

Notice of Proposed Regulatory Action

CAL TRANS 10010

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Title 13. DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

NOTICE OF PROPOSED REGULATORY ACTION

Designation of Routes for the Through Transportation of Highway Route  
Controlled Quantity Shipments of Radioactive Materials (HMS-94-01)

The California Highway Patrol proposes to adopt regulations in Title 13 of the California Code of Regulations relating to the designation of routes for the through transportation of highway route controlled quantity shipments of radioactive materials.

INFORMATIVE DIGEST

Section 33000 of the California Vehicle Code mandates the California Highway Patrol to adopt regulations necessary to implement the routing of highway route controlled quantity shipments of radioactive materials.

These regulations contain maps identifying preferred routes for the transportation of highway route controlled quantity shipments of radioactive materials pursuant to Section 33000 of the California Vehicle Code.

OVERVIEW OF FEDERAL AND STATE ROUTING REQUIREMENTS FOR HIGHWAY ROUTE  
CONTROLLED QUANTITY SHIPMENTS OF RADIOACTIVE MATERIALS

The United States Department of Transportation has established specific highway routing requirements for highway route controlled quantity shipments of radioactive materials. These requirements are codified in Title 49, Code of Federal Regulations, Section 177.825(b), which states:

- (b) ...a carrier or any person operating a motor vehicle containing a highway route controlled quantity of radioactive materials...shall operate the motor vehicle only over preferred routes...selected...to reduce time in transit...
- (1) A preferred route is either or both an Interstate System highway for which an alternative route is not designated by a State routing agency...or a State designated route selected by a State routing agency...in accordance with the following conditions:

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- (i) The State routing agency shall select routes to minimize radiological risk using "Guidelines for selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Class 7 Radioactive Materials," or an equivalent routing analysis which adequately considers overall risk to the public....
- (ii) State routing agencies may designate preferred routes as an alternative to, or in addition to, one or more Interstate System highways....

Title 49, Code of Federal Regulations, Section 177.825(b), provides authority for a state routing agency to "designate preferred routes as an alternative to, or in addition to, one or more Interstate System highways" for the transportation of highway route controlled quantity shipments of radioactive materials. In addition, designations of alternate preferred routes must be preceded by substantive consultation with affected local jurisdictions and with any other affected states to ensure consideration of all impacts and continuity of designated routes.

Title 49, Code of Federal Regulations, Section 177.825(b)(2), provide conditions when motor vehicles may be operated over a route, other than a preferred route while transporting highway route controlled quantity shipments of radioactive materials. Deviation from the preferred route may occur for the following:

- necessary pickup and delivery
- necessary rest, fuel or motor vehicle repair stops
- emergency conditions make continued use of the preferred route unsafe or impossible.

The responsibility for highway routing of hazardous materials, including Class 7 radioactive materials and the related preemption determination and waiver of preemption procedures, has been delegated by the Secretary of Transportation to the Federal Highway Administration. The Federal Highway Administration incorporated, without substantive change, Research and Special Programs Administration's regulations in Title 49, Code of Federal Regulation, Sections 107.201 to 102.227, and 177.825 into the Federal Highway's regulations in Title 49, Code of Federal Regulation, Part 397, subpart D and E, respectively.

Section 33000, California Vehicle Code requires the California Highway Patrol to adopt regulations designating routes for the transportation of highway route controlled quantity shipments of radioactive materials.

PUBLIC COMMENTS

Any interested person may submit written comments on the proposed action to:

California Highway Patrol  
Hazardous Material Section  
ATTN: Routing and Prenotification Unit  
P.O. Box 942898  
Sacramento, CA 94298-0001

Written comments will be accepted until 4:45 p.m., March 14, 1994.

PUBLIC HEARINGS

No public hearings have been scheduled. Hearings will be scheduled in March and April 1994 based on requests received. If any person desires a public hearing, a written request must be received by the California Highway Patrol, Hazardous Materials Section, at the address listed below, no later than 15 days prior to the close of the written comment period.

California Highway Patrol  
Hazardous Material Section  
ATTN: Routing and Prenotification Unit  
P.O. Box 942898  
Sacramento, CA 94298-0001

AVAILABILITY OF INFORMATION

The California Highway Patrol has available for public review a general statement of reasons for the proposed regulatory action, the information upon which this action is based, and the proposed regulation. Requests to review or receive copies of this information should be directed to the California Highway Patrol, Hazardous Material Section by telephone at (916) 327-3310, by facsimile at (916) 446-4870, or by writing to:

California Highway Patrol  
Hazardous Material Section  
ATTN: Routing and Prenotification Unit  
P.O. Box 942898  
Sacramento, CA 94298-0001

Facismile or written requests for information must include the following information: the title of the rulemaking package, the requestor's name, proper

mailing address (including city, state, and zip code), and a daytime telephone number in case the information is incomplete or illegible.

The "Radioactive Materials Transportation Routing Study - Designation of Routes for the Through Transportation of Highway Route Controlled Quantity Shipments of Radioactive Materials" is available for public review at each California Highway Patrol Division Office, and the California Highway Patrol Hazardous Materials Section, 444 North Third Street, Suite 310, Sacramento, CA.

### QUESTIONS

Any questions concerning the contents of the proposed regulations should be directed to Sergeant Harry Kallabis or Officer Kevin Livingston, California Highway Patrol, Hazardous Material Section, at (916) 327-3310.

### ADOPTION OF PROPOSED REGULATIONS

After consideration of public comments, the California Highway Patrol 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 nonsubstantive 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 California Highway Patrol has determined that this proposed regulatory action: (1) will have no affect 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 not have an adverse economic impact on small business; and (5) will not result in any significant cost to private persons or entities.

### ALTERNATIVES

The following statement is required pursuant to Government Code Section 11346.5(a)(7): "The California Highway Patrol must determine that no alternative considered by the California Highway Patrol would be more effective and less burdensome to affected private persons than the proposed action."

AUTHORITY

This regulatory action is being taken pursuant to The California Vehicle Code Section 33000.

Date: January 4, 1994

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

L. DENNO, Chief  
Enforcement Services Division

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