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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.
ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of

Transportation's Hazards Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before February 24, 2006.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in

triplicate. If Confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington, DC, or at <http://dms.dot.gov>.

This notice of receipt of applications for special permits is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on January 18, 2006.

R. Ryan Posten,
 Chief, Special Permits Program, Office of Hazardous Materials, Special Permits & Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
New Special Permits				
14296-N		Triple S Gas Tanks (PTY) Ltd dba GasCon Elsieriver, South Africa.	49 CFR 173.315	To authorize the manufacture, marking, sale and use of certain non-DOT Specification steel portable tanks conforming with Section VII, Division 2 of the ASME Code for the transportation in commerce of Division 2.1 and 2.2 materials. (modes 1, 2, 3)
14297-N		Southeast Testing & Engineering Lawrenceville, GA.	49 CFR 173.201, 173.202, 173.203.	To authorize the transportation in commerce of certain hazardous material liquids in a UN5H woven plastic bag. (modes 1, 3, 4, 5)
14298-N		Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 180.209(a) and (b).	To authorize the transportation in commerce of certain hazardous materials in DOT Specifications 3AX, 3AAX and 3T cylinders with a water capacity over 125 lbs that may be requalified every ten years rather than every five years. (modes 1, 2, 3)
14299-N		Great Lakes Chemical Corporation El Dorado, AR.	49 CFR 172.102(c) Special Provision B32.	To authorize the transportation in commerce of ethylene dibromide in MC 312 cargo tank motor vehicles, (mode 1)
14301-N		Triple S Gas Tanks (PTY) Ltd dba GasCon Elsieriver, South Africa.	49 CFR 178.274(b) and 178.276 (b)(1).	To authorize the manufacture, marking, sale and use of certain non-DOT specification steel portable tanks which are designed and constructed in accordance with Section VIII, Division 2 of the ASME Code for three transportation in commerce of Division 2.1 and 2.2 materials. (modes 1, 2, 3)
14303-N		Constellation Energy Lusby, MD.	49 CFR 173.403, 173.427 (b)(1), 173.465(c) and 173.465(d).	To authorize the one-time, one-way transportation in commerce of reactor vessel closure heads in alternative packaging. (mode 1)

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-05-22356]

RIN 2137-AE13

Hazardous Materials: Enforcement Procedures

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

ACTION: Notice of public meetings.

SUMMARY: PHMSA is inviting interested persons to participate in a series of public meetings that will address new hazardous materials transportation enforcement authority contained in the Hazardous Materials Safety and Security Reauthorization Act of 2005 (Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), enacted on August 10, 2005. This expanded authority permits DOT enforcement personnel to open the outer packaging(s) of a package believed to contain hazardous materials; order a package believed to contain hazardous

materials to be transported to an appropriate facility for examination and analysis; assist in the safe resumption of transportation of a package when practicable and an imminent hazard is found not to exist; and, when an imminent hazard may exist, remove a package from transportation or issue an emergency restriction, prohibition, recall, or out-of-service order.

DATES: Public meetings:

- (1) February 21, 2006, starting at 8 a.m., in Dallas, Texas;
- (2) March 8, 2006, starting at 9 a.m., in Washington, DC; and
- (3) March 15, 2006, starting at 3 p.m., in Seattle, Washington.

ADDRESSES: Public meetings:

- (1) Dallas/Addison Marriott Quorum by the Galleria, 14901 Dallas Parkway, Dallas, TX 75254;
- (2) DOT Headquarters, Nassif Bldg., Room 2230, 400 Seventh Street, SW., Washington, DC 20590; and
- (3) Doubletree Guest Suites Seattle, South Center, 16500 South Center Parkway, Seattle, WA 98188. This meeting will be conducted in conjunction with the Multimodal Hazmat Transportation Training Seminar being held on March 14–15, 2006. To register for the Seminar (free to the first 450 pre-registrants), please complete and submit the registration form available on the Web site of PHMSA's Office of Hazardous Materials Safety (<http://hazmat.dot.gov/training/training.htm>).

Oral presentations: Any person wishing to present an oral statement should notify Vincent Lopez, by telephone, e-mail, or in writing, at least four business days before the date of the public meeting at which the person wishes to speak. Oral statements will be limited to 15 minutes per commenter. For information on facilities or services for persons with disabilities or to request special assistance at the meetings, contact Mr. Lopez by telephone or e-mail as soon as possible.

Docket: For access to the docket to read background documents including those referenced in this document go to <http://dms.dot.gov> and/or Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Jackie K. Cho (jackie.cho@dot.gov) or Vincent Lopez (vincent.lopez@dot.gov), Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Room 8417, Washington, DC 20590, (202) 366-4400.

SUPPLEMENTARY INFORMATION:

Statutory Amendments to Inspection and Investigation Authority

On August 10, 2005, the President signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59, 119 Stat. 1144. Title VII of SAFETEA-LU—the Hazardous Materials Safety and Security Reauthorization Act of 2005—revised 49 U.S.C. 5121 to provide that a designated agent of the Secretary of Transportation may open and examine a package offered for, or in, transportation when an officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material. If it is determined that a statutory or regulatory violation constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard. Such action will be in the form of a written emergency order describing the violation, condition, or practice underlying the imminent hazard; stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and describing the standards and procedures for obtaining relief from the order. A petition for review of the action under section 554 of title 5 may be filed within 20 calendar days of the date of issuance of the emergency order. If a petition for review of an action is timely filed and the review is not completed within 30 days from the date the petition is filed, the action will cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

PHMSA invites interested persons to participate in a series of three public meetings to discuss the manner in which DOT should implement the authority in revised 49 U.S.C. 5121 (c) and (d).

Among the topics to be addressed at the public meetings are the following:

1. The types of outer packagings that could be opened by an inspector, if the person in possession of the package does not agree to open the package himself.
2. Whether the legal standard for opening an outer packaging, *i.e.*, “an objectively reasonable and articulable belief that the package may pose an imminent hazard,” needs further explanation in the regulations.

3. The locations at which a package would be observed and the relevance of this fact to the manner of opening the outer packaging and, if no imminent hazard is found, the manner of reclosing the package for further transportation in compliance with the Hazardous Materials Regulations (HMR).

4. The amount of time required to open an outer packaging, examine the inner container(s) or receptacle(s) and, when no imminent hazard is found, reclose the package for further transportation in compliance with the HMR.

5. The circumstances under which a person would be required to have a package transported, opened, and the contents examined and analyzed, at an appropriate facility.

6. The time and cost for the facility to examine and analyze the contents of a package.

7. The value of the contents of a package which would be examined and analyzed at an appropriate facility.

8. The effect upon an offeror or transporter subject to an emergency action or order, including removing a package from transportation or ordering a restriction, prohibition, recall, or out-of-service order in order to abate an imminent hazard.

9. Conditions that would be appropriate for including in an emergency restriction, prohibition, recall, or out-of-service order, such as allowing a vehicle to be moved to a safe location for inspection or vehicle repairs.

10. The time and cost of preparing a petition for review of an emergency action or order.

11. The criteria necessary to seek relief from the issuance of an emergency action or order.

Documents

A copy of the relevant text of Title VII of SAFETEA-LU—the Hazardous Materials Safety and Security Reauthorization Act of 2005 revising 49 U.S.C. 5121 may be obtained from DOT Docket Management System Web site: <http://dms.dot.gov> and/or Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on January 19, 2006, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

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