

## Subpart A—Definitions

### § 107.1 Definitions.

All terms defined in 49 U.S.C. 5102 are used in their statutory meaning. Other terms used in this part are defined as follows:

*Acting knowingly* means acting or failing to act while

- (1) Having actual knowledge of the facts giving rise to the violation, or
- (2) Having the knowledge that a reasonable person acting in the same circumstances and exercising due care would have had.

*Administrator* means the Administrator, Pipeline and Hazardous Materials Safety Administration or his or her delegate.

*Applicant* means the person in whose name a special permit, approval, registration, a renewed or modified special permit or approval, or party status to a special permit is requested to be issued.

*Application* means a request under subpart B of this part for a special permit, a renewal or modification of a special permit, party status to a special permit, or a request under subpart H of this part for an approval, or renewal or modification of an approval.

*Approval* means written consent, including a competent authority approval, from the Associate Administrator or other designated Department official, to perform a function that requires prior consent under subchapter C of this chapter (49 CFR parts 171 through 180).

*Approval Agency* means an organization or a person designated by the PHMSA to certify packagings as having been designed, manufactured, tested, modified, marked or maintained in compliance with applicable DOT regulations.

*Associate Administrator* means the Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

*Competent Authority* means a national agency that is responsible, under its national law, for the control or regulation of some aspect of hazardous materials (dangerous goods) transportation. Another term for Competent Authority is "Appropriate authority," which is used in the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe Transport of Dangerous Goods by Air. The Associate Administrator is the United States Competent Authority for purposes of this part 107.

*Competent Authority Approval* means an approval by the competent authority that is required under an international standard (for example, the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air and the International Maritime Dangerous Goods Code). Any of the following may be considered a competent authority approval if it satisfies the requirement of an international standard:

- (1) A specific regulation in subchapter A or C of this chapter.
- (2) A special permit or approval issued under subchapter A or C of this chapter.
- (3) A separate document issued to one or more persons by the Associate Administrator.

*DOT or Department* means U.S. Department of Transportation.

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

*Filed* means received by the appropriate PHMSA or other designated office within the time specified in a regulation or rulemaking document.

*Holder* means the person in whose name a special permit or approval has been issued.

*Imminent Hazard* means the existence of a condition which presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion of an administrative hearing or other formal proceeding initiated to abate the risks of those effects.

*Incident* means an event resulting in the unintended and unanticipated release of a hazardous material or an event meeting incident reporting requirements in §171.15 or §171.16 of this chapter.

*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).

*Investigation* includes investigations authorized under 49 U.S.C. 5121 and inspections authorized under 49 U.S.C. 5118 and 5121.

*Manufacturing special permit* means a special permit from compliance with specified requirements that otherwise must be met before representing, marking, certifying (including requalifying, inspecting, and testing), selling or offering a packaging or container as meeting the requirements of subchapter C of this chapter governing its use in the transportation in commerce of a hazardous material. A manufacturing special permit is a special permit issued to a manufacturer of packagings who does not offer for transportation or transport hazardous materials in packagings subject to the special permit.

*Party* means a person, other than a holder, authorized to act under the terms of a special permit.

*Person* means an individual, firm, copartnership, 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.

*Registration* means a written acknowledgment from the Associate Administrator that a registrant is authorized to perform a function for which registration is required under subchapter C of this chapter (e.g., registration in accordance with 49 CFR 178.503 regarding marking of packagings). For purposes of subparts A through E, “registration” does not include registration under subpart F or G of this part.

*Report* means information, other than an application, registration or part thereof, required to be submitted to the Associate Administrator pursuant to this subchapter, subchapter B or subchapter C of this chapter.

*Respondent* means a person upon whom the PHMSA has served a notice of probable violation.

*Special permit* means a document issued by the Associate Administrator under the authority of 49 U.S.C. 5117 permitting a person to perform a function that is not otherwise permitted under subchapter A or C of this chapter, or other regulations issued under 49 U.S.C. 5101 et seq. (e.g., Federal Motor Carrier Safety routing requirements). The terms “special permit” and “exemption” have the same meaning for purposes of subchapter A or C of this chapter or other regulations issued under 49 U.S.C. 5101 through 5127. An exemption issued prior to October 1, 2005 remains valid until it is past its expiration date, terminated by the Associate Administrator, or is issued as a special permit, whichever occurs first.

*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.

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**Editorial Note:** For Federal Register citations affecting §107.1, see the List of CFR Sections Affected which appears in the Finding Aids section of the printed volume and on GPO Access.