



DEPARTMENT OF TRANSPORTATION  
MATERIALS TRANSPORTATION BUREAU  
WASHINGTON, D.C. 20590

43305

(Docket No. HM-165; Amdt. Nos. 101-1, 102-1, 106-1, 107-4)

**Redesignation and Revision**

**AGENCY:** Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

**ACTION:** Final rule: Redesignation and revision.

**SUMMARY:** The recent reorganization of the Department of Transportation (DOT) created the Research and Special Programs Administration (RSPA). Therefore, redesignation and minor technical revisions of chapter I of title 49 CFR and its several parts is appropriate and necessary to conform to the DOT reorganization, and to allow for future rulemaking.

**EFFECTIVE DATE:** September 25, 1978.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTAL INFORMATION:** The creation of the RSPA and its three bureaus created a need to provide space in title 49, Code of Federal Regulations, for present and future rulemaking. The RSPA has determined that chapter I, 49 CFR is the logical and appropriate CFR unit since the largest of the RSPA units, the Materials Transportation Bureau (MTB), is presently and exclusively located within this chapter.

In addition, it was determined that only minor disruption would ensue from the transferring of part 102 and the renaming of chapter I, its subchapters and parts.

All of these changes can be accomplished by the following actions:

1. Chapter I, entitled "Materials Transportation Bureau, Department of Transportation," is retitled "Research and Special Programs Administration, Department of Transportation."

2. Subchapter A, entitled "Office of the Director, Materials Transportation Bureau," is retitled "Transportation Programs Bureau."

3. Part 102, entitled "Rulemaking procedures," is redesignated part 106.

4. Subchapter B, entitled "Hazardous Materials" and including parts 106-169, is retitled "Materials Transportation Bureau, Department of Transportation," and included parts 106-109.

5. Part 107, entitled "Procedures," is retitled "Hazardous Materials Program Procedures."

6. Subchapter C, which includes parts 170-189, is expanded to include parts 110-189.

The reorganization also prompted changes in titles of offices and officers (e.g., Assistant General Counsel for Materials Transportation Law is now Chief Counsel of RSPA), which must be reflected in the CFR.

Section 107.125 has been deleted since it is no longer timely and references a part of title 14 which has been previously incorporated in title 49 CFR, parts 170-179.

The Secretary of Transportation by separate document and published in today's FEDERAL REGISTER is transferring part 85 of subtitle A, title 49 to part 101 of chapter I of subtitle B, title 49.

The following table of contents for revised Chapter I, 49 Code of Federal Regulations, is printed for clarification:

**CHAPTER I—RESEARCH AND RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION (PARTS 100-199)**

**SUBCHAPTER A—TRANSPORTATION PROGRAMS BUREAU**

Part

- 100 [Reserved]
- 101 Office of Transportation Security—Cargo security advisory standards.
- 102-105 [Reserved]

**SUBCHAPTER B—MATERIALS TRANSPORTATION BUREAU**

- 106 Rulemaking procedures.
- 107 Hazardous materials program procedures.
- 108-109 [Reserved]

**SUBCHAPTER C—HAZARDOUS MATERIALS REGULATIONS**

- 110-170 [Reserved]
- 171 General information, regulations, and definitions.
- 172 Hazardous materials table and hazardous materials communications regulations.
- 173 Shippers—General requirements for shipments and packagings.
- 174 Carriage by rail.
- 175 Carriage by aircraft.
- 176 Carriage by vessel.
- 177 Carriage by public highway.
- 178 Shipping container specifications.
- 179 Specifications for tank cars.
- 180-189 [Reserved]

**SUBCHAPTER D—PIPELINE SAFETY**

- 190 Interim minimum Federal safety standards for the transportation of natural and other gas by pipeline.
- 191 Transportation of natural and other gas by pipeline; reports of leaks.
- 192 Transportation of natural and other gas by pipeline; Minimum Federal safety standards.

195 Transportation of liquids by pipeline.  
196-199 [Reserved]

Since these amendments are merely technical and editorial and relate to departmental management, procedures, and practice, notice and public procedure are unnecessary and they may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

The person principally responsible for drafting this document is Evan Braude, an attorney in the Chief Counsel's Office of the Research and Special Programs Administration.

In consideration of the foregoing, chapter I of subtitle B, title 49 is amended as follows:

1. The heading of chapter I is revised to read as follows:

**CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

2. The heading of subchapter A is revised to read as follows:

**SUBCHAPTER A—TRANSPORTATION PROGRAMS BUREAU**

**PART 101—OFFICE OF TRANSPORTATION SECURITY—CARGO SECURITY ADVISORY STANDARDS**

§ 101.1 [Amended]

3. In § 101.1, paragraph (b) (formerly § 85.1), the words "Office of the Secretary" are changed to read "Research and Special Programs Administration, Department of Transportation."

4. In § 101.1, paragraph (b) (formerly § 85.1), the definition of "Secretary" is deleted and the following is substituted:

"Administrator" means the administrator of the Research and Special Programs Administration.

§ 101.3 [Amended]

5. In § 101.3 (formerly § 85.3), the word "Secretary" is changed to read "Administrator."

§ 101.7 [Amended]

6. In § 101.7(a) (formerly § 85.7), the words "Office of the Secretary" are changed to read "Research and Special Programs Administration, Department of Transportation," and the words "Department of Transportation" are changed to read "Research and Special Programs Administration, Department of Transportation."

§ 101.11 [Amended]

7. In § 101.11 (formerly § 85.11), paragraph (b)(1), the words "General Counsel, Department of Transportation" are changed to read "Chief Counsel, Research and Special Programs Administration, Department of Transportation."

§§ 101.7, 101.13, 101.31 and 101.33 [Amended]

8. The words "General Counsel" are changed to read "Chief Counsel" each time they appear in the following sections:

101.7(a) (formerly 85.7(a))	101.31 (formerly 85.31)
101.13 (formerly 85.13)	101.33 (formerly 85.33)

9. Subchapter B heading entitled "Hazardous Materials" is revised to read as follows:

**SUBCHAPTER B—MATERIALS TRANSPORTATION BUREAU**

**PART 106—RULEMAKING PROCEDURES**

10. Part 102 entitled "Rulemaking Procedures" is redesignated as part 106 in its entirety. Therefore, any present reference to part 102 or its subparts is revised to conform to the redesignation. Further, part 102 will return to the status of being reserved.

11. "Authority" for former part 102 (now part 106) is revised as follows:

**AUTHORITY:** R.S. 4472(7) (46 U.S.C. 170(7)); sec. 902(h)(1), Pub. L. 85-726, 72 Stat. 784 (49 U.S.C. 1472(h)(1)), sec. 3, Pub. L. 90-481, 82 Stat. 720 (49 U.S.C. 1672); sec. 105, Pub. L. 93-833, 88 Stat. 2157 (49 U.S.C. 1804); sec. 21(a), Pub. L. 93-627, 88 Stat. 2146 (33 U.S.C. 1520) (18 U.S.C. 831-835) (49 CFR 1.45 and 1.53 and app. A of part D), Pub. L. 89-670 (49 U.S.C. 1653(d), 1655, 1657(e)).

12. Section 106.3 (formerly 102.3), paragraphs (a) and (b) are revised; paragraph (c) is added to read as follows:

§ 106.3 Delegations.

- (a) Associate Director, Office of Hazardous Materials Regulation.
- (b) Associate Director, Office of Pipeline Safety Regulation.
- (c) Associate Director, Office of Operations and Enforcement.

§§ 106.27, 106.29, 106.33 and 106.37 [Amended]

13. The words "General Counsel" are changed to read "Chief Counsel" each time they appear in the following sections:

106.27(c) (formerly 102.27(c))	106.33(d) (formerly 102.33(d))
106.29 (formerly 102.29)	106.37(a) (formerly 102.37(a))

14. Appendix A of part 106 is revised as follows:

Pursuant to § 106.3, the following officials of the Materials Transportation Bureau are authorized to conduct rulemaking proceedings under this part, as specified in this appendix.

(a) The Associate Director, Office of Hazardous Materials Regulation, is authorized to conduct all rulemaking proceedings, except the issuance of final rules and the grant or denial of petitions for reconsideration and as provided by paragraph (c) of this appendix, under:

- (1) Chapter 39 of title 18, United States Code, as it relates to hazardous materials;
- (2) R.S. 4472(7), 46 U.S.C. 170(7), except to the extent it relates to: (i) Ship's stores and supplies, or (ii) the bulk transportation of hazardous materials which are loaded or carried onboard a vessel without benefit of containers or labels, and received and handled by the vessel without mark or count;
- (3) Section 902(h)(1) of the Federal Aviation Act, as amended, 49 U.S.C. 1472(h)(1); and

(4) The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., except to the extent it relates to: (i) Ship's stores or supplies, (ii) the bulk transportation of hazardous materials which are loaded or carried onboard a vessel without benefit of containers or labels, and received and handled by the vessel without mark or count, or (iii) pipelines.

(b) The Associate Director, Office of Pipeline Safety Regulation, is authorized to conduct all rulemaking proceedings, except issuance of final rules and the grant or denial of petitions for reconsideration, and as provided by paragraph (c) of this appendix, under:

- (1) Chapter 39 of title 18, United States Code, as it relates to pipelines;
- (2) The Natural Gas Pipeline Safety Act of 1968, as amended, 49 U.S.C. 1671 et seq.;
- (3) Section 21(a) of the Deepwater Port Act of 1974, 33 U.S.C. 1520(a); and
- (4) The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., as it relates to pipelines.

(c) The Associate Director, Office of Operations and Enforcement, is authorized to conduct all proceedings relating to enforcement and preemption matters except issuance of final rules and the grant or denial of petitions for reconsideration, under:

- (1) Chapter 39 of title 18, United States Code, as it relates to operations and enforcement;
- (2) The Natural Gas Pipeline Safety Act of 1968, as amended, 49 U.S.C. 1671 et seq.;
- (3) Section 21(a) of the Deepwater Port Act of 1974, 33 U.S.C. 1520(a); and
- (4) The Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.

**PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES**

15. The heading of part 107 is revised to read as set forth above.

16. "Authority" for part 107 is revised as follows:

**AUTHORITY:** 18 U.S.C. 831-835; 46 U.S.C. 170(11); 49 U.S.C. 1421(c); 49 U.S.C. 1802, 1806, 1808-1811; 49 CFR 1.45 and 1.53 and app. A of part 1, Pub. L. 89-670 (49 U.S.C. 1653(d), 1655, 1657(e)).

17. Section 107.1 paragraph (a) is revised to read as follows:

§ 107.1 Purpose and scope.

(a) This part prescribes procedures utilized by the Materials Transportation Bureau, the Office of Hazardous Materials Regulation and the Office of Operations and Enforcement in carrying out their duties under the laws pertaining to the transportation of hazardous materials.

18. Section 107.3 is amended by changing "OHMO" to read "OHMR";

the definitions of "OHMR" and "Respondent" are revised; "OOE" is added to read as follows:

§ 107.3 Definitions.

"OHMR" means the Office of Hazardous Materials Regulation.

"OOE" means the Office of Operations and Enforcement.

"Respondent" means a person upon whom the OOE has served a notice of probable violation.

§§ 107.5, 107.7, 107.9, 107.119, 107.121, 107.333, and 107.373 [Amended]

19. The letters "OHMO" are changed to read "OHMR or OOE" each time they appear in the following sections:

107.5 (a) and (b)	107.121
107.7 (a) and (c)	107.333
107.9(f)	107.373
107.119 (b) and (c)	

§ 107.9 [Amended]

20. The letters "OHMO" are changed to read "OHMR" in § 107.9(a).

§§ 107.103, 107.107, 107.109, 107.111, 107.113, 107.115, 107.117, 107.119, and 107.123 [Amended]

21. The words "Director, OHMO" are changed to read "Associate Director, OHMR" each time they appear in the following sections:

107.103 (a) and (c)	107.113(c)
107.107	107.115 (a), (b), and (c)
107.109 (a), (b), (c), (d), and (e)	107.117(a)
107.111 (a), (c), and (d)	107.119(d)
	107.123(b)

§§ 107.119, 107.121, 107.201, 107.207, 107.209, 107.219, 107.221, 107.311, 107.313, 107.315, 107.319, 107.347, 107.351, 107.353, and 107.355 [Amended]

22. The word "Director" is changed to read "Associate Director of" each time it appears in the following sections:

107.119 (b) and (c)	107.313 (a), (b), and (b)(1)
107.121	107.315(a)
107.201(d)	107.319 (a), (c), and (d)
107.207 (a) and (b)	107.347(c)
107.209 (a), (b), and (c)	107.351(d)
107.219 (a), (b), and (c)	107.353 (a), (b), and (c)
107.221 (a), (b), and (d)	107.355(a)
107.311 (e) and (f)	

§§ 107.201, 107.203, 107.205, 107.207, 107.209, 107.215, 107.217, 107.219, 107.223, 107.301, 107.303, 107.305, 107.307, 107.309, 107.311, 107.313, 107.315, 107.341, 107.345, 107.347, 107.351, 107.353, and 107.355 [Amended]

23. The letters "OHMO" are changed to read "OOE" each time they appear in the following sections:

107.201(d)	107.307
107.203(a)	107.309 (a) and (c)
107.205 (a) and (c)	107.311 (a), (e), and (f)

107.207 (a) and (b)      107.313 (a) and (b)  
 107.209 (a), (b), (c), and (e)      107.315 (a) and (c)  
 107.215(a)      107.341  
 107.217 (a), (b)(2), (c), (d), and (e)      107.345  
 107.219 (a), (b), (c), and (d)      107.347 (b) and (c)  
 107.223      107.351 (a), (b), (c), and (d)  
 107.301(e)      107.353 (a), (b), and (c)  
 107.303      107.355 (a) and (c)  
 107.305 (a), (b), (c), (d), and (e)

§ 107.117 [Amended]

24. The letters "OHMO" in § 107.117(b) are changed to read "OHMR or MTB."

§ 107.331 [Amended]

25. The letters "OHMO" appear twice in § 107.331. The first reference to "OHMO" is changed to read "OHMR or OOE." The second reference to "OHMO" is changed to read "OOE."

§§ 107.103, 107.105, 107.111, and 107.123 [Amended]

26. The words "Office of Hazardous Materials Operations" are changed to read "Office of Hazardous Materials Regulation" each time they appear in the following sections:

107.103(b)(1)      107.111(b)(1)  
 107.105(a)(1)      107.123(a)

§§ 107.203 and 107.215 [Amended]

27. The words "Office of Hazardous Materials Operations" are changed to read "Office of Operations and Enforcement, Materials Transportation Bureau," each time they appear in the following sections:

107.203(b)(1)      107.215(b)(1)

§§ 107.13, 107.349, and 107.373 [Amended]

28. The words "Assistant General Counsel for Materials Transportation Law" are changed to read "Chief Counsel, Research and Special Programs Administration" each time they appear in the following sections:

107.13(a)      107.373  
 107.349(a)

§§ 107.349 and 107.373 [Amended]

29. The words "Assistant General Counsel" are changed to read "Chief Counsel" each time they appear in the following sections:

107.349(b)      107.373

§ 107.101, 107.105, and 107.113 [Amended]

30. The words "14 CFR Part 103, or" are deleted from §§ 107.101, 107.105(d), and 107.113(a).

31. In § 107.103 the introductory text of paragraph (a) is revised to read as follows:

§ 107.103 Application for exemption.

(a) Any person who is subject to the requirements of this subchapter, subchapter C of this chapter, 46 CFR part 64 or part 146 may apply to the Associate Director, OHMR, for an exemption from those requirements.

\* \* \* \* \*

§ 107.125 [Deleted]

32. Section 107.125 is deleted.

33. Section 107.205(b) is revised to read as follows:

§ 107.205 Notice.

\* \* \* \* \*

(b) The OOE may be serving notice on any other persons readily identifiable by either the OHMR or OOE as persons who will be affected by the ruling sought or by publication in the FEDERAL REGISTER afford those persons an opportunity to file written comments on the application.

\* \* \* \* \*

34. Section 107.373 is revised to read as follows:

§ 107.373 Referral for prosecution.

If an inspector or other employer of the OHMR or the OOE becomes aware of a possible willful violation of the Act, this chapter or subchapter C of this chapter for which the OOE exercises enforcement responsibility, he reports it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

35. Appendixes A and B to part 107 which now appear at the end of the part are relocated to appear at the end of subpart B.

36. In appendix B to part 107, the reference "§ 173.427" in paragraph (2) is changed to read "§ 172.203."

37. Parts 110-169 are presently reserved and their status will remain the same, however, they are removed from subchapter B and redesignated as part of Subchapter C—Hazardous Materials Regulations.

(Pub. L. 89-670 (49 U.S.C. 1653(d), 1655, 1657(e)) (18 U.S.C. 831-835; 49 CFR 1.45 and 1.53.)

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JOHN D. HODGE,  
acting Administrator, Research  
and Special Programs Administration.

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