



U.S. Department
of Transportation

East Building, PHH-30
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

**Pipeline and Hazardous
Materials Safety Administration**

August 14, 2009

To the grantees of DOT Special Permits Nos. 8554, 10751, 11579 and 12677:

Recent accidents and incidents involving specialized cargo tank motor vehicles that are used to transport bulk explosives and other hazardous materials under the terms of the above-listed special permits have raised concerns about the level of safety of the transportation of these materials in commerce. Accordingly, the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Motor Carrier Safety Administration (FMCSA) are (1) conducting an overall evaluation of these special permits, including the fitness of persons granted authority to transport hazardous materials under the terms of these special permits, and (2) considering the modification of these special permits in order to improve transportation safety and to reduce the frequency and potential consequences of accidents and incidents.

Our evaluation will include both visits to the facilities of special permit grantees and review of information available to PHMSA and FMCSA regarding safety performance (such as safety ratings; incidents and accidents during transportation of hazardous materials; information from previous inspections, and violations of the Hazardous Materials Regulations, the Federal Motor Carrier Safety Regulations, and/or these special permits). If your company is visited by PHMSA or FMCSA, we expect that your company's employees will cooperate fully and provide all information requested.

We are currently considering modifications to these special permits as set forth below. In accordance with 49 CFR 107.121(c), you have 30 days from receipt of this letter to submit any written response to the Associate Administrator for Hazardous Materials Safety on these proposed modifications. However, based on an overall evaluation of these special permits, (including an independent risk analysis and lessons learned through the fitness reviews and data analysis), we may propose additional modifications (including measures for reducing the potential for rollover and redesign of the vehicles to enhance their stability). If we propose additional modifications we will afford you the opportunity to comment in accordance with 49 CFR 107.121(c). If warranted, we will pursue actions for suspension or termination of grantees authority to perform the activities and functions authorized under these special permits.

At this time, we have chosen to not address modifications to the quantities or types of hazardous materials transported on these vehicles. Under these special permits one vehicle is utilized to transport a wide range of hazardous materials including corrosive and combustible liquids;

oxidizers; explosives; and detonators. When the special permit was granted the presence of these materials on one vehicle was evaluated and a determination was made that the combination of materials did not present an undue risk of uncontrolled chemical reaction, fire or explosion while in transportation if the terms of the special permit were met. We continue to believe that the initial and subsequent evaluations that supported our decisions to grant the special permits were appropriate. However, we will continue to evaluate the materials authorized to be transported under these special permits and will make appropriate changes in addition to those proposed in this letter based on our ongoing review of your operations if circumstances warrant. It is our expectation that the industry will continue to evaluate this issue and explore any and all options that may be available to further reduce risk including increasing the stability of these vehicles and minimizing the possibility of additional roll-over incidents. This is also an important point to consider for future generations of these vehicles. It is our intention to continue to monitor the performance of the vehicles operating under the terms of these special permits and if necessary to take actions as needed.

- Driver Qualification and Training: The special permit grantee must annually audit its program for the qualification and training of the persons who operate the vehicles authorized under these special permits to assure that:

1. Each driver holds an applicable Commercial Driver's License and appropriate endorsements, as required by 49 C.F.R. part 383, and meets the qualification requirements in 49 C.F.R. part 391.

2. Each driver has received current training as required by 49 C.F.R. part 172, subpart H, and 49 C.F.R. §§ 177.800 and 177.816. This training must specifically include the terms and conditions of the special permit(s); design and operational characteristics of the vehicles authorized under these special permits; methods of defensive driving and vehicle control to avoid accidents (including roll-overs) and how to recover control in the event the wheels leave the paved surface of the road; successful road tests in a vehicle similar to the one they will operate prior to being authorized to operate a vehicle under the terms of this special permit and emergency response procedures including information necessary to communicate to responders in the event of an incident.

3. Any incident or accident required to be reported under 49 C.F.R. § 171.15 or 171.16 has been reported in a timely manner, and the driver involved in such an incident or accident has been retrained in accordance with paragraph No. 2, above, before the driver is allowed to resume operation of a vehicle authorized under these special permits.

- Vehicle Inspections and Tire Standards:

1. The special permit grantee must perform an annual audit of its program for vehicle inspections to ensure that the requirements for daily and periodic inspections set forth in 49 C.F.R. part 396 are being properly performed and recorded.

2. As a part of these daily and periodic inspections, the special permit grantee must ensure that the tires on the vehicles authorized under these special permits:

a. Are rated and sized according to the manufacturer's recommendations for the size and gross vehicle weight rating of the vehicle.

b. Are not more than six years old.

c. On the steering axle must have a minimum tread depth of 8/32 inch and are not retreaded tires. All other tires on the vehicle must have a minimum tread depth of 4/32 inch.

d. Tire pressure is physically checked at least once in each consecutive seven day period, and monitoring systems are installed on all wheels and functional.

e. Any damaged tires are replaced before any on-road travel.

● Vehicle construction:

1. The IME SLP-22 container(s) must be located within the profile of the motor vehicle and may not be mounted on the front of the vehicle or within 12 inches of the rear bumper of the vehicle.

2. Location and protection of vehicle batteries:

a. Each battery must be equipped with a disconnect switch that can be activated from a remote location, and is installed in such a way as to ensure it is operational in the event of a rollover. The disconnect switch must be retested every month.

b. Each battery must be protected within a fully enclosed non-conductive, impact resistant housing, capable of protecting the battery terminals and cable connection from shorts, in accordance with 49 CFR 393.30.

c. Batteries and housings must be located towards the front of the vehicle, within the profile of the vehicle, and marked in such a way as to be easily identified as the battery location to emergency responders.

3. Fuel cut-off mechanisms: The vehicle must have fuel cut-off devices that will stop the flow of fuel from the pump if the vehicle is tilted at an angle of 45 degrees or greater and must meet the regulatory requirements of 49 CFR 393.65(e).

● Emergency Response:

1. The grantee must develop and maintain an action plan for emergency response which, at a minimum, describes the risks associated with a fire involving these vehicles and actions to be taken to minimize such risks.

2. Emergency response guidance developed as part of the action plan must be maintained on each vehicle operating under the special permit in the manner set forth in 49 C.F.R. § 172.602(c).

• Accident investigation: In the event of an accident that results in an overturn of the vehicle being operated under the terms of these special permits, for which an incident report is required under 49 C.F.R. §§ 171.15 or 171.16, the permit grantee must:

1. Have an independent investigation performed to determine the cause(s) of the accident.
2. Provide a copy of the police report and a report of the investigation's findings, conclusions, and recommendations to prevent future accidents or incidents. The report must be completed within 60 days after the accident or incident, unless an extension of time is granted by PHMSA. A copy of the report must be submitted to PHMSA within 15 days after completion of the investigation.

You have 30 days to show cause as to why we should not make the above proposed changes.

Please address any questions or concerns directly to Mr. Donald Burger, Chief of the Special Permits and General Approvals Branch, Office of Hazardous Materials Special Permits and Approvals, at the above address, by email to donald.burger@dot.gov, or by telephone to (202) 366-4535.

Sincerely,

for Robert A. Rife

Theodore L. Willke
Associate Administrator
for Hazardous Materials Safety