

## Memorandum

Date: September 23, 1998

To: California Trade and Commerce Agency  
Mr. James J. Lichter, Analyst  
801 K Street, Suite 1700  
Sacramento, CA 95814

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**  
Commercial Vehicle Section

File No.: 62.A6945.981502

Subject: PROPOSED REGULATIONS REGARDING HRCQ RADIOACTIVE  
MATERIALS SHIPMENTS; GENERAL HAZARDOUS MATERIALS  
REGULATIONS (97-01), (OAL NOTICE NO. Z97-0506-05)

This is in response to your September 23, 1998, letter to Commercial Vehicle Section requesting information on the status of the Department's rulemaking action titled "HRCQ Radioactive Materials Shipments and General Hazardous Materials Regulations." The referenced rulemaking package was approved by Office of Administrative Law (OAL) and filed with the Secretary of State on August 20, 1997, and became operative September 19, 1997. Attached is a copy of the OAL Notice of Approval of Regulatory Action, OAL File No. 97-0724-01 S.

Please note that the OAL Notice No. Z97-05-06-03 referenced in your letter should actually read Z97-0506-05 as indicated on the attached copy of the Notice Publication/Regulations Submission (STD 400) pertaining to this rulemaking action. If you have any further questions you may contact me or Mr. Paul Horgan of my staff at (916) 327-3310.

  
M. J. PADILLA, Captain  
Commander

Attachments

**NOTICE PUBLICATION/REGULATORY SUBMISSION**

(See instructions on reverse)

For use by Secretary of State only.

STD 400-REV 1-92

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	297-0506-05	97-0724-01		

For use by Office of Administrative Law (OAL) only

RECEIVED FOR FILING PUBLICATION DATE  
 MAY 06 '97 MAY 16 '97

Office of Administrative Law

RECEIVED  
 OFFICE OF  
 97 AUG 20 PM 2:00  
 SECRETARY OF STATE

AUG 20 1997  
 REGULATIONS

NOTICE	REGULATIONS
AGENCY California Highway Patrol	AGENCY FILE NUMBER (if any) 97-01

**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE HRCQ RADIOACTIVE MATERIALS SHIPMENTS AND GENERAL HAZARDOUS MATERIALS REGULATIONS	TITLE(S) 13 CCR	FIRST SECTION AFFECTED 1158	2. REQUESTED PUBLICATION DATE May 16, 1997
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Steve Brown or Paul Horgan		TELEPHONE NUMBER 916-327-3310
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 97-#20-2	PUBLICATION DATE 5-16-97	

**B. SUBMISSION OF REGULATIONS** (Complete when submitting regulations)

SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

ACTIONS AFFECTED	ADOPT
	AMEND 1158, 1158.3, 1160.2, 1161.2, 1163, 1165, 1165.1, 1167
TITLES	REPEAL 1168
13 & 26	

**TYPE OF FILING**

Regular Rulemaking (Gov. Code, § 11346)  Resubmittal  Emergency (Gov. Code, § 11346.1(b))  Resubmittal of disapproved or withdrawn emergency filing

Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

Print Only  Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)  Other (specify)

DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)  
 /a (no modifications)

**EFFECTIVE DATE OF REGULATORY CHANGES** (Gov. Code § 11346.2)

Effective 30th day after filing with Secretary of State  Effective on filing with Secretary of State  Effective other (Specify)

**CHECK IF THESE REGULATIONS REQUIRE NOTICE TO OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY ANOTHER AGENCY OR ENTITY**

Department of Finance (Form STD. 399)  Fair Political Practices Commission  State Fire Marshal

Other (Specify)

CONTACT PERSON Paul Horgan or Steve Brown	TELEPHONE NUMBER (916) 327-3310
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I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>M. Senna</i>	DATE 7/23/97
PRINTED NAME AND TITLE OF SIGNATORY Assistant Chief Mike Senna, Enforcement Services Division	





# CALIFORNIA TRADE AND COMMERCE AGENCY

September 17, 1998

**Pete Wilson**  
*Governor*

**Lee Grissom**  
*Secretary*

Mr. Steve Brown  
Mr. Paul Horgan  
California Highway Patrol  
Commercial Vehicle Section  
P.O. Box 942898  
Sacramento, CA 94298-0001

SUBJECT: Proposed Regulations Regarding HRCQ Radioactive  
Materials Shipments; General Hazardous Materials (97-01) (*OAL Notice*  
No. Z97-0506-03)

Dear Messrs. Brown and Horgan:

The subject regulations were published in the May 16, 1997, *California Regulatory Notice Register*. (See attached pages from the *Notice*).

Regulation  
Review  
Unit

We have been unable to determine whether the regulations have been filed with the Secretary of State. It would be helpful if you could provide us with the date the regulations were filed with the Secretary of State. If the regulations have not been filed, please provide us with the status of these regulations.

Please respond in writing for our records. If you have any questions or need further information, please contact me at (916) 323-0484 or via e-mail at [JLichter@commerce.ca.gov](mailto:JLichter@commerce.ca.gov). Thank you.

Sincerely,

James J. Lichter  
Analyst

801 K Street  
Suite 1700  
Sacramento, CA  
95814

James J. Lichter  
(916) 323-0484  
FAX (916) 322-0669

Attachment

**ADOPTION OF PROPOSED REGULATIONS**

After consideration of public comments, the CHP may adopt the proposal substantially as set forth without further notice. If the proposal is modified prior to adoption and the change is not solely grammatical or nonsubstantial in nature, the full text of the resulting regulation, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date of adoption.

**FISCAL IMPACT**

The CHP has determined that this proposed regulatory action: (1) will have no effect on housing costs; (2) will not impose any new mandate upon local agencies or school districts; (3) involves no increased nondiscretionary or reimbursable costs or savings to any local agency, school district, state agency or federal funding to the State; (4) will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California; and (5) will not result in any significant cost to private persons or entities.

**ALTERNATIVES**

This regulatory action is being taken pursuant to Vehicle Code Section 2402 and Government Code Section 87300.

**PLAIN ENGLISH STATEMENT**

Preparation of the proposed amendment included consideration of the "Plain English" requirement. Any technical terms that may be unfamiliar to the intended users, are defined and explained.

**AUTHORITY**

This regulatory action is being taken pursuant to Government Code Section 87306.

**REFERENCE**

This action implements, interprets, or makes specific Government Code Section 87300.

**TITLE 13. CALIFORNIA  
HIGHWAY PATROL  
(97-01)**

In response to Governor Wilson's Executive Order W-127-95 directing all state regulatory agencies to effect comprehensive regulatory reform, the California Highway Patrol proposes to amend the General Hazardous Materials Regulations to be consistent with national transportation requirements as required by federal law.

**INFORMATIVE DIGEST/PLAIN  
ENGLISH OVERVIEW**

Title 13, California Code of Regulations (13 CCR), Division 2, Chapter 6 contains California Highway Patrol regulations governing the highway transportation of hazardous materials. Article 2.7, Section 1158.3 contains the Time of Day and Day of Week Considerations for the through transportation of highway route controlled quantity shipments of radioactive materials. Article 3, Sections 1160 through 1168, contain the California Highway Patrol's General Hazardous Materials Regulations, e.g., packaging, hazard communication, training, spill reporting and emergency action requirements. In addition to nonsubstantive changes made for clarity and punctuation, the following more substantive changes are being proposed:

**(1) Section 1158:**

Existing 13 CCR 1158 references Title 49, Code of Federal Regulations (49 CFR) Section 173.403(1) for the definition of highway route controlled quantity shipments of radioactive materials. Subsequent to the adoption of the existing 13 CCR 1158, 49 CFR 173.403 was reformatted by the U.S. Department of Transportation, Research and Special Programs Administration as a result of other actions and eliminated the first level of outlining. This elimination could cause confusion between the reference "l" (lower case of the letter "L") and the numeral "1."

This action is consistent with the mandate in California Vehicle Code (CVC) Section 2402.7 that requires the California Highway Patrol to adopt the same definitions of hazardous materials as contained in 49 CFR. Title 49 CFR 171.1(a)(3) establishes application of federal regulation for intrastate carriers of hazardous materials when transporting certain materials. Included in intrastate commerce are hazardous materials meeting the definition of hazardous substance which would include all highway route controlled quantities of radioactive materials. As such, this action is a nonsubstantive change.

**(2) Section 1158.3:**

The title of 13 CCR 1158.3 is being changed from "Time of Day and Day of Week Considerations" to "Carrier, Driver, Training and Reporting Requirements" to better reflect the actual requirements that were contained in 49 CFR 177.825. The reference to 49 CFR 177.825 in 13 CCR 1158 is changed to 49 CFR 397.101. The Research and Special Programs Administration removed 49 CFR 177.825 as being duplicative of the requirements in 49 CFR 397.101, e.g., for carriers to ensure that their drivers are properly trained, that they have a map and route plan for each trip, reporting requirements, that time of day and day of week considerations are taken, and that