

INTERESTED PARTIES FOR HAZARDOUS MATERIALS TRANSPORTATION

March 20, 2020

VIA ELECTRONIC MAIL

Honorable Elaine Chao
Secretary
U.S. Department of Transportation
Washington, DC

Re: Need for Uniformity in Essential Business Designations

Dear Madame Secretary:

On behalf of the Interested Parties for Hazardous Materials Transportation (Interested Parties)¹, which represents shippers and carriers of hazardous materials via all modes of transportation, we wish to convey our concerns about the detrimental impact on industry of inconsistent orders being issued by various state and local governments restricting movements of citizens and businesses to address the coronavirus crisis. We are concerned that without your leadership, these orders will unnecessarily restrict or even prohibit critical intra- and interstate commercial activities.

The U.S. Department of Homeland Security has issued Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response. While advisory, this document is intended to assist state, local, tribal and territorial jurisdictions and the private sector on defining essential critical infrastructure workers during periods of community restriction, access management, social distancing, or closure orders/directives.

The DHS guidance contains a comprehensive list of Critical Infrastructure Workers who should be considered exempt from any shutdown orders issued by state or local governments in response to the coronavirus crisis. We need the assistance of the Department of Transportation to ensure that this single, comprehensive list of Critical Infrastructure Workers is adopted by any U.S. jurisdictions imposing restrictions on business operations or transportation. The DHS Guidance provides clarity and certainty so that our

¹ The Interested Parties is a volunteer-run coalition of organizations that share an interest in legislative and regulatory issues related to the safe and secure domestic and international transportation of hazardous materials. Interested Parties members include associations representing hazardous materials shippers, carriers, packaging manufacturers and other related groups. The following IP members have approved these comments: Agricultural Retailers Association; American Chemistry Council; American Coatings Association; American Fuel & Petrochemical Manufacturers; American Pyrotechnics Association; American Short Line and Regional Railroad Association; American Trucking Associations; Association of HazMat Shippers; The Chlorine Institute; Commercial Vehicle Safety Alliance; Compressed Gas Association; Council on the Safe Transportation of Hazardous Articles; Dangerous Goods Advisory Council; The Fertilizer Institute; Gases and Welding Distributors Association; Industrial Packaging Alliance of North America; Industrial Steel Drum Institute; Institute of Makers of Explosives; International Liquid Terminals Association; International Vessel Operators Dangerous Goods Association; Lighter Association; National Association of Chemical Distributors; The National Industrial Transportation League; National Motor Freight Traffic Association, Inc.; National Private Truck Council; National Propane Gas Association; National Tank Truck Carriers; Owner-Operator Independent Drivers Association; Plastics Industry Association; Petroleum Marketers Association of America; Radiopharmaceutical Shippers & Carriers Conference; Railway Supply Institute, Inc.; PRBA – The Rechargeable Battery Association; Renewable Fuels Association; Reusable Industrial Packaging Association; The Sulphur Institute; Transportation Intermediaries Association; Truckload Carriers Association; Utility Solid Waste Activities Group.

member companies may continue to transport hazardous materials and other necessary equipment used to support many critical industries during this period.

The State of California has imposed a statewide shutdown order for all businesses except those on the DHS Guidance list. In contrast, the Commonwealth of Pennsylvania has imposed an order shutting down all businesses except those on its list of "Life Sustaining Businesses." The Pennsylvania exemption list is much narrower and less specific than the DHS Guidance, and therefore creates uncertainty as to whether businesses may remain operating during the shutdown order. Additionally, the Governor of New York reportedly plans to sign an executive order shutting down businesses in that state, with yet a third set of exemption criteria.

Our companies engage in intra- and interstate commerce, and a patchwork quilt of state and local restrictions with varying vague and inconsistent exemptions prevents us from expeditiously providing critical goods and services needed to keep the nation safe, secure and healthy. This was exactly the scenario that the DHS Guidance is meant to address.

We ask that you use all the authority of your Department, and that of the federal government, to encourage and support consistent adopting and application of the DHS Guidelines as state and local governments address the coronavirus pandemic.

Thank you for your efforts,

Sincerely,

A handwritten signature in black ink that reads "Paul Rankin". The signature is written in a cursive style with a large, prominent "P" and "R".

Paul Rankin, Chair