

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration**

[Preemption Determination Nos. PD-8(R), PD-9(R), PD-10(R) and PD-11(R); Docket Nos. PDA-9(R), PDA-7(R), PDA-10(R), and PDA-11(R), respectively]

California and Los Angeles County Requirements Applicable to the On-site Handling and Transportation of Hazardous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Administrative determinations of preemption by RSPA's Associate Administrator for Hazardous Materials Safety.

Applicants

Docket PDA-7(R)—HASA, Inc.
Dockets PDA-9(R), PDA-10(R), PDA-11(R)—Swimming Pool Chemical Manufacturers' Association (SPCMA)

State and Local Laws Affected

PD-8(R) (Docket PDA-9(R))—
Chapter 6.95, California Health and Safety Code:
§ 25501.3
§ 25503.7

PD-9(R) (Docket PDA-7(R))—
Title 2 Los Angeles County Code:
§ 2.20.140
§ 2.20.150
§ 2.20.160
§ 2.20.170

Title 32 Los Angeles County Code:
§ 4.108.c.7

Table 4.108-A
§ 79.809 (b), (c) and (f)
§ 80.101(a) exception 1
§ 80.101(b)
§ 80.103(a)
§ 80.103(b)(1)
§ 80.103(b)(2)
§ 80.103 (c), (d) and (e)
§ 80.201
§ 80.202 (a) and (b)
§ 80.203
Appendix VI-A
§ 80.301(a)(2)
§ 80.301(b)(1)
§ 80.402(b)(3)(G)(i)
§ 80.402(c)(8)(A)

PD-10(R) (Docket PDA-10(R))—
Title 32 Los Angeles County Code:
§ 4.108(c)(8)
§ 9.105
§ 75.101
§ 75.103(a)
Table 75.103-A
§ 75.104
§ 75.105 (a) and (b)
§ 75.108
§ 75.205
§ 75.602 (a), (b) and (c)

PD-11(R) (Docket PDA-11(R))—
Title 32 Los Angeles County Code:
§ 4.108.c.7

Applicable Federal Requirements:
Federal hazardous material

transportation law (Federal hazmat law), 49 U.S.C. 5101-5127, and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180.
Mode Affected: Rail.

SUMMARY: Due to a lack of information in the record, RSPA is unable to make a preemption determination regarding:

(1) California Health and Safety Code (CHSC) § 25503.7, which states that hazardous materials contained in any rail car, rail tank car or rail freight container at the same railroad facility or business facility for more than 30 days is deemed stored and subject to the requirements of the CHSC;

(2) Title 32 LACoC §§ 80.103(e), which requires that hazardous materials business plans, risk management prevention programs and hazardous materials inventory statements be posted in an approved location and available to emergency responders; and

(3) 80.301(b)(1), which requires that containers and tanks be designed constructed in accordance with nationally recognized standards.

(4) Title 32 LACoC §§ 80.402(b)(3)(G)(i) and 80.402(c)(8)(A), which require that cylinders or portable containers of compressed gas be unloaded within a ventilated gas cabinet, laboratory fume hood, exhausted enclosure or separate gas storage room.

The following non-Federal requirements are preempted by Federal hazmat law:

(1) Title 2 Los Angeles County Code (LACoC) §§ 2.20.140, 2.20.150, 2.20.160, and 2.20.170, to the extent that those provisions levy a fee on tank car unloading activities. The fees collected under those provisions are not used for purposes related to hazardous material transportation;

(2) Title 32 LACoC § 79.809(f) as applied and enforced by Los Angeles County. Los Angeles County fails to recognize a Department of Transportation (DOT or Department) exemption that authorizes HASA, Inc. to employ alternative methods of compliance with certain Federal tank car unloading requirements;

(3) Title 32 LACoC § 79.809(c), which prohibits a tank car from remaining on a siding at point of delivery for more than 24 hours while connected for transfer operations, unless otherwise approved by the fire chief. The unloading restriction is not "substantively the same" as Federal tank car unloading requirements.

Federal hazmat law does not preempt any other CHSC or LACoC provision for which HASA and SPCMA request preemption determinations.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION:**Document Outline**

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 - C. California Statutory and Regulatory Requirements
 - D. Preemption Under Federal Hazmat Law
 - E. General Authority Under Federal Hazmat Law
- II. Preemption Determinations
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 - (1) LACoC Requirements
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 - f. Packaging Design and Construction
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