officers. With this influx, concerns have been raised by industry that the interpretation and application of the NSC requirements and the enforcement of regulations is inconsistent across the province. New officers undergo training in investigative and enforcement certificate courses. CVSE inspectors receive ongoing training and refresher courses throughout their employment with the ministry.

Since its implementation in 1999, the ministry's Focused Inspection Team (FIT) program, which focuses on concerns identified in industry, has more than doubled the number of interactions between CVSE staff and industry.

1. Enforcement Consistency and Appeals

Enforcement officers are responsible for determining when an infraction has occurred and for assigning the best course of action, which may include education, administrative penalties, or fines. New inspectors are required to participate in a one-year training program which involves hundreds of hours of training, both in-house and at the Justice Institute.

In recent years, there has been a significant turn over in enforcement officers. With an influx of new officers, comes a stronger focus on technical assessment with less reliance on judgement, which has historically developed over time. The ministry strongly supports the exercise of best practices and sound judgement over a black and white approach to enforcement. As such, additional emphasis should be placed on administrative fairness, customer service and understanding industry perspectives.

The ministry strives for enforcement predictability, fairness and reasonableness regardless of location, fleet size or industrial sector. A CVSE Standards and Best Practices Manual was developed in 2009 to provide direction and to ensure consistency. New officers are trained in these best practices; however, existing inspectors have not received updated training.

Finally, it is important that a mechanism be put in place that allows industry to request a second look at any administrative action. For Violation Tickets, carriers and individual truckers can appeal to the courts to review the facts and, if appropriate, reverse a ticket. This avenue is not available for administrative actions such as notice and orders or out of service actions.

Recommendations:

- Examine hiring criteria and CVSE training processes for enforcement officers to ensure focus on the appropriate competencies, including understanding a broader scope of the issues faced by industry.
- Ensure that CVSE interactions with industry are both predictable and reasonably applied across the province.
- Formalize and communicate dispute resolution mechanisms for complaints from industry around CVSE administrative enforcement actions.

CVSE Action Plan:

1. Hire a Compliance and Education program manager to ensure field consistency and professionalism.
2. Update the Standards and Best Practices Manual for enforcement by Summer 2013 to include industry relationship building.
3. Develop an appeal process for industry to dispute Out of Service Notifications and Notice and Orders by Summer 2013.
4. Assessed and updated all inspector training courses by Winter 2012 with an emphasis on enforcement training to include administrative fairness, industry perspectives and relationship building. All new inspectors will receive required training when hired. As well, existing inspectors will receive specific training on the updated courses by Fall 2013.
5. Issue technical circulars to staff and industry advising of any changes in enforcement.

2. Safety Focused Enforcement and Education

Safety is the top priority for the ministry. The task force strongly believes the trucking industry, carriers and individual truckers want to be safe and operate safely. As such, it is important to ensure that enforcement is based on safety risks, particularly those known to be crash risk factors, and that attention and resources are placed on safety related infractions rather than on those that are easy to identify.

Emphasis on enforcement, and in particular the FIT campaigns, should focus on known crash causal factors. The FIT campaigns should also contain a significant educational component to help individual truckers understand the safety rationale behind enforcement actions.

Recommendations:

- Evaluate commercial vehicle crash causation factors in BC and develop a plan to address and target identified causes.
- Seek industry input and consultation on enforcement concerns with a goal of partnering with industry to address priorities and communicate CVSE challenges.
- Identify the safest carriers so enforcement resources can be focused on carriers who safety risk is high or unknown; link safe carriers with reward programs.
- Partner with organizations that have a shared interest in carrier safety and leverage these relationships to encourage and reward carrier compliance and safety.
- On an ongoing basis, ensure appropriate enforcement locations are identified and there is adequate resources of these key locations.

CVSE Action Plan

1. Increase the number of enforcement campaigns focused on driver behaviour and moving violations.
2. Review results of the FIT campaigns, enforcement results and crash causations annually in April and use these findings to inform FIT focus for the upcoming year.
3. Communicate findings of the annual review to industry annually in May.
4. Review the Premium Carrier program and expand to include all carriers, regardless of the fleet size by Winter 2013.
5. Increase the number of registered transponders for Weigh2GoBC by 50% by Winter 2013.
6. Consider formal/informal partnerships that leverage CVSE resources/programs for greater outreach or impact.

Trucking Company Safety Profiles

A trucking company's carrier profile is a record of its on-road safety performance and audits (if conducted). NSC points are assigned to carriers based on established Canadian Council of Motor Transport Administrators (CCMTA) standards. Points are assigned for violation tickets, police reported crashes and out of service roadside inspections (CVSA).

For NSC, carriers are grouped based on the average number of vehicles in their fleet. A score is calculated monthly for each carrier based on how many violation tickets, collisions, and unfavourable CVSA inspections they've received over the previous 12 months

Companies are put into one of seven risk bands based on fleet size. A provincial "median" is calculated based on the number of points assigned to companies within each band and intervention thresholds are established. (Companies with 0 points are excluded from this calculation.) Actions include issuance of an NSC warning letter, requirement to submit a self-assessment of their safety plan or requirement to submit to a facility audit.

The penalty point system, risk bands, and carrier profiles have not been reviewed since 2004.

BCTA raised concerns that: the profiles are at odds with other safety performance indicators; the point levels at which enforcement actions are taken are too high; there may be a systemic problem with the calculation of provincial medians; the point system does not recognize the variable risk associated with the type of infraction; and that the system imposes a higher standard on larger carriers.

3. NSC Carrier Profiles and other Safety Performance Indicators

Industry expressed concern that the penalty point system, risk band groupings and calculation of provincial medians may not lead to an accurate assessment of a carrier's safety performance. Other provinces use different methods to calculate and weigh safety performance and have lower thresholds for interventions. These other methods may better align with safety performance and are worth investigating.

It is important that CVSE's resources be focused on those carriers with the highest safety risk. As such, a review and reassessment of the BC process would be appropriate.

Recommendations:

- Review the Carrier Safety Rating program. Ensure penalty points are based on safety risks or crash causation factors.
- As and when CVSE and the Task Force are satisfied the NSC rating system fairly and accurately assesses the safety record of carriers, offer public access to limited carrier information.

CVSE Action Plan

1. A transportation economist was hired to review the intervention thresholds and make a recommendation for a more effective point structure.
2. The review was completed in late 2012 and changes are to be implemented by Fall 2013.

NSC Applications

Under the current system, NSC safety certificate applicants must provide the ministry with information on their:

- Legal name, such as legal organization, incorporation number, or individual's legal name;
- Director/officer, which includes the names, driver license number, birthdates, and all other associated carriers that they are the Director/officer of;
- Contact information, which includes business mailing and records address, email address and phone number;
- Drivers, which includes a list of drivers, driver license numbers, dates of birth, and driver abstracts for out of province drivers;
- Service types, which includes service locations and types of services;
- Vehicle inventory, which includes the number of and types of vehicles, licensed gross vehicle weight, vehicle registration and VIN number;
- Safety profiles, which requires the applicant to answer questions in regards to hiring policy, driver's policy, Hours of Service policy, vehicle maintenance policy, dangerous goods policy, and to identify the person responsible for each area;
- Overall responsibility, which includes the name of the person that has overall responsibility for the carrier's operation and NSC obligations; and
- Completed declarations, which includes a declaration that the applicant, including the director/officer, has never had an unsatisfactory safety certificate, that the information provided in the application is true and accurate, and that the applicant is knowledgeable of the NSC requirements.

The ministry confirms or assesses each of the above categories of information through a variety of authorized background checks.

Applicants may be tested on their knowledge of the NSC requirements and/or to provide safety plans. Knowledge tests are administered if there are indications that the applicant is not knowledgeable of their NSC obligations or if there is a suspicion that the applicant is associated with an unsafe carrier. Safety plans are required for applicants that have more than 5 vehicles, large buses or if there is an indication that the applicant is lacking knowledge of the requirements.

The ministry may approve an application with conditions, such as a satisfactory audit within a specific time period, or limit the number of vehicles permitted to operate under the safety certificate.

BCTA expressed concern that: the NSC application process does not adequately assess a carrier's understanding of their safety obligations; and it is too easy to switch from one NSC certificate to another to avoid sanctions.

4. Assessment of NSC Applications

Prior to the convening of the Task Force, the NSC application process did not always include a detailed assessment of the applicants' knowledge of the NSC requirements or of the processes they had in place to manage their drivers and vehicles.

The application process is the appropriate point to establish the importance and relevance of the NSC system. Reasonable but firm expectations imposed on new NSC entrants at the application stage should relieve the burden on the downstream monitoring, enforcement and disciplinary stages.

Recommendations:

- Develop a robust application standard and evaluation process to review applicants for a NSC certificate.
- Develop a rigorous examination to be administered at the time of application for an NSC certificate.
- Audit companies granted a new NSC certificate, as appropriate, to verify the validity of the information included in their application, including the safety plan.

CVSE Action Plan

As of April 2012, changes were made and the application process is now one of the most comprehensive in Canada. Changes included:

1. Implementation of knowledge tests for industry specific operations (e.g. logging trucks, oil and gas service vehicles).
2. Increased the number of applicants required to take the knowledge test by 50 % by Winter 2013.
3. Increased the conditions in place on a certificate such as number and size of vehicles of a carrier's fleet.
4. Increased the number of verification audits from by 25% by Fall 2014 to determine if information provided in the application is accurate.
5. Require at least fifty percent of the applications with vehicles that have a gross vehicle weight (GVW) over 11,794 kg to write a knowledge test by Winter 2013.

6. Review the effectiveness of these knowledge tests on carrier safety by Winter 2014.
7. Issue conditional safety certificates to applicants that list only vehicles with a GVW less than 11,794 kg

5. Switching of NSC Certificates

NSC certificates currently do not have an expiry date and can remain inactive for years, potentially allowing carriers that are under investigation to move their operation to a dormant and unblemished NSC safety certificate.

Recommendations:

- Investigate the extent to which carriers are currently evading the consequences of poor safety management through operating without an NSC certificate, switching NSC certificates and/or shifting the full burden of compliance on to individual owner operators in their fleet by requiring them to acquire and use their own NSC certificate.
- Require all NSC certificate holders to periodically review and update as required all information provided in their NSC application.

CVSE Action Plan

1. Cancel 48,000 inactive safety certificates.
2. Monitor safety certificates and cancel those which have had no vehicles insured under the NSC number for more than 12 months.
3. Add a renewal clause to safety certificates by Winter 2014.

NSC Facility Audits

Facility audits conducted by CVSE are a quantifiable measurement of the carrier's safety practices and compliance with the NSC regulations. All carriers are measured against the same standards. In most cases, a carrier that fails the first audit will receive a follow-up audit. There are five types of audits: triggered audits (NSC points on the carrier profile), requested audits, follow-up audits, verification audits and random audits.

There are four components of the facility audit: driver qualifications, hours of service, vehicle safety and safety practices. Facility audits can take from 1 day to 3 weeks depending on the fleet size and number of drivers. CVSE completes approximately 500 facility audits per year.

Industry members of the task force expressed concern that: audits do not adequately assess safety risks and focus on paperwork; and there are too few random audits.

6. Audits and Safety Risks

The ministry wants to ensure that the NSC facility audits focus on safety risks rather than administrative record-keeping. Although appropriate record keeping and maintenance have an indirect link to safety practices of the trucking industry, carrier compliance with good record keeping is better gained through education rather than enforcement.

The purpose of the NSC Facility Audit is to monitor carriers for compliance with the NSC regulations. The audit is quantifiable and serves as a means of evaluating a carrier's safety/compliance performance.

Recommendations:

- Evaluate the audit process to ensure that its initial assessment is based on known factors that contribute to vehicle crashes.
- Ensure that carriers that have poor audit results are required to meet conditions to improve their safety record.
- Review scoring and ratings for audits. Also consider adding the category of "Excellent" to recognize exceptional carriers.
- Streamline the show-cause process to make it more efficient and significant.
- Investigate current penalty system and consider more significant penalties for audit failures.

CVSE Action Plan

1. Review audit program by Spring 2013.
2. Review the scoring and ratings for audits and implement a rating of 'Excellent' to the audit process by Spring 2014.

7. Random Audits

Most audits are conducted due to excessive NSC points on the carrier profile, follow-up audits when the carrier has failed the first audit, and audits due to an incident such as a motor vehicle crash.

Random audits are necessary to calibrate the audit instrument as well as to establish a benchmark for the industry as a whole.

Recommendations:

- Establish a minimum number or percentage of random audits or compliance reviews to increase the proportion of industry exposed to CVSE assessment and to maintain the integrity of the audit system.

CVSE Action Plan

Facility audits can take from 1 day to 3 weeks depending on the fleet size and number of drivers. In contrast conducting a compliance review provides a smaller sampling of the carrier records and can take ½ to 1 day. Education is a key component of the compliance review and enables CVSE inspectors to review the operations of more carriers. Greater CVSE inspector interaction with a greater volume of carriers can only promote voluntary compliance knowing that your specific records and operations may be reviewed by CVSE.

1. Implement a program of compliance reviews by Winter 2012.
2. Complete 100 compliance reviews by Winter 2013.
3. Evaluate effectiveness of compliance reviews and adjust the process as necessary.

Areas for Further Investigation

The ministry is also exploring options of NSC computer system enhancements to better administer, inform and educate industry of their responsibilities and the need for a positive safety record as a whole within BC. In particular, the ministry recognizes the need to ensure that carriers have the opportunity to access accurate and timely data, including data held by other agencies and provinces, to support carriers' ability to proactively manage their NSC responsibilities. The ministry strongly endorses the future and ongoing use of program evaluation in determining the efficiency of the NSC program in meeting its stated objectives and will be meeting with industry on a regular basis to provide updates and seek input.