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SUBCHAPTER A—HAZARDOUS MATERIALS AND OIL TRANSPORTATION

PART 105—HAZARDOUS MATERIALS PROGRAM DEFINITIONS AND GENERAL PROCEDURES

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Subpart A—Definitions

§ 105.5 Definitions.

(a) This part contains the definitions for certain words and phrases used throughout this subchapter (49 CFR parts 105 through 110). At the beginning of each subpart, the Pipeline and Hazardous Materials Safety Administration (''PHMSA'' or ''we'') will identify the defined terms that are used within the subpart—by listing them—and refer the reader to the definitions in this part. This way, readers will know that PHMSA has given a term a precise meaning and will know where to look for it.

(b) Terms used in this part are defined as follows:

Associate Administrator means Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

Approval means written consent, including a competent authority approval, from the Associate Administrator or other designated Department official, to perform a function that requires prior consent under subchapter C of this chapter (49 CFR parts 171 through 180).

Competent Authority means a national agency that is responsible, under its national law, for the control or regulation of some aspect of hazardous materials (dangerous goods) transportation. Another term for Competent Authority is ''Appropriate authority'' which is used in the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air. The Associate Administrator is the United States Competent Authority for purposes of 49 CFR part 107.

Competent Authority Approval means an approval by the competent authority that is required under an international standard (for example, the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air and the International Maritime Dangerous Goods Code). Any of the following may be considered a competent authority approval if it satisfies the requirement of an international standard:

(1) A specific regulation in subchapter A or C of this chapter.

(2) A special permit or approval issued under subchapter A or C of this chapter.

(3) A separate document issued to one or more persons by the Associate Administrator.

Federal hazardous material transportation law means 49 U.S.C. 5101 *et seq.*

File or *Filed* means received by the appropriate PHMSA or other designated office within the time specified in a regulation or rulemaking document.

Hazardous material means a substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and has designated as hazardous under section 5103 of Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR 172.101), and materials that meet the defining criteria for hazard classes and divisions in part 173 of subchapter C of this chapter.

Hazardous Materials Regulations or *HMR* means the regulations at 49 CFR parts 171 through 180.

Indian tribe has the same meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

Person means an individual, firm, copartnership, corporation, company, association, or joint-stock association (including any trustee, receiver, assignee, or similar representative); or a government or Indian tribe (or an agency or instrumentality of any government or Indian tribe) that transports a hazardous material to further a commercial enterprise or offers a hazardous material for transportation in commerce. Person does not include the following:

(1) The United States Postal Service.

(2) Any agency or instrumentality of the Federal government, for the purposes of 49 U.S.C. 5123 (civil penalties) and 5124 (criminal penalties).

(3) Any government or Indian tribe (or an agency or instrumentality of any government or Indian tribe) that transports hazardous material for a governmental purpose.

Political subdivision means a municipality; a public agency or other instrumentality of one or more States, municipalities, or other political body of a State; or a public corporation, board, or commission established under the laws of one or more States.

Preemption determination means an administrative decision by the Associate Administrator that Federal hazardous materials law does or does not void a specific State, political subdivision, or Indian tribe requirement.

Regulations issued under Federal hazardous material transportation law include this subchapter A (parts 105–110) and subchapter C (parts 171–180) of this chapter, certain regulations in chapter I (United States Coast Guard) of title 46, Code of Federal Regulations, and in chapters III (Federal Motor Carrier Safety Administration) and XII (Transportation Security Administration) of subtitle B of this title, as indicated by the authority citations therein.

Special permit means a document issued by the Associate Administrator under the authority of 49 U.S.C. 5117 permitting a person to perform a function that is not otherwise permitted under subchapter A or C of this chapter, or other regulations issued under 49 U.S.C. 5101 et seq. (e.g., Federal Motor Carrier Safety routing requirements). The terms ''special permit'' and ''exemption'' have the same meaning for purposes of subchapter A or C of this chapter or other regulations issued under 49 U.S.C. 5101 through 5127. An exemption issued prior to October 1, 2005 remains valid until it is past its expiration date, terminated by the Associate Administrator, or is issued as a special permit, whichever occurs first.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or any other territory or possession of the United States designated by the Secretary.

Transports or *Transportation* means the movement of property and loading, unloading, or storage incidental to the movement.

Waiver of Preemption means a decision by the Associate Administrator to forego preemption of a non-Federal requirement—that is, to allow a State, political subdivision or Indian tribe requirement to remain in effect. The non-Federal requirement must provide at least as much public protection as the Federal hazardous materials transportation law and the regulations

issued under Federal hazardous materials transportation law, and may not unreasonably burden commerce.

[67 FR 42951, June 25, 2002, as amended at 68 FR 52846, Sept. 8, 2003; 70 FR 56087, Sept. 23, 2005; 70 FR 73158, Dec. 9, 2005]

Subpart B—General Procedures

§ 105.15 Defined terms used in this subpart.

The following defined terms (see subpart A of this part) appear in this subpart: Approval; Federal hazardous material transportation law; Hazardous material; Hazardous materials regulations; Indian tribe; Preemption determination; Special permit; State; Transportation; Waiver of preemption

[67 FR 42951, June 25, 2002, as amended at 70 FR 73159, Dec. 9, 2005]

OBTAINING GUIDANCE AND PUBLIC INFORMATION

§ 105.20 Guidance and interpretations.

(a) *Hazardous materials regulations.* You can obtain information and answers to your questions on compliance with the hazardous materials regulations (49 CFR parts 171 through 180) and interpretations of those regulations by contacting PHMSA's Office of Hazardous Materials Safety as follows:

(1) Call the Hazardous Materials Information Center at 1–800–467–4922 (in Washington, DC, call (202) 366–4488). The Center is staffed from 9 a.m. through 5 p.m. Eastern time, Monday through Friday except Federal holidays. After hours, you can leave a recorded message and your call will be returned by the next business day.

(2) E-mail the Hazardous Materials Information Center at *infocntr@dot.gov*.

(3) Obtain hazardous materials safety information via the Internet at *http://www.phmsa.dot.gov*.

(4) Send a letter, with your return address and a daytime telephone number, to: Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, Attn: PHH–10, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(b) *Federal hazardous materials transportation law and preemption.* You can obtain information and answers to your questions on Federal hazardous materials transportation law, 49 U.S.C. 5101 *et seq.*, and Federal preemption of State, local, and Indian tribe hazardous material transportation requirements, by contacting PHMSA's Office of the Chief Counsel as follows:

(1) Call the office of the Chief Counsel at (202) 366–4400 from 9 a.m. to 5 p.m. Eastern time, Monday through Friday except Federal holidays.

(2) Access information from the Office of the Chief Counsel via the Internet at *http://www.phmsa.dot.gov*.

(3) Send a letter, with your return address and a daytime telephone number, to: Office of the Chief Counsel, Pipeline and Hazardous Materials Safety Administration, Attn: PHC–10, U.S. Department of Transportation, East Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) Contact the Office of the Chief Counsel for a copy of applications for preemption determinations, waiver of preemption determinations, and inconsistency rulings received by PHMSA before February 1, 1997.

[70 FR 56087, Sept. 23, 2005, as amended at 72 FR 55682, Oct. 1, 2007; 76 FR 56310, Sept. 13, 2011]

§ 105.25 Reviewing public documents.

PHMSA is required by statute to make certain documents and information available to the public. You can review and copy publicly available documents and information at the locations described in this section.

(a) *DOT Docket Management System.* Unless a particular document says otherwise, the following documents are available for public review and copying at the Department of Transportation's Docket Management System, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, or for review and downloading through the Internet at *http://www.regulations.gov*.

(1) Rulemaking documents in proceedings started after February 1, 1997, including notices of proposed rulemaking, advance notices of proposed rulemaking, public comments, related FEDERAL REGISTER notices, final rules, appeals, and PHMSA's decisions in response to appeals.