

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATION

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5, ARTICLE 6,
ADD SECTION 1233.2

BASIC INSPECTION OF TERMINALS INSPECTION SELECTION (CHP-R-17-01)

As a result of Assembly Bill 529 (Lowenthal, Chapter 500, Statutes of 2013), the Biennial Inspection of Terminals Program contained in Section 34501.12 of the California Vehicle Code (CVC) was re-branded as the Basic Inspection of Terminals (BIT) Program and changed from a time-based inspection system to a performance-based inspection selection system. In compliance with the requirements of Section 34501.12 CVC, the California Highway Patrol (CHP) proposes to adopt Title 13, California Code of Regulations (CCR) Section 1233.2 establishing a performance-based truck terminal inspection selection priority system incorporating the methodologies consistent with those used by the Federal Motor Carrier Safety Administration (FMCSA).

AUTHORITY AND REFERENCE

Section 2402 CVC authorizes the CHP to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific Section 34501.12 CVC.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Title 13, CCR, Division 2, Chapter 6.5, Article 6, Section 1233.2, is added to codify motor carrier safety performance scoring and use of the scoring to select terminals for inspections required pursuant to Section 34501.12 CVC. Section 34501.12 CVC requires the CHP to incorporate scoring methodologies consistent with those in use by the FMCSA to assess motor carrier safety performance. Additionally, the section provides the CHP authority to utilize the FMCSA scoring system without regard to how the scoring system is used by the safety intervention processes, procedures, or policies of the FMCSA or any other agency charged with commercial vehicle operation oversight. Title 13, CCR, Section 1233.2, provides authority and direction regarding the use of the FMCSA safety performance scoring methodologies by the CHP as it relates to the BIT Program.

The performance-based inspection selection system utilizes the FMCSA Safety Measurement System (SMS) to assess on-highway safety performance of motor carriers. Violations detected during inspection and enforcement contacts with commercial vehicle operators are electronically uploaded to the SMS and used to determine which motor carrier terminals in California will be selected for inspection as required by Section 34501.12 CVC, under the BIT Program.

After conducting an evaluation, the CHP has determined Title 13, CCR, Section 1233.2, is the only regulation concerning BIT inspection selection. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

Anticipated Benefits of Proposed Regulation

This addition would provide a nonmonetary benefit to the protection and safety of the motoring public, employees, and motor carrier operators and by encouraging compliance with FMCSA safety standards. The regulation further allows the CHP to focus limited inspection resources to proven noncompliant motor carrier operations.

PUBLIC COMMENTS

Interested persons may submit written comments on these proposed actions via facsimile to (916) 322-3154, by electronic mail to cvsregs@chp.ca.gov, or in writing to:

California Highway Patrol
Enforcement and Planning Division
Commercial Vehicle Section
Attention: Officer Joseph Mosinski
P.O. Box 942898
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 pm, on October 2, 2017.

No public hearing has been scheduled. If any person desires a public hearing, a written request must be received by the CHP, Commercial Vehicle Section (CVS), no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF INFORMATION

The CHP has available for public review an Initial Statement of Reasons for the proposed regulatory action, the information upon which this action is based (the rulemaking file), and the proposed regulation text. Requests to review or receive copies of this information should be directed to the CHP at the above address, by facsimile to (916) 322-3154, or by calling the CHP, CVS, at (916) 843-3400. All requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the requester's information is incomplete or illegible.

The rulemaking file is available for inspection at CHP, CVS, 601 North 7th Street, Sacramento, CA 95811. Interested parties are advised to call for an appointment. All documents regarding the proposed action are also available through the CHP's Web site at <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>.

Any substantial changes to the original proposal will be available for at least 15 days prior to the CHP adopting this resulting regulation.

CONTACT PERSON

Any inquiries concerning the written materials pertaining to the proposed regulations, or questions regarding the substance of the proposed regulations, should be directed to Officer Joseph Mosinski or Mr. Cullen Sisskind, CHP, CVS, at (916) 843-3400.

ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or non-substantive in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

FISCAL AND ECONOMIC IMPACT/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The CHP has made an initial determination that this proposed regulatory action: (1) will have no effect on housing costs; (2) will impose no new mandate upon local agencies or school districts; (3) will involve no nondiscretionary cost or savings to any local agency, no cost to any local agency or school district for which Sections 17500-17630 of the Government Code (GC) require reimbursement, no cost or savings to any state agency, nor costs or savings in federal funding to the state; (4) will neither create or 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; (5) will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states; and (6) will provide a nonmonetary benefit to the protection and safety of the motoring public, employees, and motor carrier operators and by encouraging compliance with FMCSA safety standards. The regulated community is encouraged to respond during the comment period of this regulatory process if significant impacts are identified.

COST IMPACTS ON PRIVATE PERSONS OR BUSINESSES

The CHP is not aware of any cost impacts that a representative, private person, or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESSES

The CHP has not identified any significant adverse effect on small businesses. The proposed regulations do not increase any requirements upon any small businesses. Businesses subject to state jurisdiction are currently required to comply with Section 34501.12 CVC. The adoption of this section establishes a performance-based selection system. There will be no impact on businesses in compliance with the safety standards set forth by the FMCSA.

CONSIDERATION OF ALTERNATIVES

In accordance with Section 11346.5(a)(13) GC, the CHP must determine that no reasonable alternative it considered or has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The CHP invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF FINAL STATEMENT REASONS

Once the Final Statement of Reasons for this proposed regulatory action is available, the public may request to review or receive copies of the statement. Requests should be directed to the CHP at the address on page 2, by facsimile to (916) 322-3154, or by calling the CHP, CVS, at (916) 843-3400. All requests for information should include the following information: the title of the rulemaking package, the requester's name, proper mailing address (including city, state, and zip code), and a daytime telephone number in case the requester's information is incomplete or illegible.

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
E. L. FALAT, Chief
Enforcement and Planning Division