



U.S. Department of Transportation
**Pipeline and Hazardous Materials Safety
Administration**
1200 New Jersey Avenue, SE
Washington, DC 20590

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MEMO TO FILE

From: Carolyn Nelson, P.E.
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Subject: **Categorical Exclusion Determination**
HM-268M: Adopting DOT Special Permits 21287 into the
Hazardous Materials Regulations

FINAL ACTION

In this final rule, PHMSA is adopting the provisions of Department of Transportation (DOT) special permit (SP) 21287 into the Hazardous Materials Regulations (HMR) by revising 49 CFR 173.307(a)(4) to provide an exception from the HMR for transportation of certain low flammability refrigerant gases (*i.e.*, refrigerants). In addition, PHMSA is incorporating by reference the industry standard American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 34-2024, “Designation and Safety Classification of Refrigerants” into 49 CFR 171.1. PHMSA is incorporating ASHRAE 34-2024 and United Nations Globally Harmonized System (GHS) of Classification and Labelling of Chemicals (9th Revised Edition) into 49 CFR 173.307 for the classification criteria for authorized low flammability refrigerants. This change supports the industry’s need for alternative refrigerants in response to the phaseout of Hydrofluorocarbon (HFC)-based refrigerants under the American Innovation and Manufacturing (AIM) Act.

APPLICABLE CATEGORICAL EXCLUSION

Categorical exclusions (CE) are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or an environmental impact statement (EIS). [DOT Order 5610.1D](#), DOT’s current National Environmental Policy Act (NEPA) procedures, notes in paragraph 9(f) that “[a]n OA may apply a CE established in another OA’s procedures.” PHMSA coordinated with the Federal Highway Administration (FHWA) to determine that the following FHWA CE is applicable to the action described above and can be used by PHMSA per Section 9(f) of DOT Order 5610.1D:

*Promulgation of rules, regulations, and directives.*¹

UNUSUAL CIRCUMSTANCES

Based on the scope of the action, PHMSA has determined that this rulemaking action does not meet the criteria for unusual circumstances listed in 23 CFR 771.117(b), which would require PHMSA to conduct appropriate environmental studies to determine if the CE classification is proper.

DETERMINATION

PHMSA analyzed the final rule and determined that the rulemaking will not adversely affect safety and will not significantly affect the quality of the human and natural environment. Based on the information provided in the final rule, including a review of unusual circumstances, PHMSA finds the final action qualifies as a Categorical Exclusion in accordance with Section 102 of the National Environmental Policy Act, 42 U.S.C. § 4332, DOT Order 5610.1D, Departmentwide National Environmental Policy Act Implementing Procedures, and 23 CFR 771.

Approved by the Environmental Analysis and Compliance Division:

¹ 23 CFR 771.117(c)(20)