

**State of California
Office of Administrative Law**

In re:
California Highway Patrol

Regulatory Action:

Title 13, California Code of Regulations

Amend sections: 1160.2, 1164

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2020-0630-01

OAL Matter Type: Regular (S)

This action by the California Highway Patrol amends and updates the state's hazardous materials regulations applicable to persons subject to federal jurisdiction, pursuant to Title 49, Code of Federal Regulations, Part 171.1, to be consistent with national transportation requirements as required by federal law.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on October 1, 2020.

Date: August 11, 2020



Nicole C. Carrillo
Attorney

For: Kenneth J. Pogue
Director

Original: Warren A. Stanley,
Commissioner

Copy: Kasonja Pochop

STD. 400 (REV. 10/2019)

REGULAR

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2020-0123-02	REGULATORY ACTION NUMBER 2020-0630-01S	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
in the office of the Secretary of State
of the State of California**AUG 10 2020**

1:36 PM

2020 AUG -6 A 11:25
OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY Department of the California Highway Patrol	AGENCY FILE NUMBER (If any) CHP-R-2018-08
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) General Hazardous Materials Regulations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 1160.2 and 1164
TITLE(S) 13	REPEAL

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmission of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmission of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	


4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6680)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Officer Kasonja Pochop	TELEPHONE NUMBER (916) 843-3400	FAX NUMBER (Optional) (916) 322-3154	E-MAIL ADDRESS (Optional) CVSRegulations@chp.ca.gov
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8. 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 action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 8/6/2020
TYPED NAME AND TITLE OF SIGNATORY B. M. FABBRI, Assistant Chief	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED**AUG 11 2020**

Office of Administrative Law

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2020-0123-02	REGULATORY ACTION NUMBER 2020-0630-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

2020 JUN 30 A 8:55
OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Department of the California Highway Patrol

AGENCY FILE NUMBER (If any)
CHP-R-2018-08

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	AMEND 1160.2 and 1164
TITLE(S) 13	REPEAL

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<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

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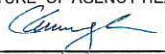
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Officer Kasonja Pochop	TELEPHONE NUMBER (916) 843-3400	FAX NUMBER (Optional) (916) 322-3154	E-MAIL ADDRESS (Optional) CVSRegulations@chp.ca.gov
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For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 6/11/20
TYPED NAME AND TITLE OF SIGNATORY C. M. CHILDS, Assistant Chief	

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

ADOPTED REGULATION TEXT

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6,
ARTICLE 3, AMEND SECTIONS 1160.2 AND 1164

**GENERAL HAZARDOUS MATERIALS REGULATIONS
(CHP-R-2018-08)**

Existing text.....Times New Roman 12 point font.
AdditionsTimes New Roman 12 point font with single underline.
Deletions~~Times New Roman 12 point font with strikethrough~~

§ 1160.2. U.S. Department of Transportation Regulations.

(a) Incorporation by Reference. This article incorporates by reference portions of 49 CFR Part 107, Parts 171 through 180, and Part 393 to the extent specified in this article. Unless otherwise specified, all references ~~in this article~~ to 49 CFR in this article are those regulations published on October 1, 2019, for persons:

(1) ~~Not subject to federal jurisdiction per 49 CFR Part 171, are those regulations published on October 1, 1999.~~Should a private carrier find a regulation adopted pursuant to this section to be unnecessarily burdensome or impracticable, the carrier may apply, at no cost, for an alternate method of compliance pursuant to Section 1160.4.

(2) ~~Subject to federal jurisdiction per 49 CFR Part 171, are regulations published on October 1, 2015.~~

(b) Federal Preeminence. Provisions of the Hazardous Materials Transportation Act recodified into Title 49 U.S. Code (49 U.S.C.) Section 5125, preempt any requirements of any state or political subdivision thereof inconsistent with the act or federal HM Regulations relating to hazardous materials transported in commerce. The U.S. Department of Transportation (DOT), Pipeline and Hazardous Materials Administration (PHMSA) may except any material from being classed as hazardous, or change any classification or transportation requirement in accordance with authority granted that agency, and such action shall govern the application of this article. In lieu of compliance with the provisions of this article, hazardous materials shipment preparation and transportation in compliance with a later promulgated PHMSA requirements, exemption or exception than that adopted by reference in this article is permitted. This includes compliance

with a later promulgated requirement prior to its effective date during any period of time where earlier compliance is authorized in the applicable final rulemaking.

(c) Limited Applications. 49 CFR Parts 174 and 179 shall apply only as referenced in 49 CFR Parts 173, 177, and 178.

(d) Motor Carrier Safety Requirements. Provisions of 49 CFR Part 393 applies as incorporated in cargo tank specifications referenced in 49 CFR Part 178.

(e) Referenced Regulations. Copies of 49 CFR, can be obtained from:

SUPERINTENDENT OF DOCUMENTS

U.S. GOVERNMENT PRINTING OFFICE

PO BOX 979050

ST LOUIS, MO 63197-9000

(202) 512-1800

Internet purchases: <http://bookstore.gpo.gov>

Internet Access. Title 49 CFR may also be accessed through the internet at the Government Printing Office's web site at

"<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>" or through the U.S. Department of Transportation, PHMSA's web site at "<http://phmsa.dot.gov/regulations>".

Note: Authority cited: Sections 2402.7 and 34501, Vehicle Code. Reference: Sections 2402.7 and 34501, Vehicle Code.

§ 1164. Vehicle Loading.

(a) Loading Requirements. Load securement, loading, unloading, and vehicle utilization shall comply with 49 CFR Part 177, Subparts A, B, and C.

~~(b) Packages. Packages shall be secured during transit by use of bracing, chocks, or tiedowns to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies, or racks on flatbed vehicles shall not be relied upon for the securement of portable tanks.~~

Note: Authority and reference cited: Sections 2402.7 and 34501, Vehicle Code.

DECLARATION OF MAILING

OAL Matter Number 2020-0630-01

On 8/11/2020, I transmitted a Notice of Approval to Warren A. Stanley, Commissioner at the California Highway Patrol, Commercial Vehicle Section 601 North 7th Street Sacramento, CA 95811 on behalf of the Office of Administrative Law at 300 Capitol Mall, Suite 1250, Sacramento, California 95814 by depositing the documents in the United States mail at Sacramento, California, enclosed in a sealed envelope(s) with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and this declaration was executed on 8/11/2020 at Sacramento, California.



(Signature of the Declarant)
Rhea A. Moyer