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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2011-0283; Notice No. 12-2]

**Hazardous Materials: Special Permit and Approval Applicant Fitness Determinations;
Public Meeting**

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that PHMSA will conduct a public meeting to discuss Special Permit and Approval applicant fitness determinations. The public meeting, to be held on February 29, 2012, in Washington, DC, is intended to provide interested persons with an opportunity to submit oral comments and participate in discussions concerning the criteria used when determining an applicant's minimum level of fitness.

DATES: Public Meeting: Wednesday, February 29, 2012; starting at 1:00 p.m. and ending by 4:00 p.m.

ADDRESSES: The meeting will be held at the U.S. DOT Headquarters, West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590. The main visitor's entrance is located in the West Building, on New Jersey Avenue and M Street. Upon entering the lobby, visitors must report to the security desk. Visitors should indicate that they will be attending the Special Permit and Approval Applicant Fitness Determinations Public Meeting and wait to be escorted to the meeting location.

Notification: Any person wishing to participate in the public meeting should send an e-mail to approvals@dot.gov and include their name and contact information (Organization / Address / Telephone Number) no later than the close of business on February 22, 2012.

Providing this information will facilitate the security screening process for entry into the building on the day of the meeting.

Conference Call Capability / Live Meeting Information: Conference call-in and “live meeting” capability will be provided for this meeting. Specific information on the call-in and live meeting access will be posted when available at: <http://www.phmsa.dot.gov/hazmat>.

Documentation: Copies of documents for the Special Permit and Approval Applicant Fitness Determinations Public Meeting and the meeting agenda will be posted by February 15, 2012, at: <http://www.phmsa.dot.gov/hazmat>.

COMMENT SUBMISSION: Stakeholders may submit comments prior to, or after the February 29, 2012 public meeting, by identification of the docket number (PHMSA-2011-0283) by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- Hand Delivery: To Docket Operations, Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this public meeting notice at the beginning of the comment. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information.

Docket: For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> or DOT's Docket Operations Office (see COMMENT SUBMISSION).

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Pollack, Approvals and Permits Division, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, Washington, DC 20590; (202) 366-4512 and arthur.pollack@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has the primary responsibility for the issuance of DOT special permits and approvals under the 49 C.F.R. Parts 100-185. A Special Permit is a document that authorizes a person to perform a function that is not otherwise permitted under the Hazardous Materials Regulations (HMR). An Approval is a written consent, including a competent authority approval, to perform a function that requires

prior consent under the HMR.

Applicants are required by the HMR to request an approval from PHMSA for the classification of explosives, fireworks, organic peroxides, and self-reactive materials. Approvals are also required when package design types vary from the design or test standards specified in the regulations and for persons performing certain activities requiring approval (e.g., visual cylinder re-qualifiers). An Approval can only be issued if there is a specific approval citation in the HMR.

In accordance with 49 C.F.R. § 107.113(f), PHMSA may grant a special permit on a finding that an applicant is fit to conduct the activity authorized by the special permit. In accordance with 49 C.F.R. § 107.709(d), PHMSA may grant an approval on a finding that an applicant is fit to conduct the activity authorized by the approval. PHMSA may determine an applicant's fitness through the information in the application, prior compliance history of the applicant, and other information available to the Associate Administrator.

On August 19, 2010, PHMSA held a public meeting to provide for public participation in the discussion concerning the criteria used to determine an applicant's minimum level of fitness. The meeting allowed interested parties to inform PHMSA of the concerns about its fitness evaluation process.

Since the meeting, PHMSA has been working collaboratively and diligently with its partners in other DOT operating administrations to obtain the necessary fitness data to conduct accurate and efficient fitness determinations. PHMSA has in addition been working closely with its regulatory (modal) partners to deliver quantitative data that can be used to further develop an automated fitness review process.

II. Purpose of Public Meeting

PHMSA is considering revising the fitness determination criteria to streamline the application process while maintaining the focus on safety. PHMSA is holding a public meeting to provide an opportunity for all interested parties to comment on the fitness review process.

Specifically, PHMSA seeks comments relative to the use of the U.S. DOT's Hazmat Intelligence Portal (HIP) data, the potential use of alternative sources of fitness data, and other information that should be considered during the fitness review process.

Please note that stakeholders are encouraged to submit their comments to the Docket (PHMSA-2011-0283) prior to the February 29, 2012 meeting, and through a 30 day comment period ending on March 30, 2012. (Please see the COMMENT SUBMISSION section above.) Furthermore, in order to collect the verbal comments quickly and accurately, PHMSA will be employing a stenographer (court reporter) to transcribe the meeting dialogue into written notes. The notes (meeting minutes) will be placed in the Docket at a later date, when ready.

Issued in Washington, DC on January 27, 2012

Magdy El-Sibaie,
Associate Administrator for Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration

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