

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5, ARTICLE 3,
AMEND SECTION 1213

ELECTRONIC LOGGING DEVICES (CHP-R-2017-11)

PROBLEM

The Federal Motor Carrier Safety Administration is requiring interstate motor carriers and drivers who are currently required to maintain records of duty status (RODS) and record them manually per Title 49 of the Code of Federal Regulations (CFR), Part 395, Section 395.8(a), utilize Electronic Logging Devices (ELDs) to record RODS beginning December 18, 2017. After December 18, 2017, unless otherwise provided, RODS recorded manually will no longer be acceptable for drivers engaged in interstate operations. Current state regulations do not require the use of ELDs as a method for recording a driver's RODS; therefore, beginning December 18, 2017, they were no longer compatible with federal regulations. Authorized personnel inspecting interstate motor carriers and driver RODS for compliance within California are no longer able to effectively enforce federal regulations regarding RODS applicable to those carriers and drivers. Compliance with drivers' hours-of-service (HOS) limits and RODS is a matter of public safety on California highways and is intended to create a safer work environment for drivers, and make it easier and faster to accurately track, manage, and share RODS data. With approximately 5,567,583 registered motor trucks in California, the potential for collisions is extremely high. Fatigued driving is a proven danger on the road leading to hundreds of traffic collisions and deaths each year. Assurance of compliance with HOS limits, documented as required, will help prevent fatigued drivers from operating commercial vehicles and reduce catastrophic traffic collisions. Additionally, current federal regulation contained in Title 49 CFR require states to remain compatible with federal regulations¹. Therefore, current state regulations contained in Title 13 of the California Code of Regulations (CCR), Section 1213, are incompatible for federal funding purposes. An amendment is needed to create consistency between state and federal regulations.

PURPOSE AND NECESSITY OF REGULATIONS

Section 2400 of the California Vehicle Code (CVC) authorizes the Commissioner of the California Highway Patrol (CHP) to enforce laws regulating the safe operation of motor vehicles. Section 2402 CVC authorizes the Commissioner to make and enforce regulations as necessary to carry out the duties of the CHP. Sections 34501 and 34501.2 CVC allow the CHP to adopt reasonable rules and regulations which are designed to promote the safe operation of vehicles described in Section 34500 CVC, commonly referred to as "regulated" vehicles (trucks, truck-

¹ Section 355.25 of Title 49, CFR

trailer combinations, buses, etc.). The adopted regulations are contained in Title 13, CCR. In order for the CHP to fulfill the mandate established in Section 34501(a) CVC and be in compliance with federal law, the CHP must align RODS requirements with Title 49 CFR, Part 395. This rulemaking action will align state regulations which currently conflict with updated federal regulations in Title 49 CFR. It also serves to clarify that carriers and drivers engaged in interstate operations shall comply with RODS requirements contained in Title 49 CFR, Part 395, as those regulations exist in the October 1, 2017 edition.

SECTION BY SECTION OVERVIEW

Title 13 CCR, Division 2, Chapter 6.5, Motor Carrier Safety Regulations.

Article 3. General Driving Requirements.

Section 1213. Driver's Record of Duty Status.

Subsection (a) is amended to differentiate RODS requirements carriers must place on their drivers based on whether they are intrastate drivers or interstate drivers as defined in Title 13 CCR, Section 1201. Current regulations do not require motor carriers that use interstate drivers to record RODS in accordance with federal regulations applicable to them. This amendment will serve to clarify for motor carriers and drivers which regulations are applicable to them based upon the nature of their movement, whether interstate or intrastate. Additionally, this will give state law enforcement the ability to enforce regulations concerning RODS as it already applies to interstate motor carriers and drivers. Motor carriers would continue to require that intrastate drivers used by the motor carrier record RODS on a specified grid as specified by 1213(a)(1) or by using automatic on-board-recording device (AOBRD) as specified by 1213(a)(2). Intrastate drivers will be able to use ELDs as defined in Title 49 CFR, Part 395, as those devices meet all of the requirements of AOBRDs as specified in Title 13 CCR, Section 1213.2.

Subsection (a)(4) is being amended to adopt, by reference, Title 49 CFR, Part 395, for interstate drivers. Current state regulations do not require the use of ELDs as a method for recording a driver's RODS. This amendment will provide interstate drivers with seamless uniformity between state and federal transportation regulations, thereby, permitting interstate motor carriers to operate under one set of rules. Additionally, this will give state law enforcement the ability to enforce regulations concerning RODS as it already applies to interstate motor carriers and drivers.

STUDIES/RELATED FACTS

None.

CONSULTATION WITH OFFICIALS

None.

LOCAL MANDATE

These regulations do not impose a new mandate on local agencies or school districts.

IMPACT ON SMALL BUSINESS/IMPACT ON BUSINESS

None.

DOCUMENT INCORPORATED BY REFERENCE

The CHP has determined it would be cumbersome, unduly expensive, or otherwise impractical to publish Title 49 CFR, Part 395, in the CCR.

The CHP will make available Title 49 CFR, Volume 5, subtitle B - Chapter III, October 1, 2017, edition, upon request, to the affected public. Copies of this document, or relevant portions thereof, can be obtained from the CHP by calling Commercial Vehicle Section (CVS) at (916) 843-3400, (800) 735-2929 (TT/TDD), (800) 735-2922 (voice), or via facsimile at (916) 322-3154. Additionally, this document, or relevant portions thereof, is available on the following Web site:

<https://www.gpo.gov/fdsys/pkg/CFR-2017-title49-vol5/pdf/CFR-2017-title49-vol5.pdf>

The rulemaking file is available for inspection at CHP, CVS, 601 North 7th Street, Sacramento, California 95811. Interested parties are advised to call for an appointment.

ECONOMIC IMPACT ASSESSMENT

Creation or Elimination of Jobs in the State of California

The CHP has not identified any significant adverse impact on businesses. Businesses subject to federal jurisdiction are currently required to comply with Federal Motor Carrier Safety Regulations (FMCSR), and therefore, the mere adoption of regulations to avoid preemption or to grant enforcement authority of preexisting regulations provides no additional impact on the industry. The proposed regulations updated and amended in Title 13 CCR, Section 1213, are already applicable and enforceable on businesses subject to federal jurisdiction, pursuant to Title 49 CFR, Part 395.

There is no indication that businesses operating “regulated” vehicle trucks will result in hiring more personnel, and it is not anticipated that it will lead to lay-offs or downsizing because of the incorporation of Title 49 CFR, published October 1, 2017.

Businesses involved in the transportation of interstate and intrastate commerce via commercial trucking may choose to purchase the current Title 49, CFR, Volume 5, subtitle B - Chapter III, October 1, 2017, edition at a cost of approximately \$20 annually through various vendors. The regulations are also available online at:

<https://www.gpo.gov/fdsys/pkg/CFR-2017-title49-vol5/pdf/CFR-2017-title49-vol5.pdf>

These businesses will not experience any greater effect due to the implementation of the listed sections of Title 49 CFR, Volume 5, subtitle B - Chapter III, October 1, 2017, edition, other than what is already commonly known and accepted.

Creation, Expansion, or Elimination of Businesses in the State of California

The CHP evaluated whether businesses would be affected in the State of California. No adverse impact was identified. Additionally, the CHP has made the initial determination this proposed regulatory action will not affect the creation of new businesses, the expansion of existing businesses, or the elimination of existing businesses.

Benefits of the Regulation

The CHP has evaluated the potential benefits of this proposed regulatory action. This proposed regulatory action will continue to provide benefits which include a non-monetary benefit to the protection and safety of public health, employees, and safety to the environment. The CHP has made an initial determination that this proposed regulatory change will:

- Have no effect on housing costs;
- Not impose new mandates upon local agencies or school districts;
- Involve no nondiscretionary costs or savings to any local agency, no cost to any local agency or school district for which Sections 17500-17630 of the Government Code require reimbursement, no costs or savings to any state agency, nor costs or savings in federal funding to the state;
- Neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California;
- Have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states; and

- Continue to provide a nonmonetary benefit to the protection and safety of public health, employees, and safety to the environment by providing a regulatory basis for enforcement efforts as they relate to the CFR.

FISCAL IMPACT TO THE STATE

The CHP has determined these regulatory amendments will result in:

- No increased costs for motor carriers. This rulemaking action will serve to provide a regulatory basis to establish consistency between California's regulations and the FMCSR;
- No significant compliance cost for persons, businesses, or agencies directly affected;
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state;
- No adverse impact on the competitiveness of this state to retain businesses, as the majority of other states (especially neighboring) have already adopted these or similar requirements; and
- No discernable benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

ALTERNATIVES

The CHP has not identified, nor been made aware of, an alternative which would be as effective as and less burdensome to affected parties than the proposed rulemaking. Additionally, the CHP has not identified an alternative which would be more cost effective to affected parties and equally effective in implementation of the statutory policy or other provision of law.