

CHAPTER 1

POLICY AND ADMINISTRATION

1. SCOPE. This manual contains policy and guidance pertaining to the administration of all licenses and permits issued by the Department.

2. AUTHORITY TO ISSUE AND DISCIPLINE.

a. Licenses. Statutory authority to issue licenses and to discipline licensees is contained in the following California Vehicle Code (VC) sections:

<u>License</u>	<u>Issue</u>	<u>Discipline</u>
Private School Bus Contractor	2570	2572/2573
Privately Owned or Operated Ambulances Used to Respond to Emergency Calls	2501	2540
Armored Cars	2501	2540
Inspection and Maintenance Stations	2501	2540
Hazardous Material Transportation	2501	2531/2540 32002.5

b. Permits. Statutory authority to issue permits and discipline permittees is contained in the following VC sections:

<u>Permit</u>	<u>Issue</u>	<u>Discipline</u>
Authorized Emergency Vehicles	2416	2417

b. Hazardous Waste Transporter Registration. The Department of Toxic Substance Control (DTSC) issues registrations and maintains statutory authority to discipline registrants if they fail to comply with applicable provisions of the VC, Health and Safety Code (HSC), Title 13 or Title 22, California Code of Regulations (13 CCR and 22 CCR, respectively). The Department may recommend DTSC suspend or revoke a carrier's waste hauler registration as outlined in HPM 84.1,

Motor Carrier Safety Operations, and/or HPM 84.2, Hazardous Materials Transportation and Incident Management.

3. DEFINITIONS (AS USED IN THIS MANUAL).

- a. "AEV" means an Authorized Emergency Vehicle as defined in Section 165 VC.
- b. "APA" means Administrative Procedures Act, commencing with Section 11500 and concluding with Section 11529 of the Government Code.
- c. "Cancel" means to annul or terminate without prejudice.
- d. "Change of address" means any relocation of a licensed service or permitted activity not involving a change of ownership, or any change in the mailing address including a change resulting from street renumbering.
- e. "Change of name" means changing only the name of service or business but does not include any change in ownership of the licensed activity.
- f. "Change of ownership" of a licensed activity means any change in legal ownership or control, including the addition or deletion of a partner, transfer of ownership between family members, a change in corporate status, or stock transfer of shares possessing more than 50 percent of the voting power of the corporation.
- g. "Completed application" means the appropriate application form filled in and signed by the applicant, inspection reports and/or other documents (e.g. fingerprint cards, brake certificates) required for the particular license or permit, and the full amount of the appropriate fee.
- h. "Deny" means refuse to issue an initial license or permit.
- i. "Noncommercial" means not operated for profit. The term includes non-profit corporations and government agencies (even though a fee for services may be charged) and industrial concerns which provide a free service for their employees.
- j. "Publicly owned" means owned or leased for 30 days or more by federal, state, county, city agencies, or other political subdivision including, school, irrigation, water, and fire protection districts. "Publicly owned" does not include ownership by private nonprofit corporations, Indian tribes or councils, or organized groups supported by voluntary subscriptions or donations.
- k. "Regulated Special Purpose Vehicle" (RSPV), means an AEV, Emergency Ambulance or Armored Car.

I. “Regulated Special Purpose Vehicle Officer” (RSPVO), means an officer designated by an Area commander, having primary field inspection, certification and enforcement responsibilities over RSPV operations.

4. ISSUANCE, DENIAL, AND RENEWAL.

a. Issuance. Licenses and permits shall be issued only to eligible persons for those purposes defined by statute and/or regulation and for properly equipped and maintained vehicles and/or facilities. Forms must be completed in their entirety and original signatures are required for application certification. Incomplete applications or photocopies of certified applications shall be returned to the applicant for completion or original certification.

b. Denial. An initial license may be denied only on grounds set forth in Section 2531 or 2541 VC pursuant to procedures established in the APA. A permit may be denied whenever the prerequisite qualifications specified in Section 2416 VC are not met. Rejection of an incomplete application and/or required supporting information or an application not containing an original signature does not constitute denial. Applications with such deficiencies shall be returned to the applicant for correction.

c. Renewal. A license shall be renewed upon timely submission of the completed application package. A person who has been issued a license by the Department has a right to a renewal of that license unless it has been revoked. Disciplinary action proposed or under consideration shall not be allowed to delay or prevent renewal of a license. A permit will be renewed upon timely submission of the completed application package, provided the applicant and vehicle continue to be eligible for such permit. Corrected applications received by Commercial Vehicle Section (CVS) within the term of the license or permit shall be renewed. All licenses are subject to annual renewal. AEV Permits are subject to biennial renewal.

d. Late Renewal. A license may be renewed during the 30-day period after expiration if a completed application and appropriate fee are submitted. Licensed activities, however, shall cease immediately upon expiration of the license. Applications received after 30 days of expiration shall be processed as an initial application with the initial license fee required.

5. DUPLICATE AND REPLACEMENT LICENSES.

a. Duplicate. If a license is lost, destroyed, or mutilated, the licensee may obtain a duplicate license upon paying a fee of five dollars (\$5). A lost license for which a

duplicate has been issued that is later found shall be forwarded immediately to CVS.

b. Replacement. Any request for change of name not involving a change of ownership or control, or any change of address or relocation of the licensee shall be reported to the Department within ten (10) days of the change. An application for a replacement license shall be submitted to the Department and the original license shall be surrendered. Upon receipt of an application and surrendered license, a replacement license shall be issued for the remainder of the unexpired term of the license. There is no fee for a replacement license.

6. CHANGE OF OWNERSHIP OR CONTROL. As specified in Section 2503 VC, licenses are nontransferable. A change in ownership or control of a licensed activity requires a new license. A change in ownership or control includes, but is not limited to, a change in corporate status, or a stock transfer of shares possessing more than 50 percent of the voting power of the corporation.

a. Licensed Activities. A change in ownership or control does not include the addition or deletion of partners, officers, directors, or board members comprising 50 percent or less ownership or control of the licensed activity, if both of the following are complied with:

(1) The new partners, officers, directors, or board members have not committed any acts that would disqualify them from obtaining a license as described in Section 2541 VC.

(2) A supplemental license application with the "amended" box checked and information indicating the change is submitted within 10 days of the change.

b. Authorized Emergency Vehicle (AEV) Permits. AEV permits shall be surrendered to the Department upon loss of eligibility. A loss of eligibility occurs when there is any change in ownership or possession of the vehicle, or when the permittee or vehicle no longer meet the required qualifications of Section 2416 VC.

7. DISCIPLINE.

a. Philosophy. The objective of disciplinary action is to bring the licensee or permittee into compliance with appropriate laws and regulations. Therefore, only that degree of discipline necessary to accomplish the objective should be employed. Action to suspend or revoke licenses or permits is considered the ultimate administrative force, and due to the expense and inherent delays in the formal hearing process, such action should not be initiated until:

- (1) Other efforts to obtain compliance have proved ineffective; and
- (2) The licensee or permittee has committed acts which jeopardize public safety or outrage the public sense of decency or there is an established pattern of noncompliance with applicable statutes and/or regulations despite departmental efforts at obtaining compliance; and
- (3) The allegations of noncompliance are supported by admissible evidence.

b. Grounds for Administrative Disciplinary Action. Grounds for disciplinary action against licenses and permits are established in Sections 2417, 2531, 2542, 2572, and 2573 VC. Procedures for administrative action are contained in Chapter 8 of this manual.

c. Enforcement and Documentation. Enforcement actions for violations of the regulations or the California Vehicle Code relating to regulated activities shall be taken in accordance with the provisions of HPM 100.68, Traffic Enforcement Policy Manual, HPM 82.6, Commercial Enforcement Manual, HPM 84.1, Motor Carrier Safety Operations, or HPM 84.2, Hazardous Materials Transportation & Incident Management, as appropriate. File copies of enforcement actions shall be retained by the field office as outlined in Chapter 9 of this manual, for the duration of the license to support administrative actions to deny, suspend, or revoke the license or permit should such action become necessary.

d. Resolution at Field Level. Questions of discipline should be resolved at the field level whenever practicable. If upon review of a recommendation for administrative action in headquarters it appears that alternatives have not been explored or that evidence to prove the allegation(s) is not provided, the file will be returned to the respective Division Chief with appropriate suggestions.

e. Complaints Against Licensees and Permittees. Any complaint against an activity operated under a license or permit issued by the Department shall be investigated. The purpose of the investigation is to determine the validity of the complaint and where warranted, to establish the facts necessary to support appropriate disciplinary action against the licensee or permittee.

8. ADMINISTRATION.

a. Program Management. Enforcement Services Division (ESD) maintains overall administrative responsibilities for the Department's Licensing and Permitting programs. CVS is the office of primary interest, with staff support provided as follows:

- (1) Develops and administers regulations and policy.
- (2) Coordinates licensing and permitting activities with Area commands.
- (3) Processes license and permit applications and coordinates background investigations with allied agencies.
- (4) Issues licenses and permits.
- (5) Prepares renewal packages and renewal warning and expiration notices.
- (6) Evaluates and issues RSPV exemptions when warranted.
- (7) Provides Area commanders with quarterly suspense notification of license, permit and mandated inspection status within their geographic region.
- (8) Maintains liaison in assigned areas of responsibility with local, other state, and federal agencies, departmental offices, and regulated entities.
- (9) After coordination with the Office of General Counsel, prepares accusations pursuant to Section 11505 of the Government Code (GC) for signature by the Commander of ESD.

b. Office of the General Counsel. The Department's General Counsel assists field commands and CVS with disciplinary issues; evaluates requests for administrative action to deny, suspend, or revoke licenses; is responsible for the prosecution of administrative actions held pursuant to Section 11501 GC, and prepares the Commissioner's notice of decision, either sustaining or modifying the administrative law judge's ruling. The Office of the General Counsel is also responsible for liaison with the Offices of the Attorney General and Administrative Hearings.

c. Field Responsibilities. Area commanders are responsible for ensuring that privately owned emergency ambulances and armored cars (operated under departmental licenses) and authorized emergency vehicles (operated under departmental permits) conform to applicable statutes and regulations. Division Motor Carrier Safety Units (MCSU) are responsible for the periodic carrier fitness appraisal and complaint investigations relating to IMS stations and hazardous materials transportation.

- (1) Area commanders shall designate an officer to carry out the objectives of the RSPV inspection, licensing and permitting programs within their commands. Due to the mechanical nature of the inspection program,

commanders should consider officers with commercial training or a mechanical background for this position.

(2) RSPVOs shall conduct initial inspections and make recommendations to the Area commander regarding approval or denial of an application to operate privately owned or operated emergency ambulance service or armored car operation; inspect and certify RSPVs; conduct annual ambulance service inspections; perform mandated annual ambulance inspections; maintain records as outlined in Chapter 9. RSPVOs may request the assistance of Level One commercial vehicle inspection trained personnel when performing inspections of vehicles for which the technical complexity exceeds their level of inspection expertise.

d. Organization and Communication. The administration of licenses and permits and supervision of those activities should be accomplished primarily at the Area or MCSU level, as appropriate, with staff administrative support from headquarters. Orders, directions, and formal requests are to be channeled through the chain of command. However, informal inquiries for information or interpretation may be exchanged directly between field personnel and CVS.

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