

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

Government of Puerto Rico  
Transport and Other Services Bureau  
500 Roberto H. Todd Avenue  
San Juan, PR 00907-3941

Emergency Waiver Order No. 22

Docket No. PHMSA-2022-0120

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**EMERGENCY WAIVER ORDER**

In accordance with the provisions of 49 U.S.C. § 5103(c), the Associate Administrator for the Office of Hazardous Materials Safety within 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 the Transport and Other Public Services Bureau of the Government of Puerto Rico within the emergency and disaster areas of Hurricane Fiona in the Commonwealth of Puerto Rico. The Waiver is granted to support the government of Puerto Rico in facilitating the transport of diesel and other essential fuel.

On September 18, 2022, the President issued an Emergency Declaration for Hurricane Fiona for all 78 municipalities in the Commonwealth of Puerto Rico (EM-3583). On September 21, 2022, the President issued a Major Disaster Declaration for the Commonwealth of Puerto Rico (DR-4671).

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 by Hurricane Fiona, PHMSA's Associate 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 Puerto Rican government executes its recovery and cleanup efforts. Specifically, PHMSA's Associate Administrator finds that issuing this Waiver Order will allow for the safe transportation of fuel. By execution of this Waiver Order, the hazardous materials training, testing, and certification requirements in 49 CFR part 172, subpart H and part 177 are waived except as specified below for persons conducting operations under the direction of the Transport and Other Public Services Bureau of the government of Puerto Rico within the Hurricane Fiona emergency and disaster areas of Puerto Rico. Such persons are authorized to offer and transport fuel provided that the following conditions are met:

- (1) The transport of the fuel must be accompanied by a law enforcement or military escort;
- (2) The escort vehicle must have a copy of the Emergency Response Guidebook, Response Guide 128;
- (3) Drivers must have three years of professional driving experience and otherwise be licensed to operate the vehicle based on its size and weight; and
- (4) Unloading procedures must be overseen by a qualified person as defined in 49 CFR § 177.834(i)(4) or a driver who has received training (testing and certification is not required) that includes, at a minimum, these items:
  - (a) Bonding the cargo tank;
  - (b) Preventing overfilling of tanks at point of delivery;
  - (c) Controlling the flow of product;
  - (d) Using emergency cut-off equipment; and
  - (e) Securing unloading equipment for transport.

Additionally, during driver unloading, the unloading area must be cleared of all non-essential personnel for a distance of 100 feet. Compliance with all other requirements of the HMR is required.

This Waiver Order is effective immediately and shall remain in effect for 60 days from the date of issuance.



Dated: September 26, 2022

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