

Summary of proposed changes to the BIT Program and other related statutes

California Vehicle Code (VC) Section 34501.12 (BIT Program):

- Biennial Inspection of Terminals (BIT) Program is re-named as the Basic Inspection of Terminals (BIT) Program. The 25-month mandate to inspect every truck terminal is repealed and will be replaced with a performance-based inspection program.
- Subsection (k) of Section 34500 VC (two-axle motor trucks over 26,000 pounds) is added to the list of vehicle types subject to the new fee structure and BIT inspection. Adding motor carriers operating these vehicle types will allow the Department to use data contained in the (TBD) performance-based inspection program thereby identifying non-compliant motor carriers consistent with the process used by the FMCSA.
- The 4-month lease and motor carrier “assumptions” is repealed. In a performance-based inspection program all safety data entered based on the carrier actually engaged in the transportation may be used to conduct inspections. Having lease agreements and assumptions under the old BIT Program is no longer necessary in the proposed (new) inspection process.
- Terminal “consolidations” are eliminated. In a performance based inspection program, every terminal will be subject to routine safety inspections as necessary, but will only be inspected when they are new terminals, or if the safety record shows a declining level of compliance, or as a matter of quality control (time permitting) every 30 months (not mandated).
- The requirement that the CHP adopt a performance-based inspection program in regulation is added.
- Current BIT fees, reinspection fees, and associated penalty fees are repealed. The DMV will assume collecting fees through the R&T Code, which will be referred to as “Carrier Inspection Fees.”
- The “Administrative Review” and the “certificate” of consistent “S” inspection ratings is repealed. These are no longer necessary in a performance-based inspection program.

Section 34505.5 VC (90-day inspection requirement):

- This section is amended to require operators of vehicles described in Section 34500(k) VC, to initiate 90-day vehicle safety inspections.

Section 34515 VC (Maintenance Facility or Terminal):

- Subsection (b) of this section pertaining to notifying the CHP of terminals where vehicle and driver records will be made available for purposes of the BIT Program, is repealed.

Section 34505.6 VC (Motor Carriers of Property and Motortrucks: Failure to Meet Requirements):

- Amended to strikeout the subsection pertaining to submitting the BIT Application and fees.

Section 34606 VC (Review of Fees):

- This section, requiring the DMV to review the MCP fees schedule is repealed in order that the necessary "safety fee" is increased to replace the current BIT fee structure.

Section 34623 VC (Suspension of the Motor Carrier Permit):

- Amended to strikeout the subsections pertaining to submitting the BIT Application and fees.

Section 40000.22 VC (Misdemeanors):

- Amended to reference the correct (newly proposed) sections in 34501.12 VC.

Section 7235 of the Revenue and Taxation Code:

- Amended to make reference to the new "Carrier Inspection Fee" payable by Motor Carriers of Property in place of BIT fees.

Section 7236 of the Revenue and Taxation Code:

- Establishes the new "Carrier Inspection Fee" to be paid by Motor Carriers of Property. Also, clarifies that this newly established fee will be appropriated to the CHP to offset the cost to conduct motor carrier terminal inspections.

34501.12. (a) Notwithstanding Section 408, as used in this section and Sections 34505.5 and 34505.6, "motor carrier" means the registered owner of a vehicle described in subdivision (a), (b), (e), (f), or (g) of Section 34500, except in the following circumstances:

(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier. A person who assumes the motor carrier responsibilities of another pursuant to subdivision (b) shall provide to that other person whose motor carrier responsibility is so assumed, a completed copy of a departmental form documenting that assumption, stating the period for which responsibility is assumed, and signed by an agent of the assuming person. A legible copy shall be carried in each vehicle or combination of vehicles operated on the highway during the period for which responsibility is assumed. That copy shall be presented upon request by an authorized employee of the department. The original completed departmental form documenting the assumption shall be provided to the department within 30 days of the assumption. If the assumption of responsibility is terminated, the person who had assumed responsibility shall so notify the department in writing within 30 days of the termination.

(b) (1) A motor carrier may combine two or more terminals that are not subject to an unsatisfactory compliance rating within the last 36 months for purposes of the inspection required by subdivision (d), subject to all of the following conditions:

(A) The carrier identifies to the department, in writing, each terminal proposed to be included in the combination of terminals for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d), a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 that are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the following meanings:

(A) "Driver records" includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) "Maintenance records" includes all required maintenance, lubrication, and repair records and drivers' daily vehicle condition reports.

(C) "Representative sample" means the following, applied

separately to the carrier's fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, a vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(d) (1) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of a motor carrier who, at any time, operates a vehicle described in subdivision (a).

(2) The department shall place an inspection priority on those terminals operating vehicles listed in subdivision (g) of Section 34500.

(3) As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles that display special identification plates in accordance with Section 5011, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee contained in paragraph (2), for each terminal the motor carrier operates. This fee shall be submitted within 30 days of establishing a terminal. All fees submitted under paragraph (2) are nonrefundable.

(2) (A) The fee for each terminal is set forth in the following table:

Terminal fleet size	Required fee per terminal
1	\$ 270
2	\$ 375
3 to 8	\$ 510

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9 to 15	\$ 615
16 to 25	\$ 800
26 to 50	\$1,040
51 to 90	\$1,165
91 or more	\$1,870

(B) In addition to the fee specified in subparagraph (A), the motor carrier shall submit an additional fee of three hundred fifty dollars (\$350) for each of its terminals not previously inspected under the section.

(3) Except as provided in paragraph (5), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(4) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(5) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in compliance with paragraph (3), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (3).

(6) Failure to pay a fee required by this section, within the appropriate timeframe, shall result in additional delinquent fees as follows:

(A) For a delinquency period of more than 30 days, the penalty is 60 percent of the required fee.

(B) For a delinquency period of one to two years, the penalty is 80 percent of the required fee.

(C) For a delinquency period of more than two years, the penalty is 160 percent of the required fee.

(7) Federal, state, and local public entities are exempt from the fee requirement of this section.

(f) It is unlawful for a motor carrier to operate a vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by subdivision (e) or (h).

(g) (1) It is unlawful for a motor carrier to operate a vehicle

subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (d) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(2) It is unlawful for a motor carrier to contract or subcontract with, or otherwise engage the services of, another motor carrier, subject to this section, unless the contracted motor carrier has complied with this section. A motor carrier shall not contract or subcontract with, or otherwise engage the services of, another motor carrier until the contracted motor carrier provides certification of compliance with this section. This certification shall be completed in writing by the contracted motor carrier. The certification, or a copy thereof, shall be maintained by each involved party for the duration of the contract or the period of service plus two years, and shall be presented for inspection immediately upon the request of an authorized employee of the department.

(h) (1) An inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.

(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:

(A) The motor carrier's operation presented an imminent danger to public safety.

(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.

(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).

(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (2) of subdivision (e) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall not conduct a reinspection for permit or authority reinstatement until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

(i) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period, not to exceed six months, the inspection terms beginning prior to July 1, 1990.

(j) Except as provided in paragraph (5), to encourage motor carriers to attain continuous satisfactory compliance ratings, the department may establish and implement an incentive program consisting of the following:

(1) After the second consecutive satisfactory compliance rating assigned to a motor carrier terminal as a result of an inspection conducted pursuant to subdivision (d), and after each consecutive

satisfactory compliance rating thereafter, an appropriate certificate, denoting the number of consecutive satisfactory ratings, shall be awarded to the terminal, unless the terminal has received an unsatisfactory compliance rating as a result of an inspection conducted in the interim between the consecutive inspections conducted under subdivision (d), or the motor carrier is rated unsatisfactory by the department following a controlled substances and alcohol testing program inspection. The certificate authorized under this paragraph shall not be awarded for performance in the administrative review authorized under paragraph (2). However, the certificate shall include a reference to any administrative reviews conducted during the period of consecutive satisfactory compliance ratings.

(2) Unless the department's evaluation of the motor carrier's safety record indicates a declining level of compliance, a terminal that has attained two consecutive satisfactory compliance ratings assigned following inspections conducted pursuant to subdivision (d) is eligible for an administrative review in lieu of the next required inspection, unless the terminal has received an unsatisfactory compliance rating as a result of an inspection conducted in the interim between the consecutive inspections conducted under subdivision (d). An administrative review shall consist of all of the following:

(A) A signed request by a terminal management representative requesting the administrative review in lieu of the required inspection containing a promise to continue to maintain a satisfactory level of compliance for the next 25-month inspection term.

(B) A review with a terminal management representative of the carrier's record as contained in the department's files. If a terminal has been authorized a second consecutive administrative review, the review required under this subparagraph is optional, and may be omitted at the carrier's request.

(C) Absent any cogent reasons to the contrary, upon completion of the requirements of subparagraphs (A) and (B), the safety compliance rating assigned during the last required inspection shall be extended for 25 months.

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term following a second administrative review, a terminal inspection shall be conducted pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by a rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

(4) As a condition for receiving the administrative reviews authorized under this subdivision in lieu of inspections, and in order to ensure that compliance levels remain satisfactory, the motor carrier shall agree to accept random, unannounced inspections by the department.

(5) Notwithstanding paragraphs (1) to (4), inclusive, a motor carrier of hazardous materials shall not be granted administrative review pursuant to this subdivision in lieu of a terminal inspection pursuant to subdivision (d) at any terminal from which hazardous materials carrying vehicles identified by paragraph (3) of

subdivision (d) are operated.

(k) This section shall be known and may be cited as the Biennial Inspection of Terminals Program or BIT.