

17. Question: Who is responsible for the required hazmat training of a subcontractor's employees?

Answer: Under § 171.8, a subcontractor's hazmat employee is a hazmat employee. In accordance with § 172.702(a), the subcontractor, as the hazmat employer for its hazmat employees, is responsible for ensuring that each of its hazmat employees are trained in accordance with Subpart H to Part 172. However, § 172.702(c) provides flexibility on who can provide the training. The training may be provided by the hazmat employer or by some other public or private source.

18. Question: Is a person located outside the United States who offers a shipment from a foreign location for transportation in the United States—in accordance with an international standard recognized by the HMR—subject to the training requirements in Subpart H to Part 172?

Answer: Yes. § 171.22 prescribes additional requirements for the use of international standards for shipments offered for transportation or transported in the United States and includes shipments originating in a foreign location and transported to the United States. Under § 171.22(g)(2), the training requirements in Subpart H to Part 172, including function specific training, must be satisfied. Training conducted, in accordance with § 171.22, to comply with the international standards may be used to satisfy the training requirements set forth in § 172.704, to the extent that such training addresses the training components specified in § 172.704(a). It is not necessary to duplicate training. However, the hazmat employer must provide additional training to employees performing covered functions for any training components required by the HMR that were not previously addressed.

19. Question: Is a driver required to have hazmat training in accordance with Subpart H to Part 172 if the driver has a hazmat endorsement on a CDL?

Answer: Yes. In accordance with § 177.800(c), each driver who is a hazmat employee is subject to the training requirements in Subpart H to Part 172, and the driver training requirements in § 177.816, regardless of whether a hazmat endorsement is required. However, the training required to obtain a hazmat endorsement may be used to satisfy some of the training requirements of the HMR to the extent that such training addresses the training components of § 172.704. (See § 177.816(c).)

IV. Future FAQ Topics

With the completion of this set of FAQ specific to training requirements, PHMSA will begin consideration for its next set of FAQ based on public input received. As such, PHMSA will continue concurrent work on future FAQ notices and subsequent topics may include FAQ pertaining to classification, hazard communication, hazardous substances, hazardous wastes, modal-specific requirements, or packaging.

Issued in Washington, DC, on March 7, 2024, under authority delegated in 49 CFR 1.97.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2022-0127 (Notice No. 2023-09)]

Hazardous Materials: Clarification of Applications for Special Permits Submitted in the Public Interest

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

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to inform interested parties on how PHMSA evaluates and determines whether a special permit can be considered consistent with the public interest. This notice outlines the criteria PHMSA used to evaluate special permit applications on the basis of public interest.

FOR FURTHER INFORMATION CONTACT: Don Burger, Standards and Rulemaking Division, 202-366-4314, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA is responsible for regulations to ensure the safe transport of hazardous materials. The Hazardous Materials Regulations (HMR) have many performance-oriented regulations that provide the regulated community some flexibility in meeting safety

requirements. Even so, not every transportation situation can be anticipated and addressed by the current regulations. The hazardous materials community develops new materials, technologies, and innovative ways to move hazardous materials safely. Such innovation strengthens our economy, and some new technologies and operational techniques may enhance safety.

In order to accommodate and encourage continued development and innovation in the safe transport of hazardous materials, PHMSA is authorized to issue variances from the HMR via special permits, which set forth alternative requirements to those currently in the HMR. Special permits provide a mechanism for applying new technologies, promoting increased transportation efficiency and productivity, and ensuring global competitiveness without compromising safety. In addition, special permits enable the hazardous materials industry to integrate new products and technologies into production and the transportation stream safely, quickly, and effectively.

The Department of Transportation (DOT), through PHMSA, issues special permits under the Hazardous Materials Program Procedures (49 CFR part 107, subpart B). By issuing a special permit, PHMSA is in effect waiving requirements of the HMR and often imposing alternative requirements, *i.e.*, a special permit may allow a person to perform a function not otherwise permitted under the HMR.¹ PHMSA's Approvals and Permits Branch issues the special permits on behalf of the Associate Administrator.

The HMR requires that special permits must achieve a level of safety that is at least equal to that required by the regulation from which the special permit is sought; or, if a required safety level does not exist, is consistent with the public interest.²

Various stakeholders have inquired about the criteria for evaluating special permits consistent with the public interest, as well as how these special permits are evaluated. PHMSA is publishing this guidance to inform stakeholders and interested parties seeking a special permit in the public interest of the types of information PHMSA requires when it reviews a special permit application, and to provide examples of previous approved

¹ <https://www.govinfo.gov/content/pkg/USCODE-2011-title49/html/USCODE-2011-title49-subtitleIII-chap51.htm>.

² 49 CFR 107.105(d).

applications for a special permit in the public interest.

PHMSA guidance—such as this notice—is not substantive rules themselves and does not create legally enforceable rights, assign duties, or impose new obligations not otherwise contained in the existing regulations and standards. Instead, PHMSA guidance is intended as an aid to demonstrate compliance with the relevant regulations. An individual who can demonstrate compliance with PHMSA guidance is likely to demonstrate compliance with the relevant regulations. If a different course of action is taken by an individual, the individual must be able to demonstrate that its conduct is in accordance with the regulations.

II. Examples of Special Permits Consistent With the Public Interest

In the past, PHMSA has considered a special permit consistent with the public interest if the special permit provides a positive net benefit to the welfare or well-being of the public; *i.e.*, the benefit to society from the waiver authorized in the special permit will outweigh potential harms. For example, while the transport of an unapproved explosive substance is forbidden under the HMR, it would be in the public interest to allow for a one-time transport of the substance to remove it from a location that creates higher risk for the public—such as removal of a seized explosive from a port—provided the risk to the public can be minimized through operational controls.³ Similarly, while movement of a certain hazardous material by passenger aircraft might be forbidden under the HMR, the movement might be justified if it is the only mode of transport available to a remote location and sufficient operational controls are in place to minimize risk to the public to the extent possible (*e.g.*, limiting only to a specific carrier with defined route).⁴ Other examples of public interest special permits have supported responses to public health crises. For example, in response to the Ebola outbreak, PHMSA allowed specialized packaging to transport waste for disposal, subject to operational controls.⁵ Prior to issuance

³ See DOT–SP 21357, Special Permit for Gateway Pyrotechnic Productions, LLC. PHMSA’s Office of Hazardous Materials Safety maintains a searchable database of issued special permits on its website at <https://www.phmsa.dot.gov/approvals-and-permits/hazmat/special-permits-search>.

⁴ See DOT–SP 16392, Special Permit for Gem Air, LLC; DOT–SP 12674, Special Permit for G & S Aviation, LLC; DOT–SP 15243, Special Permit for Katmailand, Inc.

⁵ See DOT–SP 16279; DOT–SP 16278 & DOT–SP 16266, Special Permits for Stericycle, Inc.

of the special permit, there were no packagings authorized under the HMR that could have handled the large quantities of waste, so it was in the public interest to authorize an alternative means to transport the waste for incineration and disposal.

III. Justification for Special Permit Applications

Section 107.105(d)⁶ outlines the information the applicant must provide when requesting a special permit application. An applicant seeking a special permit, whether on the basis of an equal level of safety required by the HMR or as consistent with the public interest, must provide:

- Information describing all relevant shipping and incident experience of which the applicant is aware that relates to the application.
- A statement identifying any increased risk to safety or property that may result if the special permit is granted, and a description of the measures to be taken to address that risk.
- Either one of the following:
 - Substantiation, with applicable analyses, data, or test results, (*e.g.*, failure mode and effect analysis), that the proposed alternative will achieve a level of safety that is at least equal to that required by the regulation from which the special permit is sought; or
 - If the regulations do not establish a level of safety, an analysis that identifies each hazard, potential failure mode, and the probability of its occurrence, and how the risks associated with each hazard and failure mode are controlled by the provisions of the prospective permit.

Without the applicant providing information outlined in § 107.105(d), PHMSA may not be able to complete its evaluation of the application as required by § 107.113(f). Further, in providing the above information and analysis, the applicant should demonstrate that the proposed alternative will achieve a level of safety that is consistent with the public interest and will adequately protect against the risks to life and property inherent in the transportation of hazardous materials in commerce.

IV. Adequate Protection Against the Risks to Life and Property

As discussed above, an applicant seeking a special permit consistent with public interest must demonstrate that their proposed alternative to the HMR will achieve a level of safety that adequately protects against risks to life

and property.⁷ This is often achieved by proposing various operational controls for a special permit in the application. A determination by PHMSA that an application and the proposed operational controls provide “adequate protection” against risks to life and property does not indicate such operational controls provide a lower level of safety than a special permit that was determined to have at least an “equivalent level of safety” to the HMR. Rather it is a safety determination in the absence of a standard to compare against the proposed approach in the special permit application.

A special permit application seeking to show it is consistent with the public interest must include information on how the applicant will minimize any safety risk to the maximum extent practicable. Applicants should include explanations of: (1) the hazardous material and how it is contained; (2) known risks of the hazardous material; (3) mitigation of the risks posed by the hazardous material via packaging, hazard communication, and/or operational controls; and (4) any other relevant factors to support mitigation of any safety risks.

Operational controls to help minimize transportation risks are also important features of permits issued in the public interest. Operational controls are requirements designed to enhance safety and oversight when transporting hazardous materials under special permits. Though special permits may waive some regulatory requirements due to unusual circumstances, operational controls allow permit holders to improve safety through policies, procedures, and communication. Operational controls in special permits have included selecting and training specific personnel; implementing additional equipment inspections and maintenance; limiting transport to certain times, routes, or conditions; using tracking and communication systems; documenting the permitted shipment; and other measures tailored to the situation. Operational controls may also limit the movement of the hazardous material to specific modes of transportation.

V. Supporting Documentation and Duration for Public Interest Special Permits

Providing detailed supporting documentation is key to supporting PHMSA’s decision-making process. PHMSA evaluates all information and data outlined in this notice in reviewing and issuing a special permit application

⁶ 49 CFR 107.105(d).

⁷ 49 CFR 107.113(f)(2).

in the public interest. If the information outlined in the HMR and described in this notice is not provided in a special permit request, it is unlikely that a special permit would be issued in the public interest as the application would not be sufficient.

Finally, PHMSA will consider the length of time that the special permit issued in the public interest should remain in effect. New special permits are limited to a maximum of two years in duration by 49 U.S.C. 5117(a)(2). Emergencies—e.g., natural disasters, failure of containment of a hazardous material in transport, etc.—require quick decision-making by PHMSA to mitigate the potential hazards to the public and the environment. Special permits issued in the public interest, such as in the case of emergencies, typically are only issued for an amount of time expected to be sufficient to address the emergency.

VI. Future Actions

This notice serves as guidance for interested parties looking to obtain special permits in the public interest. PHMSA encourages applicants seeking a special permit in the public interest to ensure applications include all necessary information to address the requirements of the HMR as outlined in this notice.

Issued in Washington, DC, on March 7, 2024.

William S. Schoonover,

Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Relating to Carryover of Passive Activity Losses and Credits and At-Risk Losses to Bankruptcy Estates of Individuals

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments

concerning carryover of passive activity losses and credits and at-risk losses to bankruptcy estates of individuals.

DATES: Written comments should be received on or before May 13, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Please include OMB Number 1545-1375 or TD 8537 in the Subject Line of the message. Requests for additional information or copies of this regulation should be directed to Sara Covington, at (202) 317-5744 or Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at Sara.L.Covington@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Carryover of Passive Activity Losses and Credits and At-Risk losses to Bankruptcy Estates for Individuals.

OMB Number: 1545-1375.

Regulation Project Number: T.D. 8537.

Abstract: These regulations relate to the application of carryover of passive activity losses and credits and at risk losses to the bankruptcy estates of individuals. The final regulations affect individual taxpayers who file bankruptcy petitions under chapter 7 or chapter 11 of title 11 of the United States Code and have passive activity losses and credits under section 469 or losses under section 465.

Current Actions: There are no changes being made to this existing regulation or to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 12 Minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 6, 2024.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2024-05257 Filed 3-12-24; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8582

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Passive Activity Loss Limitations.

DATES: Written comments should be received on or before May 13, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include "OMB Number 1545-1008—Passive Activity Loss Limitations" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)