

**United States Department of Transportation
Pipeline and Hazardous Materials Safety Administration**

Environmental Protection Agency, Region 4
61 Forsyth Street NW
Atlanta, GA 30303

Emergency Waiver Order No. 20

Docket No. PHMSA-2021-0093

Kentucky Department of Environmental Protection
300 Sower Boulevard
Frankfort, KY 40601

EMERGENCY WAIVER ORDER

In accordance with the provisions of 49 U.S.C. § 5103(c), the Deputy Administrator for the Pipeline and Hazardous Materials Safety Administration (PHMSA) hereby declares that an emergency exists that warrants issuance of a Waiver of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to persons conducting operations under the direction of Environmental Protection Agency (EPA) Region 4 (61 Forsyth Street NW, Atlanta, GA 30303) or the Kentucky Department of Environmental Protection (DEP) within the major disaster areas of tornado and storm impact in Kentucky. The Waiver is granted to support EPA and the Kentucky DEP in taking appropriate actions to prepare for, respond to, and recover from a threat to public health, welfare, or the environment caused by actual or potential oil and hazardous materials incidents resulting from these tornadoes and storms.

On December 12, 2021, the President issued an Emergency Declaration for severe storms, straight-line winds, flooding, and tornadoes for the counties of Caldwell, Christian, Fulton, Graves, Hart, Hickman, Hopkins, Logan, Lyon, Marshall, Muhlenberg, Ohio, Taylor, and Warren. Barren County was added on December 22, 2021.

This Waiver Order covers all areas identified in the declarations, as amended. Pursuant to 49 U.S.C. § 5103(c), PHMSA has authority delegated by the Secretary (49 CFR 1.97(b)(3)) to waive compliance with any part of the HMR provided that the grant of the waiver is: (1) in the public interest; (2) not inconsistent with the safety of transporting hazardous materials; and (3) necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5121 et seq.).

Given the continuing impacts caused from severe storms, straight-line winds, flooding and tornadoes, PHMSA's Deputy Administrator has determined that regulatory relief is in the public interest and necessary to ensure the safe transportation in commerce of hazardous materials while the EPA and Kentucky DEP execute their recovery and cleanup efforts in Louisiana and Mississippi. Specifically, PHMSA's Deputy Administrator finds that issuing this Waiver Order will allow the EPA to conduct their Emergency Support Function #10 response activities under the

National Response Framework to safely remove, transport, and dispose of hazardous materials. By execution of this Waiver Order, persons conducting operations under the direction of EPA Region 4 or Kentucky DEP within the major disaster and emergency areas impacted by severe storms, straight-line winds, flooding and tornados are authorized to offer and transport non-radioactive hazardous materials under alternative safety requirements imposed by EPA Region 4 and KY DEP when compliance with the HMR is not practicable. Under this Waiver Order, non-radioactive hazardous materials may be transported to staging areas within 100 miles of the point of origin. Further transportation of the hazardous materials from staging areas must be in full compliance with the HMR.

This Waiver Order is effective immediately and shall remain in effect for 30 days from the date of issuance.

Dated: December 28, 2021



William S. Schoonover
Associate Administrator
Pipeline and Hazardous
Materials Safety Administration