

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

United States Coast Guard Seventh District
Brickell Plaza Federal Building
909 SE 1st Avenue
Miami, FL 33131-3050

Emergency Waiver Order No. 23

Docket No. PHMSA-2022-0126

Environmental Protection Agency Region 2
290 Broadway
New York, NY 10007-1866

EMERGENCY WAIVER ORDER

In accordance with the provisions of 49 U.S.C. § 5103(c), the Deputy 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 Environmental Protection Agency (EPA), Region 2 and United States Coast Guard (USCG) Seventh District within the Hurricane Fiona emergency and disaster areas in the Commonwealth of Puerto Rico. The Waiver is granted to support EPA and USCG 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 Hurricane Fiona.

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 Deputy 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 EPA and USCG execute their recovery and cleanup efforts in the Commonwealth of Puerto Rico. Specifically, PHMSA's Deputy Associate Administrator finds that issuing this Waiver Order will allow the EPA and USCG 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 2 and USCG Seventh District within the Hurricane Fiona emergency and disaster areas of the Commonwealth of Puerto Rico are authorized to offer and transport non-radioactive hazardous materials under alternative safety requirements imposed by EPA Region 2 and USCG Seventh District when compliance with the HMR is not practicable. Under this Waiver Order, non-radioactive hazardous materials may be transported to staging areas within 50 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 60 days from the date of issuance.

Dated: September 28, 2022

William Quade
Deputy Associate Administrator
Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration