

CHAPTER 14
CONTROLLED SUBSTANCES AND ALCOHOL TESTING

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CHAPTER 14

CONTROLLED SUBSTANCES AND ALCOHOL TESTING

1. GENERAL. Vehicle Code (VC) Section 34520 requires motor carriers and drivers subject to the controlled substances and alcohol testing (CSAT) requirements of the United States Department of Transportation to comply with the Federal Motor Carrier Safety Administration (FMCSA) regulations found in Title 49, Code of Federal Regulations (49 CFR) Part 382 or the Federal Transit Administration (FTA) requirements in 49 CFR Part 655, whichever is applicable. Compliance with the federal CSAT regulations reduces collisions and injuries resulting from the use of controlled substances or the misuse of alcohol by drivers of commercial motor vehicles (CMV) or other “covered employees.” The purpose of this chapter is to establish procedures for determining compliance with CSAT requirements with minimum disruption to motor carrier operations, while minimizing inspection time. The terminology and definitions used in this chapter are intended to be consistent with those used in the referenced federal regulations unless stated otherwise. As used in this chapter, the term “driver” means an individual subject to the CSAT regulations of the FMCSA in 49 CFR Part 382. The term “covered employee” means an individual subject to the CSAT regulations in 49 CFR Part 655.

2. ENFORCEMENT.

a. Federal vs. State. Attempts to directly apply federal regulations and guidelines to existing state programs often lead to difficulties and conflicts in interpreting and applying the federal laws. For example, the federal regulations governing CSAT, under 49 CFR Part 40, are designed to be enforced by inspecting the motor carrier’s records at the company’s principal place of business (PPB), not at each of the motor carrier’s individual terminals.

b. Principle Place of Business (PPB) vs Terminal. The Department will apply the federal regulations in substantially the same manner as the FMCSA or the FTA applies them. This means that for purposes of inspecting motor carriers for compliance with the federal CSAT regulations, the Department will use the federal definitions of words contained in those regulations, utilize published federal interpretations, and will inspect motor carrier records at their PPBs located in California, rather than at each California terminal. It is recognized that this approach to inspection means that some motor carriers will not be inspected by this Department because their PPB is outside California. For those motor carriers, the Department will rely upon the compliance determinations of the FMCSA or the FTA.

c. Federal Motor Carrier Safety Administration (FMCSA) vs Federal Transit Administration (FTA). Although the CSAT programs in 49 CFR Part 382 for motor

carriers in general, and in 49 CFR Part 655 for most transit operators are similar, they are not identical. Care must be taken to ensure only 49 CFR Part 655 regulations are applied to those subject to the FTA and only 49 CFR Part 382 regulations are applied to those subject to the FMCSA. The common thread between the two programs is 49 CFR Part 40, as both must adhere to the requirements contained therein.

3. DEFINITIONS UNDER FMCSA REGULATIONS.

a. Commercial Motor Vehicle. “Commercial motor vehicle” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(1) Has a gross combination weight rating of 26,001 pounds or more inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

(2) Has a gross vehicle weight rating of 26,001 pounds or more; or

(3) Is designed to transport 16 or more passengers, including the driver; or

(4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the hazardous materials regulations.

b. Motor Carrier. For the purposes of Section 34520 VC, the term “motor carrier,” when used in reference to the FMCSA CSAT regulations, means a person or entity employing one or more employees (including an individual who is self-employed) that is subject to Department of Transportation (DOT) agency regulations requiring compliance with this part. The term, as used in this part, means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the entity who take personnel actions resulting from violations of this part and any applicable DOT agency regulations. Service agents are not employers for the purposes of this part.

c. Drivers. For the purposes of Section 34520 VC, the term “driver,” when used in reference to the FMCSA CSAT regulations, means any person who operates a CMV. This includes, but is not limited to, full time, regularly employed drivers, casual, intermittent, or occasional drivers; leased or contracted drivers and independent, owner/operator contractors.

d. Contracted Motor Carriers. A motor carrier exclusively contracted to another motor carrier is considered by the U.S. DOT, FMCSA to be a “driver” and must be

enrolled in the testing program of the contracting or overlying motor carrier, who is considered by the U.S. DOT, FMCSA to be the “employer.” During a carrier inspection at an exclusively contracted motor carrier’s PPB, it will be necessary to verify the contracted motor carrier’s enrollment in the employer’s program, or compliance with applicable exceptions. Verification may be made by telephone or by a visit to the employer’s PPB, and shall be documented as shown below. When it is not possible to verify participation, or doubts remain concerning the verification, the normal inspection process as set forth in this chapter should be followed.

NOTE: In the above scenario, if the contracted motor carrier is not in the testing program of the overlying motor carrier, and the overlying motor carrier is not utilizing applicable exemptions, it is the overlying motor carrier that is in violation and a separate carrier inspection of the overlying motor carrier would have to be conducted to properly document noncompliance.

(1) Documentation. Verification of a contracted motor carrier’s enrollment in another motor carrier’s CSAT program is to be recorded on the CHP 343D, Carrier Inspection, as follows:

(a) Verification. Include the statement: “Enrollment of (name of contracted motor carrier) in the CSAT program of (name and California Carrier Identification [CA] number of “contracting” or overlying motor carrier) was verified by (name of overlying motor carrier’s representative).”

(b) Filing. When a contracted motor carrier’s enrollment in another motor carrier’s CSAT program is confirmed by telephone or other verbal means, a copy of the CHP 343D, Carrier Inspection, for the contracted motor carrier is to be filed with the suspense file for the enrolling motor carrier. If the PPB of the enrolling motor carrier is located in another Division, the copy shall be forwarded to that Division for filing.

(c) Follow-up. When the overlying (contracting) motor carrier is inspected, the CSAT inspection should include follow up to determine if the enrollment of contracted motor carriers is confirmed by inspection of the CSAT files. If the inspection indicates a false report, the information shall be returned to the originating Motor Carrier Specialist (Specialist) for follow up with the contracted motor carrier.

e. Safety Sensitive Function (SSF). Safety sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. SSF shall include:

(1) Dispatch: All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

- (2) Pre-Trip Inspection: All time inspecting equipment as required by 49 CFR 392.7 and 49 CFR 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) Driving: All time spent at the driving controls of a commercial motor vehicle in operation;
- (4) Sleeper Berth: All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76 of this subchapter);
- (5) Other duties: All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- (6) Breakdown: All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

4. EXCEPTIONS.

a. Commercial Driver License (CDL) Requirements Unique to California.

Although California law requires a CDL for the operation of certain types of vehicles and vehicle combinations described in Section 34500 VC, drivers are not subject to CSAT requirements unless they operate vehicles that meet the aforementioned definition of a CMV. For example, drivers of the vehicles described in (1) through (3) below would not be subject to federal testing requirements based solely upon the operation of these vehicles:

- (1) A bus which seats less than 16 passengers, including the driver, which is used to transport persons for compensation or profit, or is used by any nonprofit organization or group, meets the California definition of "bus" as set forth in Section 233 VC and California law requires the driver to have a CDL. However, such a vehicle is not a CMV for the purpose of CSAT.
- (2) A three-axle truck with a gross vehicle weight rating that exceeds 6,000 pounds but does not exceed 26,001 pounds also requires a CDL.
- (3) A two-axle truck towing a trailer with a gross vehicle weight rating greater than 10,000 pounds, where the gross combination weight rating is less than 26,001 pounds. (Example: Truck with a gross vehicle weight rating of 13,000 pounds, towing a trailer with a gross vehicle weight rating of 12,000 pounds.)

b. Transit Exemption. Motor carriers and their drivers who are required to comply with the CSAT requirements of 49 CFR Part 655 (transit buses/vehicles operated by recipients of funding from the FTA) are not subject to the testing requirements of 49 CFR Part 382 (49 CFR 382.103). Transit operators not subject to Part 655 are subject to Part 382 if the vehicles operated meet the definition of CMV in paragraph 3(a)(3). Drivers who operate under multiple modalities (vehicles subject to FTA rules and other vehicles subject to FMCSA rules) must be randomly tested under the regulations corresponding to the driver's primary activities (more than 50 percent of their time).

5. DEFINITIONS UNDER FTA REGULATIONS.

a. Department of Transportation (DOT) Administrations. Federal Motor Carrier Safety Administration regulations define a covered employee and a vehicle, and subjects the covered employee to CSAT regulations when operating such a vehicle. When the covered employee violates testing requirements, the regulations require the covered employee to be removed from a SSF, which bars the driver from operating a regulated vehicle. The FTA regulations define covered employee to include drivers, dispatchers, mechanics, and some security officers. A covered employee is subject to CSAT and when those regulations are violated, the covered employee is barred from performing SSFs. However, the FTA SSFs encompass much more than driving. So, while the FTA and the FMCSA regulations may use many similar terms, the two often provide different definitions for those terms. Personnel are cautioned the specifics of the FMCSA regulations are not always exactly the same as the FTA regulations, and vice versa.

b. Motor Carrier. As used in Section 34520 VC, the term "motor carrier," when referring to the FTA CSAT regulations, means an entity receiving federal financial assistance under Section 3, 9, or 18 of the Federal Transit Act, or under Section 103(e)(4) of Title 23 of the United States Code. (This interpretation is consistent with "recipient" as that term is defined in 49 CFR 655.4). There are, however, some recipients who operate only small vehicles not meeting the California definition of "bus." These recipients are not "motor carriers," and are not subject to CHP inspection. The Department has no authority to inspect "recipients," only bus operators. Therefore, if a recipient does not operate buses or trucks, no inspection should be conducted.

c. Covered Employee. For the purposes of Section 34520 VC and this chapter, the term "driver," when used in reference to the FTA CSAT regulations, means a person, including an applicant or transferee, who performs a SSF for an entity subject to 49 CFR Part 655. In these regulations, a volunteer driver is included only if operating a vehicle designed to transport 16 or more passengers, including the

driver. (This interpretation is consistent with “covered employee” as that term is defined in 49 CFR 655.4.)

d. Safety Sensitive Function. Safety sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

(1) Driving. Operating a revenue service vehicle, including when not in revenue service;

(2) Driving, Nonrevenue. Operating a nonrevenue service vehicle, when required to be operated by a holder of a CDL;

(3) Dispatching. Controlling dispatch or movement of a revenue service vehicle;

(4) Repairing. Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 United States Code (U.S.C.) 5307 or 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. 5311 and contracts out such services;

(5) Firearms. Carrying a firearm for security purposes.

6. INSPECTION.

a. Motor Carrier Requirements. Compliance with CSAT requirements includes providing copies of all necessary records pertaining to CSAT to authorized employees of the Department for inspection. Motor carriers are required to provide CSAT records to authorized employees of the Department upon request, according to 49 CFR 40.331(e). The Specialist shall notify a management representative at the motor carrier’s PPB, a minimum of two days prior to an inspection, that it will be necessary to audit CSAT records. It is recommended that semi-annual summaries, provided to the motor carrier by the testing laboratory, be requested at this time as they will contain facts that may prove helpful during the audit. The Specialist must allow the motor carrier up to two additional days to present records not requested prior to the inspection. Unless otherwise indicated (e.g., by a complaint, an accident, or reasonable suspicion), examination of motor carrier CSAT records shall normally be limited to those accumulated during the two years immediately preceding the inspection with the exception of sub-paragraphs (2), (4), (6) and (8). If it is believed that inspection of additional records is warranted, the Specialist shall obtain the approval of the MCSU supervisor before proceeding. As a minimum, the records requested should include the information below.

- (1) List of drivers, including dates they were hired (from the employer);
- (2) List of drivers, including dates enrolled into random selection pool (from the C/TPA);
- (3) *Annual management information system (MIS) summary report;
- (4) *Semi-annual lab reports;
- (5) Copy of policy/driver education materials;
- (6) Driver certificates of receipt for policy/driver education materials;
- (7) *Chain of custody and control forms (CCFs), employer copies (Copy 4);
- (8) *MRO verified test result notification (CCF Copy 2, or letter);
- (9) *Alcohol test forms (ATFs);
- (10) *Previous employer inquiry and/or good faith effort documentation;
- (11) *Random selection documents;
- (12) *Reasonable suspicion determination, written documentation;
- (13) *Substance Abuse Professional documents generated as a result of a violation of 49 CFR Part 382, Subpart B;
- (14) Supervisor reasonable suspicion training documentation; and
- (15) Number of reasonable suspicion-trained supervisors:_____

*As applicable for each calendar year.

b. In-Depth Inspections. When a carrier inspection is conducted and an in-depth inspection is warranted, records examined may include all types of tests performed and include both controlled substances and alcohol tests. While any record maintained by the motor carrier pursuant to required CSAT may be requested, inspection time may be optimized when conducting an in-depth carrier inspection through adherence to the guidelines provided below.

- (1) Determine if the motor carrier self-tests or uses a consortium. (For the purposes of this chapter, consortium and third-party administrator have the same meaning.)

(2) If the motor carrier uses a consortium, obtain the name and telephone number of the consortium and confirm that all of the motor carrier's drivers that are subject to the FMCSA, or covered employees that are subject to the FTA, are enrolled.

(3) Request the names of those currently enrolled in the testing pool from the consortium, including the date each individual was added.

(4) Determine if the motor carrier is testing for marijuana, cocaine, phencyclidine (PCP), amphetamines, opiates, and alcohol. (49 CFR 40.3 or 49 CFR 40.85)

(5) Determine if the motor carrier is using a certified laboratory to obtain controlled substances test results. (49 CFR 382.105 or 49 CFR 655.51)

(6) Determine if all drivers or covered employees are in a random testing pool. (49 CFR 382.305 or 49 CFR 655.45[e])

(7) Determine if all controlled substances test results are reviewed by a medical review officer. (49 CFR 382.105 or 49 CFR 655.51)

(8) Determine if the motor carrier conducts random testing for controlled substances on drivers or covered employees at a rate at least equal to the minimum annual testing rate established by the FMCSA or FTA, as applicable.

NOTE: Starting calendar year 2007, the controlled substances random testing rate is reduced to 25 percent for FTA regulated motor carriers. (49 CFR 382.305 or 49 CFR 655.45)

(9) Determine if the motor carrier conducts random testing for alcohol abuse on drivers or covered employees at a rate at least equal to the minimum annual testing rate established by the FMCSA or FTA, as applicable. (49 CFR 382.305 or 49 CFR 655.45)

(10) Determine if the motor carrier maintains CSAT records for the required time frames. If not, note as a violation only (see paragraph 7.h.), unless the lack of compliance permitted the motor carrier to use a disqualified individual to conduct SSFs in which case the motor carrier's CSAT program is not in compliance and the motor carrier should be rated Unsatisfactory. (49 CFR 382.401 or 49 CFR 655.71)

(11) Determine if the motor carrier reasonably spaces random tests throughout the calendar year. If not, note as a violation only, unless the lack of compliance permitted drivers or covered employees to determine when

random selections would not be made, in which case the motor carrier should be rated Unsatisfactory. (49 CFR 382.305 or 49 CFR 655.45[g])

(12) Determine if the motor carrier used a verified positive tested driver or covered employee to perform SSFs. Examples: Driver or covered employee that refused to test; failed to immediately report to the collection site for a test; tested positive, was unable to provide adequate amounts of breath or urine without a valid medical reason, was not evaluated by a substance abuse professional and continues to conduct SSFs. Such violations shall be considered to pose an imminent danger. (49 CFR 382.501 or 49 CFR 655.61[a])

(13) Determine if the motor carrier used a driver or covered employee to conduct SSFs before the results of the pre-employment test were known. If the test was positive and the motor carrier has taken no remedial action, such violations shall additionally be considered to pose an imminent danger. (49 CFR 382.301 or 49 CFR 655.41)

(14) Determine if the motor carrier exhibits a pattern of skipping over certain drivers or covered employees for testing. Great care should be taken in making this determination, as a truly random selection process can “skip” one individual repeatedly while “selecting” another individual multiple times. (49 CFR 382.305 or 49 CFR 655.45)

(15) Determine if the motor carrier ensures that all drivers or covered employees “proceed immediately” to the testing site upon notification. (49 CFR 382.305[l] or 49 CFR 655.45[h])

(16) Determine if the motor carrier made a “good faith” effort to obtain all required CSAT information from all previous employers for the previous 24 months prior to permitting a new driver, subject to regulation, to perform a SSF. When a motor carrier has made a request and the information is not immediately forthcoming, the name of the California based regulated motor carrier failing to provide required driver history is to be forwarded to the Division where the PPB is located to determine why the information was not provided. This requires the Specialist to gather and forward the information required by paragraph 9.(c) of this chapter (Refusals to Provide Information). That paragraph also addresses the procedure to be followed for these motor carriers when the PPB is located outside California. (49 CFR 382.413 or 49 CFR 655.71)

(17) Determine if the motor carrier has written driver education materials/policy addressing CSAT requirements. (49 CFR 382.601 or 49 CFR 655.15)

(18) Determine if the motor carrier ensures that post-accident tests are completed within allowable time frames. If not, determine if there is documentation explaining why. If there is a justifiable explanation, there is no violation. (49 CFR 382.303 or 49 CFR 655.44)

(19) If a driver or a covered employee refused to submit to a test, received a verified positive test result, or had an alcohol test result with a blood alcohol content of .04 or more, determine if follow-up tests are being conducted. If not, and the individual in question has been conducting SSFs, the motor carrier shall be rated Unsatisfactory. (49 CFR 382.503 or 49 CFR 655.46)

(20) Determine if the motor carrier after finding a driver or covered employee to have a breath alcohol content of more than 0.02 but less than 0.04, used the individual within 24 hours (8 hours or a Satisfactory subsequent test if subject to FTA) of that test result to perform SSFs. (see paragraph 7.h.) (49 CFR 382.505 or 49 CFR 655.35[a])

(21) Determine if the motor carrier retains the original, signed driver certificates of receipt for driver education materials/policy (applies to the FMCSA only). If not, note as a violation only. (see paragraph 7.h.) (49 CFR, 382.601)

(22) Determine if supervisors/representatives are trained in making reasonable suspicion determinations. If not, note as a violation only (see paragraph 7.h.) (49 CFR 382.603 or 49 CFR 655.14[b][2]).

c. Preparation of Testing Records. Although federal regulations permit a consortium to prepare reports for a motor carrier; the responsibility for the accuracy, timeliness, and submission of the records rests with the motor carrier. (49 CFR 382.403[f] or 49 CFR 655.72[a])

d. Location of Records. CSAT records shall be made available for examination at the motor carrier's PPB unless arrangements are made with the motor carrier to inspect those records elsewhere, pending approval of the Division MCSU supervisor where the PPB is located. The location of the PPB can usually be determined through a query of the Management Information of System Terminal Evaluation Records (MISTER) system, as the PPB is identified when a basic motor carrier record is requested. The PPB and a terminal may be at the same location, but there is no requirement that they be located together.

(1) PPB Located Outside of California. When it is learned that a motor carrier's PPB is located outside California, the Specialist shall document the location of the motor carrier's PPB and the source of the information on a CHP 343-1, Continuation, which shall be forwarded to the Division MCSU. If using the three-part carbonless forms, the MCSU shall retain the pink

(suspense) copy of the CHP 343-1, Continuation, and forward the white and the yellow copy to Commercial Vehicle Section (CVS). CVS will retain the white copy and forward the yellow copy to the FMCSA or the FTA, for follow up by those agencies as deemed appropriate. The white copy will be retained in CVS for four years and then destroyed.

(2) PPB Located Outside the Division. When it is learned that a motor carrier's PPB is located in California, but outside the respective Division, the Specialist shall enter the location of the motor carrier's PPB and the source of the information on a CHP 343-1, Continuation, which shall be forwarded to his or her Division MCSU. If using the three-part carbonless forms, the MCSU shall retain the pink (suspense) copy of the CHP 343-1, Continuation, and forward the white copy and the yellow copy to the appropriate Division MCSU. The receiving MCSU will retain the yellow copy and forward the white copy to the appropriate Specialist for use in planning or conducting a carrier inspection. Following the carrier inspection, the Specialist shall attach the white copy to the inspection report and the MCSU may destroy the yellow copy. After two years, the originating MCSU may destroy the pink copy of the CHP 343-1, Continuation.

(3) PPB Located Within the Division. When the PPB is located within the Division, the Specialist shall enter the location of the motor carrier's PPB and the source of the information on a CHP 343-1, Continuation, and submit the white copy and yellow copy to the MCSU. The pink copy should be destroyed. If using the three-part carbonless forms, the MCSU shall retain the yellow copy of the CHP 343-1, Continuation, and forward the white copy to the appropriate Specialist for scheduling and/or inspection purposes. Following the carrier inspection, the Specialist shall attach the white copy to the inspection report. The yellow copy may then be destroyed.

e. Frequency. Except for complaint follow-up or inspections pursuant to Section 34501.18 VC, a motor carrier's first CSAT inspection shall be an in-depth inspection in accordance with this chapter, to ensure full compliance with all requirements of law.

(1) Limited Inspection Criteria. After a motor carrier has received a Satisfactory rating as a result of an initial (in-depth) CSAT inspection, subsequent CSAT inspections shall be conducted during each mandated inspection (25 months for the Biennial Inspection of Terminals Program and 13 months for bus operators) using the following limited inspection criteria:

(a) Ascertain if the motor carrier is currently enrolled in a CSAT program, with no lapse in enrollment during the previous 12 months, and confirm this information.

(b) Determine that all drivers are enrolled; all required tests have been conducted; and the motor carrier has not allowed disqualified drivers to perform SSFs.

(c) Determine if the motor carrier makes good-faith efforts to obtain previous employer CSAT information.

NOTE: Violation(s) of any of the above items shall be documented and shall result in the assignment of an Unsatisfactory motor carrier rating. Additionally, allowing a disqualified driver to perform a safety sensitive function shall result in a recommendation to suspend the motor carrier's Public Utilities Commission (PUC) operating authority or Private Carrier of Passengers registration; Department of Motor Vehicle's (DMV) Motor Carrier of Property (MCP) permit; a recommendation to the FMCSA for administrative action (if applicable); or a combination of any of these actions.

(2) Subsequent CSAT Inspections. During subsequent (limited) CSAT inspections, motor carriers shall also be asked about their compliance with the following related requirements:

(a) policy;

(b) policy receipts;

(c) semi-annual lab summaries; and

(d) all testing is performed in compliance with 49 CFR Part 40.

(3) Violations. Specific 49 CFR violations shall be documented for "no" answers to these items. Unless any of the previously mentioned Unsatisfactory conditions are present (6e[1][a]-[c] above), a Satisfactory motor carrier rating shall be assigned.

f. Controlled Substances and Alcohol Testing (CSAT) Inspections During Administrative Review (AR). When a motor carrier is due an AR pursuant to Section 34501.12 VC, a CSAT inspection does not have to be conducted. However, during an AR the motor carrier shall be asked about continued (full) compliance with CSAT requirements, using the limited inspection criteria. Absent any articulable reason or proof requiring further review of a motor carrier's CSAT compliance during an AR (such as checking the status of newly-hired drivers), the CHP 342, BIT Program/Administrative Review, may be used to document the motor carrier's statement of continued full compliance with CSAT requirements (no CSAT rating issued). The CHP 343D, Carrier Inspection, need only be used to document

an in-depth or subsequent (limited) CSAT inspection which would require the issuance of a motor carrier rating.

g. Documenting the Inspection. To document the examination of CSAT records, a CHP 343D, Carrier Inspection, shall be prepared (refer to Chapter 3 of this manual), separate from the reports of any terminal inspection. This inspection is a motor carrier inspection, addressing only the CSAT compliance for the motor carrier's entire operation. A compliance rating of Satisfactory, Unsatisfactory, or Conditional shall be assigned based solely on the results of the CSAT inspection. No other category shall be inspected or rated on the CHP 343D, Carrier Inspection. The CHP 355K, Violation Notice, (refer to Chapter 3 of this manual) shall be used as an additional page when it is necessary to document the names of drivers who have committed CSAT violations discovered during a carrier inspection.

7. MOTOR CARRIER RATINGS.

a. Procedure for Assigning an Unsatisfactory Motor Carrier Rating with a Finding of Imminent Danger. Motor carriers that do not immediately remove verified positive-tested drivers or covered employees, drivers or covered employees who refuse to submit to a test, or drivers or covered employees with a blood alcohol content of .04 percent or above from performing SSFs, are examples of motor carriers posing an imminent danger to public safety. They should not be allowed additional opportunities to jeopardize public safety through their continued operation pending a reinspection. These motor carriers shall be rated Unsatisfactory, and shall be advised that a recommendation to suspend any operating authority or permit the motor carrier holds will be forwarded immediately to the DMV, the PUC, or the FMCSA, as appropriate. Since some motor carriers operating under the FTA regulations may not have operating authority issued by the FTA or the state, a complaint requesting the FTA to investigate the situation and take appropriate action may be initiated. Additionally, appropriate criminal, civil, or administrative action shall be initiated by the Department. Upon completion of the carrier inspection, the Specialist shall notify the MCSU of the finding and the MCSU shall prepare a memorandum for the Division chief's signature, recommending suspension of the motor carrier's authority to operate, or other action (criminal, civil, or administrative) as appropriate.

(1) No further action shall be taken until five calendar days have elapsed from the date the motor carrier rating was assigned, or the motor carrier has requested and been granted a review of the rating (refer to Chapter 1, Rating Reviews). If a request for a review is not made within five days, a copy of the memorandum shall be faxed to CVS, followed by the original document by mail.

(2) After review by CVS, the memorandum will be forwarded to Assistant Commissioner, Field, for signature and returned for delivery to the appropriate agency.

b. Procedure When Assigning an Unsatisfactory Motor Carrier Rating with No Finding of Imminent Danger. Following an inspection which results in the assignment of an Unsatisfactory rating with no finding of imminent danger, the motor carrier shall be reinspected no less than 100 days nor more than 120 days following the Unsatisfactory rating. If the Unsatisfactory rating resulted from the lack of a CSAT program and a reinspection indicates there is still no CSAT program in place, or the motor carrier exhibits a lack of willingness and/or ability to comply, the motor carrier shall again be rated Unsatisfactory, and shall be advised a recommendation to suspend any operating authority or permit the motor carrier holds will be forwarded immediately to the DMV, the PUC, or the FMCSA as appropriate. Since some motor carriers operating under the FTA regulations may not have operating authority issued by the FTA or the state, the motor carrier shall be advised a complaint requesting the FTA to investigate the situation and take appropriate action may be initiated. Additionally, the motor carrier shall be advised appropriate criminal, civil, or administrative action shall be initiated by the Department. Upon completion of the carrier inspection, the Specialist shall notify the MCSU of the finding and the MCSU shall prepare a memorandum for the Division chief's signature, recommending suspension of the motor carrier's authority or permit to operate, or other action (criminal, civil, or administrative) as appropriate.

(1) No further action shall be taken until five calendar days have elapsed from the date the motor carrier rating was assigned, or the motor carrier has requested and been granted a review of the rating. If a request for a review is not made within five days, a copy of the memorandum shall be faxed to CVS, followed by the original document by mail.

(2) After review by CVS, the recommendation will be forwarded to Assistant Commissioner, Field, for signature and returned to CVS for delivery to the appropriate agency Department of Motor Vehicles (DMV) or PUC.

c. Substantial Progress. When a reinspection indicates a motor carrier has not obtained compliance, but has made substantial progress, a second Unsatisfactory rating should be assigned, and the motor carrier shall be reinspected no less than 100 days nor more than 120 days following the Unsatisfactory rating.

d. Second Reinspection Resulting in an Unsatisfactory Compliance Rating. If a second reinspection (third inspection) results in an Unsatisfactory compliance rating, the motor carrier shall be advised a recommendation to suspend any operating authority or permit the motor carrier holds will be forwarded immediately

to the DMV, the PUC, or the FMCSA, as appropriate. Since some motor carriers operating under the FTA regulations may not have operating authority issued by the FTA or the state, the motor carrier shall be advised a complaint requesting the FTA to investigate the situation and take appropriate action may be initiated. Additionally, the motor carrier shall be advised appropriate criminal, civil, or administrative action shall be initiated by the Department. Upon completion of the carrier inspection, the Specialist shall notify the MCSU of the finding and the MCSU shall prepare a memorandum for the Division chief's signature, recommending suspension of the motor carrier's authority or permit to operate, or other action (criminal, civil, or administrative) as appropriate.

(1) No further action shall be taken until five calendar days have elapsed from the date the motor carrier rating was assigned, or the motor carrier has requested and been granted a review of the rating. If a request for a review is not made within five days, a copy of the memorandum will be faxed to CVS, followed by the original document by mail.

(2) After review by CVS, the memorandum will be forwarded to Assistant Commissioner, Field, for signature and returned for delivery to the appropriate agency. If deemed appropriate by the Division chief, a criminal complaint may also be filed with the District Attorney in response to a motor carrier's continued lack of compliance.

e. Satisfactory Carrier Rating Defined. A motor carrier rated Satisfactory is one in compliance with applicable laws and regulations. Minor deficiencies will not preclude assignment of a Satisfactory motor carrier rating. Criteria for assignment of a Satisfactory rating include:

(1) The motor carrier is testing drivers or covered employees for alcohol and controlled substances use in the manner specified by pertinent federal regulations.

(2) The motor carrier maintains required CSAT testing records.

(3) The motor carrier provides all requested CSAT records for inspection.

f. Unsatisfactory Carrier Rating Defined. A motor carrier rated Unsatisfactory is one in which articulable proof is obtained showing noncompliance with, or disregard of, statutory or regulatory requirements. A guide for assigning Unsatisfactory motor carrier ratings is provided below. However, when a motor carrier refuses to test drivers or covered employees, or tests them but refuses to prohibit an individual with a verified positive test result from conducting a SSF, merely assigning an Unsatisfactory rating may not be effective in preventing their continued use. Therefore, motor carriers that are unwilling to conduct a CSAT, or remove those

that have tested positive from performing a SSF such as exemplified in paragraph 7.g.(1) or (2) shall be considered to pose an imminent danger to public safety.

g. Unsatisfactory Rating for One or More of the Following. An Unsatisfactory rating should be assigned for any condition described in (1) through (18) below (except as noted):

(1) The motor carrier fails to test for controlled substances use and/or alcohol abuse as required. NOTE: If a motor carrier refuses, following specific direction, to conduct a CSAT, this refusal shall be considered an imminent danger to public safety. (49 CFR 382.115[a] or 49 CFR 655.11)

(2) The motor carrier permitted or required a driver or covered employee to perform a SSF after the driver or covered employee engaged in prohibited conduct.

NOTE: Motor carriers which fail to remove drivers who have engaged in prohibited conduct from performing a SSF shall be considered to pose an imminent danger to public safety. (For either part, at a minimum, prohibited conduct includes a verified positive drug test result, an alcohol test with a blood alcohol content 0.04 or more, or a refusal to submit to a required test. See the applicable subpart for other prohibited conduct.) (49 CFR Part 382, Subpart B, or 49 CFR Part 655, Subpart G)

(3) The motor carrier does not ensure all the drivers or covered employees are immediately enrolled in a random testing pool. (49 CFR 382.305 or 49 CFR,655.45[e])

(4) The motor carrier's program does not test for use of marijuana, cocaine, PCP, amphetamines, and opiates. (49 CFR 382.105 or 49 CFR 655.21[b])

(5) The motor carrier's program does not test for alcohol abuse. (49 CFR 382.105 or 49 CFR 655.31[a])

(6) The motor carrier's program does not use a Department of Health and Human Services certified laboratory to obtain controlled substances test results. (49 CFR 382.105 or 49 CFR 655.51)

(7) The motor carrier's program does not ensure controlled substances test results are reviewed by a medical review officer. (49 CFR 382.105 or 49 CFR 655.51)

(8) The motor carrier's program does not ensure random tests are reasonably spaced throughout the calendar year. (49 CFR 382.305[k] or 49 CFR 655.45[g])

(9) The motor carrier fails to conduct random testing for controlled substances on drivers or covered employees at a rate at least equal to the minimum annual testing rate established by the FMCSA or FTA, as applicable.

NOTE: This percentage does not apply when a motor carrier has enrolled all its drivers or covered employees in a random selection pool, such as a consortium, that includes the regulated drivers or covered employees of other companies, provided the consortium is testing at the appropriate rate. (49 CFR 382.305[b][2] or 49 CFR 655.45[a])

NOTE: Starting calendar year 2007, for FTA regulated motor carriers, the controlled substances random testing rate is reduced to 25 percent annually.

(10) The motor carrier fails to conduct random testing for alcohol abuse on drivers or covered employees at a rate at least equal to the minimum annual testing rate established by the FMCSA or FTA, as applicable.

NOTE: The percentage of drivers tested does not apply when a motor carrier has enrolled all its drivers in a random selection pool that includes the regulated drivers of other companies, provided the consortium is testing at the appropriate rate.) (49 CFR 382.305[b][1] or 49 CFR 655.45[f])

(11) The motor carrier does not ensure all drivers or covered employees submit to random testing. (49 CFR 382.305[a] or 49 CFR 655.45[h])

(12) The motor carrier does not ensure drivers or covered employees proceed immediately to a collection site following notification. (49 CFR 382.305[i] or 49 CFR 655.45[h])

(13) The motor carrier does not ensure drivers or covered employees identified by a substance abuse professional as needing assistance, comply with the recommendations of the substance abuse professional. (49 CFR 382.503 or 49 CFR 655.46)

(14) The motor carrier used a driver or covered employee before the results of the pre-employment test were known. (49 CFR 382.301[a] or 49 CFR 655.41[a])

(15) The motor carrier withholds employee CSAT information when properly requested by a driver's or covered employee's subsequent employer. (49 CFR 382.405[f] or 49 CFR 655.73[f])

(16) The motor carrier's program does not ensure drivers or covered employees are prevented from knowing when random testing notifications will be issued. (49 CFR 382.305[k][1] or 49 CFR 655.45[g])

(17) The motor carrier does not make a “good-faith” effort to obtain information regarding any positive drug and/or alcohol activity from previous employer(s) prior to hiring a driver or covered employee. (49 CFR 382.413 or 49 CFR 40.25)

(18) The motor carrier did not complete post-accident tests within the required time frames and does not have satisfactory documentation explaining why a post accident test was not conducted. (49 CFR 382.303 or 49 CFR 655.44)

h. Unsatisfactory Rating for Three or More of the Following. An Unsatisfactory rating should be assigned when violations include three or more conditions described in (1) through (5) below (except as noted):

(1) The motor carrier does not ensure CSAT records are maintained for the required periods. (49 CFR 382.401 or 49 CFR 655.71)

(2) The motor carrier does not ensure a driver, found to have a breath alcohol content more than 0.02 but less than 0.04, is not used within 24 hours to perform a SSF (eight hours for FTA). (49 CFR 382.505[a] or 49 CFR 655.35[a][2])

(3) The motor carrier does not ensure original driver certificates of receipt for driver education materials/policy are signed and on file (FMCSA only). (49 CFR,382.601[d])

(4) The motor carrier does not ensure supervisors/representatives are properly trained in making reasonable suspicion determinations. (49 CFR 382.603 or 49 CFR 655.14[b][2])

(5) The motor carrier does not have a written driver education material/policy addressing CSAT requirements. (49 CFR 382.601[a] or 49 CFR 655.15)

i. Definition of a Conditional Carrier Rating. A Conditional rated motor carrier is one last rated Unsatisfactory, has been reinspected and is no longer Unsatisfactory, but whose overall compliance cannot be clearly determined. A Conditional rating may only be assigned following an Unsatisfactory rating, and may not be assigned when Unsatisfactory conditions exist. A Conditional rating is appropriate following a CSAT program reinspection at a motor carrier’s PPB when both of the conditions set forth in (1) and (2), below, exist:

(1) The previous Unsatisfactory rating was assigned for an “uncorrectable” violation, e.g., the motor carrier failed to test at least 50 percent of its drivers or covered employees for controlled substances during the last calendar year. Since the motor carrier cannot “make up” last year’s required random tests by testing at a higher rate this year, this violation is “uncorrectable.”

(2) The reinspection shows the motor carrier has apparently taken the actions necessary to ensure the Unsatisfactory condition does not continue into the current year, i.e., at the time of the reinspection, the motor carrier is testing at a rate that, if sustained through the year, will result in Satisfactory compliance.

j. Suspense Date. Because the Conditional rating may be assigned only for apparent mitigation of violations documented for the previous year, the follow-up reinspection must be conducted in the year following the Conditional rating in order to determine if the motor carrier actually achieved Satisfactory compliance. For example, if an Unsatisfactory rating for failure to test 50 percent of the drivers or covered employees during 2004 was assigned at any time in 2004, the follow up inspection for the Conditional rating must be scheduled and conducted in 2005. In order to allow motor carriers time to put their calendar year records in order before inspection, it is recommended that such follow up inspections not be conducted before March 15th of the following year.

k. Complaints. When a Specialist is directed to investigate a citizen's complaint relating to a motor carrier's CSAT program, the specific allegations only should be investigated. If a substantial lack of compliance is noted, an in-depth inspection of the motor carrier's CSAT records should be conducted. The MCSU supervisor should discuss the necessary depth of the investigation with the Specialist prior to the inspection.

l. Examples of Situations Where Closer Inspection is Warranted. Situations which may warrant closer inspection of CSAT records include the following. Note that the rationale for a more in-depth inspection of these motor carriers' CSAT records is that they do not appear to be adequately controlling their drivers' or covered employees' activities, or may be avoiding accurately documenting their drivers' activities.

(1) Motor carriers with citations for hours-of-service violations.

(2) Motor carriers with Unsatisfactory terminal ratings due to hours-of-service violations.

(3) Motor carriers with Unsatisfactory terminal ratings due to a lack of proper driver records (timekeeping records, Employer Pull Notice participation).

8. DRIVER NAME CONFIDENTIALITY.

a. Documenting Violations. When documenting violations of the federal regulations relating to CSAT, Specialists must take special care to assure compliance with the confidentiality provisions. (49 CFR 382.405 or 49 CFR 655.73[a])

b. Driver Confidentiality. The issue of confidentiality arises when the name of a driver and/or covered employee must be used when recording a motor carrier violation. The fact that a motor carrier committed a violation by using a disqualified individual is not confidential, and except for the name of the involved party, that violation may be recorded in the normal fashion. The name of the individual involved in the violation is confidential, and is not to be recorded in the regular narrative portion of the carrier inspection report.

c. Report Preparation. Carrier inspection reports documenting findings that any driver or covered employee violated any provision of 49 CFR Part 382, Subpart B, and subsequently performed a SSF without having passed a return-to-duty test, shall be prepared as shown below.

(1) CHP 343D, Carrier Inspection. Check the "This report contains CONFIDENTIAL pages" box in the top margin of the CHP 343D, Carrier Inspection.

(2) CHP 343-1, Continuation. Document the violations in the narrative portion of the report, identifying each involved driver or covered employee only as "Driver or covered employee (see page __, line __)." For example,

(a) "Driver (see page 7, line 1) tested positive for use of amphetamines on 2-16-98; the driver's record of duty status indicates this driver drove a commercial motor vehicle on 3-10-98; no return-to-duty test on file."

(b) "Driver (see page 7, line 2) tested positive for use of opiates on 4-22-99; payroll records on file show this driver drove commercial motor vehicles on 4-29-99, 5-10-99, 5-12-99, 5-16-99, 5-18-99, and 6-8-99; no return-to-duty test on file."

d. Confidential Pages. The CHP 355K, Violation Notice (refer to Chapter 3 of this manual) for documenting CSAT violations without compromising an individual's right to confidentiality. When used, the CHP 355K, Violation Notice, shall be numbered in sequence as the last page of the report. (It is suggested the confidential page listing the names of those involved in violations be prepared first, which will make completion of the narrative easier, since the page and line numbers will already be determined.) No notes of names shall be made on scratch paper or anywhere other than on the confidential form, in connection with violations related to Section 34520 VC.

(1) Preparation. Number the page in sequence as the last page of the report; enter the motor carrier's CA number and the date of inspection in the spaces provided. On the numbered lines, enter the names of the drivers and/or covered employees who tested positive and who later performed SSFs without

having a return-to-duty test on file, using one line for each name. In the spaces provided, enter the designated management official's name (see below), title, and California driver license number, and obtain his/her signature and the date on the line below.

(2) Spoiled Pages. If errors are made in preparation of a CHP 355K, Violation Notice, necessitating one or more new copies be prepared, the Specialist preparing the form shall retain any spoiled pages, mark them "Confidential Waste," and turn them into his/her supervisor together with the MCSU copies of the completed report. MCSU supervisors shall ensure these pages are placed in the confidential waste receptacle for proper destruction.

e. Designated Employer Representative. The "designated employer representative" is the person authorized by the motor carrier to receive confidential CSAT information. If the designated employer representative is not known to the Specialist, such as by a previous contact, photo identification shall be required before releasing copies of confidential pages.

f. Disposition. Except as noted below, the duplicate copy of the CHP 355K, Violation Notice, is to be included as the last page of the motor carrier's copy of the report. Confidential pages are not to be shown or released to anyone other than a designated employer representative, except pursuant to a court order or subpoena. If the person receiving the report is not a designated employer representative, the confidential page(s) shall be removed from the report and withheld. The person signing the CHP 343D, Carrier Inspection, shall be requested to inform a designated employer representative that he or she may obtain the confidential pages by contacting the Division MCSU in person and signing the confidentiality and authorization statement on the form. A designated employer representative requesting confidential pages from MCSU staff shall be required to present photo identification and to sign the CHP 355K, Violation Notice, before confidential pages are given into their possession.

g. Filing and Retention. After the inspection report has been processed in the MCSU, the confidential pages shall be separated from the rest of the report, and the nonconfidential portion of the report shall be filed in the normal manner. The confidential pages, indexed numerically by CA number, shall be filed in a locked confidential file in the MCSU. No confidential pages, or copies thereof, shall be retained by the Specialist or other personnel. No copies shall be stored in a location other than the confidential file, except when the pages are in the immediate control of personnel who are authorized to handle such pages in the course of their employment by the Department.

h. Viewing or Sale. When any report is to be copied for sale, or is to be viewed by or provided to anyone under the Freedom of Information Act, confidential pages

are not to be copied, viewed, or provided. The retention period for confidential pages is the same as that for the inspection report of which they are a part. At the end of the four-year retention period, confidential report pages are to be placed in the confidential waste receptacle for proper destruction.

9. MOTOR CARRIERS OBTAINING CONFIDENTIAL INFORMATION ON PROSPECTIVE COVERED EMPLOYEES AND DRIVERS.

a. Requirements. 49 CFR 382.413 and 49 CFR 40.25, require a motor carrier to obtain and review certain information from a prospective employee's previous employers prior to using the individual to perform a SSF. The information required by the FMCSA and FTA consists of all instances of the following events relating to that employee which occurred during the two years preceding the date of that employee's application to work for the new employer:

- (1) Alcohol tests with a result of 0.04 alcohol concentration or greater;
- (2) Verified positive controlled substances test results;
- (3) Refusals to be tested, including verified adulterated or substituted drug test results;
- (4) Other violations of FTA or FMCSA drug and alcohol testing regulations;
- (5) With respect to any employee who violated FTA or FMCSA drug and alcohol testing regulations, documentation of the employee's successful completion of return-to-duty requirements (including follow-up tests).

b. Information Not Immediately Available. If obtaining the information prior to the first time a driver performs a SSF is not feasible, the information must be obtained and reviewed as soon as possible, but not later than 30 calendar days after the first time an employee driver performs a SSF for the motor carrier. A motor carrier may not permit a driver to perform a SSF after 30 days without having made and documented a good-faith effort to obtain the information. NOTE: This applies to *both* the FMCSA and the FTA regulations (49 CFR 40.25[d]).

c. Refusals to Provide Information. The Department wishes to track which motor carriers refuse to comply with the requirements in 49 CFR 40.25(h) or 49 CFR 655.73(f) to provide CSAT information regarding previous employees to subsequent employers. The failure of a former employer to submit CSAT information to subsequent employers permits those targeted by the program to continue to conduct SSFs. For this reason, former employers that fail to provide requested CSAT information to a new or perspective employer shall be located and inspected. If properly requested information was withheld from the new employer,

the previous employer shall be issued an Unsatisfactory rating. However, if the PPB of the former employer is not within the Specialist's assigned area, information must be forwarded to the Division MCSU to ensure the noncompliant motor carrier is inspected and rated accordingly. Therefore, during an inspection, if a Specialist determines that a driver's previous employer failed to provide the requested information, he or she should obtain as much of the following detail as possible:

(1) Previous Employer Information:

- (a) Name and address of the previous employer;
- (b) Previous employer's U.S. DOT number, if applicable;
- (c) Previous employer's MC or MX number, if applicable;
- (d) Previous employer's CA number, if applicable; and
- (e) Name of a contact person at the previous employer's business who has, or should have, knowledge of the current employer's attempt to obtain the required information.

(2) Current Employer Information:

- (a) Name and address of current employer;
- (b) The current employer's CA number;
- (c) The current employer's MC number and US DOT numbers, if applicable; and
- (d) Name of the person who attempted to obtain the information from the previous employer.

d. CHP 343-1, Continuation. The information requested above should be documented on a separate CHP 343-1, Continuation (apart from the report), and include a description of how the previous employer may have violated disclosure requirements (see examples below). The original copy of the CHP 343-1, Continuation, should be forwarded to the applicable Specialist or MCSU where appropriate action can be initiated. If the motor carrier's PPB is located outside California, or the motor carrier operates interstate, the remaining copies of the CHP 343-1, Continuation, should be submitted to CVS in order to notify the U.S. DOT, FMCSA, or the U.S. DOT, FTA, as appropriate. If the PPB of the noncompliant motor carrier is located within the same Division, the remaining copies of the CHP 343-1, Continuation, may be destroyed.

(1) Examples:

(a) “Mr. Smith, General Manager of ABC Trucking Company (prospective or current employer), states that after providing an authorization form signed by the subject driver, to Mr. Jones of XYZ Trucking (previous employer), he was told that XYZ Trucking does not release that type of information on the advice of their attorney.”

(b) “After mailing XYZ Trucking an authorization form signed by the subject driver, and following up with mail and telephone inquiries, Mr. Smith of ABC Trucking was unable to obtain any alcohol and/or controlled substances information from XYZ Trucking. He states that XYZ Trucking did not return his calls, promised to supply the information, but never did.”

10. PARATRANSIT VEHICLES.

a. Identification. A “paratransit vehicle” is a passenger vehicle, other than a bus, school bus, school pupil activity bus, youth bus, general public paratransit vehicle, or taxicab that is both of the following:

(1) Operated for hire by a business, nonprofit organization, or the state, or a political subdivision of the state utilizing drivers who receive compensation for their services and who spend a majority of their workweek operating a passenger vehicle.

(a) “For hire” means that the entity providing transportation services is compensated for the transportation under contract or agreement.

(b) “Compensation” does not include reimbursement to volunteer drivers for the cost of providing transportation services. The compensation must not be at a rate greater than that approved by the United States Internal Revenue Service for volunteers.

(2) Regularly used for the transportation of any of the following:

(a) Handicapped persons, as defined in Section 99206.5 of the Public Utilities Code.

(b) Persons with developmental disabilities, as defined in Subdivision (a) of Section 4512 of the Welfare and Institutions Code.

(c) Individuals with disabilities who are eligible for complementary paratransit services under Title II of the Americans with Disabilities Act of

1990. For example, a person whose disability prevents him or her from using a fixed route transit system.

(d) Persons who are 55 years of age or older.

b. Federal Transit Administration (FTA) or Federal Motor Carrier Safety Administration (FMCSA) Testing. Section 34520.5 VC requires employers of drivers who operate paratransit vehicles to participate in a CSAT program consistent with either 49 CFR Part 382 or 49 CFR Parts 653 and 654 (now Part 655). The use of the word “or” instead of “and” between Part 653 and Part 654 in the statute implies an employer may select the FTA drug testing program, or the FTA alcohol testing program, or the FMCSA CSAT program. This is not the case. Many paratransit vehicle operators may already be subject to the FTA CSAT program, in which case they may not elect to use the FMCSA CSAT program. It is not the intent of the Legislature to provide the option of testing for either drugs or alcohol. The program selected must test for both controlled substances use and alcohol abuse.

c. Inspection. While the Department has the authority to inspect paratransit vehicle CSAT programs, as well as other areas of the operation, when to do it rests with each Division as there is no inspection mandate. It is anticipated the inspection of CSAT records may occur following an accident, or following a complaint when a driver’s use of controlled substances and/or alcohol may be an issue. Section 34520.5 VC does not impose a burden on the Department to regularly request, or even to inspect, the CSAT records of operators of paratransit vehicles.