



Council on Safe Transportation of Hazardous Articles

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July 10, 2024

Mr. Shane Kelley
Standards and Rulemaking Division
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
U.S. Department of Transportation
East Building, 1200 New Jersey Ave., SE
Washington, D.C. 20590-0001
Submitted: Via Email
Cc: infocntr@dot.gov

RE: Petition for Rulemaking | Direct-to-Consumer Delivery Exemption

The Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA) hereby submits a petition for rulemaking pursuant to Title 49 CFR, Part 106, Subpart B, §106.95 requesting PHMSA modify the Hazardous Materials Regulations (HMR) to exempt retail deliveries of hazardous materials transported direct-to-consumer via a contract delivery driver. Specifically, COSTHA requests PHMSA to exempt from the HMR consumer products classified as hazardous materials that are being delivered directly to a consumer's residence from a retail location by an independent courier under contract with the retail entity and/or through arrangement with the consumer (i.e., Uber, Lyft, Doordash, etc.).

COSTHA is a not-for-profit organization representing manufacturers, shippers, distributors, carriers, freight forwarders, trainers, packaging manufacturers and others associated with the hazardous materials transportation industry. In addition to promoting regulatory compliance and safety in hazardous materials transportation, COSTHA assists its members and the public in evaluating the practicality and efficacy of laws, rules and regulations for the safe transportation and distribution of hazardous materials.

General Comments

The HMR and transport regulations do not currently consider the ability for consumers to purchase goods from an online retail entity via a website or phone App and have these goods delivered to their residence from the local retail location.

The products being delivered directly to a consumer via a delivery driver or contract delivery service pose an equivalent level of risk as a consumer transporting the material in their personal vehicle after an onsite purchase from the retail location. These deliveries are for consumer personal use only, non-commercial use.

Council on Safe Transportation of Hazardous Articles

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COSTHA recommends PHMSA consider adopting a Direct-to-Consumer Delivery Exemption.

We provide the following justification for consideration:

- Delivery orders containing hazardous materials are subject to the same commodities and quantities that consumers carry in their personal vehicles daily;
- Retail hazardous materials are low risk materials, packaged in consumer retail packaging in smaller quantities.
- Products are purchased via an online website and/or app prior to transport for local delivery.

COSTHA proposes an exemption from the requirements found in 49 CFR HMR for delivery drivers provided the following conditions are met:

- The delivery driver must work for an independent courier service that is direct-to-consumer (i.e., Uber, Lyft, Doordash, etc.) on a contractual basis, a contract service with the retail entity for consumer deliveries or be employed by the retail entity for local consumer deliveries.
- The delivery driver must hold a valid United States driver's license.
- The delivery driver must hold a valid personal auto insurance policy for the motor vehicle the delivery driver operates.
- The auto insurance policy must include bodily injury and property damage liability coverage(s), AND a commercial endorsement to cover commercial trips OR a separate commercial auto insurance policy must be held to satisfy these requirements.
- Delivery drivers must conform with additional state insurance coverages and requirements.
- All hazardous materials must remain in original retail packaging for the completion of its delivery.
- Delivery is limited to ground transport and must be completed by motor vehicle only. Air, rail, and vessel shipments are prohibited.
- Delivery drivers must operate within a 50-mile air radius from the consumer's order pickup location.
- Delivery orders containing hazardous materials are subject to the same commodities and quantities that consumers carry in their personal vehicles daily.

COSTHA members provide the following data on the number of shipments.

- One member provided they would have approximately 1,000,000 shipments weekly that would qualify for the regulatory relief.

In closing, COSTHA requests PHMSA consider modifying the HMR to incorporate an exemption for consumer products classified as hazardous materials that are being delivered directly to a consumers residence from a retail location, within 50 air miles radius, by an independent courier, a contract delivery service employed by the retail entity, delivery drivers employed by the retail entity, or independent couriers through arrangement with the consumer (i.e., Uber, Lyft, DoorDash, etc.).

COSTHA appreciates PHMSA's consideration for this requested modification of the HMR. If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ana Diaz', with a stylized flourish extending to the right.

Ana Diaz
Regulatory Compliance Specialist