

Regulatory Analysis Form

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Regulatory Analysis Form		This space for use by IRRC REGULATORY COMMISSION
(1) Agency Transportation	IRRC Number: 2388	
(2) I.D. Number (Governor's Office Use) # 18-387		
(3) Short Title Vehicles Required to Stop at Railroad Grade Crossings		
(4) Pa Code Cite 67 Pa. Code, Chapter 103	(5) Agency Contacts & Telephone Numbers Primary Contact: Arthur H. Breneman, P.E., (717) 787-3620 Secondary Contact: Richard J. Sesny, P.E., (717) 787-2806	
(6) Type of Rulemaking (Check One) Policy Statement Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No Yes: By the Attorney General Yes: By the Governor	
(8) Briefly explain the regulation in clear and non-technical language. The purpose of this regulatory action is to rescind Chapter 103 (relating to vehicles required to stop at railroad grade crossings). Chapter 103 is no longer needed because Section 3342(d) of the Vehicle Code, Act of June 17, 1976, P. L. 162, No. 81, as amended by the Act of 1998, No. 151, 75 Pa. C.S. § 3342(d) no longer requires the department to adopt regulations describing the vehicles which must comply with the stopping requirements at railroad grade crossings. Section 3342(d) now mandates that the Department publish as a notice in the <i>Pennsylvania Bulletin</i> , a list of the vehicles that must stop at railroad grade crossings.		

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(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Sections 6103, 6105, 6121, and 6122 of the Vehicle Code, Act of June 17, 1976, P. L. 162, No. 81 as amended, (75 Pa. C. S. §§ 6103, 6105, 6121, and 6122).

(10) Is the regulation mandated by any federal or state law or court, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies this regulation. What is the problem it addresses?

It is in the public interest that Department regulations be consistent with statute, which has been amended to no longer require this regulation.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

There are no public health, safety, and general welfare risks associated with the rescission of the regulation. The substance of the regulation was replaced by a notice published in the *Pennsylvania Bulletin* on February 17, 2001, providing the list of vehicles that must comply with stopping requirements at railroad grade crossings, as now required by Section 3342(d) 75 Pa. C.S., The Vehicle Code.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The rescission of this regulation will benefit the Department of Transportation and the traveling public. The list of vehicles required to stop at railroad grade crossings can now be more expeditiously revised, when circumstances warrant, by notice in the *Pennsylvania Bulletin*.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The rescission of this regulation will not have any adverse effects.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Insofar as the regulation is being rescinded there will be no persons, groups or entities that will be required to comply with a regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Since this regulation is being rescinded pursuant to statutory change, there was no communication to or input from the public regarding the rescission.

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(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

This regulation is being rescinded, but replaced with a listing in the *Pennsylvania Bulletin*. There are no measurable costs and/or savings to the regulated community, nor legal, accounting or consulting procedures required.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including and legal, accounting or consulting procedures which may be required.

Since this regulation is being rescinded and replaced with a listing in the *Pennsylvania Bulletin*, there are no measurable costs and/or savings to local governments. There are no legal, accounting or consulting procedures required.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including and legal, accounting or consulting procedures which may be required.

Since this regulation is being rescinded and replaced with a listing in the *Pennsylvania Bulletin*, there are no measurable estimates of costs and/or savings to state government. There are no legal, accounting or consulting procedures that may be required.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local governments, and state government for the current year and five subsequent years.

There are no measurable fiscal savings and costs associated with the rescission of these regulations.

	Current FY Year	FY + 1 Year	FY + 2 Year	FY + 3 Year	FY + 4 Year	FY + 5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Not Readily measurable, if any					
Local Government	Not Readily measurable, if any					
State Government	Not Readily measurable, if any					
Total Savings						

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COSTS:						
Regulated Community (non-government)						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community	None					
Local Government	None					
State Government	None					
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

(20b) Provide the past three-year expenditure history for programs affected by this regulation.

Program	FY-3	FY-2	FY-1	CurrentFY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.
 Since the regulation is being rescinded, a measurable cost/benefit analysis was not computed.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.
 The amendment to § 3342 of the Vehicle Code, 75 Pa. C.S. § 3342 mandated the non-regulatory alternative of publishing the list of vehicles required to stop at railroad grade crossings in the *Pennsylvania Bulletin*.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide reasons for their dismissal.
 No alternative regulatory schemes were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

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No. The list published in the *Pennsylvania Bulletin* in lieu of this regulation mirrors the requirements of 49 CFR §392.10 of the Federal Motor Carrier Safety Regulations (§392.10, entitled "railroad grade crossings; stopping required,").

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The rescission of this regulation will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The rescission of this regulation will not affect other existing or proposed regulations of the promulgating agency or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings will be scheduled.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The rescission of this regulation will not affect reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small business, and farmers.

This regulation is being rescinded and there are no special provisions being developed to meet the needs of any particular group.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The rescission of this regulation will become effective upon publication as a final-form rulemaking in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

Once rescinded, there will be no further review of this regulation.

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**FACE SHEET
FOR FILING DOCUMENTS
WITH THE
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

#12388

RECEIVED

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General.

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections attached.

Copy of below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

**Department
of
Transportation**
(Agency)

DOCUMENT/FISCAL NOTE NO. 18-387

DATE OF ADOPTION _____

BY Alvin D. Bielek
Secretary of Transportation

Copy below is hereby approved as to
form and legality. Executive or
Independent Agencies.

BY _____

5/25/04
(Date of Approval)

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike Inapplicable Title)

Check if applicable. No attorney
General Approval or Objection within
30 days after submission.

FINAL RULEMAKING

DEPARTMENT OF TRANSPORTATION

Title 67 Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article VI. Operation of Vehicles

Chapter 103

Vehicles Required to Stop at Railroad Grade Crossing

Title 67 Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article VI. Operation of Vehicles

Chapter 103

Vehicles Required to Stop at Railroad Grade Crossings

Notice of Final Rulemaking

Preamble

The Department of Transportation, Bureau of Highway Safety and Traffic Engineering, under the authority contained in Sections 6103, 6105, 6121, and 6122 of the Vehicle Code, Act of June 17, 1976, P. L. 162, No. 81 as amended, (75 Pa. C.S. §§ 6103, 6105, 6121, and 6122), hereby rescinds Chapter 103 (relating to vehicles required to stop at railroad grade crossings), Title 67 (Transportation), Pennsylvania Code.

Purpose of this Chapter

Chapter 103 describes the type of motor vehicles required to stop at crossing where a railroad track crosses a highway at grade. The regulation was mandated by the provisions of Section 3342(d) of the Vehicle Code, Act of June 17, 1976, P. L. 162, No. 81, 75 Pa. C.S. § 3342(d).

Purpose of this Rulemaking

The purpose of this proposed rulemaking is to rescind 67 Pa. Code, Chapter 103 (Vehicles Required to Stop at Railroad Grade Crossings). Chapter 103 is no longer needed because Section 3342(d) of the Vehicle Code was amended by the Act of 1998,

No. 151, 75 Pa. C.S. § 3342(d) and no longer requires the department to adopt regulations describing the vehicles which must comply with the stopping requirements at railroad grade crossings. Section 3342(d) now mandates that Department of Transportation publish, as a notice in the *Pennsylvania Bulletin*, a list of the vehicles that must stop at railroad grade crossings.

On February 17, 2001, the Department, acting through the Bureau of Highway Safety and Traffic Engineering, and in compliance with requirements in Section 3342(d) of the Vehicle Code, 75 Pa. C.S. § 3342(d), *as amended*, published a notice in the *Pennsylvania Bulletin* (at 31 Pa.B. 1007), designating the vehicles which must comply with the stopping requirements in Section 3342 of the Vehicle Code, 75 Pa.C.S. § 3342. In the course of determining the types of vehicles to be included in the list, the Department adopted the same criteria as contained in § 392.10 of the *Federal Motor Carrier Safety Regulations* (49 CFR § 392.10, entitled “Railroad grade crossings; stopping required”). Prior to publication, the Bureau circulated the proposal internally within the Department, and with the Pennsylvania State Police, Bureau of Patrol, and the Pennsylvania Public Utility Commission, Bureau of Transportation and Safety.

Publication for Public Comment

This rulemaking was published in the February 14, 2004 issue of the *Pennsylvania Bulletin* and the public was invited to submit comments. The rulemaking was also submitted to the Independent Regulatory Review Commission and the Transportation Committees of the Pennsylvania House and Senate. No comments or objections to the rulemaking were received from the public, IRRC or the Committees.

Persons and Entities Affected

These regulations affect the Commonwealth law enforcement, the motoring public and the operators of buses, and commercial motor vehicles that, in accordance with the regulations of the US Department of Transportation, as contained in section 392.10 of the Federal Motor Carrier Safety Regulations (49 CFR § 392.10), are required to stop at railroad grade crossings.

Fiscal Impact

Rescinding this regulation will not impose any increased costs on private persons, state or local governments. This action will not occasion the development of any additional reports or other paperwork.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. 745.5(a), on February 4, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa. B 843, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees for review and comment.

No comments were received from the public, IRRC or the Committees.

Under section 5.1(j.2) of the Regulatory Review Act, on _____, this final-form regulation was deemed approved by the House and Senate Transportation Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____ and approved the final-form regulation.

Effective Date

This rulemaking will be effective on the date of publication in the *Pennsylvania Bulletin*.

Sunset Date

The Department is not establishing a sunset date for this regulation, since this regulation is being rescinded as no longer needed to administer provisions required under the Vehicle Code (75 Pa. C.S. §101, et seq.).

Contact Person

The contact person for technical questions about the proposed amendments to the regulations is Arthur H. Breneman, P.E. Chief, Traffic Engineering and Operations Division, Bureau of Highway Safety and Traffic Engineering, Commonwealth Keystone Building, 6th Floor, 400 North Street Harrisburg, Pennsylvania 17120, (717) 787-3620.

Order

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 Pa. Code , Chapter 103 is amended as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this Order and Annex A hereto the Office of General Counsel and the Office of Attorney General for approval as to legality and form, as required by law.
- (C) The Secretary shall certify this Order and Annex A and deposit the same with the Legislative Reference Bureau, as required by law.
- (D) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

Allen D. Biehler, P.E.

Secretary of Transportation

ANNEX A

TITLE 67. TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE VI. OPERATION OF VEHICLES

CHAPTER 103. [VEHICLES REQUIRED TO STOP AT

RAILROAD GRADE CROSSINGS] (Reserved.)

§ 103.1. [Purpose] (Reserved).

[This chapter describes the vehicles which shall stop at railroad grade crossings as required in 75 Pa.C.S. § 3342 (relating to vehicles required to stop at railroad crossings). The chapter has been developed in conjunction with the Pennsylvania Public Utility Commission and the Urban Mass Transportation Authority.]

§ 103.2. [Types of vehicles] (Reserved).

[The following types of vehicles shall comply with 75 Pa.C.S. § 3342 (relating to vehicles required to stop at railroad crossings):

(1) *Buses.* Buses designed for carrying more than ten passengers and engaged in the carriage of persons as passengers of a transportation service.

(2) *Nonprofit organization and local government vehicles.* Vehicles owned or operated by private nonprofit corporations and associations; municipalities, counties or their instrumentalities; or by the Commonwealth or its agencies or instrumentalities, when the vehicles are engaged in the carriage of persons as passengers of a transportation service.

(3) *Hazardous substances.* Vehicles transporting hazardous substances and displaying one of the following placards required by Chapter 403 (relating to Hazardous Substances Transportation Board):

- (i) Explosives A.
- (ii) Explosives B.
- (iii) Poison gas.
- (iv) Flammable solid W.
- (v) Oxidizers.

- (vi) Nonflammable gas.
- (vii) Corrosives.
- (viii) Flammable gas.
- (ix) Radioactive.
- (x) Dangerous.
- (xi) Chlorine.
- (xii) Flammable.
- (xiii) Blasting agent.
- (xiv) Poison.
- (xv) Oxygen.
- (xvi) Combustible.
- (xvii) Flammable solid.
- (xviii) Organic peroxide.

(4) *Chlorine*. Motor vehicles transporting a quantity of chlorine.

(5) *Vehicle used for hazardous substances*. Cargo tank motor vehicle, whether loaded or empty, used for the transportation of a hazardous material as defined in the Hazardous Materials Regulations of the United States Department of Transportation, 49 CFR Parts 106--179 (relating to transportation and pipeline safety; and hazardous materials regulations).

(6) *Commodity having temperature above its flash point*. Cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flash point as determined by the hazardous materials regulations of the United States Department of Transportation, 49 CFR 173.115 (relating to flammable, combustible, and pyrophoric liquids; definitions and preparation).

(7) *Commodity transported under special permit*. Cargo tank motor vehicle, whether loaded or empty, transporting a commodity under special permit under the Hazardous Materials Regulations of the United States Department of Transportation, 49 CFR 170.103 (relating to application for exemption).]

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
www.dot.state.pa.us



(717) 787-6485

August 2, 2004

Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
14th Floor Harristown 2
333 Market Street
Harrisburg, PA 17101

**Re: Regulation #18-387: 67 Pa. Code, Chapter 103 —
Vehicles Required to Stop at Railroad Grade Crossings
Final Rulemaking**

Dear Mr. Nyce:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for Amendments to 67 Pa. Code, Chapter 103, Vehicles Required to Stop at Railroad Grade Crossings, which the Department of Transportation intends to adopt as a final rulemaking in accordance with the provisions of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1201 *et seq.*, and the Regulatory Review Act, 71 P.S. § 745.1 *et seq.*

Copies of these materials were also delivered today to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees.

The Department of Transportation will provide you with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. F. J. Martin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen F. J. Martin
Regulatory Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 18-387

SUBJECT: Vehicles Required to Stop at Railroad Grade Crossings
67 Pa. Code Chapter 103

AGENCY: Department of Transportation

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
<u>8-2-04</u>	<u><i>Walter Swartz</i></u> for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION
<u>8/2/04</u>	<u><i>Margaret Hester</i></u> for Minority Chair	
<u>8/2/04</u>	<u><i>Pete M. Zelenski</i></u> for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION
<u>8/2/04</u>	<u><i>Charles L. Hicks</i></u> for Minority Chair	
<u>8/2/04</u>	<u><i>Diana Pagan</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU

Date: August 2, 2004

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