



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

Office of Chief Counsel

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

May 12, 2015

Carl Malamud
Public.Resource.Org
1005 Gravenstein Highway North
Sebastopol CA 95472

Dear Mr. Malamud:

This letter is in response to your letter dated May 5, 2014. The Pipeline & Hazardous Materials Safety Administration (PHMSA) responded to your initial request for documents, dated April 1, 2015, on April 16, 2015.

Your April 1, 2015 request sought “a copy of American Association of Railroads AAR Manual of Standards and Recommended Practices, Section C—Part III, Specification for Tank Cars, Specification M-1002, December 2000, which is incorporated by reference in 49 CFR 171.7 and used in 49 CFR 179.100-9 et. seq.” The PHMSA FOIA officer informed you the Freedom of Information Act (FOIA) does not apply to these records because the records are “made available in a reading room” and/or are otherwise “published and offered for sale.” See 49 C.F.R. §7.21(b)(2), (3). PHMSA responded by explaining how you may obtain copies of the record(s) you seek.

PHMSA considers this a full release of the records you sought. “Any requester to whom a record has not been made available within the time limits established by §7.31 and any requester who has been provided a written determination pursuant to paragraphs (a), (b), or (c) of this section may appeal to the responsible DOT official.” 49 CFR 7.32(d). Paragraph (a) applies to a denial of records, paragraph (b) applies to a denial of fee waiver, and paragraph (c) applies to a denial of expedited processing. Since PHMSA has not denied your request for record(s) or fee waiver, there is no right of appeal of PHMSA’s initial decision.

The FOIA officer informed you PHMSA has made all the materials it proposes to incorporate by reference available in the Office of Hazardous Materials Safety’s Office of Hazardous Materials Standards, East Building, 1200 New Jersey SE, Washington, DC 20590-0001. For information on how to view this material in the Office of Hazardous Materials Standards, call 1-800-467-4922, or go to: <http://www.phmsa.dot.gov>. In addition, materials incorporated by reference are on file at the National Archives and Records Administration (NARA). You may refer to NARA’s website at http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html for information on the availability of this material. Alternatively, you may seek to purchase the publications at <https://www.aarpublications.com/>.

This letter constitutes final action by PHMSA.

Sincerely,

Brandon C. Hollingshead
Assistant Chief Counsel for General Law