

to a non-Federal requirement being preempted “under \* \* \* regulations issued” under the Federal hazardous material transportation law to clarify that, while a non-Federal requirement that conflicts with RSPA’s regulations is preempted under the preemption criteria in 49 U.S.C. 5125, it is preempted by that Federal law and not by the regulations issued pursuant to that law.

RSPA is also revising the definition of “Regulations issued under Federal hazardous material transportation law” in 49 CFR 105.5 (and removing and reserving § 107.201(c)) to explain that, in addition to Subchapters A and C of Title 49, regulations issued by the Federal Motor Carrier Safety Administration and the Transportation Security Administration in Title 49 and regulations issued by the United States Coast Guard in Title 46 are also issued under Federal hazardous material transportation law. In addition, RSPA is providing a facsimile number and an email address (in addition to a mail address) for submission of an application for a preemption determination or for a waiver of preemption).

#### B. Enforcement

Section 107.315 of 49 CFR contains the address of the Financial Operations Division of the Federal Aviation Administration (FAA) which processes the payment of civil penalties in RSPA’s enforcement cases. This rule updates the FAA office code and Post Office box number listed in paragraphs (b) and (c) of that section.

#### Rulemaking Analyses and Notices

##### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). The economic impact of this final rule is minimal to the extent that preparation of a regulatory evaluation is not warranted.

##### B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). Because this final rule carries out a statutory mandate without interpretation, revises an informational appendix without imposing any requirements, and makes

editorial changes, preparation of a federalism assessment is not warranted.

#### C. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule applies to shippers and carriers of hazardous materials, some of which are small entities; however, there is no economic impact on any person who complies with Federal hazardous materials law and the regulations and orders issued under that law.

#### D. Paperwork Reduction Act

There are no new information requirements in this final rule.

#### E. Unfunded Mandates Reform Act of 1995

This final rule does not impose unfunded mandates under the Unfunded Mandates Act of 1995. It does not result in annual costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Indian tribal governments, or the private sector, and is the least burdensome alternative to achieve the objective of the rule.

#### F. Environmental Assessment

There are no significant environmental impacts associated with this final rule.

#### G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in spring and fall of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### List of Subjects

##### 49 CFR Part 105

Administrative practice and procedure, Hazardous materials transportation.

##### 49 CFR Part 107

Administrative practices and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

##### 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous Waste, Imports, Penalties, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR chapter I is amended as follows:

## PART 105—HAZARDOUS MATERIALS PROGRAM DEFINITIONS AND GENERAL PROCEDURES

■ 1. The authority citation for part 105 continues to read:

**Authority:** 49 U.S.C. 5101–5127; 49 CFR 1.53.

■ 2. In § 105.5(b), revise the definition of “Regulations issued under Federal hazardous materials transportation law” to read as follows:

#### § 105.5 Definitions.

\* \* \* \* \*

(b) \* \* \*

*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.

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## PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 3. The authority citation for part 107 is revised to read as follows:

**Authority:** 49 U.S.C. 5101–5127, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; 49 CFR 1.45, 1.53.

■ 4. In § 107.201, revise paragraphs (a)(1) and (a)(2), and remove and reserve paragraph (c) to read as follows:

#### § 107.201 Purpose and scope.

(a) \* \* \*

(1) Any person, including a State, political subdivision, or Indian tribe, directly affected by a requirement of a State, political subdivision, or Indian tribe, may apply for a determination as to whether that requirement is preempted under 49 U.S.C. 5125.

(2) A State, political subdivision, or Indian tribe may apply for a waiver of preemption with respect to any requirement that the State, political subdivision, or Indian tribe acknowledges to be preempted by 49 U.S.C. 5125, or that has been determined by a court of competent jurisdiction to be so preempted.

\* \* \* \* \*

(c) [Reserved]

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