

Southeast Colorado Petroleum Exemption Reinstatement Request

The Colorado-Wyoming Petroleum Marketers Association (CWPMA) has requested the Petroleum Exemption be reinstated on the following state routes:

- US-160 from I-25 to the Kansas Border
- US-350 from US-160 to US-50
- US-385 from US-50 to US-40
- SH-96 from SH-71 to the Kansas Border
- SH-109 from US-160 to E 3rd Street in La Junta

In accordance with CDOT Procedural Directive 1903.1 (Appendix A) a Hazmat Route Advisory Team consisting of Headquarter and Region 2 staff studied the request and determined there are no circumstances which should prevent these routes from carrying petroleum products. The Advisory Team recommends the Transportation Commission initiate a Petroleum Exemption reinstatement petition to the Colorado State Patrol (CSP) for their consideration.

Title 42, Article 20 of the Colorado Revised Statutes governs the routing of hazardous materials by motor vehicles on all public roads. The transport of petroleum products were expressly exempted from routing requirements, unless the roadway authority requested this exemption be removed. When the routing system was initially created, CDOT -then the Department of Highways- elected to remove the petroleum exemption from all state routes not designated as hazardous materials routes. During that same process, every county in Southeast Colorado chose to keep the Petroleum Exemption in place on roads within their jurisdiction. The result was conflicting regulations on state routes and county roads within the same county.

The legislative intent of this statute was to allow for the free-flow of petroleum products and only limit the movement of other hazardous materials, therefore no prescribed criteria to reinstate the Petroleum Exemption is outlined. With an understanding of this intent, CDOT worked with CSP to identify what measures would be used to address Petroleum Exemption changes. As a result of these discussions it was determined that CDOT should conduct “analysis-light”, meaning the same criteria as outlined in statute and policy would be used, however, only extraordinary circumstances would prevent a change in the designation and deference would be given to the roadway authorities preference.

The following analysis was conducted by the Hazmat Route Advisory Team in accordance with PD 1903.1:

The routes are feasible, practicable, and not unreasonably expensive for such transportation.

Granting the request to reinstate the Petroleum Exemption will allow more options to petroleum transporters and will not have a negative impact on the industry. The increased flexibility will, in some case, contribute to reduced operating costs for carriers. All five routes meet these criteria.

The routes are continuous within a jurisdiction and from one jurisdiction to another.

The requested reinstatement is continuous through all affected jurisdictions. The request meets this requirement.

Provide Greater Safety to the public than other feasible routes

Reinstating the Petroleum exemption on these routes provides more options for petroleum transporters. With fewer restricted routes, drivers may choose the most direct route and limit the number of miles traveled to deliver their products, thus reducing the risk of incidents.

- Crash and fatality rates on these routes are within acceptable parameters when compared to similar routes.
- The region is sparsely populated and no population is at greater risk of incident with this change.
- Several schools and hospitals are within one mile of a route. The reinstatement of the Petroleum Exemption will result in no greater risk to these establishments. There are no environmentally sensitive areas affected by these routes.
- A list of emergency response agencies and their capabilities has been established. CSP will determine if the response capabilities are adequate for the region.
- The conditions on the routes are within acceptable parameters when compared to similar routes.

The routes do not unreasonably burden interstate or intrastate commerce.

Reinstating the Petroleum Exemption on these routes will not burden interstate or intrastate commerce. Rather, these additional routes will allow for freer movement of goods, thus providing cost savings to transporters and potentially their customers.

Designation is not arbitrary or intended to by petitioner merely to divert the transportation of hazardous materials to other communities.

Reinstating the Petroleum Exemption will not divert petroleum products to other communities but will provide more options to deliver the products to the communities who use them. Support for these proposed changes has been expressed by the local communities.

Routes will not interfere with the pickup or delivery of petroleum products.

Increased routing options will allow for greater ease in product pickup and delivery and will not have an adverse effect.

Reinstatement of the Petroleum Exemption must be consistent with all applicable state and federal laws and regulations.

The reinstatement of the Petroleum Exemption on these routes is consistent with all state and federal laws and regulations

The following counties have expressed support for these changes:

- Baca
- Cheyenne
- Crowley
- Kiowa
- Las Animas
- Otero
- Prowers

The following towns or cities have expressed support for these changes:

- Granada
- Haswell
- Kim
- La Junta
- Pritchett
- Sheridan Lake
- Sugar City
- Trinidad
- Walsh

Attached:

CDOT Procedural Directive 1903.1

Map of proposed changes to Petroleum Exemption in Southeast Colorado

COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE
		<input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE
Subject Hazardous Materials Routing Procedure		Number 1903.1
Effective 05/20/2010	Supersedes New PD	Originating Office Division of Transportation Development

PURPOSE

Title 42, Article 20 of the Colorado Revised Statutes governs the routing of hazardous materials by motor vehicles on all public roads. The Colorado State Patrol has sole authority to designate which public roads shall be used and which shall not be used by motor vehicles transporting hazardous materials (hazmat), notwithstanding the provisions of 42-4-106 C.R.S. concerning tunnels on the state highway system which remain under the authority of the Transportation Commission.

However, the Department of Transportation (department) is the petitioning authority with respect to any public road maintained by the state that is not located within a town, city, or city and county. In addition, the Transportation Commission must approve any petition the department wishes to make to the Colorado State Patrol regarding changes to hazmat routes. The purpose of this procedure is to detail the procedures the department will follow when considering whether to petition the Colorado State Patrol for changes to hazmat routes on roads maintained by the department.

AUTHORITY

Executive Director
Hazardous Materials Transportation Act of 1987 (CRS 42-20-101 through 511)
Federal Hazardous Material Transportation Law, 49 CFR, Section 5101-5128
Federal Hazardous Material Regulations, HMR, 49 CFR, Parts 100-185

APPLICABILITY

This directive applies to all Divisions and Offices of the Colorado Department of Transportation.

DEFINITIONS

Hazardous materials: Those materials listed in tables 1 and 2 of 49 CFR 172.504, excluding highway route controlled quantities of radioactive materials as defined in 49 CFR 173.403 (l), excluding ores, the products from mining, milling, smelting, and similar processing of ores, and the wastes and tailing therefrom, and excluding special fireworks as defined in 49 CFR 173.88 (d) when the aggregate amount of flash powder does not exceed fifty pounds.

Motor vehicle: Means any device which is capable of moving from place to place upon public roads. The term includes, but is not limited to, any motorized vehicle or any such vehicle with a trailer or semi-trailer attached thereto. [§42-20-103 (4), C.R.S.]

Petition: Colorado State Patrol Hazardous Material Route Designation Petitioning Packet, including the route analysis process, worksheets, and petition resolution.

PROCEDURE

Method for Requesting CDOT Analysis of Potential Hazmat Route Changes

When a department staff person, a local government, or private industry requests that the department

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consider a hazmat route change with the intention that the department and Transportation Commission, if approved, will petition the Colorado State Patrol for the change, the request must be submitted in writing to the Mobility Analysis Section within the Division of Transportation Development and must include, at a minimum:

- Identify the requesting entity
- Describe specifically the designation being sought
- Identify any local business or industry which is known to be significantly reliant on hazardous materials transportation and which would be affected by the designation
- Include any other information which is necessary for CDOT to consider the request.

Requesting entities are encouraged to provide sufficient information including quantifiable data regarding the requested route change so that CDOT can determine feasibility of preparing a route analysis. Depending upon the information provided, CDOT may request additional information in order to determine if a route analysis is warranted and to perform such analysis. No route shall be analyzed by CDOT more than once per year.

Hazmat Route Advisory Team

The Mobility Analysis Section within the Division of Transportation Development shall be the lead section for consideration of hazmat route change requests. To assist in each analysis, the Mobility Analysis Section shall convene a HAZMAT Route Advisory Team, consisting of representatives of the following divisions and offices, and other offices as deemed appropriate by the Mobility Analysis Section to assist in considering the safety, environmental, traffic, and policy implications of any suggested change:

- Division of Transportation Development, Mobility Analysis Section
- Office of Traffic Engineering
- Commercial Vehicle Permits Office
- Office of Policy & Government Relations
- Region Traffic Engineer for the CDOT region the requested highway is in
- Region Environmental Manager for the CDOT region the requested highway is in
- Division of Transportation Development, Environmental Branch
- Section Maintenance Superintendent or Deputy Maintenance Superintendent for the CDOT region the requested highway is in
- Staff Bridge

Factors to Address When Considering Route Changes

The department shall not bring a hazmat route change recommendation to the Transportation Commission for consideration unless it finds that, at a minimum, the routes under consideration:

- Are feasible, practicable, and not unreasonably expensive for such transportation
- Are continuous within a jurisdiction and from one jurisdiction to another
- Provide greater safety to the public than other feasible routes. Considerations include but are not limited to:
 - AADT, crash and fatality rates
 - population within a one-mile swath of each side of the highway
 - location of schools, hospitals, sensitive environmental areas, rivers, lakes, etc.
 - emergency response capabilities on the route

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- condition of the route, i.e., vertical and horizontal alignment, pavement condition, level of access to the route, etc.
- Do not unreasonably burden interstate or intrastate commerce
- The designation is not arbitrary or intended by the petitioner merely to divert the transportation of hazardous materials to other communities
- The designation will not interfere with the pickup or delivery of hazardous materials; and
- The designation is consistent with all applicable state and federal laws and regulations

Public Meeting

Before requesting the Transportation Commission initiate a hazmat route change petition to the Colorado State Patrol for their consideration, the Hazmat Route Advisory Team shall conduct an informal public meeting in the area of the change to evaluate local issues, concerns, sentiment related to the proposed change. CDOT shall invite the Colorado State Patrol, the entity requesting the change, local government, private industry, and the Colorado Department of Health and Environment to the meeting.

Decisions

The HAZMAT Route Advisory Team shall have no more than 180 days following the receipt of the request to either deny the request, or recommend approval of the request and submission of a petition to the CSP at the next Transportation Commission meeting following their recommendation.

In some cases, the HAZMAT Route Advisory Team may be unable to recommend approval without first conducting a detailed route analysis. In such case, the Hazmat Route Advisory Team may deny the application within 180 days, but provide a timeline for completion of the route analysis, and allow the requesting entity to reapply following the results of the route analysis even if less than one year has passed since the original request.

IMPLEMENTATION

This Policy shall be implemented immediately upon approval of the Transportation Commission, by the Division of Transportation Development, Mobility Analysis Section.

REVIEW DATE

This directive shall be reviewed on or before March, 2017.



Executive Director

05/20/2010

Date of Approval

