

CHAPTER 1
POLICY
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CHAPTER 1

POLICY

1. GENERAL.

a. Regulation and Inspection. It is the policy of the California Highway Patrol (CHP) to maintain a continuing, effective program of regulation, inspection, and education to ensure compliance with provisions of the California Vehicle Code (CVC) and Title 13 of the California Code of Regulations (CCR), relating to the operation of commercial motor vehicles (CMV); farm labor vehicles (FLV); school buses; school pupil activity buses (SPAB); youth buses; general public paratransit vehicles (GPPV); flammable and combustible liquid cargo tanks; and hazardous materials (HM) transportation. The Motor Carrier Safety Operations (MCSO) Program is a part of the Department's Commercial Enforcement Program.

b. Objectives. The objectives of the MCSO Program are the prevention of collisions and injuries attributed to mechanical defects, excessive driving hours, or misuse of controlled substances or alcohol by drivers subject to CVC Sections 31401, 34501, 34501.5, 34520, and 34520.5; and the prevention of incidents and catastrophes during, or as a result of, HM transportation. To accomplish these objectives, emphasis should be placed on the following:

- (1) Adequacy of carrier safety programs.
- (2) Vehicle/equipment and condition, mandatory inspection intervals.
- (3) Compliance with regulations relating to drivers' timekeeping records and hours-of-service (HOS).
- (4) Compliance with the Department of Motor Vehicles' (DMV) Employer Pull-Notice (EPN) Program requirements and other driver license requirements, such as proper class of license, applicable endorsements, and valid medical card.
- (5) Compliance with HM regulations, Title 13 CCR, Sections 1160-1168, and hazardous waste (HW) transporter regulations, Title 22 CCR, Sections 66263.10-66263.46; with particular emphasis on flammable and combustible liquid cargo tanks and HW transport vehicles and containers.
- (6) Safety practices of HM Transportation; Inspection and Maintenance Station (IMS) licensees; transportation charter party; and passenger stage carriers (PSC).

(7) Carrier compliance with the controlled substances and alcohol testing (CSAT) requirements of the Federal Motor Carrier Safety Administration (FMCSA).

c. Rationale. The MCSO Program is not solely concerned with vehicle inspection and equipment, but is designed to complement and enhance the total commercial program efforts in preventing the loss of life, injuries, and property damage with legal off-highway terminal and carrier controls. Obtaining compliance with legal requirements (e.g., enforcement) is achieved by the following means:

(1) Notifying the carrier of violations detected, and requiring correction thereof.

(2) Withholding annual school bus, SPAB, youth bus, GPPV, and FLV certificates.

(3) Placing unsafe vehicles out-of-service (OOS).

(4) Taking appropriate administrative action against carriers licensed by the Department to transport HM, or to operate IMS terminals.

(5) Warning violators in writing of intent to file criminal charges.

(6) Seeking a criminal complaint in the appropriate court when refusal to comply is encountered.

(7) Recommending administrative action by allied agencies; e.g., the DMV; California Public Utilities Commission (PUC); Department of Toxic Substances Control (DTSC); California Department of Public Health (CDPH); and FMCSA.

(8) Assuring that Unsatisfactory carrier and terminal ratings are available to vehicle users and to the public.

2. AUTHORITY AND REGULATIONS.

a. Motor Carrier. Division 14.8 CVC contains the Department's authority to regulate the safe operation of certain vehicles. These vehicles are listed in CVC Sections 31401 and 34500, and are referred to in this manual as "regulated vehicles." Authorization to inspect vehicles in maintenance facilities, carriers, and terminals for CVC violations and regulatory provisions is provided in CVC Sections 34501, 34520, and 34520.5. Penalties are set forth in CVC Sections 34506 and 34506.3. Regulations adopted under the enabling authority include, Title 13 CCR, Division 2, Hazardous Materials, commencing with Section 1160, and Motor Carrier Safety, commencing with Section 1200.

b. Basic Inspection of Terminals Program. California Vehicle Code Section 34501.12 defines vehicles, operation of which is subject to the Basic Inspection of Terminals (BIT) Program. Carriers must identify all terminals defined in CVC Section 34515(a), and may designate those terminals at which the Department will conduct the inspection required by CVC Section 34501.12.

(1) California Vehicle Code Sections 34500.6 and 34501.12(c)(3), list types of vehicles which are not subject to the BIT Program. Carriers who operate only these vehicles are not subject to the program. Carriers who operate a fleet of vehicles, some of which are subject to the BIT Program and some of which are not, remain subject to the BIT Program.

(2) In the case of vehicle(s) leased to a motor carrier, determining who is the motor carrier for the purposes of the motor carrier responsibility and the BIT Program shall include a limited review of lease documents. The review of lease documents shall be limited to determining motor carrier and BIT Program responsibility. In this case, the lessee causing the vehicle to be operated is immediately responsible for the vehicle, operation thereof, and all associated required records, without regard to the duration of the lease.

(3) In addition to the vehicles excepted by CVC Sections 34500.6 and 34501.12(c)(3), the Department has determined the unique application of certain other specialized vehicles places them outside the definition of "motor truck" and, therefore, not subject to the BIT Program. Vehicles used only incidentally on the highway, such as self-propelled or truck-mounted cranes; drilling rigs; boom trucks (used in movie production); farm vehicles defined in CVC Section 36101; motor vehicles not designed, used, or maintained primarily for the transportation of property other than that required to operate the unit; and firefighting apparatus are examples of vehicles not considered to be "motor trucks." As used herein, the term "firefighting apparatus" includes only firefighting vehicles that do not transport property other than the equipment used in conjunction with the vehicles (e.g., ladders or hoses). Firefighting apparatus does not include portable kitchens or sanitation facilities, low-bed heavy equipment transporters, or other vehicles designed primarily to transport property.

c. Farm Labor Vehicles. California Vehicle Code Section 31401 requires the Department to inspect every FLV at least annually for compliance with all provisions of the law. The use of any FLV is prohibited, unless it has been certified by the Department within the preceding 13 months as meeting all legal requirements. California Vehicle Code Section 31402 further prohibits the operation of an FLV after notice that the vehicle is in an unsafe condition, or is not equipped as required. California Vehicle Code Section 31401.5 requires the owner or operator of an FLV to schedule required inspections with the Department, three business

days in advance, for initial inspections, and at least four weeks in advance for renewal inspections. Regulations adopted under the enabling authority are contained in Title 13 CCR, Sections 1200-1270. Farm Labor Vehicle inspections are the responsibility of the Department's Safety and Farm Labor Vehicle Education Program coordinated by the Commercial Vehicle Section (CVS), Enforcement Unit. Terminal inspections of FLV operations remain the responsibility of the MCSO Program.

d. School Buses. California Vehicle Code Section 2807 requires the Department to inspect every school bus at least once each school year for compliance with all provisions of the law. The use of any school bus is prohibited unless it has been certified by the Department within the preceding 13 months as meeting all legal requirements.

(1) California Vehicle Code Sections 34501.5 and 34508 require the Department to adopt regulations relating to the operation and the equipment, construction, design, and color of school buses.

(2) California Vehicle Code Section 2808 requires school buses used to transport pupils to or from any private school or private school activity to comply with requirements applicable to public school buses. California Vehicle Code Section 2808(b) further requires the Department to consider exemptions to the regulations as they apply to school buses. This is done by rule (individual exemptions) as specified in Title 13 CCR, Section 1202(e).

e. School Pupil Activity Buses and Youth Buses. California Vehicle Code Sections 2807.1 and 2807.3 require the Department to inspect every SPAB and youth bus at least once each year for compliance with all provisions of law. The use of any SPAB or youth bus to transport school pupils to or from school is prohibited unless it has been certified by the Department, within the preceding 13 months, as meeting all legal requirements.

f. General Public Paratransit Vehicles. California Vehicle Code Section 34501.8 requires the Department to inspect every GPPV at least once each year to certify that its condition complies with all provisions of law. The use of any GPPV is prohibited unless it has been certified by the Department, within the preceding 13 months, as meeting all legal requirements.

g. Charter Party and Passenger Stage Carriers. Sections 1031 and 5372 of the Public Utilities Code require charter party carriers of passengers (CPC) and PSC to obtain permits or certificates from the PUC. Permits or certificates are issued or renewed by the PUC only after it has determined the applicant meets minimum requirements as to financial responsibility and fitness. By agreement between the Department and the PUC, inspections of carrier terminals and vehicles are

conducted and the results are reported to the PUC to assist in determining “fitness.” Such inspections are conducted upon request and are to determine compliance with applicable CVC and Title 13 CCR requirements.

h. Bus Terminals. California Vehicle Code Section 34501(c) requires the Department to inspect, at least once every 13 months, the maintenance facility or terminal of any person who operates any bus. Public Utilities Code Section 4005 also requires a private carrier of passengers to register with the PUC.

i. Transit Operators. California Vehicle Code Section 1808.1(g) requires the Department, as part of its annual inspections of transit operator terminals, to determine whether each transit operator is in compliance with the DMV EPN Program requirements and transit bus operator certificate requirements, CVC Section 12804.6, and to certify each operator found to be in compliance.

j. Modified Limousine Operators. California Vehicle Code Section 34500.4 requires the Department, not later than July 1, 2017, to implement a terminal inspection program to conduct safety inspections of each terminal of a CPC and PSC who operates a modified limousine. The terminal inspections shall be conducted at least one time every 13 months. Regulations adopted by the Department related to the equipment, operation, and inspection of modified limousines and terminals shall be consistent with inspection programs established for buses and administered by the Department.

k. Hazardous Materials Shippers and Carriers. California Vehicle Code Section 34501(b) authorizes the Department to regulate HM shipment preparation and transportation. Authority to inspect HM shippers and carriers is contained in Title 13 CCR, Section 1160.4(e).

l. Licensed Activities. Licensed activities monitored by Motor Carrier Specialist (MCS) personnel include:

(1) Inspection Maintenance Facilities. Inspection Maintenance Facilities terminals are facilities licensed to perform and certify certain installation, adjustment, and maintenance activities as provided by CVC Sections 2525-2525.12. Fitness at the time of initial license issuance and continuing compliance with the requirements of Title 13 CCR, Section 615-619.1 are verified by inspection.

(2) Hazardous Materials Transporters. Hazardous Materials Transportation Licenses required by CVC Section 32000.5 are issued annually as provided by CVC Sections 2501 and 2531; the latter specifying conditions under which licenses may be denied, suspended, or revoked. The results of terminal inspections determine initial qualifications for, and supplement the ongoing review of enforcement action taken against, transporters and their drivers.

These inspections encompass most aspects of a carrier's safety compliance program: vehicle condition, maintenance program, drivers' timekeeping records and HOS, HM handling, and safety equipment.

m. Flammable and Combustible Liquid Cargo Tanks and Hazardous Waste Transport Vehicles and Containers. California Vehicle Code Section 34000 requires the Department to place a high priority on the random on- and off-highway inspection of cargo tanks as defined in CVC Section 34003 and HW transport vehicles and containers. Field Division Motor Carrier Safety Unit (MCSU) responsibilities include:

- (1) Completing an inspection sample of each of these equipment types as a part of routine BIT inspections. (Refer to Chapter 2, Inspection Procedures, of this manual.)
- (2) Conducting inspections in response to complaints or observation reports as directed by the Special Services Commander (SSC).
- (3) Participating in on-highway strike force activity focusing on those tanks, vehicles, and/or containers that do not routinely pass through Commercial Vehicle Enforcement Facilities during normal hours of operation.

n. Hazardous Waste Transporters. The DTSC manages the HW Transporter Registration Program under the authority of Health and Safety Code Section 25163.

3. ENFORCEMENT RESPONSIBILITIES.

a. Division Motor Carrier Safety Unit Personnel. Motor Carrier Specialists are responsible for detecting and requiring correction of violations of CVC and Title 13 CCR requirements to achieve the objectives of paragraph 1.b. of this chapter.

(1) Except when conducting on-highway bus or modified limousine inspections as outlined in Chapter 10, On-Highway Bus Inspections, of this manual, MCSs shall not normally inspect vehicles, other than FLVs, on the highway or outside motor carrier terminals or maintenance facilities unless authorized to do so as a secondary task by the Division SSC. In no event shall these secondary tasks exceed 5 percent of the MCS's allocated monthly work hours, or the Division MCSU's authorized staff hours each quarter.

(2) Motor Carrier Specialists are not responsible for enforcement of vehicle loading requirements (except for those pertaining to HM) and shall take no enforcement action regarding on-highway operational matters. If registration problems are noted, or violations are apparent, MCSs should notify the

Division MCSU supervisor who will notify the Division SSC for initiation of any action deemed appropriate. During the conduct of normal terminal or carrier inspection activities, MCSs shall not expend time or resources to evaluate or support a determination of vehicle loading or registration requirement violations, except those pertaining to HM loading.

(3) Motor Carrier Specialists may conduct detailed inspections of vehicles listed in CVC Section 34500 involved in collisions when there is a positive indication or a strong probability of mechanical failure. This type of activity requires the approval of the Division SSC. The results of inspections of vehicles involved in collisions shall be reported on the CHP 556, Narrative/Supplemental, and reviewed by the MCSU supervisor. Refer to Chapter 2, paragraph 6., of this manual for additional information.

(4) As outlined in CVC Sections 675.5 and 675.6, MCSs may verify vehicle identification numbers (VIN) for DMV registration forms while on official business at carrier terminals. Motor Carrier Specialists will not respond to carrier terminals solely for VIN verification purposes. Verifications shall be limited to the recording of clearly visible primary numbers only. The primary number is found on the manufacturer's plate or label, which is usually on the door post of trucks and truck tractors. Trailer and semi-trailer plates or labels are usually on one of the front frame corners. Bus plates or labels are usually on the door post or on the front bulkhead inside the vehicle. Questionable or complex verifications shall be referred to the local DMV office, the field Division Investigative Services Unit, or a local CHP Area VIN officer. When completing the verification form, MCSs shall enter "California Highway Patrol" in the "Verifying Agency" field of the REG 31, Verification of Vehicle, as authorized by the DMV Registration Policy Manual, part 24.030, Authorized Vehicle Verifier.

(5) At the discretion of the Division SSC, MCSU supervisors or field supervisors may advise Area commanders of violators of requirements relating to vehicle condition or those who permit or encourage violations of HOS requirements (Unsatisfactory-rated motor carriers).

b. Commercial Enforcement Personnel. With the Division SSC's approval, officers or other departmental personnel qualified to conduct mechanical inspections may conduct vehicle reinspections, as appropriate, and as provided in this manual, including reinspections required by CVC Section 34505.1.

c. Officers. Officers will not normally conduct vehicle or record inspections in motor carrier terminals or maintenance facilities; but, qualified officers may conduct such inspections, including FLV inspections and school bus reinspections, by direction of the Division SSC.

4. COMMAND RESPONSIBILITIES.

a. Divisions. The Division chief shall be responsible for the following:

(1) Directing all phases of the Division's MCSO Program to achieve maximum effectiveness in both on- and off-highway efforts.

(2) Appointing an SSC. The SSC has managerial responsibilities for the on- and off-highway commercial programs. To gain the experience and knowledge necessary to effectively supervise the MCSU supervisor, within two months of appointment, and periodically thereafter, each SSC shall accompany a MCS during at least one terminal inspection.

(3) Providing orientation and initial training for new hires and periodic refresher training (in-service) for all MCSs, using established departmental policy. Initial and refresher VIN verification training may be provided by the Division vehicle theft officers.

(4) Monitoring inspection activity to assure it is performed in accordance with priorities established in this chapter.

(5) Establishing policies and procedures to attain efficient utilization of Division and Area uniformed personnel in support of the MCSO Program. This includes participation in reinspection of school buses, tour buses, FLVs, SPABs, youth buses, GPPVs, on-highway bus and modified limousine inspections, court appearances, and supporting enforcement activities.

(6) Utilizing personnel resources in an efficient manner.

(7) Performing periodic evaluations of the Division MCSU.

(8) Fostering cooperation between on- and off-highway enforcement personnel, considering the following:

(a) Conducting cross orientation or training as necessary.

(b) Utilizing both elements for special enforcement programs commensurate with program mandates.

(c) Establishing a common manager at the Division level for both programs, normally the Division SSC.

(d) Scheduling and conducting regular "commercial meetings" at the Division level, attended by both on- and off-highway enforcement personnel.

(e) Ensuring Area commanders are aware of, and have access to both the on- and off-highway elements. Area assistance may be limited by workload demands on the Division MCSU.

b. Areas. Area commanders shall be responsible for the following:

(1) Supervision of assigned commercial enforcement personnel in the enforcement of Title 13 CCR requirements as provided in Highway Patrol Manual (HPM) 82.6, Commercial Enforcement Manual, and HPM 84.2, Hazardous Materials Transportation and Incident Management.

(2) Supervision of School Pupil Safety officers and coordinators in the reinspection of school buses as provided in Chapter 5, School Bus Inspection, of this manual.

(3) Enforcement of all laws and regulations relating to school buses including necessary action in the event of continued substandard compliance with legal requirements. Such enforcement action is detailed in HPM 82.4, School Pupil and Farm Labor Transportation Safety.

(4) Enforcement of laws requiring certification of FLVs and drivers, and reporting any enforcement action to the Division Commercial Operations Unit.

(5) Supervision of assigned commercial enforcement personnel in performing inspections and reinspections of FLVs as provided in Chapter 7, Farm Labor Vehicle Inspection, of this manual.

(6) Providing support for, and participating in, on-highway bus and modified limousine inspections as directed by Division.

(7) Enforcement action related to employment of disqualified drivers as directed by Division. (Refer to paragraph 5.i.[6] of this chapter.)

c. Enforcement and Planning Division. Overall administrative responsibility for the MCSO Program is vested in Enforcement and Planning Division (EPD). The office of primary interest is CVS. Commercial Vehicle Section responsibilities are divided between two units: the MCSU and the Special Projects Unit.

(1) Motor Carrier Safety Unit.

(a) Provides administrative and technical support to all levels of the commercial program.

- (b) Analyzes and prepares recommendations relating to proposed amendments to the CVC and FMCSA regulations for effect on the CHP's regulations.
 - (c) Evaluates requests for exemption from Title 13 CCR regulations (motor carrier, FLV, school bus, SPAB, or youth bus), and recommends approval or denial as warranted.
 - (d) Develops guidelines; maintains manuals and handbooks; and coordinates with industry representatives (including the Motor Carrier, School Bus, and Wheelchair Lift Advisory Committees) in areas of mutual concern.
 - (e) Reviews field recommendations and coordinates with the DMV, PUC, or FMCSA relative to carrier safety practices.
 - (f) Develops CVC and CCR changes necessary to meet departmental responsibilities.
 - (g) Analyzes and prepares recommendations relating to proposed amendments to the CVC and FMCSA regulations for effect on the CHP's MCSO Program.
 - (h) Evaluates requests for exemption from the Title 13 CCR general motor carrier safety regulations and recommends approval or denial as warranted.
 - (i) Develops guidelines, maintains manuals and handbooks, and coordinates with industry representatives in areas related to motor carrier safety.
 - (j) Develops CVC and Title 13 CCR changes necessary to meet the Department's motor carrier safety responsibilities.
 - (k) Administers the BIT Program and provides support to field Divisions, industry representatives, allied agencies, and the public.
- (2) Special Projects Unit.
- (a) Liaison with DMV, PUC, and FMCSA.
 - (b) Provides administration, oversight, and coordination with field Division MCSUs relative to the federal New Entrant Safety Assurance Process (NESAP), including program logistics and training.

- (c) Develops and revises policy related to the NESAP.
- (d) Coordinates and facilitates requests for administrative action against motor carrier operating authority and permits.
- (e) Administers Fleet Owner IMS License activities.
- (f) Administers School Bus Contractor License activities.

5. PROGRAM DIRECTION.

a. Terminal inspection. A terminal inspection is the basic activity during which violations are detected and required to be corrected and terminal ratings are assigned. The inspection of vehicles required to be certified (school bus, FLV, SPAB, youth bus, and GPPV) shall normally be performed without advance notice.

b. Carrier Inspection. A carrier inspection is an inspection of carrier records, which is conducted at a motor carrier's principal place of business. Although a carrier inspection may be completed in conjunction with a terminal inspection when both facilities are at the same location, they are separate inspections and are reported on different forms as set forth in Chapter 2 of this manual. The only records to be inspected during carrier inspections in carrier facilities are CSAT records as specified in Chapter 14, Controlled Substances and Alcohol Testing, of this manual.

c. Certificate Removal. The following shall apply to the removal of Inspection Approval Certificates:

(1) The CHP 292, Inspection Approval Certificate, or CHP 292A, Vehicle Inspection Certificate (Variable Seating), shall be removed for any of the following conditions and the inspection report so annotated.

(a) Any vehicle determined to have defects which constitute an OOS condition as outlined in the Commercial Vehicle Safety Alliance (CVSA) North American Standard Out-of-Service Criteria, adopted in Title 13 CCR, Section 1239.

(b) The operator has failed to comply with mandatory inspection or maintenance intervals and has received prior documented notice that certificates will be removed for failure to comply.

(c) Any certificate has expired.

(d) The operator indicates a certified vehicle has been removed from a specified service. For example, the vehicle is sold or disabled, or no longer used for service requiring certification.

(e) A vehicle has been replaced with a new vehicle under a program that prohibits the old vehicle from being used in any certified service; or, a chassis modification has been made which does not meet the requirements of Title 13 CCR, Section 1272(c).

(2) Whenever a certificate has been removed, the operator shall be advised immediately and the responsibility for vehicles with OOS defects or expired certificates shall rest with the operator. The carrier notification shall be documented on a CHP 343, Safety Compliance Report/Terminal Record Update, and CHP 343-1, Continuation, as necessary, and shall include the signature of the carrier representative acknowledging the defects and certificate removal. In lieu of a signature, when appropriate, the CHP 343 shall indicate the carrier representative refused to sign. In either case, a copy of the report shall be left with the carrier.

d. Inspection Ratings Defined. All inspection efforts must be planned to achieve the best results as efficiently as possible. To determine areas needing attention and to provide useful management tools, the concept of rating terminals, carriers, and HM shippers has been adopted in Title 13 CCR, Section 1233. This entails assigning a rating of Satisfactory, Unsatisfactory, or Conditional to terminals and to shippers of HM. Ratings are assigned to individual inspection categories, and a composite (overall) rating is assigned to each terminal. It is essential the ratings be applied accurately and consistently throughout the state. Ratings for carrier facilities (carrier principal places of business) are addressed in Chapter 14 of this manual. Terminal ratings signify:

(1) Satisfactory. A Satisfactory-rated carrier, terminal or HM shipper is one that is in compliance with applicable laws and regulations. Minor deficiencies or defects may exist as long as highway safety is not jeopardized. Criteria for assignment of a Satisfactory rating include:

(a) Vehicle/equipment condition reflects effective preventive maintenance practices.

(b) Vehicle records reflect compliance with applicable mandated inspection intervals; clearly identify inspection, service, and lubrication intervals; document services and repairs performed; and reflect the actual condition of the vehicles.

(c) Drivers' daily vehicle inspections are performed and documented. Defects noted are corrected promptly.

(d) Vehicles are not operated with OOS conditions or defects of a long-standing nature.

(e) Drivers' timekeeping records are in use and are current. Retention intervals are complied with.

(f) Drivers' timekeeping records reflect compliance with HOS requirements.

(g) Records reflect compliance with DMV EPN requirements.

(h) Required driver proficiency records on file.

(i) The terminal/shipper is in compliance with HM/HW requirements.

(j) The carrier demonstrates compliance with CSAT of drivers.

(2) Unsatisfactory. The issuance of an Unsatisfactory rating requires the utmost discretion as the Department must be able to prove a motor carrier's lack of compliance could jeopardize the safety of passengers and/or the motoring public. An Unsatisfactory-rated carrier, terminal, or HM shipper is one for which articulable proof is obtained showing widespread noncompliance with, or willful disregard of, statutory or regulatory requirements. An Unsatisfactory rating shall be assigned for any of the following conditions:

(a) Vehicle or equipment violations of a deliberate or long-standing nature. (If the regulated equipment is rated Unsatisfactory, the maintenance program shall also be rated Unsatisfactory.)

(b) More than 20 percent of vehicles in the inspection sample are placed OOS. This criterion includes vehicles inspected on-highway and in the terminal (as outlined in Chapter 2 of this manual). Utilizing the utmost discretion, vehicles placed OOS for defects which are not within the scope of the driver's daily vehicle inspection and which could have reasonably occurred within the carrier's normally scheduled preventive maintenance intervals may be excluded.

(c) Drivers' HOS violations exceeding 5 percent of the total days audited for all drivers in the inspection sample.

(d) Falsified drivers' HOS records violations exceeding 5 percent of total days audited.

NOTE: Violations in 5.d.(2)(c) and 5.d.(2)(d) above may be combined in determining an excess of 5 percent of total days audited.

(e) Failure to maintain and/or retain drivers' timekeeping records when that failure precludes a reasonable determination that the carrier is in compliance with drivers' HOS requirements.

(f) Failure to participate in the DMV EPN Program; failure to enroll all drivers; failure to obtain and retain a driver's current public driving record prior to receiving an EPN Program report from DMV; failure to obtain periodic, up-to-date printouts for all drivers; or utilizing disqualified or unqualified drivers. Refer to DMV EPN Program, paragraph 5.j.(1)(a) of this chapter.

(g) Failure to provide the Department a reasonable opportunity to conduct an inspection pursuant to Title 13 CCR, Section 1202(a), after utilizing the following criteria: At least three documented attempts to schedule/initiate an inspection have been made, two of which must include direct contact with the motor carrier, via telephone or in person. In this instance, an Unsatisfactory terminal rating shall be assigned in the "Maintenance Program" category and the completed terminal inspection report mailed to the carrier in a manner which provides the Department the ability to track delivery and receipt, or hand delivered, if possible.

(h) Failure to provide vehicles and records for an inspection required pursuant to CVC Section 34501.12. This criterion requires the concurrence of the MCSU supervisor or designee, prior to assignment of the Unsatisfactory rating.

NOTE: After three consecutive Unsatisfactory terminal ratings are assigned for 5.d.(2)(g) or 5.d.(2)(h) above, all appropriate enforcement action shall be initiated, based on consistent failure to comply. Violations in 5.d.(2)(g) and 5.d.(2)(h) may be combined in the assignment of three consecutive Unsatisfactory terminal ratings.

(i) Lack of compliance with any HM requirement, which jeopardizes public or environmental safety, or hinders prompt action by emergency response personnel. This criterion requires the concurrence of the MCSU supervisor or designee, prior to assignment of the Unsatisfactory rating.

(j) Willful disregard of statutory or regulatory requirements (requires at least one completed and carrier-signed document). This criterion requires the concurrence of the MCSU supervisor or designee, prior to assignment of the Unsatisfactory rating.

(k) Violations generally spread over the inspected vehicles and/or maintenance records which, by their nature, should have been detected,

documented, and corrected under an acceptable inspection/maintenance program.

(l) Violations generally spread over the inspected drivers' records which, by their nature, should have been prevented and/or detected and corrected under an acceptable drivers and records management program.

(m) Noncompliance with CSAT of drivers as outlined in Chapter 14 of this manual.

(3) Sufficiently Unsatisfactory. For purposes of CVC Section 34505.1, pertaining to recommended suspension, revocation, or denial of tour bus operating authority, in determining a recommendation for denial of PUC operating authority, the phrase, "sufficiently unsatisfactory" means the following:

(a) More than 20 percent of the vehicles in the inspection sample are placed OOS. Vehicles which are placed OOS for defects which are not within the scope of the driver's daily vehicle inspection and which could have reasonably occurred within the carrier's normally scheduled preventive maintenance intervals may be excluded.

(b) Drivers' HOS violations exceeding 5 percent of the total days audited for all drivers in the inspection sample; falsified drivers' HOS records violations exceeding 5 percent of the total days audited for all drivers in the inspection sample; a combination of HOS and falsified records of duty status exceeding 5 percent of the total days audited for all drivers in the inspection sample; and failure to maintain or retain drivers timekeeping records, when that failure precludes a reasonable determination that the carrier is in compliance with drivers' HOS requirements.

(c) Failure to participate in the DMV EPN Program when it is determined, through query of the California Law Enforcement Telecommunications System (CLETS), any driver is not qualified to operate a commercial vehicle.

(d) Failure to have all drivers enrolled in a random CSAT program and all required tests completed.

(4) Conditional. A Conditional-rated terminal or HM shipper is one that has been inspected, is not Unsatisfactory, but whose overall compliance cannot be clearly determined. A Conditional rating may not be assigned to the Vehicles/Equipment inspection category. A Conditional rating may only be assigned following an Unsatisfactory rating, and may not be assigned when Unsatisfactory conditions exist. For example, a Conditional rating is

appropriate for a terminal previously rated Unsatisfactory for an ineffective maintenance program, where all necessary repairs have been completed appropriately and a systematic inspection and maintenance program has been implemented. Since the effectiveness of the new program cannot be initially determined, a rating of Conditional should be assigned. Similarly, a terminal rated Unsatisfactory for excessive drivers' HOS limit violations and subsequently suspended from operation by the DMV or the PUC may not have any new drivers' records on file when reinspected. If no Unsatisfactory conditions exist, a rating of Conditional is appropriate. When a Conditional rating is followed by an Unsatisfactory rating, the Conditional rating will not be deemed to interrupt the succession of consecutive Unsatisfactory ratings and the Unsatisfactory ratings shall be deemed to be consecutive.

(5) Unrated Carrier or Terminal. An unrated carrier or terminal is one that has never been rated.

e. Imminent Danger. Under all conditions listed in Title 13 CCR, Section 1233(f), a finding of imminent danger shall be made and the inspection report so annotated. Although rare, the conditions listed in 5.e.(3) and 5.e.(4) below indicate a finding of imminent danger may be made which will not result in a recommendation for permit, registration, or operating authority denial, suspension, or revocation. During any inspection which will result in a recommendation for permit, registration, or operating authority denial, suspension, or revocation, or direct enforcement action by the Department such as a citation, adequate proof must be retained in order to substantiate the determination of imminent danger. The term "imminent danger," as used in CVC Sections 34505.1, 34505.6, 34505.7, and 34623, is appropriate for any of the following conditions described in 5.e.(1) through 5.e.(5) below:

(1) Unsafe mechanical condition of CMVs resulting in more than 50 percent of the inspection sample being placed OOS for conditions which pose a hazard to the motoring public. This determination requires the concurrence of the MCSU supervisor and field supervisor prior to completing the terminal evaluation report.

(2) Excessive drivers' HOS violations and/or falsified drivers' HOS records exceeding 10 percent of total days audited. This determination requires the concurrence of an MCSU supervisor and field supervisor in determining the severity of the excessive driving hours and/or falsification to conceal driving in excess of the maximum hours allowed by law.

(3) Allowing a driver to operate a CMV when their driver license status prohibits such operation (disqualified for violations directly related to the operation of a vehicle).

(4) Lack of compliance with any HM requirement which jeopardizes public or environmental safety, or hinders prompt action by emergency response personnel. This determination requires the concurrence of an MCSU supervisor and field supervisor in determining the severity of the violations, the extent to which the public or environmental safety is jeopardized, and emergency response is hindered.

(5) Allowing a driver to perform a safety-sensitive function (specifically operating a CMV on highway) in violation of Title 49, Code of Federal Regulations (CFR), Parts 382 or 655, as follows.

(a) A driver performing a safety-sensitive function (SSF), or an employer permitting a driver to perform an SSF after a test result of 0.04 blood alcohol content or more (Title 49 CFR, Parts 382.201 or 655.31[b]), or when the driver has used alcohol while on duty (Title 49 CFR, Parts 382.205 or 655.32), or within four hours prior to going on duty (Title 49 CFR, Parts 382.207 or 655.33[a]).

(b) A driver performing an SSF, or an employer permitting a driver to perform an SSF after the driver has refused to submit to any controlled substances or alcohol test (Title 49 CFR, Parts 382.211 or 655.49[a]).

(c) A driver performing an SSF, or an employer permitting a driver to perform an SSF after the driver has used a controlled substance (Title 49 CFR, Parts 382.213 or 655.21[c]), has a “verified” positive test, or has adulterated or substituted a test specimen (Title 49 CFR, Parts 382.215 or 655.61).

(d) A driver performing an SSF, or an employer permitting a driver to perform an SSF after the driver has engaged in any of the above-mentioned conduct, unless the driver is in compliance with the return-of-duty and follow-up requirements of Title 49 CFR, Part 40, Subpart O (Title 49 CFR, Parts 382.503 or 655.61[b]).

f. Violation Documentation and Accounting. During the conduct of carrier and terminal inspections, in each case where noncompliance with applicable statutory or regulatory requirements is discovered, the appropriate report shall include documentation of the violation(s). Documentation shall include the appropriate statutory or regulatory reference, a description of the noncompliance, and sufficient information in the form of specific examples to support the violation.

(1) Uniformity. To ensure statewide uniformity, accounting of violations detected during carrier and terminal inspections shall be completed as outlined in paragraph 5.f.(2) of this chapter. Violation documentation and accounting

procedures apply to documentation of violations on departmental forms other than citations.

(2) Violation Accounting. With the exception of drivers' HOS limit violations and falsified drivers' records of duty status, only one violation exists for each specific requirement of law; not each occurrence of the violation. This violation accounting is applicable without regard to the number of drivers or vehicles included in the inspection sample, or in violation of the specific requirement.

(a) One violation shall be counted for each driver, discovered to be in violation of drivers' HOS limits within a 24-hour period. Violation accounting shall be applied separately to each driving limit requirement. One violation shall be counted without regard to the number of occurrences of driving in violation of any single driving limit during any single 24-hour period recorded on a driver's record-of-duty status (log).

(b) One violation shall be counted for each driver, for each 24-hour period, when false entries related to duty status, time, duration of duty status, or location are recorded on the graph grid portion of a log.

g. Rating Review.

(1) Purpose. To allow motor carriers an opportunity to challenge Unsatisfactory compliance ratings they believe are not justified or were unfairly assigned, and to comply with the provisions of CVC Sections 34501.12, 34505.1, 34505.6, and 34505.7, the Department has established a rating review policy. The rating review is not a hearing as that term is used in law, nor is it intended as a forum wherein a carrier may explain or demonstrate corrective action taken to mitigate the inspection findings. The sole purpose of the review is to determine whether the inspection was conducted within departmental policy, the Unsatisfactory rating assigned following the inspection was justified, and whether any punitive or corrective action to be recommended by the Department is commensurate with the inspection findings.

(2) Procedures. Any carrier or shipper who receives an Unsatisfactory rating and believes the rating is not justified, may, within five business days following assignment of the rating, request a review by an MCSU supervisor. When the Unsatisfactory rating will result in a recommendation for punitive action (e.g., the filing of a criminal complaint or a recommendation for denial, suspension or revocation of a Motor Carrier of Property [MCP] permit, operating authority, or private carrier of passengers registration), if a review is requested, it shall be conducted by the Division SSC. If the Division SSC is not available to conduct a review when punitive action is to be recommended, it shall be conducted by an assistant chief. A person requesting a review is entitled to:

- (a) A prompt and impartial review of the circumstances by an MCSU supervisor or the Division SSC as appropriate. During this review, the person may respond, either verbally or in writing, to the Unsatisfactory rating; and/or to any expressed intent to file a criminal complaint; and/or to recommend denial, suspension, or revocation of PUC operating authority or private carrier registration or a DMV MCP permit.
- (b) Prompt remedial action by an MCSU supervisor, or the SSC, if the rating is not sustained or the intended recommendation is not appropriate.
- (c) A follow-up response in writing to the person advising the findings and action taken.

(3) Supervisory Review. Supervisory reviews shall be conducted by an MCSU supervisor. If the MCSU supervisor is not available, the review may be conducted by a field supervisor, at the direction of the SSC. In either case, the review shall be conducted by a supervisor who was not involved in the inspection or rating assignment. If there is no MCSU supervisor or field supervisor who was not involved, the Division chief shall designate a qualified uninvolved individual, or may request assistance from CVS staff.

(4) Time Frame. When a rating review is requested, the carrier shall be advised the review must be scheduled and conducted within ten business days following the request. When the time and place for the review have been agreed upon, a confirmation shall be mailed to the carrier by certified mail, or other means which provides the Department tracking and delivery information, advising that should the carrier fail to keep the appointment, the Department will proceed with the action recommendation without further notice. Rating reviews are normally conducted at the Division office; however, by mutual agreement between the reviewer and the carrier, and with the approval of the SSC, a review may be conducted at a CHP office closer to the carrier's terminal or at the carrier's terminal.

(5) Information Release. Except as provided in paragraph 10.a. of this chapter, when a request for a rating review is received, no information concerning the inspection or rating is to be released outside the Department, and no punitive action shall be initiated or recommended until the review has been completed and the appropriate course of action has been decided.

h. Inspection Priorities. The following priorities are listed in the order in which inspections shall be scheduled and completed:

- (1) Terminals with vehicles requiring annual certification.

(2) Bus and modified limousine terminals including all inspections requested by the PUC and motor carriers in accordance with Section 34505.1(c) CVC.

(3) Unsatisfactory- and Conditional-rated terminals, carriers, and shippers.

(4) Complaints against motor carriers when sufficient information is obtained to warrant an investigation.

(5) In addition to terminals of carriers whose California Performance Safety Score (CPSS) is above the inspection threshold, the Department shall place a priority on terminals of carriers from which HM is transported and those never before inspected. Basic Inspection of Terminals inspections shall be scheduled and completed in the following order of priority:

(a) Terminals of carriers operating while exceeding the CPSS inspection threshold.

(b) Terminals of license applicants from which HM is transported, and those never before inspected, from oldest to newest based on the "Status As Of" date or the "BIT Effective Date," whichever is oldest, as displayed in the Carrier Information Reporting and Evaluation System (CIRES), in the following order of priority:

1 Motor carriers applying for an initial HM Transportation License or initial Fleet Owner IMS License.

NOTE: When initiated as the result of an initial IMS License application, an inspection shall only be conducted when there are two existing, consecutive satisfactory terminal ratings.

2 Terminals never before inspected.

3 Transporters of explosives and/or chemicals requiring special routing.

4 Transporters of all other HM.

5 Inspection Maintenance Facilities licensees.

6 Motor carriers who never transport any HM.

(6) Controlled substance and alcohol testing compliance inspections.

(7) Hazardous materials shippers.

(8) Satisfactory rated truck, bus, and modified limousine terminals, and CSAT carriers (outside of the inspection priorities listed in paragraphs 5.h.[1] through [7] of this chapter).

i. Enforcement. Usually, a carrier's certification on the CHP 343 or CHP 343D, Carrier Inspection, acknowledging necessary action will be taken to correct deficiencies is all that is required. In the case of vehicles requiring certification, withholding certification until discrepancies are corrected provides good control.

(1) All Unsatisfactory terminal ratings assigned as a result of a completed terminal inspection require the signature of the appropriate carrier representative on the completed report.

(2) Willful disregard by the motor carrier to take corrective action shall result in the Department requesting a criminal, civil, or administrative action.

(3) Unless otherwise determined by the Division chief, any carrier failing to upgrade compliance as evidenced by three consecutive Unsatisfactory ratings shall be subject to criminal, civil, or administrative action (consistent failure).

(4) Coordination on any request for complaint action may be performed by the local Area court officer. The court officer has an established working relationship with the District Attorney and court personnel and may be of considerable assistance in effectively preparing a case for prosecution.

(5) A determination of operation while a MCP permit is suspended or otherwise invalid shall be referred to the Division SSC for appropriate enforcement action.

(6) Carriers in violation of CVC Section 1808.1(f), relating to the employment, as a driver, of any person against whom a disqualifying action has been taken by DMV, shall be cited. Documents to support citations shall be referred to the Area office designated by Division pursuant to paragraph 4.b.(7) of this chapter.

j. Enforcement Guidelines. Unsatisfactory terminal ratings require, at a minimum, the actions listed below. These prescribed steps do not preclude taking earlier action when circumstances warrant. In all cases, when a terminal is rated Unsatisfactory, a CHP 345, Notice to Carrier, shall be issued. Preparation and use of this notice are outlined in Chapter 3, Field Activity and Activity Inspection Reports, of this manual. If an action is to be taken against a departmental license, or a recommendation for administrative action is to be made to another agency, a corresponding recommendation for suspension of the carrier's MCP permit, PUC operating authority or private carrier of passengers registration, or FMCSA operating authority shall be made in accordance with requirements contained in

Annex D of this chapter. When the results of a terminal inspection indicate a recommendation will be made to deny, suspend, or restore a carrier's permit, operating authority, or registration, the inspection report shall be forwarded immediately to the Division MCSU. The MCS preparing the report shall advise the MCSU supervisor of the findings and recommendations. Such inspection reports shall be held for five calendar days to allow the carrier time to request a review pursuant to paragraph 5.g. of this chapter. If a review is requested, it shall be conducted as set forth in paragraph 5.g. of this chapter. After five days, if a review has not been requested, or if the review sustains the rating and recommendation, the recommendation to the DMV, PUC, or FMCSA shall be prepared without delay and forwarded to CVS. Field Division recommendations shall be prepared in accordance with Annex D of this chapter, and shall be signed by a Division chief. Commercial Vehicle Section will prepare an endorsement for review and approval by EPD. Division recommendations shall be considered tentative until endorsed by Assistant Commissioner, Field.

(1) First Unsatisfactory Rating. When a terminal is assigned an Unsatisfactory composite rating, the MCS assigning the rating shall review the CHP 343 with the owner, terminal manager, or other responsible management person. The review shall include a discussion and explanation of the seriousness and consequences of continued noncompliance, and the manager's signature on the report and on the CHP 345 shall be requested.

(a) Employer Pull Notice. When a motor carrier failed to enroll all drivers in the DMV's EPN Program, failed to obtain and retain a current public driving record as recorded by the DMV pursuant to CVC Section 1808.1(a), or failed to obtain periodic reports pursuant to CVC Section 1808.1(c), one-half (50 percent) of the drivers not enrolled or without current report or current public driving records on file shall be queried through the CLETS, or the federal Commercial Driver License Information System (CDLIS).

1 Disqualified or Unqualified Drivers. If CLETS or CDLIS reveals disqualified or unqualified drivers and it is determined the driver(s) are still employed and have operated CMVs for the motor carrier during the license disqualification, sufficient proof shall be retained, the violations(s) clearly documented in the terminal inspection report, and an Unsatisfactory rating shall be issued. For using disqualified drivers, the CHP 345 shall indicate all appropriate enforcement action will be recommended (e.g., MCP permit suspension).

a If it is determined disqualified or unqualified drivers who are no longer employed by the motor carrier as drivers operated CMVs while disqualified or unqualified, an Unsatisfactory rating

shall be assigned and the CHP 345 shall indicate action which may be recommended for continued failure to comply.

b Consideration must be given when it is determined a carrier removed a driver from operating a CMV immediately upon EPN or other notification of a disqualifying action or unqualified status.

2 No Disqualified or Unqualified Drivers. If the CLETS or CDLIS query of one-half (50 percent) of the drivers not enrolled or without current reports or public record on file reveals no disqualified or unqualified drivers, an Unsatisfactory rating shall be assigned and the normal reinspection process adhered to without further action. Absent any justifiable reason (e.g., drivers not enrolled or without current reports or public record on file), additional CLETS or CDLIS queries are not necessary when conducting reinspections for EPN compliance.

3 Casual Drivers. When it is determined a motor carrier is using casual drivers, defined in CVC Section 1808.1, and the motor carrier does not have the required public record, a CLETS or CDLIS query shall be made to determine the driver license status of the casual driver(s). If the driver license status is found to be valid, the lack of the public driver record shall be documented as a violation and an Unsatisfactory rating shall be assigned as outlined in paragraph 5.d.(2) of this chapter.

(b) Tour Bus Terminals. When inspecting a tour bus terminal for a fitness evaluation for the PUC regarding initial or renewal operating authority, the Department need not make a determination of imminent danger or consistent failure to recommend denial. It is only necessary to conclude the carrier's compliance is sufficiently unsatisfactory, as outlined in paragraph 5.d.(3) of this chapter, to warrant recommendation for denial, pursuant to CVC Section 34505.1.

(c) Other Than Employer Pull Notice Program Enrollment/Imminent Danger. Except as provided in 5.j.(1)(d) below, if the first Unsatisfactory rating is for reasons other than those described in paragraph 5.j.(1)(a) of this chapter, no departmental action is required other than conducting the review and obtaining the signature of the manager on the CHP 343, and issuing the CHP 345.

(d) School Bus Carriers/Terminals. When a school bus carrier or terminal is rated Unsatisfactory, the school board of the responsible district shall be notified in writing of the Unsatisfactory rating (refer to Annex A of this

chapter). For contracted school buses, all school districts that are known to be users of those buses shall be contacted and advised of the carrier's Unsatisfactory rating. Letters should be addressed to the Secretary, Board of Trustees, (Name) School District at the school's regular mailing address. (The secretary is usually the superintendent of the school district.) If the carrier is a school bus contractor, the letter advising schools should state that Title 13 CCR, Section 1233, requires the contractor to separately give notice of the rating to customers. The letter should state the required notice can be given by posting the rating in the public area of the carrier's terminal or by publishing the rating in the local news media. Failure of the carrier to give such notice would constitute a separate violation of law by the carrier.

(2) Subsequent Employer Pull Notice Reinspections. If EPN was the only violation which resulted in the first Unsatisfactory rating, and, prior to the reinspection, a query of the DMV database for EPN reveals compliance, in lieu of a return visit to the terminal, the reinspection and upgraded rating may be discussed with the motor carrier via telephone and the subsequent report mailed or faxed to the carrier. In discussing the report with the appropriate person (e.g., terminal manger) via telephone, documenting the carrier's statement that all required, current EPN printouts are now in the carrier's possession is mandatory. Additionally, permission must be obtained to print the carrier representative's name in the appropriate portion of the completed report.

(3) Subsequent Unsatisfactory Ratings. Following the second consecutive Unsatisfactory rating (motor carriers other than school bus operators), the field supervisor shall contact the carrier's manager(s) to discuss the seriousness and consequences of continued noncompliance. A follow-up letter shall be mailed to the motor carrier (refer to Annex C of this chapter) outlining the discussion.

(a) Employer Pull Notice Violations. If the first reinspection (second inspection) reveals the carrier has not complied as directed, a second Unsatisfactory rating shall be issued.

1 If the second reinspection (third inspection) reveals noncompliance, a third Unsatisfactory rating shall be issued and all appropriate enforcement action shall be recommended for the carrier's consistent failure to comply.

(b) Imminent Danger. If the second consecutive Unsatisfactory rating is due to the carrier's operation presenting an imminent danger to public safety, all appropriate enforcement action shall be recommended.

(c) Consistent Failure. Three consecutive Unsatisfactory ratings constitute consistent failure and warrant all possible action including, but not limited to, recommendation for suspension of the carrier's DMV permit, or PUC operating authority or private carrier of passengers registration; filing of a criminal complaint; or recommendation for administrative action against interstate motor carrier's FMCSA registration or operating authority. The Area command shall be advised of carriers receiving a third consecutive Unsatisfactory rating, and may be requested to assist in enforcement action.

(d) School Bus Carriers/Terminals. When a school bus carrier or terminal receives a second or subsequent consecutive Unsatisfactory rating, the MCSU supervisor shall advise Division. Division shall ensure the following:

1 Upon the second consecutive Unsatisfactory rating, the MCSU supervisor or the Area commander shall contact the carrier, followed by a confirming letter (refer to Annex B of this chapter), which summarizes significant deficiencies and indicates any vehicle(s) placed OOS, with a copy to the school district governing body requesting it be read at the next regularly scheduled meeting. Other remedial actions shall be taken if needed. For school bus contractors, all school districts known to be users of those buses shall be contacted and advised of the carrier's Unsatisfactory rating.

2 When a school bus, SPAB, youth bus, or GPPV terminal receives a third or subsequent Unsatisfactory rating, an inspection of those buses already certified shall be initiated. Should a sampling reveal deteriorating vehicle condition, all buses shall be inspected and the OOS standards vigorously enforced. Additionally, consideration should be given to the policy described in paragraph 5.c. of this chapter.

(e) Warning Letters, Correspondence and Documentation. A copy of all warning letters and correspondence between the Department and school bus, SPAB, youth bus, or GPPV operators and contracting school districts shall be provided to the Area commander. All documentation required by paragraph 5.j.(1)(d) of this chapter shall include the names of persons attending, the subject(s) of discussion, the location, and the date.

(4) Licensed, Registered, and Permitted Activities.

(a) Authority in Jeopardy. When a licensed, registered, or permitted carrier; IMS or HM Transportation License holder; registered HW

transporter; MCP permit holder; PUC operating authority or private carrier of passengers registration; or FMCSA operating authority is rated Unsatisfactory, the CHP 345 provides the necessary due process notice. Specifically, the CHP 345 provides notice that continued noncompliance may result in denial, suspension, or revocation of the permit, license, operating authority, private carrier of passengers registration, or administrative action by the FMCSA or DTSC regarding HW transporter requirements.

(b) Restoration of Suspended Authority. Upon receipt of a request from the DMV or the PUC to reinspect a carrier whose permit or authority was denied, or has been suspended, a reinspection shall be scheduled promptly. Reinspections of suspended carriers shall be initiated within two working days and completed without delay, unless otherwise approved by the Division SSC. When a carrier whose MCP permit, PUC operating authority, or private carrier of passengers registration that has been suspended is upgraded to a Conditional or Satisfactory rating, supervisors shall immediately forward a signed (approval) and electronically scanned copy of the appropriate PUC- or DMV-issued reinspection form to CVS. For purposes of this paragraph, "initiated" means starting the inspection at the terminal (i.e., initiating the actual reinspection of equipment or records which resulted in the previous Unsatisfactory terminal rating).

1 Any delay in scheduling, initiating, or completing the inspection shall be documented within the inspection report. The documentation shall include information regarding dates of carrier contact, names and titles of carrier representatives contacted, reason(s) the inspection was not promptly scheduled or initiated, and/or the compelling reason(s) completion of the inspection was delayed.

(c) Liaison with Allied Agencies. The CVS is responsible for coordinating enforcement activities with parties of interest; e.g., the DMV, the PUC, the FMCSA, the Division of Labor Standards Enforcement within the Department of Industrial Relations, the DTSC, and the CDPH.

(5) Serving Suspension Notices. The following actions shall be taken upon receipt of a notice of suspension or revocation of an MCP permit or PUC operating authority from the DMV or the PUC:

(a) The CVS will forward a copy to the field Division where the carrier's principal place of business is located, as well as to the Division that initiated the negative recommendation.

(b) The Division where the carrier's principal place of business is located will have the suspension or revocation notice delivered to the motor carrier by a commercial enforcement officer, the MCP permit enforcement officer if possible, not later than the day following its receipt by Division. If the principal place of business is outside of California, the Division which initiated the recommendation will deliver the notice to the most highly placed carrier representative at the terminal location. In this case, the Division will also send a copy of the notice to the principal place of business via hard-copy mail delivery, using a method which provides the Department tracking and delivery information.

(c) Suspension or revocation notices are to be delivered to a carrier management representative, preferably the owner or chief operating officer. When the notice is presented to the carrier, his or her signature and the date shall be obtained on a second copy of the notice, to which has been added an acknowledgment receipt.

(d) If the carrier's representative refuses to sign the acknowledgment, the officer is to enter the indicated information on the appropriate lines, enter "Refused to sign" on the signature line, and add notation "Issued by," and the officer's signature and ID number.

(e) The signed receipt copy is to be returned to the Division MCSU, where it is filled with the pertinent terminal inspection report. The Division MCSU will immediately forward an electronically scanned copy of the signed receipt to CVS.

6. MOTOR CARRIER RESPONSIBILITY. Pursuant to CVC Section 15242, any motor carrier that engages a person who owns, leases, or otherwise operates not more than one motor vehicle listed in CVC Section 34500 to provide transportation services under the direction and control of that motor carrier is responsible for the compliance of the engaged person (motor carrier).

a. Responsibility of Engaging Motor Carrier. The responsibility of the engaging motor carrier includes driver license requirements and regulations adopted pursuant to CVC Section 34501 (Title 13 CCR, Chapter 6.5, Motor Carrier Safety).

b. Direction and Control. Direction and control is defined as follows:

(1) The engaged motor carrier is operating under the interstate operating authority of the engaging motor carrier; or

(2) The engaged motor carrier has performed transportation services for a minimum of 60 days within the last 90 days for the engaging motor carrier and

has been on duty for that motor carrier for no less than 36 hours within any week in which those services were provided.

c. Enforcement. When it is determined an engaged motor carrier has failed to comply with driver licensing requirements or motor carrier safety regulations, the engaging motor carrier shall be deemed equally responsible. Enforcement action shall consist of the issuance of a citation, citing the engaging motor carrier for the principle areas of noncompliance. Citations shall be coordinated through the Division SSC.

7. LIAISON WITH THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

a. Policy. It is the policy of the Department to cooperate with officials and personnel of the FMCSA in the motor carrier safety and HM areas. This was the subject of a joint agreement signed June 17, 1968, which provides for exchange of compliance information on violations of motor carrier safety and HM regulations. Whenever substantial violations of federal laws or regulations are encountered during an inspection, documentation of the violation(s) shall be forwarded to EPD for transmittal to the FMCSA.

b. Departmental Enforcement Action. Matters which are prosecuted under California law or which are otherwise handled to a successful conclusion may also be referred to the FMCSA for action as appropriate.

c. Informal Liaison. Division MCSU and CVS personnel may provide information relative to motor carrier safety and HM matters to the FMCSA on an informal basis, either upon request or if it is believed the information would be helpful.

d. Out-of-State Violations. Violations of HM regulations by out-of-state carriers, shippers, and container manufacturers shall normally be referred to the FMCSA through EPD, unless it is possible to resolve such matters locally.

8. LIAISON WITH OTHER STATE DEPARTMENTS. When the results of a terminal or carrier inspection require the Department to initiate enforcement action, including recommendations to other agencies, the following actions shall be initiated:

a. Motor Carriers with Valid Motor Carrier of Property Permit. A recommendation for MCP permit suspension shall be prepared and forwarded to EPD (a request shall be made to the SSC for on-highway enforcement action against motor carriers operating in violation of the requirements to have an MCP permit).

b. Motor Carriers with Valid Public Utilities Commission Operating Authority or Private Carrier of Passengers Registration. A recommendation for suspension/denial/revocation of the appropriate authority or registration shall be

prepared and forwarded to EPD. A request shall be made to the SSC for on-highway enforcement action against motor carriers operating in violation of the requirement to have PUC operating authority or registration.

c. Motor Carriers Subject to Federal Motor Carrier Safety Administration Jurisdiction. A recommendation for FMCSA review and appropriate administrative action against the federal carrier registration shall be prepared and forwarded to EPD for transmittal to FMCSA (refer to Annex D of this chapter).

d. Timely Submission. Without exception, a negative recommendation to an allied agency, together with the inspection documents and a cover memorandum, shall be submitted to EPD to arrive not later than 30 days following the last date of inspection. For the purpose of this requirement, recommendations to other agencies or departments for review and action as deemed appropriate by that agency or department are considered negative recommendations. Negative recommendations received later than 30 days following the inspection will be returned without action.

9. OUT-OF-SERVICE ACTION.

a. Unsafe Vehicles. When the mechanical condition of any vehicle is such that the vehicle would pose an imminent hazard if operated on the highway, the vehicle shall be placed OOS in the terminal as provided by Title 13 CCR, Section 1230(a), trucks, buses, school buses; or CVC Section 31402, FLVs.

b. Hazardous Materials Shipments. When the condition, securement, preparation of lading, filing, closures, or protective devices on cylinders and tanks would be hazardous to life or property, the transport vehicle shall be placed OOS as provided in Title 13 CCR, Section 1160.4(f).

c. Determination. The decision to place a vehicle OOS requires the utmost objectivity and professional judgment. In all cases, the burden of proof rests with the Department.

(1) Defects which are serious enough to require OOS action are listed in the CVSA, Out-of-Service Criteria, adopted in Title 13 CCR, Section 1239.

(2) When a vehicle requiring certification has been placed OOS, the repair record shall be reviewed to assure appropriate entries were recorded prior to vehicle certification.

10. INFORMATION RELEASE POLICY.

- a. Inspection Information. Except as provided herein, no information concerning an inspection, or that an inspection is in progress, shall be released until the inspection is completed. Exceptions to this policy include the sharing of information with concerned allied agencies and with the carrier or terminal being inspected. If an inspection rating is released immediately following an inspection (e.g., in response to a media request), the person(s) to whom the information is given shall be advised of the carrier's right to request a review of the rating within five calendar days, and the rating should be considered tentative pending completion of that review.
- b. Investigation Information. Except as provided below, no information regarding an investigation shall be released to any party (other than a concerned allied agency) until the matter under investigation is resolved and appropriate action has been taken. Once a case has been filed, the reports may be obtained only from the appropriate District Attorney.
- c. Recommendations to Allied Agencies. Information regarding pending recommendations to allied agencies for approval, suspension, or denial; or revocation of a license, permit, registration, or other operating authority may be released at field Division level upon approval of the Division chief. Any releases of this nature must include notice that the final determination is made by headquarters, and the information is a Division recommendation only. When a departmental recommendation has been forwarded, information concerning that recommendation may be released only by the agency which will act upon it.
- d. Internal Notification. Information concerning inspections, investigations, or incidents that could reflect favorably or unfavorably upon the Department shall be reported to the Assistant Commissioner, Field, in accordance with the provisions of General Order 100.80, Notification and Report of Emergencies and Unusual Occurrences.

11. RECORDING POLICY.

- a. General. When a MCS is placed in a compromising or confrontational situation in a carrier facility or terminal, the MCS may openly record conversations only after the following alternatives have been attempted and discounted:
 - (1) Motor Carrier Specialists are encouraged to use their vans when conducting record audits. Motor Carrier Safety Operation vans are designed to be mobile offices, taking the MCS out of the carrier's environment.

(2) A MCS who believes an inspection may become confrontational should discontinue the activity and contact a field supervisor. If the field supervisor is unavailable, the MCS should contact the MCSU supervisor for direction. Depending upon the circumstances, the MCS may be directed to reschedule the inspection when a field supervisor can be present.

(3) In the event a field supervisor is unable to accompany the MCS to meet at the inspection site, the MCS may request the field supervisor's permission to record conversations regarding the inspection. Recording is considered a final alternative and is reserved for those occasions when a compromising or confrontational situation can reasonably be expected to occur.

b. Recordings. If approval is given to record the conversation, the MCS must inform the person(s) their conversation is being recorded and that notice must be clearly audible on the recording, including the carrier acknowledgement. Surreptitious recording is not authorized.

c. Disposition. Recordings shall be submitted to the field supervisor within 24 hours. Field supervisors shall handle and safeguard such recordings in accordance with established procedures for handling evidence, per HPM 70.1, Evidence Manual, Chapter 1, Elements of an Investigation. If a recording is not required for evidence purposes, after six months have elapsed, it shall be erased or destroyed. If a recording is used as evidence in a civil or criminal action, at the close of the case, it shall be disposed of in accordance with HPM 70.1, Chapter 9, Disposal of Evidence and Property.

12. COMPLAINTS AGAINST MOTOR CARRIERS.

a. Receiving a Complaint.

(1) Document the complaint information on a CHP 356, Motor Carrier Safety Operations Complaint Against Motor Carrier, obtaining as much pertinent information as possible. (Refer to Chapter 3 of this manual.) Attach a complete CIREs printout (carrier and terminal) and forward the information to the MCSU supervisor.

(2) After review, the MCSU supervisor will determine if an investigation is necessary, assign the complaint for follow-up as appropriate, and log the complaint into a tracking database.

b. Investigation. Coordinate the complaint investigation based upon schedule and complaint priority time frame assigned, as outlined in 12.d.(1) of this chapter.

(1) Truck Terminals Subject to the Basic Inspection of Terminals Program. When a complete terminal inspection was conducted within 12 months prior to the date the complaint was received which resulted in a Satisfactory terminal rating, investigate the complaint allegation(s) only. Otherwise, conduct a full terminal inspection in conjunction with the complaint investigation.

(2) Truck Terminals Not Subject to the Basic Inspection of Terminals Program. When the complaint alleges noncompliance of any aspect associated with all terminal inspection categories, conduct a full terminal inspection and assign the appropriate safety compliance rating. Otherwise, investigate the complaint allegation(s) only.

(3) Passenger Transportation Terminals. For bus, modified limousine, and FLV carriers, if a complete terminal inspection was conducted within three months prior to the date the complaint was received which resulted in a Satisfactory terminal rating, investigate the complaint allegation(s) only. Otherwise, complete a full terminal inspection.

(4) Controlled Substance and Alcohol Testing. For complaints alleging violations of CSAT program requirements, investigate the specific allegation(s) only. If substantial noncompliance is noted, an in-depth inspection shall be conducted. Concurrence of the MCSU supervisor is required to support a determination of substantial noncompliance sufficient to warrant an in-depth inspection.

c. General Investigation Guidelines.

(1) If the inspection includes only the allegations and the results are either undetermined or unfounded, complete only the CHP 356 and use a CHP 343-1 for additional information, if necessary. Do not complete a terminal or carrier inspection report unless completing a terminal/carrier inspection in conjunction with the complaint investigation.

(2) If the inspection includes only the allegations and the allegations are sustained during any complaint investigation, complete the appropriate "inspection sample" in the category being investigated.

(a) If Unsatisfactory criteria is met in the category being investigated, assign the "U" to the appropriate complaint investigation category only and carry previous ratings forward. Indicate the process on the report.

(b) Do not exceed inspection sample in any inspection category unless directed. (Refer to Chapter 2 of this manual.)

(c) Seize appropriate supporting records (proof) if any departmental action is anticipated.

d. Complaint Tracking. All complaints against motor carriers received by the Department shall be documented and tracked to ensure timely and appropriate follow-up. Microsoft Access or another suitable, departmentally provided software application shall be used to create and maintain a tracking database.

(1) Priority codes representing time frame(s) in which to complete investigation:

(a) Priority code 1-30 days.

(b) Priority code 2-60 days.

(c) Priority code 3-90 days.

(2) Allegation codes best representing the allegations presented on the complaint (may include more than one):

(a) Allegation code 1 - Improper equipment maintenance.

(b) Allegation code 2 - Carrier requiring the operation of unsafe vehicles.

(c) Allegation code 3 - Excessive hours of operation by drivers.

(d) Allegation code 4 - Unsafe operation of vehicle by drivers.

(e) Allegation code 5 - Improperly or unlicensed drivers.

(f) Allegation code 6 - Improper shipment/handling of HM.

(g) Allegation code 7 - Operation of vehicles by drivers using drugs and/or alcohol.

(h) Allegation code 8 - Other (specify).

(3) Findings. Findings may be associated independently with separate allegations.

(a) Unfounded. Sufficient proof exists to support a reasonable conclusion that the alleged act(s) or omission(s) did not occur.

(b) Sustained. Sufficient proof exists to support a reasonable conclusion that the alleged act(s) or omission(s) did occur.

(c) Undetermined. The investigation did not establish that sufficient proof exists to support a reasonable conclusion that the alleged act(s) or omission(s) did or did not occur.

e. Database Entries.

(1) Carrier Name. Enter the carrier name as found in the CIRES database. If the carrier is not found in CIRES, use the legal name representing the motor carrier's operation, and ensure a Carrier Identification (CA) number is assigned by the Division MCSU.

(2) Carrier Identification Number. Enter the CA number assigned to the motor carrier.

(3) File Code Number. If applicable (investigation of terminal), enter the File Code Number assigned to the terminal being investigated.

(4) Date Received. Date complaint is received, taken from CHP 356.

(5) Date Assigned. Date assigned to field by the MCSU, also taken from the CHP 356.

(6) Control Number. The control number is generated by the MCSU and entered at the top right of the CHP 356. The complaint control number consists of the following elements:

(a) Area Number. The three-digit Area number assigned to the MCSU.

(b) Year. The year in which the complaint was received at the MCSU.

(c) Complaint Number. The complaint number is a three-digit number issued sequentially for each calendar year. The complaint number for the first complaint in any calendar year shall be 001.

(d) Priority Code. The time in which to complete the inspection and submit paperwork to MCSU (begins with the date the complaint is received and documented).

(7) Name. Last name of the MCS assigned to complete the inspection.

(8) Allegation Code. Enter the allegation code representing the allegation(s) listed on the CHP 356. Refer to allegation codes listed in paragraph 12.d.(2) of this chapter.

(9) Findings. Enter the finding code listed in paragraph 12.d.(3) of this chapter.

(10) Remarks. Enter any relevant remarks.

(11) Date Completed. Enter the date the investigation is completed.

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ANNEX A

SAMPLE LETTER - FIRST UNSATISFACTORY RATING (SCHOOL BUS OPERATORS)

State of California—Transportation Agency

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Division Address
City, State, ZIP Code
Division Telephone Number
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



Date

File No.: (Division File Number)

(Name, Title)

(Company or School District)

(Street Address)

(City, State, ZIP Code)

(Dear Mr./Ms. Name):

The (Name) Division Motor Carrier Safety Unit conducted [the annual school bus inspection for the (year) school year at] [an inspection of your (city or name) terminal on (date)]. This inspection disclosed an unsatisfactory and unacceptable condition of maintenance of your [school] buses.

In this paragraph, summarize the most significant deficiencies and indicate any vehicle placed out of service.

Enclosed are copies of the inspection reports signed by your representative, (name and title).

Your terminal and vehicles will be reevaluated in the near future. We trust you are aware of the seriousness of the situation and are taking immediate corrective action.

The Department's inspections are ([not] intended to [serve as a substitute for your preventive maintenance program, but to]) verify your buses are being properly maintained on an ongoing basis. If you have any questions regarding this matter, please direct them to our Motor Carrier Safety Unit Supervisor, (name), at the above address or telephone number.

Sincerely,

(NAME), Captain
Special Services Commander

Enclosures

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ANNEX B

SAMPLE LETTER - SECOND UNSATISFACTORY RATING (SCHOOL BUS OPERATORS)

State of California—Transportation Agency

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Division Address
City, State, ZIP Code
Division Telephone Number
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



Date

File No.: *(Division File Number)*

(Name, Title)
(School, Contractor or School District)
(Street Address)
(City, State, ZIP Code)

(Dear Mr./Ms. Name):

Your personal attention is necessary to correct deficiencies in your school bus maintenance program at your (location) terminal.

In this paragraph, summarize the most significant deficiencies and indicate any vehicles placed out of service.

Enclosed are copies of the inspection reports signed by your representative, (name and title). In the event your organization does not institute immediate remedial action and upgrade the mechanical condition of the school buses to acceptable standards, it is this Department's intention to initiate a complaint through the District Attorney's Office. The school district governing body has been furnished a copy of this letter to be read at the next meeting.

If you have any questions regarding this matter, please direct them to our Motor Carrier Safety Unit Supervisor, (name), at the above address or telephone number.

Sincerely,

(NAME), Captain
Special Services Commander

Enclosures

Safety, Service, and Security



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ANNEX C

SAMPLE LETTER - SECOND UNSATISFACTORY RATING (MOTOR CARRIERS OTHER THAN SCHOOL BUS OPERATORS)

State of California—Transportation Agency

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

Division Address
City, State ZIP Code
Division Telephone Number
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



Date

File No.: *(Division File Number)*

(Name, Title)
(Carrier Name)
(Street Address)
(City, State, ZIP Code)

(Dear Mr./Ms. *Name*):

On *(date)*, you received a second unsatisfactory terminal rating from the California Highway Patrol at your terminal located at *(terminal address)*. Your personal attention is necessary to correct deficiencies in *(specify area[s] of non-compliance)*.

On *(date)* Motor Carrier Specialist II *(name)* of my staff contacted you to discuss the seriousness of continued non-compliance. During that conversation you *(indicated, specified, said, or stated)* *(outline the carrier representative's concerns and actions initiated to obtain compliance)*.

Enclosed are copies of the inspection reports signed by your representative, *(name and title)*.

Continued noncompliance with statutory and regulatory requirements may cause complaint action to be initiated and could jeopardize any operating authority or permits your company may have. We trust you are aware of the seriousness of this situation and will take immediate corrective action.

If you have any questions regarding this matter, please direct them to our Motor Carrier Safety Unit Supervisor, *(name)*, at the above address or telephone number.

Sincerely,

(NAME), Captain
Special Services Commander

Enclosures

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ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION

This annex provides instructions and sample memorandums prescribing the format to be used by field Divisions when recommending denial, suspension, or revocation of Department of Motor Vehicles (DMV) Motor Carrier of Property (MCP) Permits, Public Utilities Commission (PUC) operating authority or private carrier of passengers registration, or Federal Motor Carrier Safety Administration (FMCSA) registration or operating authority. These samples provide appropriate language to be used (for the most common violations detected) when preparing suspension, denial, or revocation recommendations. Field Division personnel should include additional language to document violations not described in the sample memorandums.

DENIAL, SUSPENSION, OR REVOCATION. The following guidelines clarify when a recommendation should be made for denial, suspension, or revocation of a carrier's permit, operating authority, or private carrier registration:

Recommendations for denial are appropriate only for initial or renewal Transportation Charter Party or initial Passenger Stage Carrier applications. Denials require only that the carrier be deemed "sufficiently unsatisfactory" to warrant denial. (Section 34505.1 of the California Vehicle Code.)

Recommendations for suspension are appropriate for annual bus terminal inspections and truck terminal inspections which have resulted in Unsatisfactory ratings. Recommendations for suspension must include documentation of imminent danger or consistent failure.

Recommendations for suspension of a truck operator's MCP may be made if the carrier knowingly leases or otherwise operates vehicles from a carrier whose MCP is suspended for failure to maintain vehicles in safe operating condition.

Revocation is normally recommended only after suspension has failed to achieve compliance.

SUMMARY OF FINDINGS. On the appropriate sample memorandum, at the place indicated by "Include summary of findings here," enter the following information in the order indicated:

- The date(s) and the reason for the inspection(s) (or reinspection[s]).
- The results of each inspection. When more than one criterion supports the recommendation, applicable details are to be provided in the following order:

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

- The corporation or carrier failed to maintain its vehicles in safe condition which presented an imminent danger to public safety or the failure is determined to be a consistent failure.
- The corporation or carrier failed to comply with other requirements related to motor carrier safety (e.g., preventive maintenance records, drivers' records-of-duty status, hours-of-service, etc.).
- The corporation or carrier failed to comply with the DMV Employer Pull Notice (EPN) Program.
- For suspension recommendations for leasing or otherwise operating vehicles from a carrier whose MCP is suspended for failure to maintain vehicles in safe operating condition, in the summary, document the carrier's knowledge of the prohibition, and include evidence of the lease or operating agreement between the carriers.
- Due Process. All recommendations shall include the statement that the carrier's representative signed the CHP 343, Safety Compliance Report/Terminal Record Update, and the CHP 345, Notice to Carrier, and was furnished a copy of each form.

RESULTS OF INSPECTION.

Use the following paragraph for vehicles with mechanical safety violations:

The inspection(s) included (*number*) vehicles and revealed (*number*) mechanical safety violations. (*Number*) vehicles were placed out-of-service for imminently hazardous mechanical safety violations.

Use the following paragraphs, or combination thereof, for carriers not complying with requirements relative to motor carrier safety:

This carrier has failed to maintain vehicles used in transportation for compensation in safe operating condition and/or to comply with the Vehicle Code and/or regulations contained in Title 13, California Code of Regulations (CCR), relative to motor carrier safety.

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

The carrier does not have an adequate preventive maintenance program as outlined in and required by Title 13, CCR, Section 1232(a).

The carrier does not maintain a record of the different types of vehicles and vehicle combinations each driver is capable of driving as required by Title 13, CCR, Section 1234(b), pursuant to Section 1229.

The carrier does not require drivers to submit documented daily vehicle inspection reports as specified in Title 13, CCR, Section 1234(e), pursuant to Section 1215, and retain such reports for at least three months.

The carrier fails to require each driver to keep a driver's record-of-duty status as specified in Title 13 CCR, Section 1234(a), pursuant to Section 1213.

Use the following paragraph for carriers not enrolled in the EPN Program, or not complying with EPN Program requirements:

The carrier was not enrolled in the DMV EPN Program as required by Vehicle Code Section 1808.1. The carrier was directed to contact DMV and enroll in the program (or) the carrier failed to comply with all applicable provisions of the DMV EPN Program, as required by Vehicle Code Section 1808.1.

DUE PROCESS.

The following paragraph is mandatory and shall be used for all recommendations for suspension of a motor carrier's permit or operating authority, except suspensions for failure to submit Biennial Inspection of Terminals applications or fees, or for knowingly leasing or operating vehicles from a carrier whose MCP is suspended:

As a result of this inspection, an Unsatisfactory terminal rating was assigned and a CHP 345 was issued. The terminal inspection report(s) and the CHP 345 were furnished to and signed by the carrier's representative. These documents notify the carrier of the Unsatisfactory rating, that an Unsatisfactory rating may result in denial, suspension, or revocation of the carrier's permit or operating authority, and that a review of the rating may be requested by the carrier within five days.

If the carrier did not request a review, at the end of this paragraph, add the following sentence:

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

As of (date), no review was requested.

If the carrier did request a review, insert the following paragraph immediately following the above paragraph:

On (date), a review of the inspection findings was requested by Mr./Ms. (name - title). The review was conducted by (name & title), and was completed on (date), with the conclusion that both the Unsatisfactory rating and the recommended action(s) are appropriate (*or other findings as appropriate*). The carrier was advised by mail on (date) of the findings of the review and any action to be taken or recommended. A copy of the review findings and the letter to the carrier are attached.

If, based upon the outcome of the review, no recommendation is to be made, the response to the carrier should also specify that a reinspection will be conducted within 120 days. The review should then be placed in the carrier's file in suspense pending the reinspection.

SAMPLE MEMORANDUMS.

The following sample memorandums illustrate the required language to be used to recommend denial, suspension, or revocation of MCP Permits, PUC operating authority or private carrier of passengers registration, or FMCSA registration or operating authority. Use of the standard language shown in the sample memorandums is necessary to ensure statewide uniformity in the preparation of recommendations, acceptance by the receiving agency, and to enhance the validity of the documents as evidence during the conduct of hearings by administrative law judges. (Note: Variable information is shown in italics in the sample memorandums.) All supporting documents (the complete inspection package[s]) must be included as attachments to the memorandum, and these attachments must be itemized under the "Attachment(s)" notation on the last page of the memorandum, as shown. If more than one inspection report supports the recommendation, list each separately by date(s), and indicate the number of pages comprising each report. Recommendations for denial, suspension, or revocation to more than one agency should be included within one memorandum.

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION *(continued)*

State of California	Transportation Agency
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M e m o r a n d u m

Date: *Date*

To: Enforcement and Planning Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Mountain Division

File No.: *(Division File Number)*

Subject: RECOMMENDATION TO SUSPEND THE MOTOR CARRIER OF PROPERTY PERMIT OF *(CARRIER NAME, CA NUMBER)*

The *Mountain* Division Motor Carrier Safety Unit has completed (#) terminal inspection(s) of *(Carrier Name, CA Number)*. The inspection(s) resulted in a determination by the Department the carrier's safety record is unsatisfactory and in the assignment of (#) unsatisfactory safety compliance rating(s).


The Department has notified the carrier in writing of all of the following:

1. The Department has determined the carrier's safety record is unsatisfactory and has furnished the carrier with a copy of the documentation or summary of proof supporting the determination;
2. The determination may result in a suspension or revocation of the carrier's Motor Carrier of Property (MCP) Permit by the Department of Motor Vehicles (DMV) or administrative action by the Federal Motor Carrier Safety Administration (FMCSA); and
3. The carrier may request a review of the determination by the Department within five calendar days of receipt of the notice. If a review pursuant to that notice is requested by the carrier, the Department will conduct and evaluate the review prior to transmitting a recommendation to the DMV or FMCSA.

[Include summary of findings here.]

This carrier is a motor carrier of property operating vehicles described in Section 34500 (a), (b), (e), (f), (g), (j), or (k) of the California Vehicle Code (CVC). The carrier has failed to *[describe noncompliance issues here]* and has failed to comply with regulations contained in Title 13, California Code of Regulations relative to motor carrier safety. In the opinion of Mountain Division, these failures *(constitute a consistent failure to comply) (represent an imminent danger to public safety)* so as to justify a recommendation to suspend the carrier's MCP Permit.

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Figure D-1: Motor Carrier of Property Permit, Page 1

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF
OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR
PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

Enforcement and Planning Division
Page 2
Date

Mountain Division requests a recommendation for suspension of the MCP Permit of (*Carrier Name, CA Number,*) be transmitted to the DMV. The unsatisfactory terminal rating(s) assigned and this request are based on the facts and circumstances set forth in the Safety Compliance Report/Terminal Record Update and other documents attached to this Memorandum which are herein incorporated by reference.

(*NAME*), Chief

Attachments:

Safety Compliance Report(s) dated (*date[s]*)
Notice to Carrier dated (*date[s]*)
Letter(s) to carrier dated (*date[s]*)

Figure D-1: Motor Carrier of Property Permit, Page 2

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

State of California	Transportation Agency
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M e m o r a n d u m

Date: *Date*

To: Enforcement and Planning Division

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Mountain Division

File No.: 901.A9789

Subject: RECOMMENDATION TO SUSPEND THE OPERATING AUTHORITY OF
(CARRIER NAME, CAL-T NUMBER)

The *Mountain* Division Motor Carrier Safety Unit has completed (#) terminal inspection(s) of *(Carrier Name, Cal-T Number)*. The inspection(s) resulted in a determination by the Department the carrier's safety record is unsatisfactory and in the assignment of (#) unsatisfactory safety compliance rating(s).


The Department has notified the carrier in writing of all of the following:

1. The Department has determined the carrier's safety record is unsatisfactory and has furnished the carrier with a copy of the documentation or summary of proof supporting the determination;
2. The determination may result in a suspension or revocation of the carrier's operating authority by the Public Utilities Commission (PUC) or administrative action by the Federal Motor Carrier Safety Administration (FMCSA); and
3. The carrier may request a review of the determination by the Department within five business days of receipt of the notice. If a review pursuant to that notice is requested by the carrier, the Department will conduct and evaluate the review prior to transmitting a recommendation to the DMV or FMCSA.

[*Include summary of findings here.*]

This carrier is a motor carrier of property operating vehicles described in Section 34500 (a), (b), (e), (f), (g), (j), or (k) of the California Vehicle Code (CVC). The carrier has failed to [*describe noncompliance issues here*] and has failed to comply with regulations contained in Title 13, California Code of Regulations relative to motor carrier safety. In the opinion of Mountain Division, these failures (*constitute a consistent failure to comply*) (*represent an imminent danger to public safety*) so as to justify a recommendation to suspend the carrier's operating authority.

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Figure D-2: Household goods carrier operating authority (PUC), Page 1.

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF
OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR
PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

Enforcement and Planning Division
Page 2
Date

Mountain Division requests a recommendation for suspension of the operating authority of (*Carrier Name, Cal-T Number,*) be transmitted to the PUC. The unsatisfactory terminal rating(s) assigned and this request are based on the facts and circumstances set forth in the Safety Compliance Report/Terminal Record Update and other documents attached to this Memorandum which are herein incorporated by reference.

(*NAME*), Chief

Attachments:

- Safety Compliance Report(s) dated (*date[s]*)
- Notice to Carrier dated (*date[s]*)
- Letter(s) to carrier dated (*date[s]*)

Figure D-2: Household goods carrier operating authority (PUC), Page 2.

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

State of California	Transportation Agency
M e m o r a n d u m	
Date:	<i>Date</i>
To:	Enforcement and Planning Division
From:	DEPARTMENT OF CALIFORNIA HIGHWAY PATROL <i>Mountain Division</i>
File No.:	901.A09789
Subject:	RECOMMENDATION TO (<i>SUSPEND</i>) (<i>DENY</i>) THE OPERATING AUTHORITY OF (<i>CARRIER NAME, PSG NUMBER</i>)

The *Mountain* Division Motor Carrier Safety Unit has completed (#) terminal inspection(s) of (*Carrier Name, PSG Number*). The inspection(s) resulted in a determination by the Department the carrier's safety record is unsatisfactory and in the assignment of (#) unsatisfactory safety compliance rating(s).


The Department has notified the carrier in writing of all of the following:

1. The Department has determined the carrier's safety record is unsatisfactory and has furnished the carrier with a copy of the documentation or summary of proof supporting the determination;
2. The determination may result in a denial, suspension, or revocation of the carrier's operating authority by the Public Utilities Commission (PUC) or administrative action by the Federal Motor Carrier Safety Administration (FMCSA); and
3. The carrier may request a review of the determination by the Department within five business days of receipt of the notice. If a review pursuant to that notice is requested by the carrier, the Department will conduct and evaluate the review prior to transmitting a recommendation to the PUC or FMCSA.

[*Include summary of findings here.*]

This tour bus operator has failed to [*describe noncompliance issues here*] and has failed to comply with the California Vehicle Code and with regulations contained in Title 13, California Code of Regulations relative to motor carrier safety. In the opinion of *Mountain* Division, these failures (*constitute a consistent failure to comply*) (*represent an imminent danger to public safety*) so as to justify a (*denial*) (*suspension*) (*revocation*) of the carrier's operating authority.

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Figure D-3: Tour bus carrier operating authority (PUC), Page 1.

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

Enforcement and Planning Division
Page 2
Date

Mountain Division recommends a recommendation for (denial) (suspension) (revocation) of (*Carrier Name, PSG Number*) be transmitted to the PUC. The unsatisfactory terminal rating(s) assigned and this request are based on the facts and circumstances set forth in the Safety Compliance Report/Terminal Record Update and other documents attached to this Memorandum which are herein incorporated by reference.

(*NAME*), Chief

Attachments:

Safety Compliance Report(s) dated (*date[s]*)
Notice to Carrier dated (*date[s]*)
Letter(s) to carrier dated (*date[s]*)

Figure D-3: Tour bus carrier operating authority (PUC), Page 2.

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (continued)

State of California	Transportation Agency
M e m o r a n d u m	
Date:	<i>Date</i>
To:	Enforcement and Planning Division
From:	DEPARTMENT OF CALIFORNIA HIGHWAY PATROL <i>Mountain Division</i>
File No.:	901.A09789
Subject:	RECOMMENDATION TO SUSPEND THE PRIVATE CARRIER OF PASSENGERS REGISTRATION OF (<i>CARRIER NAME, PSG NUMBER</i>)

The *Mountain* Division Motor Carrier Safety Unit has completed (#) terminal inspection(s) of (*Carrier Name, CA Number*). The inspection(s) resulted in a determination by the Department the carrier's safety record is unsatisfactory and in the assignment of (#) unsatisfactory safety compliance rating(s).

The Department has notified the carrier in writing of all of the following:

1. The Department has determined the carrier's safety record is unsatisfactory and has furnished the carrier with a copy of the documentation or summary of proof supporting the determination;
2. The determination may result in a suspension of the carrier's private carrier of passengers registration by the Public Utilities Commission (PUC) or administrative action by the Federal Motor Carrier Safety Administration (FMCSA); and
3. The carrier may request a review of the determination by the Department within five business days of receipt of the notice. If a review pursuant to that notice is requested by the carrier, the Department will conduct and evaluate the review prior to transmitting a recommendation to the PUC or FMCSA.

[*Include summary of findings here.*]

This private carrier of passengers has failed to [*describe noncompliance issues here*] and has failed to comply with the California Vehicle Code and with regulations contained in Title 13, California Code of Regulations relative to motor carrier safety. In the opinion of *Mountain* Division, these failures (*constitute a consistent failure to comply*) (*represent an imminent danger to public safety*) so as to justify a suspension of the carrier's private carrier of passengers registration.


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Figure D-4: Private carrier of passengers registration (PUC), Page 1.

ANNEX D

RECOMMENDATIONS FOR DENIAL, SUSPENSION, OR REVOCATION OF OPERATING AUTHORITY, MOTOR CARRIER OF PROPERTY PERMITS, OR PRIVATE CARRIER OF PASSENGERS REGISTRATION (*continued*)

Enforcement and Planning Division
Page 2
Date

Mountain Division recommends a recommendation for suspension of the private carrier of passengers registration of (*Carrier Name, CA Number*) be transmitted to the PUC. The unsatisfactory terminal rating(s) assigned and this request are based on the facts and circumstances set forth in the Safety Compliance Report/Terminal Record Update and other documents attached to this Memorandum which are herein incorporated by reference.

(*NAME*), Chief

Attachments:

Safety Compliance Report(s) dated (*date[s]*)
Notice to Carrier dated (*date[s]*)
Letter(s) to carrier dated (*date[s]*)

Figure D-4: Private carrier of passengers registration (PUC), Page 2.

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ANNEX E

VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES

The following is a list of Vehicle Code and Title 13, California Code of Regulations, sections which are particularly pertinent to school buses:

CALIFORNIA VEHICLE CODE

492	Private School
545	School Bus
546	School Pupil Activity Bus
680	Youth Bus
2807	School Bus Inspection
2808	Private School Bus Requirements
9102.5	Privately Owned School Bus
22112	School Bus Signal
24002	Vehicle Not Equipped or Unsafe
24009	Manufacturer's Name and Gross Vehicle Weight Rating (GVWR)
25100	Clearance and Sidemarker Lamps
25102.5	School Bus Sidelamps
25257	School Bus Warning Signal System
25257.7	School Bus Strobe Lamp
25300	Warning Devices on Disabled or Parked Vehicles
27603	Color Required for Former School Bus
27906	School Buses (Signs)
27906.5	Youth Bus Signs 34500. Safety Regulations
34500	Safety Regulations
34501.5	School Bus Safety Regulations
34506	Violations: Misdemeanors
34508	Additional Regulations: School Buses

ANNEX E

VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES
(continued)

TITLE 13, CALIFORNIA CODE OF REGULATIONS

695	School Bus Sidelamps
695.5	School Bus Strobe Lamp
696	School Bus Warning Lamps
786	Requirements for School Bus Sidelamps
Article 14	Tires and Rims (Section 1080 et seq.)
1200	Subchapter 6.5, Motor Carrier Safety (Sections 1200 through 1293)

ANNEX F

**VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES
ENFORCEMENT CHECKLIST**

EQUIPMENT REQUIREMENT	FEDERAL REGULATION	TITLE 13	COMMENTS/APPLICABILITY OF TITLE 13, CALIFORNIA CODE OF REGULATIONS (13 CCR)
Fuel Tanks	Federal Motor Vehicle Safety Standard (FMVSS) 301	1255(a)	Unenforceable for school buses with greater than 10,000 pounds gross vehicle weight rating (GVWR) manufactured after April 1, 1977, in compliance with FMVSS 301 (crash test).
Emergency Exit Warning Device	FMVSS 217	1268(f)(3)	Unenforceable for buses manufactured after September 1, 1973, in compliance with FMVSS 217, except school buses shall comply with Title 13 CCR 1281.1.
Emergency Exit Signs (see summary)	FMVSS 217	1268(f)(4)	Unenforceable for buses manufactured after September 1, 1973, with a GVWR less than 10,000 pounds, in compliance with FMVSS 217. Buses with a GVWR of more than 10,000 pounds may use the words "Emergency Door" or "Emergency Exit" for doors.
Side Windows Emergency Exits *Type 2 Bus only	FMVSS 217	1269(b)	Unenforceable for buses manufactured after September 1, 1973, with a GVWR less than 10,000 pounds, in compliance with FMVSS 217 (see summary).

ANNEX F

**VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES
ENFORCEMENT CHECKLIST (*continued*)**

EQUIPMENT REQUIREMENT	FEDERAL REGULATION	TITLE 13	COMMENTS/APPLICABILITY OF 13 CCR
*Pupils' Seat Spacing	FMVSS 222	1278(b)	Unenforceable for school buses manufactured after April 1, 1977, in compliance with FMVSS 222 (specific seat spacing measurement from the manufacturer's seating reference point). Except side facing seats may be installed when specially designed for the transportation of physically handicapped or convalescent pupils. "Specially designed" includes, but is not limited to, depressions, arm rests, barriers, or seat belts to provide passenger crash protection similar to a forward facing seated passenger.
*Pupil Seat Securement	FMVSS 222	1278(c)	Unenforceable for school buses manufactured after April 1, 1977, in compliance with FMVSS 222 (specific performance requirements for seat securement, padding, and seat cushion attachment).
*Left Side Door Located Near Rear	FMVSS 217	1282(a)	Unenforceable for school buses manufactured after May 9, 1996, in compliance with FMVSS 217. The federal standard requires the left side emergency exit door to be located "as near as practicable to the mid-point of the passenger compartment."

ANNEX F

**VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES
ENFORCEMENT CHECKLIST (continued)**

EQUIPMENT REQUIREMENT	FEDERAL REGULATION	TITLE 13	COMMENTS/APPLICABILITY OF 13 CCR
School Bus Data Plate	49 Code of Federal Regulations (49 CFR) 567 and 568	1271	<p>For motor vehicles manufactured on and after April 1, 1977, part 567 and 568 apply. Data required by the federal standard:</p> <ol style="list-style-type: none"> 1. Name of manufacturer. 2. Month and year of manufacture. 3. GVWR. 4. Gross axle weight rating. 5. The following statement: This vehicle conforms to all applicable FMVSS in effect on the date of manufacture shown above. 6. Vehicle identification number. 7. The type classification of the vehicle (e.g. truck, M.P.V., bus, school bus, trailer).
Display of Data	49 CFR 5267	1272(a)	Part 567 – Data plate location for motor vehicles. The label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver’s seating position, or if none of these locations is practicable, to the left side of the instrument panel.

ANNEX F

**VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES
ENFORCEMENT CHECKLIST *(continued)***

EQUIPMENT REQUIREMENT	FEDERAL REGULATION	TITLE 13	COMMENTS/APPLICABILITY OF 13 CCR
*Securement of Pupils and Wheelchairs.	FMVSS 222	1293(f)(3)	Unenforceable for wheelchair school buses manufactured after January 17, 1994, in compliance with FMVSS 222 (specific performance requirements for wheelchair securement anchorage and securement devices).

SUMMARY

* BUSES A WITH GVWR OF MORE THAN 10,000 POUNDS

Emergency Exits Federal Motor Vehicle Safety Standard 217.

May use side windows, 20 x 13 inches minimum size, or exit doors. Exits must provide unobstructed openings which collectively amount, in total square inches, to at least 67 times the number of designated seating positions on the bus. At least 40 percent shall be provided on each side of a bus. Must have at least one rear exit (door or windows). When the bus configuration precludes installation of an accessible rear exit, a roof exit shall be provided in rear half of the bus. No opening may be credited with more than 536 square inches regardless of size. Doors require identification. May use words "EMERGENCY DOOR" or "EMERGENCY EXIT" for doors. Warning devices are not required on emergency exits, except school buses.

* BUSES WITH A GVWR OF 10,000 POUNDS OR LESS

Emergency Exits Federal Motor Vehicle Safety Standard 217.

May use side windows, 20 x 13 inches minimum size, or exit doors. Exits must provide unobstructed openings which collectively amount, in total square inches, to at least 67 times the number of designated seating positions on the bus. At least 40 percent shall be provided on each side of a bus. No opening may be credited with more than 536

ANNEX F

VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES ENFORCEMENT CHECKLIST (*continued*)

square inches regardless of size. Doors do not require identification. Warning devices are not required on emergency exits, except school buses. Emergency exits are not required on the rear of the bus. All doors on the sides of the bus, including the driver's door, count toward the REQUIRED escape area.

* FEDERAL MOTOR VEHICLE SAFETY STANDARD PREEMPTION OF STATE LAWS THAT CONFLICT

Title 49, United States Code, Sec. 30103. Relationship to other laws.

"(a) Uniformity of Regulations. The Secretary of Transportation may not prescribe a safety regulation related to a motor vehicle subject to subchapter I of chapter 135 of this title that differs from a motor vehicle safety standard prescribed under this chapter. However, the Secretary may prescribe for a motor vehicle operated by a carrier subject to subchapter I of chapter 135, a safety regulation that imposes a higher standard of performance after manufacture than that required by an applicable standard in effect at the time of manufacture.

(b) Preemption.

(1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

(2) A State may enforce a standard that is identical to a standard prescribed under this chapter."

* FEDERAL MOTOR VEHICLE SAFETY STANDARD APPLICABILITY AFTER SALE

Vehicle Code (VC) Section 24011 prohibits dealers from selling or offering for sale a vehicle to which a federal standard is applicable unless the vehicle conforms to that standard. If an owner or operator not in the repair business disconnects or removes a part of a FMVSS system originally on his/her vehicle (such as converting a dual-air

ANNEX F

VEHICLE CODE AND CALIFORNIA CODE OF REGULATIONS REFERENCES ENFORCEMENT CHECKLIST (*continued*)

brake system on a truck to a single-air brake system), the vehicle no longer meets federal standards, and therefore no longer qualifies for federal preemption, and therefore must be brought into compliance with pre-FMVSS VC and CCR requirements for the device or element of design affected. In the brake system example, California law does not require a dual-air brake system. If a truck owner decided to modify the brake system to eliminate this FMVSS 121 feature, then all California pre-FMVSS 121 requirements would apply, such as the high pressure relief valve (VC Section 26305), emergency release and reapplication (VC Section 26508[f]), and all other California air brake requirements that would otherwise be preempted by the FMVSS.

13 CCR 1240 states that: "A Federal Motor Vehicle Safety Standard that conflicts with an equipment provision of this title as to the same aspect of performance shall supersede that specific provision of this title with respect to vehicles manufactured and maintained in compliance with applicable federal standards."

13 CCR 1271(c) states that: "No vehicle manufactured on or after September 1, 1989, shall be used as a school bus unless the vehicle meets the definition of a school bus or a multipurpose passenger vehicle, as defined in Part 571 of Title 49, Code of Federal Regulations, and unless the vehicle meets all Federal Motor Vehicle Safety Standards in effect on the date of manufacture for a school bus of the appropriate gross vehicle weight rating."