

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

File or *Filed* means received by the appropriate RSPA 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, co-partnership, 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.

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]

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; Exemption; Federal hazardous material transportation law;

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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