

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **NOTICE OF PROPOSED REGULATORY ACTION**

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5  
AMEND ARTICLE 7.5, SECTION 1239

### **COMMERCIAL VEHICLE SAFETY ALLIANCE, NORTH AMERICAN STANDARD OUT-OF-SERVICE CRITERIA (CHP-R-16-04)**

The California Highway Patrol (CHP) proposes to adopt by reference, the Commercial Vehicle Safety Alliance (CVSA), North American Standard (NAS) Out-of-Service Criteria (OOS) Criteria, April 1, 2016, Edition, in Title 13, California Code of Regulations. The current regulation incorporates by reference, the CVSA, NAS OOS Criteria, April 1, 2015, Edition.

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

Section 34501(a)(1) of the California Vehicle Code (CVC) authorizes the CHP to adopt reasonable rules and regulations which, in the judgment of the CHP, are designed to promote the safe operation of vehicles described in Section 34500 CVC. The CHP's authority to adopt regulations includes, but is not limited to, controlled substances and alcohol testing of drivers by motor carriers, drivers hours-of-service qualifications, equipment, fuel containers, fuel operations, inspections, maintenance, record keeping, accident reports, drawbridges, and cargo securement (Section 34500.3 CVC). Section 2402 CVC provides the Commissioner with the authority to, "make and enforce such rules and regulations as may be necessary to carry out the duties of the department," and Section 24004 CVC provides the authority for the CHP to place vehicles OOS (Attorney General's Opinion NS 2520) in order to ensure safety. Current regulations adopt, by reference, the CVSA, NAS OOS Criteria, April 1, 2015, Edition, which apply to those vehicles listed in Section 34500 CVC.

The intent of these regulations is to adopt specific uniform criteria for determining whether a vehicle, the cargo, and/or driver, inspected by an authorized representative of the CHP, is in an unsafe condition which would likely constitute a hazard on the highways. These regulations will incorporate by reference, specified portions of the standards contained within the CVSA, NAS OOS Criteria, April 1, 2016, Edition.

Adoption of these criteria 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 commercial vehicle OOS criteria. During the process of developing this regulation, the CHP has conducted a search of any similar regulation on this topic and has concluded this proposed regulation is not inconsistent or incompatible with existing state regulations. This proposed regulation merely updates the current regulation.

## **DOCUMENT INCORPORATED BY REFERENCE**

CVSA, NAS OOS Criteria, April 1, 2016, Edition.

## **DOCUMENTS RELIED UPON**

Attorney General Opinion NS 2520 (Authority to place vehicles out of service).  
Memorandum of Understanding between the CVSA and CHP.

## **PUBLIC COMMENTS**

Any interested person may submit written comments on this proposed action via facsimile at (916) 322-3154, by electronic mail to [cvsregs@chp.ca.gov](mailto: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 October 3, 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 either 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 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 available through the CHP's Web site at <https://www.chp.ca.gov/News-Alerts/Regulatory-Actions>.

Any person desiring to obtain a copy of the adopted text and a final statement of reasons may request them at the above address. Copies will also 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 content of the proposed regulations, should be directed to Officer Kristi McNabb or Sergeant Tye Meeks (back-up contact), 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.

### **RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

The CHP has made an initial determination this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no nondiscretionary cost or savings to any local agency, no cost to any local agency or school district for which Government Code (GC), 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 the environment by providing a regulatory basis for enforcement efforts as they relate to commercial vehicle OOS criteria; and (6) will not have a 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 which a representative, private person, or business would necessarily incur in reasonable compliance with the proposed action.

### **EFFECT ON SMALL BUSINESSES**

The CHP has determined the proposed regulatory action has no effect on small businesses. Changes to the application of the regulation are not substantive and bring the regulation in conformance with existing statute. Minor additions and changes to the OOS criteria are clarifying in nature and are within all existing requirements for industry.

### **ALTERNATIVES**

In accordance with GC, Section 11346.5(a)(13), the CHP must determine no reasonable alternative considered by the agency, or which has otherwise been identified and brought to the attention of the agency, 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.

#### **AUTHORITY**

This regulatory action is being taken pursuant to Sections 2402, 24004, 31401, and 34501(a) CVC.

#### **REFERENCE**

This action implements, interprets, or makes specific Sections 2402, 2410, 12500, 12502, 12515(b), 14603, 15250, 15275, 15278, 23152, 24002, 24400, 24252, 24600, 24603, 24604, 24952, 27154, 27155, 27465, 27501, 27903, 29001, 29002, 29003, 29004, 31401, 34500, 34501, 34506, and 34510 CVC.

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