

TABLE 1.—EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Sect .0807	Emergency Generators	04/01/02	08/08/02, 67 FR 51461.	
Sect .0808	Peak Shaving Generators	07/01/99	10/22/02, 67 FR 64989.	

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[FR Doc. 05-3062 Filed 2-17-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

Pipeline and Hazardous Materials Safety Administration

49 CFR Chapter I

Research and Innovative Technology Administration

49 CFR Chapter XI

[Docket No. OST 1999-6189]

RIN 9991-AA47

Pipeline and Hazardous Materials Safety Administration, and to the Administrator, Research and Innovative Technology Administration; Establishment and Delegation of Powers and Duties

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Final rule.

SUMMARY: Two new administrations, the Pipeline and Hazardous Materials Safety Administration and the Research and Innovative Technology Administration, are being established within the United States Department of Transportation pursuant to the Norman Y. Mineta Research and Special Programs Improvement Act. Each new administration is established effective February 20, 2005. Accordingly, by this action, the Secretary delegates to the Administrator, Pipeline and Hazardous Materials Safety Administration, and the Administrator, Research and Innovative Technology Administration, functions required for the operation of each new administration. In addition, this final rule renames chapters I and XI of subtitle B of title 49 CFR.

DATES: Effective Date: This final rule is effective on February 20, 2005.

FOR FURTHER INFORMATION CONTACT: David K. Tochen, Deputy Assistant General Counsel, Office of the Assistant

General Counsel for Environmental, Civil Rights, and General Law, Department of Transportation, 400 Seventh Street, SW., Room 10102, Washington, DC 20590; Telephone (202) 366-9153.

SUPPLEMENTARY INFORMATION:

Background

The Norman Y. Mineta Research and Special Programs Improvement Act [Pub. L. 108-426, 118 Stat. 2423 (November 30, 2004)] amends title 49, United States Code, by reorganizing the Research and Special Program Administration (RSPA) into two new administrations, the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Research and Innovative Technology Administration (RITA). PHMSA succeeds to all the authority exercised by RSPA with regard to pipeline and hazardous materials safety. RITA succeeds to substantially all the research authority currently exercised by RSPA, and includes other duties and powers of the Secretary that advance the Department's research, development, and technology objectives. In addition, two existing organizations of the Department, the Bureau of Transportation Statistics and the Office of Intermodalism, are moved to RITA (49 CFR Chapter XI). 49 CFR part 1 enumerates powers and duties that each modal administration within the Department of Transportation is responsible for carrying out. This rule amends 49 CFR part 1 to reflect the Secretary's delegation of authority to the Administrators of PHMSA and RITA, respectively.

The Administrators of PHMSA and RITA may redelegate their respective powers and duties described in this document if not inconsistent with statute, departmental regulations, policies, and orders governing delegations.

As this rule relates to Departmental organization, procedures, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). In addition, the Secretary finds that prior notice and opportunity to comment are unnecessary, and good cause exists to dispense with the 30-day delay in the effective date requirement so that PHMSA and RITA may operate

pursuant to the changes noted above beginning February 20, 2005.

Ministerial amendments to a number of other parts in title 49 of the Code of Federal Regulations that pertain to functions of the new administrations will be issued in the near future.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under Executive Order 12866 ("Regulatory Planning and Process"), and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). There are no costs associated with this rule.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act (5 U.S.C. 553), the provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

E. Paperwork Reduction Act

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Title 49, Code of Federal Regulations Subtitles A and B, are amended as follows:

Subtitle A—Office of the Secretary

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

1. The authority citation for part 1 is revised to read as follows:

Authority: 49 U.S.C. 322; 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101-552, 104 Stat. 2736; Pub. L. 106-159, 113 Stat. 1748; Pub. L. 107-71, 115 Stat. 597; Pub. L. 107-295, 116 Stat. 2064; Pub. L. 107-295, 116 Stat. 2065; Pub. L. 107-296, 116 Stat. 2135; 41 U.S.C. 414; Pub. L. 108-426, 118 Stat. 2423.

2. Amend § 1.2 by revising paragraphs (g) and (i) to read as follows:

§ 1.2 Definitions.

* * * * *

(g) The Pipeline and Hazardous Materials Safety Administrator.

* * * * *

(i) The Research and Innovative Technology Administrator.

* * * * *

3. Amend § 1.3 by revising paragraphs (b)(7) and (b)(9) to read as follows:

§ 1.3 Organization of the Department.

* * * * *

(b) * * *

(7) The Pipeline and Hazardous Materials Safety Administration, headed by the Administrator.

* * * * *

(9) The Research and Innovative Technology Administration, headed by the Administrator.

* * * * *

4. Amend § 1.4 by revising paragraphs (h) and (k) to read as follows:

§ 1.4 General responsibilities.

(h) The Pipeline and Hazardous Materials Safety Administration. Is responsible for:

(1) Administering a national program of safety in natural gas and hazardous liquid pipeline transportation including identifying pipeline safety concerns, developing uniform safety standards, and promulgating and enforcing safety regulations.

(2) Administering a national program of safety, including security, in multi-

modal hazardous materials transportation including identifying hazardous materials safety concerns, developing uniform safety standards, and promulgating and enforcing safety and security regulations.

* * * * *

(k) The Research and Innovative Technology Administration. Is responsible for:

(1) Coordinating, facilitating, and reviewing the Department's research and development programs and activities, except as limited by section 4(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108-426, 118 Stat. 2423 (November 30, 2004)).

(2) After consultation with modal and OST offices, making recommendations to the Secretary on all modal and OST research budgets.

(3) Serving as the focal point for Departmental research, development, and technology endeavors, in coordination with the Under Secretary for Policy.

(4) Planning, developing, initiating and managing programs in transportation research and development. Programs undertaken by RITA shall not be duplicative of similar programs undertaken by any modal or OST office. Maintaining the capability to perform research, development, and analysis in transportation planning and socio-economic effects, program management, and provide advice on technology in DOT policy development. Particular efforts will be made on analyzing transportation systems problems and developing innovative research products, processes and applications to solve them, advanced transportation concepts, and multimodal transportation. RITA will develop and maintain vital statistics and related transportation information databases.

(5) Providing leadership on technical, navigation, communication, and systems engineering activities.

(6) Providing a point of contact for the Department with the academic community to encourage transportation research.

(7) Providing university transportation research grants.

(8) Managing a Transportation Safety Institute which designs and conducts training programs responsive to the requirements of Government and industry as expressed by the operating administrations of the Department.

(9) Carrying out comprehensive transportation statistics research, analysis, and reporting.

(10) Providing oversight of the activities of the Bureau of Transportation Statistics.

(11) Providing oversight of the activities of the Volpe National Transportation Systems Center.

(12) Coordinating intermodal research initiatives and planning activities.

(13) Serving as a focal point within the Federal government for coordination of intermodal transportation research and development policy, in coordination with the Under Secretary for Policy.

* * * * *

5. Amend § 1.22 by revising paragraph (a) to read as follows:

§ 1.22 Structure.

(a) Secretary and Deputy Secretary. The Secretary and Deputy Secretary are assisted by the following, all of which report directly to the Secretary: The Under Secretary for Policy; the Executive Secretariat; the Board of Contract Appeals; the Departmental Office of Civil Rights; the Office of Small and Disadvantaged Business Utilization; the Office of Intelligence, Security, and Emergency Response; the Office of Public Affairs; and the Office of the Chief Information Officer. The Assistant Secretaries, the General Counsel, and the Inspector General also report directly to the Secretary.

* * * * *

6. Amend § 1.23 by revising paragraph (b) to read as follows:

§ 1.23 Spheres of primary responsibility.

* * * * *

(b) The Under Secretary for Policy. Provides leadership in the development of policy for the Department, supervises the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carries out other powers and duties prescribed by the Secretary. Assists the Secretary and Deputy Secretary in carrying out a variety of executive and managerial policies, programs and initiatives. Serves as the focal point within the Federal Government for coordination of intermodal transportation policy which brings together departmental intermodal perspectives, advocates intermodal interests, and provides secretarial leadership and visibility on issues that involve or affect more than one operating administration.

* * * * *

7. Add § 1.46 to read as follows:

§ 1.46 Delegations to the Administrator of the Research and Innovative Technology Administration.

The Administrator of the Research and Innovative Technology Administration is delegated authority for the following:

(a) *Coordination of Departmental research and development programs and activities.* (1) Coordinate, facilitate, and review all Departmental research and development programs and activities, except as limited by section 4(b)(1) of the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108-426, 118 Stat. 2423).

(2) After consultation with modal and OST offices, RITA shall make recommendations to the Secretary on all modal and OST research budgets.

(b) *Science and technology.* (1) With respect to scientific and technological matters, serve as principal advisor to the Secretary and representative of the Department to the academic community, the private sector, professional organizations, and other Government agencies.

(2) Serve as principal liaison official for the Department of Transportation with the Office of Science and Technology Policy in the Executive Office of the President, the National Science and Technology Council, and the President's Committee of Advisors on Science and Technology.

(3) Serve as primary official responsible for coordination and oversight of the Department's implementation of section 2 of the Federal Technology Transfer Act of 1986 (15 U.S.C. 3710a), relating to the transfer of Federal technology to the marketplace; and section 12(d) of the National Technology Transfer and Advancement Act of 1996 (Pub. L. 104-113), as implemented by OMB Circular A-119: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities.

(4) Serve as Chair and Executive Secretary of the Department of Transportation's Research, Development and Technology Planning Council.

(5) Serve as Chair and Executive Secretary of the Department of Transportation Research, Development and Technology Planning Team.

(6) Carry out the functions vested in the Secretary by section 5108 of the Transportation Equity Act for the 21st Century (23 U.S.C. 508), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108-310, September 30, 2004, 118 Stat. 1144.

(7) Advocate Department of Transportation policy and program

coordination efforts associated with transportation research.

(8) Represent the Department of Transportation on departmental, national and international committees and meetings dealing with transportation R&D.

(9) Manage the strategic planning process for transportation R&D across the Department of Transportation and, through the National Science and Technology Council, across the Federal Government.

(10) Conduct transportation system-level assessments and policy research.

(11) Facilitate the creation of transportation public/private partnerships.

(12) Foster innovation in the transportation sector.

(13) Disseminate information on departmental, national, and international transportation R&D activities.

(14) Manage and coordinate a nationwide program of transportation research, education and technology transfer through grants to university transportation centers and foster university participation in the planning, conduct and analysis of transportation research.

(15) Manage department- and government-wide (inter/multimodal) transportation R&D programs.

(16) Oversee advisory boards that deal with transportation system-level R&D assessments and issues, such as the National Research Council Committee on the Federal Transportation R&D Strategic Planning Process.

(c) *Advanced vehicle technology.* Carry out the functions vested in the Secretary by section 5111 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5506), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108-310, September 30, 2004, 118 Stat. 1144.

(d) *Remote sensing technology.* Carry out the functions vested in the Secretary by section 5113 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108-310, September 30, 2004, 118 Stat. 1144.

(e) *University transportation research.* Carry out the functions vested in the Secretary by section 5110 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5505), as extended by the Surface Transportation Extension Act of 2004, Part V, Public Law 108-310, September 30, 2004, 118 Stat. 1144.

(f) *Volpe National Transportation Systems Center.* Exercise the authority vested in the Secretary with respect to the activities of the Volpe National

Transportation Systems Center and carry out the functions vested in the Secretary by 49 U.S.C. 328 with respect to the working capital fund for financing the activities of the Volpe National Transportation Systems Center.

(g) *Transportation Safety Institute.* Exercise authority over the Transportation Safety Institute.

(h) *Transportations Statistics.* Exercise the authority and carry out the functions vested in the Secretary by 49 U.S.C. 112(d)(1)(C) relating to transportation statistics, analysis, and reporting.

(i) *Intermodalism.* Carry out the functions vested in the Secretary by 49 U.S.C. 5503(d).

(j) *Aviation information.* (1) Carry out the functions vested in the Secretary by 49 U.S.C. 329(b)(1) relating to the collection and dissemination of information on civil aeronautics.

(2) Carry out the functions vested in the Secretary by section 4(a)(7) of the Civil Aeronautics Board Sunset Act of 1984 (October 4, 1984; Pub. L. 98-443) relating to the reporting of the extension of unsecured credit to political candidates (section 401, Federal Election Campaign Act of 1971; 2 U.S.C. 451), in conjunction with the General Counsel and the Assistant Secretary for Aviation and International Affairs.

(3) Carry out the functions vested in the Secretary by: 49 U.S.C. 40113 (relating to taking such actions and issuing such regulations as may be necessary to carry out responsibilities under the Act), 49 U.S.C. 41702 (relating to the duty of carriers to provide safe and adequate service), 49 U.S.C. 41708 and 41709 (relating to the requirement to keep information and the forms in which it is to be kept), and 49 U.S.C. 41701 (relating to establishing just and reasonable classifications of carriers and rules to be followed by each) as appropriate to carry out the responsibilities under this paragraph in conjunction with the General Counsel and the Assistant Secretary for Aviation and International Affairs.

(k) *Hazardous materials information.*

In coordination with the Under Secretary for Transportation Policy, work with the Operating Administrations to determine data needs, collection strategies, and analytical techniques appropriate for implementing 49 U.S.C. 5101 *et seq.*

n 8. Revise § 1.53 to read as follows:

§ 1.53 Delegations to the Administrator of the Pipeline and Hazardous Materials Safety Administration.

The Administrator of the Pipeline and Hazardous Materials Safety

Administration is delegated authority for the following:

(a) Pipelines. (1) Exercise the authority and carry out the functions vested in the Secretary by the Federal pipeline safety laws (49 U.S.C. 60101 *et seq.*).

(2) Exercise the authority and carry out the functions vested in the Secretary under section 28 of the Mineral Leasing Act, as amended (30 U.S.C. 185).

(3) Exercise the authority and carry out the functions vested in the Secretary under section 21 of the Deepwater Port Act of 1974, as amended (33 U.S.C. 1520) relating to the establishment, enforcement and review of regulations concerning the safe construction, operation or maintenance of pipelines on Federal lands and the Outer Continental Shelf.

(4) Exercise the authority and carry out the functions vested in the Secretary under section 5 of the International Bridge Act of 1972 (33 U.S.C. 535) as it relates to pipelines not over navigable waterways.

(5) Exercise the authority and carry out the functions vested in the Secretary under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*) with respect to the establishment, enforcement and review of regulations concerning pipeline safety.

(6) Exercise the authority and carry out the functions delegated to the Secretary under sections 4(a) and 5(c) of Executive Order 12316 (46 FR 42237, Aug. 20, 1981) (delegating sections 107(c)(1)(c) and 108(b), respectively, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1981, as amended (42 U.S.C. 9601 *et seq.*)) as they relate to pipelines.

(7) Exercise the authority and carry out the functions vested in the Secretary by section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (recodified at 49 U.S.C. 60301 by Pub. L. 103-272) as they relate to pipeline safety user fees.

(8) Exercise the authority and carry out the functions vested in the Secretary by 49 U.S.C. 6101 *et seq.* as they relate to pipeline damage prevention One Call programs.

(9) Exercise the authority and carry out the functions vested in the Secretary by the Pipeline Safety Improvement Act of 2002 (Pub. L. 107-355, 116 Stat. 2985).

(b) *Hazardous materials.* Except as delegated by § 1.74:

(1) Carry out the functions vested in the Secretary by 49 U.S.C. 5121(a), (b) and (c), 5122, 5123, and 5124 relating to investigations, records, inspections, penalties, and specific relief, with particular emphasis on the shipment of hazardous materials and the manufacture, fabrication, marking, maintenance, reconditioning, repair or test of multi-modal containers that are represented, marked, certified, or sold for use in the transportation of hazardous materials.

(2) Carry out the functions vested in the Secretary by all other provisions of the Federal hazardous material transportation law (49 U.S.C. 5101 *et seq.*), except as delegated by sections 1.47(j)(2), 1.49(s)(2), and 1.73(d)(2).

(3) Serve as the Department's point of contact and consult with the Environmental Protection Agency on matters arising under section 3003 of the Resources Conservation and Recovery Act (42 U.S.C. 6923) and section 9 of the Toxic Substances Control Act (15 U.S.C. 2608).

(c) Carry out the functions vested in the Secretary by section 4(e) of the International Safe Container Act (46 U.S.C. 1503(e)).

(d) Carry out the functions vested in the Secretary by sections 5703, 5704, 5705, 5706, and 5707 of the Sanitary Food Transportation Act of 1990 (49 U.S.C. 5701-5714).

(e) Exercise the authority and carry out the functions delegated to the Secretary in the following sections of Executive Order 12777 (56 FR 54757, Oct. 22, 1991):

(1) Section 2(b)(2) relating to the establishment of procedures, methods, equipment and other requirements to prevent discharges from, and to contain oil and hazardous substances in, pipelines, motor carriers, and railroads; and

(2) Section 2(d)(2) relating to the issuance of regulations requiring the

owners or operators of pipelines, motor carriers, and railroads, subject to the Federal Water Pollution Control Act (33 U.S.C. 1321 *et seq.*), to prepare and submit response plans. For pipelines subject to the Federal Water Pollution Control Act, this authority includes the approval of means to ensure the availability of private personnel and equipment to remove, to the maximum extent practicable, a worst case discharge, the review and approval of response plans, and the authorization of pipelines to operate without approved response plans.

§ 1.71 [Removed and reserved].

n 9. Section 1.71 is removed and reserved.

n 10. Revise the section heading and introductory text to read as follows:

§ 1.74 Delegations to the Under Secretary for Transportation Policy.

The Under Secretary for Transportation Policy is delegated authority under the Federal hazardous materials transportation law, 49 U.S.C. 5101 *et seq.*, to:

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Subtitle B—Other Regulations Relating to Transportation

CHAPTER I—PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

n 11. In subtitle B, revise the heading of 49 CFR chapter I to read as set forth above.

CHAPTER XI—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

n 12. Also in subtitle B, revise the heading of Chapter XI to read as set forth above.

Issued this 13th day of February, 2005 at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 05-3245 Filed 2-16-05; 11:15 am]

BILLING CODE 4910-62-P