

DOT Publishes Answers to FAQ Regarding COVID-19 Guidance

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On May 1, 2020, the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) published answers to Frequently Asked Questions (FAQ) regarding its COVID-19 guidance on the PHMSA website. [1] The FAQ address PHMSA guidance on the transportation of hand sanitizers [2] and personal protective equipment (PPE), as well as shipping paper requirements. [3]

With respect to hand sanitizers, PHMSA emphasizes that its temporary policy providing enforcement discretion only applies to products that are prepared in accordance with the specified FDA guidance document and pursuant to the April 10 PHMSA notice. [4] Shippers may not simply rely upon the policy to cover all ethyl alcohol or isopropyl alcohol sanitizer products.

For shipments of PPE that are known or reasonably expected to be contaminated with an infectious substance, PHMSA clarifies that 49 CFR 173.134(b)(12)(i) is the applicable regulation when such PPE is being shipped for cleaning or refurbishment. These regulations are distinguishable from 49 CFR 173.134(c), which applies to contaminated PPE being shipped for disposal. Additionally, PHMSA notes that placarding requirements (49 CFR 172.504) are not applicable to the shipment of contaminated PPE (though certain marking requirements apply).

PHMSA also stresses that its April 10 guidance regarding shipping papers and social distancing does not provide any relief from regulatory requirements or enforcement. The guidance only highlights flexibility provided under the DOT regulations. For transportation by highway, a hard copy shipping paper must accompany the shipment; an electronic shipping paper by itself is insufficient to meet 49 CFR 177.817(e).

[1] <https://www.phmsa.dot.gov/news/covid-19-frequently-asked-questions>

[2] <https://www.khlaw.com/DOT-Issues-Notice-of-Enforcement-Discretion-Regarding-the-Transportation-of-Hand-Sanitizers-to-Address-COVID-19>

[3] <https://www.natlawreview.com/article/dot-issues-guidance-hazmat-shipping-papers-and-social-distancing>

[4] <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-04/PHMSA%20Revised%20Hand%20Sanitizer%20Notice.pdf>

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