

Hazardous material; Hazardous materials regulations; Indian tribe; Preemption determination; State; Transportation; Waiver of preemption

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 RSPA'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@rspa.dot.gov.

(3) Access the Office of Hazardous Materials Safety home page via the Internet at <http://hazmat.dot.gov>.

(4) Send a letter, with your return address and a daytime telephone number, to: Office of Hazardous Materials Standards, Research and Special Programs Administration, Attn: DHM-10, U.S. Department of Transportation, 400 7th Street SW., 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 RSPA'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 the Office of the Chief Counsel's home page via the Internet at <http://rspa-atty.dot.gov>.

(3) Send a letter, with your return address and a daytime telephone num-

ber, to: Office of the Chief Counsel, Research and Special Programs Administration, Attn: DCC-10, U.S. Department of Transportation, 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 RSPA before February 1, 1997.

§ 105.25 Reviewing public documents.

RSPA 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, Room PL 401, 400 7th Street, SW., Washington, DC 20590-0001, or for review and downloading through the Internet at <http://dms.dot.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 RSPA's decisions in response to appeals.

(2) Applications for exemption numbered DOT-E 11832 and above. Also available are supporting data, memoranda of any informal meetings with applicants, related FEDERAL REGISTER notices, public comments, and decisions granting or denying exemptions applications.

(3) Applications for preemption determinations and waiver of preemption determinations received by RSPA after February 1, 1997. Also available are public comments, FEDERAL REGISTER notices, and RSPA's rulings, determinations, decisions on reconsideration, and orders issued in response to those applications.

(b) *Office of Hazardous Materials Safety.* (1) You may obtain documents (e.g., proposed and final rules, notices, letters of clarification, safety notices, DOT forms and other documents) by

using the “Fax On Demand” system. To reach the “Fax On Demand” system, dial 1-800-467-4922 and select Option 2. You may choose documents to be faxed to your machine.

(2) Upon your written request, we will make the following documents and information available to you:

(i) Appeals under 49 CFR part 107 and RSPA’s decisions issued in response to those appeals.

(ii) Records of compliance order proceedings and RSPA compliance orders.

(iii) Applications for approvals, including supporting data, memoranda of any informal meetings with applicants, and decisions granting or denying approvals applications.

(iv) Applications for exemptions numbered below DOT-E 11832 and related background information are available for public review and copying at the Office of Hazardous Materials Safety, Office of Hazardous Materials Exemptions and Approvals, U.S. Department of Transportation, Room 8100, 400 7th Street, SW., Washington, DC 20590-0001.

(v) Other information about RSPA’s hazardous materials program required by statute to be made available to the public for review and copying and any other information RSPA decides should be available to the public.

(3) Your written request to review documents should include the following:

(i) A detailed description of the documents you wish to review.

(ii) Your name, address, and telephone number.

(4) Send your written request to: Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration, Attn: DHM-1, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590-0001.

[67 FR 42951, June 25, 2002, as amended at 67 FR 61010, Sept. 27, 2002]

§ 105.26 Obtaining records on file with RSPA.

To obtain records on file with RSPA, other than those described in § 105.25, you must file a request with RSPA under the Freedom of Information Act (FOIA) (5 U.S.C. 552). The procedures

for filing a FOIA request are contained in 49 CFR part 7.

§ 105.30 Information made available to the public and request for confidential treatment.

When you submit information to RSPA during a rulemaking proceeding, as part of your application for exemption or approval, or for any other reason, we may make that information publicly available unless you ask that we keep the information confidential.

(a) *Asking for confidential treatment.* You may ask us to give confidential treatment to information you give to the agency by taking the following steps:

(1) Mark “confidential” on each page of the original document you would like to keep confidential.

(2) Send us, along with the original document, a second copy of the original document with the confidential information deleted.

(3) Explain why the information you are submitting is confidential (for example, it is exempt from mandatory public disclosure under the Freedom of Information Act, 5 U.S.C. 552 or it is information referred to in 18 U.S.C. 1905).

(b) *RSPA Decision.* RSPA will decide whether or not to treat your information as confidential. We will notify you, in writing, of a decision to grant or deny confidentiality at least five days before the information is publicly disclosed, and give you an opportunity to respond.

SERVING DOCUMENTS

§ 105.35 Serving documents in RSPA proceedings.

(a) *Service by RSPA.* We may serve the document by one of the following methods, except where a different method of service is specifically required:

(1) Registered or certified mail.

(i) If we serve a document by registered or certified mail, it is considered served when mailed.

(ii) An official United States Postal Service receipt from the registered or certified mailing is proof of service.

(iii) We may serve a person’s authorized representative or agent by registered or certified mail, or in any