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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2017-0109; Notice No. 2017-07]

Hazardous Materials: Emergency Waiver No. 1

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of emergency waiver order.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration is issuing an emergency waiver order to persons conducting operations under the direction of Environmental Protection Agency Region 6 within the Hurricane and Tropical Storm Harvey disaster and emergency areas of Texas and Louisiana. This Waiver Order is effective September 1, 2017, and shall remain in effect for 30 days from the date of issuance.

FOR FURTHER INFORMATION CONTACT: Adam Horsley, Deputy Assistant Chief Counsel for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, telephone: (202) 366-4400.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of 49 U.S.C. 5103(c), the Acting 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 6 (1445 Ross Avenue, Dallas, TX 75202) within the Hurricane

and Tropical Storm Harvey disaster and emergency areas of Texas and Louisiana. The Waiver is granted to support EPA 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 and Tropical Storm Harvey.

On August 25, 2017, the President issued a Major Disaster Declaration for Hurricane Harvey for affected counties in Texas (DR-4332); and an Emergency Declaration for Tropical Storm Harvey for affected counties in Louisiana (EM-3382) on August 28, 2017. This Waiver Order covers all counties identified in both 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 and Tropical Storm Harvey, PHMSA's Acting Administrator has determined that regulatory relief is in the public interest and necessary to ensure the safe transportation in commerce of hazardous materials while EPA executes its recovery and cleanup efforts in Texas and Louisiana. Specifically, PHMSA's Acting Administrator finds that issuing this Waiver Order will allow EPA to conduct its emergency support function 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 6 within the Hurricane/Tropical Storm Harvey disaster and emergency areas of Texas and Louisiana are authorized to offer and transport non-radioactive hazardous materials under alternative safety requirements imposed by EPA Region 6 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 in be full compliance with the HMR.

This Waiver Order is effective September 1, 2017, and shall remain in effect for 30 days from the date of issuance.

Drue Pearce,
Acting Administrator
Pipeline and Hazardous Materials Safety Administration
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