

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **NOTICE OF PROPOSED REGULATORY ACTION**

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5  
AMEND ARTICLE 1, SECTIONS 1202.1 AND 1202.2, AND ARTICLE 6, SECTION 1232.

### **MOTOR CARRIER SAFETY REGULATIONS - CONSISTENCY WITH TITLE 49, CODE OF FEDERAL REGULATIONS (CHP-R-14-06)**

The California Highway Patrol (CHP) proposes to amend the existing version of Federal Motor Carrier Safety Regulations (FMCSR) contained in Title 13, California Code of Regulations (CCR), to reflect the current version of Federal Regulations in Title 49, Code of Federal Regulations (CFR).

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Title 13 CCR, Division 2, Chapter 6.5, contains the CHP motor carrier safety regulations; Article 1, Sections 1202.1 and 1202.2, contain definitions and general provisions; and Article 6, Section 1232, contains carrier requirements.

This rulemaking action proposes to adopt FMCSRs by reference, and will enhance the competitiveness of California by eliminating or modifying, to the extent possible, regulations which conflict with updated federal regulations, in order to prevent any negative impact on businesses. Also, this rulemaking will allow the CHP to remain consistent with regulations adopted by the United States Department of Transportation. Current state regulation incorporates, by reference, obsolete publishing dates for Title 49, CFR. This amendment will incorporate, by reference Title 49, CFR, as published on October 1, 2014, to replace all publication dates as they currently exist in this section, therefore, allowing California carriers to discard the 2006 editions of the federal regulations and retain only the 2014 editions.

#### Anticipated Benefits of the Proposed Regulation:

The proposed regulations will continue to provide nonmonetary benefits by protecting the health and safety of the public, employees, and environment by providing a regulatory authority for enforcement efforts as they relate to violations of the current hazardous materials regulations found in Title 49, CFR which directly improves the safety of the motoring public. The changes in Title 49, CFR includes updating an obsolete publication date from "October 1, 2006" to "October 1, 2014", and deleting the publication date, October 1, 2006 as it currently exist on the proposed sections.

#### Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The CHP has determined that this proposed regulation is not inconsistent or incompatible with

existing regulations. After conducting a review for any regulations that would relate to or affect this area, the CHP has concluded that these are the only regulations that concern the operation of commercial motor vehicles in California.

### **DOCUMENT INCORPORATED BY REFERENCE**

Title 49, Code of Federal Regulations, published October 1, 2014

### **PUBLIC COMMENTS**

Any interested person may submit written comments on this proposed action via facsimile at (916) 322-3154, by e-mail to *cvsregs@chp.ca.gov*, or by writing to:

California Highway Patrol  
Commercial Vehicle Section  
Attention: Officer Kristi McNabb  
P. O. Box 942898  
Sacramento, CA 94298-0001

Written comments will be accepted until 5:00 PM, on March 28, 2016.

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 at (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 information is incomplete or illegible).

The rulemaking file is available for inspection. Interested parties are advised to call CHP, CVS for an appointment.

All documents regarding the proposed action are available through the CHP's Web site at *www.chp.ca.gov/regulations*.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above noted address. Copies will be posted on the CHP's Web site.

## **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 Kristi McNabb or Sergeant Tye Meeks (back-up contact), of 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 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 costs or savings to any local agency; no cost to any local agency or school district for which Government Code, Sections 17500-17630, 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 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; and (6) will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

## **COST IMPACTS ON REPRESENTATIVE 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 determined that the proposed regulation will not affect small businesses as the proposed amendments are either already required by federal regulation or are editorial in nature, and are without regulatory effect. However, the regulated community is encouraged to respond during the public comment period of this regulatory process if significant impacts are identified.

## **ALTERNATIVES**

In accordance with Government Code, Section 11346.5(a)(13), the CHP must determine no reasonable alternative considered by the agency, or otherwise identified and brought to the

attention of the agency, would be more effective in carrying out the purpose for which the action is proposed; nor be as effective and less burdensome to affected private persons than the proposed action; nor 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.

### **AUTHORITY**

This regulatory action is being taken pursuant to Sections 2402 and 34501 of the California Vehicle Code (CVC).

### **REFERENCE**

This action implements, interprets, or makes specific, Sections 2402 and 34501 CVC.

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL  
ROBERT W. MAYNARD, Chief  
Enforcement and Planning Division