



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

## **NOTICE OF ENFORCEMENT DISCRETION REGARDING TRANSPORTATION OF CERTAIN SANITIZING AND DISINFECTING MATERIALS DURING THE CORONAVIRUS DISEASE 2019 (COVID-19) PUBLIC HEALTH EMERGENCY**

The U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) plays a leading role in ensuring the safe transportation of hazardous materials throughout the United States by all modes. Because of the ongoing Coronavirus Disease 2019 (COVID-19) public health emergency, there has been a notable increase in the demand for products used for sanitization and disinfection purposes – many of which may be considered hazardous materials for transportation as defined by the Hazardous Materials Regulations (HMR, 49 CFR Parts 171-180).

PHMSA is aware of the challenges that transportation companies are facing in providing personnel with necessary materials, such as hand sanitizers, that provide for protection of their health and safety and comply with government guidelines. Workplace locations like package sorting facilities, airport ramps, stations, and delivery vehicles often lack ready access to soap and water, resulting in an urgent need for sanitizing and disinfecting products. These companies are in many instances essential businesses that support the U.S. economy and the public interest through the shipment and delivery of packages. Companies have been exploring alternate ways to transport materials to locations in their network so they can continue to provide this essential resource in a safe manner. Given that these companies frequently have their own effective transportation distribution networks in place, focused relief from certain requirements of the HMR would support efficient and streamlined movement of needed materials in time of emergency.

Therefore, to facilitate the distribution and availability of these sanitizing and disinfecting products during this public health emergency, PHMSA intends to provide temporary relief from certain HMR requirements for persons transporting sanitizing and disinfecting materials on a motor vehicle for the purposes of protecting the health and safety of employees (defined herein to include contractors) directly supporting the logistical operations of the carrier. The relief provided herein is for the highway (motor vehicle) transportation of materials only. Shipments by other modes of transportation must meet all requirements of the HMR unless relief has been provided elsewhere. Note that the purpose for the relief provided in this notice differs from the notice “Temporary Policy for the Transportation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (COVID-19).” The relief offered in this notice facilitates movement of sanitizing and disinfecting materials for purposes of protecting the health and safety of employees. The previously published “Hand Sanitizer Product” notice allowing companies that do not normally manufacture and transport hand sanitizers to offer the material

into transportation remains effective (see <https://www.phmsa.dot.gov/news/revised-temporary-relief-notice-companies-transporting-hand-sanitizer-highway>).

During this public health emergency, PHMSA is providing relief for hazardous materials transported for the purpose of protecting the health and safety of employees that mirrors the relief provided for hazardous materials transported under materials of trade exceptions in § 173.6, which exempts certain hazardous materials (e.g., Class 3 flammable liquids or Class 8 corrosive liquids) and quantities in motor vehicle shipments from the requirements of the HMR. Hand sanitizers, for example, can be classified as Class 3 flammable liquids and disinfectants can be classed as Class 8 corrosive liquids. Under the HMR, a material of trade means a hazardous material that is carried on a motor vehicle: (1) for protecting the health and safety of the motor vehicle operator or passengers; (2) for supporting the operation or maintenance of a motor vehicle; or (3) by a private motor carrier in direct support of a principal business that is other than transportation by motor vehicle. PHMSA does not consider the incidental or de minimis use of sanitizing and disinfecting materials by non-employees with whom employees interact in the course of their duties to be in violation of the regulations. However, sanitizing and disinfecting products transported by a logistics company's own transportation network to support the health and safety of employees at the company's facilities do not meet any of these three definitions, and this discretion is intended to address this specific need.

PHMSA gives notice that it will not take enforcement action against any carrier transporting sanitizing and disinfecting materials carried on a motor vehicle for the purposes of protecting the health and safety of employees of the carrier provided that the following criteria are met:

- (1) The sanitizing and disinfecting materials, such as hand sanitizers and spray disinfectants, are intended to allow employees to adhere to Centers for Disease Control and Prevention guidelines for protecting against COVID-19.
  - (2) The sanitizing and disinfecting materials are being provided to protect the health and safety of employees who directly support the operations of the carrier, such as by sorting packages, loading and unloading packages, and driving delivery vehicles.
  - (3) The sanitizing and disinfecting materials are transported by motor vehicle.
  - (4) The shipment complies with the hazard class, quantity, packaging, hazard communication, and aggregate gross weight requirements specified in 49 CFR § 173.6 (Materials of Trade provisions).
  - (5) Transport of these materials for purposes other than use by employees of the carrier (e.g. retail sale) is not authorized.
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This Notice of Enforcement Discretion is effective while the Department of Health and Human Services (HHS) January 31, 2020, determination that a public health emergency pursuant to Section 319 of the Public Health Service Act related to COVID-19<sup>1</sup> exists, or 90 days from the date of issuance of this Notice, whichever is sooner<sup>2</sup>.

Issued on April 20, 2020, in Washington, D.C.



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<sup>1</sup> <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>

<sup>2</sup> This document is a temporary notice of enforcement discretion. Regulated entities may rely on this notice as a safeguard from departmental enforcement as described herein. To the extent this notice includes guidance on how regulated entities may comply with existing regulations, it does not have the force and effect of law and is not meant to bind the regulated entities in any way.