

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

TITLE 13 CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6
AMEND ARTICLE 2.7, SECTION 1158.2

RADIOACTIVE MATERIALS SHIPMENT – SAFE HAVEN (CHP-R-2019-06208)

PURPOSE OF REGULATIONS AND PROPOSED AMENDMENTS

The California Highway Patrol (CHP) proposes to amend regulations in Title 13 of the California Code of Regulations (CCR) related to routes for the through transportation of Highway Route Controlled Quantity (HRCQ) shipments of Radioactive Materials (RAM).

Pursuant to Section 33000 of the California Vehicle Code (CVC), the CHP shall adopt regulations specifying the routes to be used in the transportation of HRCQ RAM and the time that shipments may occur. The proposed regulation amendments are developed to enhance public health and safety, and have received concurrence from the California Department of Public Health (CDPH), State Fire Marshal (SFM), and California Department of Transportation (Caltrans).

PURPOSE OF AMENDMENTS

The proposed regulations will amend Title 13 CCR, Division 2, Chapter 6, Article 2.7, Section 1158.2, Routes Travelled and Stopping, by adding one sentence in subdivision (a) and three subsections to provide more clarity to the current regulations and more consistency with CVC and federal regulations. The underlined texts below indicate the additions to the existing regulations.

- (1) (a) No person shall drive or permit the driving of any vehicle transporting commodities listed in Section 1158 upon any highway not designated by this article. Carriers shall reduce time in transit for shipments while selecting routes designated in Section 1159. Deviation from the routes may occur only for the following: necessary pickup and delivery, in route inspections as required by Federal law, necessary rest, fuel or motor vehicle repair stops, or as directed in an emergency by fire or police officials having jurisdiction of the roadway in use.

Rationale: Title 49 of the Code of Federal Regulations (CFR), Section 397.101(b)(2), requires HRCQ RAM carriers select routes to reduce time in transit. The proposed sentence addition to

the existing regulations is to remind carriers explicitly that they shall select the designated routes with the least time needed in transporting HRCQ RAM shipments.

(2) (b) Any California commercial vehicle enforcement facilities (CVEF) in the following list may be used as a safe haven along the shipment routes in order for carriers transporting commodities listed in Section 1158 to comply with Section 37.75, Title 10 of the Code of Federal Regulations. Notifications for considering the use of these facilities as safe havens in any transportation plan shall be made in advance to the affected facilities to ensure accessibility before shipment plans are consolidated.

<u>CVEF</u>	<u>ALONG HIGHWAY</u>	<u>DIRECTION</u>	<u>ADDRESS</u>	<u>PHONE</u>
<u>Castaic</u>	<u>Interstate 5</u>	<u>Northbound</u>	<u>27858 Golden State Highway, Santa Clarita, CA 91384-4415</u>	<u>(661) 294- 5530</u>
<u>Cordelia</u>	<u>Interstate 80</u>	<u>Eastbound and Westbound</u>	<u>3950 Interstate 80, Fairfield, CA 94534-9601</u>	<u>(707) 863- 8600</u>
<u>Cottonwood</u>	<u>Interstate 5</u>	<u>Northbound and Southbound</u>	<u>19340 Northbound Interstate 5, Cottonwood, CA 96022-8006</u>	<u>(530) 347- 1813</u>
<u>Desert Hills</u>	<u>Interstate 10</u>	<u>Westbound</u>	<u>47250 Interstate 10, Banning, CA 92220-5901</u>	<u>(951) 572- 4050</u>
<u>Donner Pass</u>	<u>Interstate 80</u>	<u>Westbound</u>	<u>12800 Interstate 80, Truckee, CA 96161-4505</u>	<u>(530) 587- 1242</u>
<u>Dunsmuir Grade</u>	<u>Interstate 5</u>	<u>Southbound</u>	<u>1001 Interstate 5 South, Mt. Shasta, CA 96067-9998</u>	<u>(530) 926- 2425</u>
<u>Grapevine</u>	<u>Interstate 5</u>	<u>Southbound</u>	<u>32829 Interstate 5, Lebec, CA 93243-0034</u>	<u>(661) 858- 2540</u>
<u>Mission Grade</u>	<u>Interstate 680</u>	<u>Northbound</u>	<u>4751 Highway 680, Sunol, CA 94586-0553</u>	<u>(925) 862- 2223</u>
<u>Mountain Pass</u>	<u>Interstate 15</u>	<u>Southbound</u>	<u>100779 Bear Road, Nipton, CA 92364</u>	<u>(760) 856- 1230</u>
<u>Otay Mesa</u>	<u>State Route 905</u>	<u>Northbound</u>	<u>2335 Enrico Fermi, San Diego, CA 92154-7203</u>	<u>(619) 671- 3000</u>
<u>Rainbow</u>	<u>Interstate 15</u>	<u>Southbound</u>	<u>1796 Rainbow Valley Boulevard West, Fallbrook, CA 92028-9774</u>	<u>(951) 694- 0663</u>
<u>San Onofre</u>	<u>Interstate 5</u>	<u>Northbound and Southbound</u>	<u>Interstate 5, 13 Miles North of Oceanside, CA 92051-2445</u>	<u>(760) 430- 7026</u>

Rationale: Section 37.75(a)(2)(ii), Title 10 CFR administered by the United States Nuclear Regulatory Commission, requires carriers to preplan and coordinate with each state through which the shipment will pass to identify safe havens. Section 37.5, Title 10 CFR defines safe haven as a readily recognizable and readily accessible site at which security is present or from which, in an event of emergency, the transport crew can notify and wait for the local law enforcement authorities.

While the CVC and CCR are silent on safe havens for the transportation of HRCQ RAM, Section 114765 of the California Health and Safety Code (HSC) requires any regulations relating to radioactive materials transportation be made compatible with federal regulations. Of the 17 CVEFs having commanders in charge, 12 are located along the designated routes for transporting HRCQ RAM in the state. The proposed new subsection (b) under Section 1158.2, Title 13 CCR, provides 12 CVEFs along the designated routes as potential sites for safe havens, helping HRCQ RAM carriers ensure their shipment plans are in compliance with federal regulations. The CHP may consider adding other CVEFs, with no commander in charge, into this safe-haven list after evaluating the operational effects of this proposed addition of subsection (b) in the near future.

If any of these 12 CVEFs need to be utilized as a safe haven along the shipment routes during the preplanning and coordination stage, carriers shall notify the affected facilities to ensure accessibility before consolidating shipment plans.

- (3) (c) When deviations from the designated routes are necessary for pickups, deliveries, breaks, fueling, repairs, or emergencies, all carriers shall select routes with the shortest distance and avoid transporting commodities listed in Section 1158 through densely populated areas, congested thoroughfares, residential areas, or places where crowds are assembled.

Rationale: Sections 397.101(c)(1) and (2), Title 49 CFR, requires any deviation from the designated routes necessary for pickups, deliveries, breaks, fueling, repairs, or emergencies be selected with the shortest distance while Sections 397.101(a)(1) and (2) require carriers ensure that the routes selected minimize radiological risk by considering accident rates, transit time, population density, and activities. Section 31303(c) CVC also requires transporters of hazardous materials and waste to avoid congested thoroughfares, places where crowds are assembled, and residential areas. The proposed addition of subsection (c) will emphasize explicitly these state and federal requirements.

- (4) (d) All carriers shall avoid transporting commodities listed in Section 1158 on highways during the hours when traffic may be congested.

Rationale: Section 33000 CVC and Section 114820 HSC require the CHP to adopt regulations specifying the time shipments may occur. Considering the transportation of HRCQ RAM is mostly conducted across several states or even international borders, the proposed additional subsection (d) will require carriers avoid the hours when traffic may be congested, such as the peak hours when people go to or leave from work. The proposed regulations will not only require carriers to avoid congested thoroughfares specified in Section 31303(c) CVC, but also keep the CHP in compliance with statutory requirements.

In summary, the intent of the proposed amendments to the current regulations is to specify selection criteria for routes and times by commercial vehicle carriers transporting HRCQ RAM on highways and to provide potential safe-haven sites for carriers to be in compliance with the federal requirements during their shipment planning process. The proposed regulations will enhance the current regulations to be compatible and consistent with state statutes and federal regulations, and thus enhance public health and safety.

STUDIES/RELATED FACTS

The evaluation of possible regulation amendments follows the requirements specified in state statutes, including the CVC and HSC, and federal regulations, including Titles 10 and 49 CFR.

CONSULTATION WITH OFFICIALS

These proposed updates were evaluated by the CHP's Commercial Vehicle Section, consulted with the CHP's field Divisions, and received concurrence from the CDPH, SFM, and Caltrans.

ALTERNATIVES

Other than the alternatives discussed above, no reasonable alternative considered by the CHP, or otherwise identified and brought to the attention of the CHP, would be more effective in fulfilling the purpose for which the action is proposed, or as effective and less burdensome to affected private persons, than the proposed action. The alternative of making no changes to the existing regulations was rejected because it fails to keep the CHP in compliance with state statutes and keep the state regulations compatible with federal regulations, which may increase potential risks of detrimental hazards while transporting HRCQ RAM on highways in the state.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

ECONOMIC IMPACT ANALYSIS

Creation or Elimination of Jobs

The CHP has made an initial determination that this proposed regulatory action will neither create, nor eliminate, jobs within the State of California because the proposed amendments only clarify the existing regulations and assist HRCQ RAM carriers to be in compliance with federal regulations.

Creation of New Business, or Elimination or Expansion of Existing Business

The CHP has not identified any significant adverse impact on the creation of new businesses, or elimination or expansion of existing businesses within the State of California. Businesses involved in the transportation of HRCQ RAM will have more clarified and updated information on transporting shipments through designated routes in the state. The proposed regulatory action will not create new businesses, or eliminate or expand any existing business by transporting HRCQ RAM on highways.

Benefits of the Regulation

This proposed regulatory action will continue to provide a nonmonetary benefit to the protection of the health and welfare of California residents, workers, and the environment. The changes to the application of the regulation are not substantive and bring the regulation in conformance with existing statute. The proposed changes clarify shipment routes, transit times, and safe havens for carriers transporting HRCQ RAM on highways, and contribute to transportation safety and public health.

BUSINESS IMPACT TO THE STATE

Based on the economic impact analysis, the CHP has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation action clarifies the existing and assist HRCQ RAM carriers to be in compliance with federal regulations.

FISCAL IMPACT TO THE STATE

The CHP has determined these regulation amendments will result in:

- No significant increased costs for persons or businesses;
- No significant compliance costs for persons or businesses directly affected;
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and
- No impact on the competitiveness of California to retain businesses.