

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION



SPECIAL PERMITS PROGRAM STANDARD OPERATING PROCEDURES

October 2009
Version 1.0



TABLE OF CONTENTS

1	INTRODUCTION.....	1
1.1	Purpose.....	1
1.2	Special Permits Program Overview	1
1.3	Definitions.....	2
1.4	Document Organization and Revision History	2
2	INFORMATION TECHNOLOGY RESOURCES	4
3	OPERATIONAL ROLES AND RESPONSIBILITIES	5
3.1	Administrator	5
3.2	Approving Official.....	6
3.3	Project Officer.....	6
3.4	Administrative Assistant.....	7
3.5	Technical Officer	7
3.6	Senior Technical Officer.....	7
3.7	Enforcement Liaison.....	8
3.8	Standards Liaison.....	8
3.9	International Standards Liaison	8
3.10	Legal Counsel	8
3.11	OA Coordinating Official	8
3.12	Applicant.....	9
4	APPLICATION ACTION PROCESS	11
4.1	Review for Application Completeness	12
4.1.1	Purpose.....	12
4.1.2	Workflow	12
4.1.3	Procedures.....	14
4.2	Application Evaluation	16
4.2.1	Applications for New Special Permits.....	16
4.2.2	Applications for Modifications to Existing Special Permits.....	21
4.2.3	Applications to Renew Existing Special Permits.....	24
4.2.4	Applications to Gain Party Status to Existing Special Permits.....	27
4.3	Application Disposition	29
5	GENERAL CORRESPONDENCE PROCESS	32
5.1	Purpose.....	32



5.2	Workflow	32
5.2.1	External Requests.....	33
5.2.2	Internal Actions.....	33
6	SUPPORTING SUB-PROCESSES.....	35
6.1	Emergency Special Permit Application Review Sub-Process	35
6.1.1	Purpose.....	35
6.1.2	Work Flow	35
6.2	Fitness Review Sub-Process	36
6.2.1	Purpose.....	36
6.2.2	Definitions.....	37
6.2.3	Background.....	37
6.2.4	Initial Fitness Evaluation/Review	37
6.2.5	Advanced Fitness Evaluation/Review and Recommendations.....	39
6.2.6	Additional Considerations	39
6.2.7	Modification, Suspension, or Termination	40
6.3	Coordinating with DOT OAs Sub-Process.....	40
6.3.1	Purpose.....	40
6.3.2	Parties.....	40
6.3.3	Authority.....	40
6.3.4	PHMSA Responsibilities for Issuing Special Permits.....	41
6.3.5	OA Coordination Responsibilities	43
6.4	Reconsideration Sub-Process.....	48
6.4.1	Purpose.....	48
6.4.2	Workflow	48
6.5	Appeal Sub-Process	49
6.5.1	Purpose.....	49
6.5.2	Workflow	49
7	APPENDIX.....	51
7.1	Safety Documentation Evaluations.....	51
7.2	Process for Conducting Company Background Research for Special Permit and General Approval Applications.....	77

1 INTRODUCTION

1.1 Purpose

This document establishes standard operating procedures (SOPs) for the administration of the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Special Permits Program. These SOPs incorporate and strengthen PHMSA's current procedures. The SOPs will be updated periodically to incorporate recommendations and improvements arising out of ongoing program evaluation and upgrades to the data management systems that support the Special Permits Program.

1.2 Special Permits Program Overview

A special permit sets forth alternative requirements, or variances, to the requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 et seq.) authorizes the US Department of Transportation (DOT) to issue such variances in a way that achieves a safety level that is at least equal to the safety level required under Federal hazmat law or is consistent with the public interest if a required safety level does not exist. PHMSA's procedures for applying for a special permit are set forth in 49 CFR, Part 107, Subpart B.

The Special Permits Program is designed to ensure that the operations authorized under the special permit achieve a level of safety that is at least equal to that required by regulation or, if a required safety level does not exist, is consistent with the public interest. The Special Permits Program also aims to ensure that holders of special permits are fit to conduct the activity allowed under the special permit.

The activities carried out by PHMSA under the program span the lifecycle of a special permit from an initial application to termination, including oversight and monitoring of active special permits. This document groups these activities under two key process areas—the Special Permit Application Action Process and the General Correspondence Process.

The ***Application Action Process*** encompasses the review of special permit applications for completeness and sufficiency, a technical evaluation to ensure that the proposed operations achieve a level of safety at least equal to that provided under the HMR, coordination with operating administrations (OAs) to evaluate the safety fitness of the applicant, and issuance or denial of the application based on the evaluation.

The ***General Correspondence Process*** includes a range of activities related to special permits that are outside of the application action process. These activities include administrative functions such as name and address changes for special permit holders, revisions to a permit document, and requests for interpretations or clarification of requirements in a special permit. These activities help support the maintenance and oversight of active permits.

PHMSA established and continues to refine its structured, uniform processes to administer the Special Permits Program. These SOPs document those processes as well as incorporate recommendations to improve the program over time.

1.3 Definitions

Table 1 presents commonly used terms from the Special Permits Program.

Table 1: Definitions

TERM	Definition
Special Permit	A document issued by the Associate Administrator under the authority of 49 U.S.C. 5117 permitting a person to perform a function that is not otherwise permitted under 49 CFR Part 107 or 49 CFR Parts 171-180), or other regulations issued under 49 U.S.C. 5101 et seq. (e.g., Federal Motor Carrier Safety routing requirements). The terms “special permit” and “exemption” have the same meaning.
Party Holder	A person, other than the original special permit grantee, who has been granted the authority to act under the terms of a special permit.
Applicant Fitness	Demonstrated and documented knowledge and capabilities resulting in the assurance of a level of safety and performance necessary to ensure compliance with the applicable provisions and requirements of the HMR or a special permit or approval issued under the regulations.
Evaluation Plan	A project management plan developed by PHMSA and relevant modal staff that outlines the necessary evaluation steps and milestones for a special permit application.
Operating Administration	PHMSA, Federal Aviation Administration (FAA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), or United States Coast Guard (USCG)

1.4 Document Organization and Revision History

This section of the document provides an overview of the Special Permits Program and concludes with a revision history for the document.

The remainder of the document is organized into the following sections:

- **Information Technology Resources** – Describes the information technology (IT) tools utilized by the Special Permits Program to fulfill its mission goals.
- **Operational Roles and Responsibilities** – Describes the respective roles and responsibilities of the OAs to execute processes associated with the Special Permits Program.
- **Application Action Process** – Describes the processes for receiving, evaluating, and issuing four types of applications: (1) applications for new special permits; (2) applications for modifications to existing special permits; (3) applications for renewals of existing special permits; and (4) applications to gain party status to an existing special permit. The Application Action Process section is organized based on the three key phases of the process: Review for Application Completeness Phase, Evaluation Phase, and Disposition Phase. For each phase, subsections describe the purpose of the process, provide a high-level summary of the workflow, and present a table enumerating detailed procedures. The procedures under the Review for Application Completeness Phase and Disposition Phase apply to all application

types. However, the subsection on the Evaluation Phase is further broken out by the type of application, as there are distinctions in the procedures among them.

- **General Correspondence Process** – Describes the processes associated with responding to requests from special permit holders and applicants. This section also describes how the general correspondence process is used for communicating with special permit holders when action is needed based on technical findings impacting special permits.
- **Supporting Sub-Processes and Documentation** – Describes sub-processes that are common across all application types, including procedures for fitness reviews, technical reviews, and coordination with the OAs.
- **Appendix** – Includes templates that support the execution of the SOPs and are referenced in the procedures such as the Special Permit Evaluation Form for New Applications. This section also includes the process maps that graphically depict the workflows identified in the procedures.

These SOPs are designed to evolve with PHMSA’s changing needs, statutory authorities, and operating methods. The document will be updated on a regular basis. The Approving Official for special permits is responsible for managing the maintenance and updates to the SOPs. Table 2 provides the history of revisions.

Table 2: Document Revision History

Revision Date	Author	Revision Description

2 INFORMATION TECHNOLOGY RESOURCES

PHMSA uses several information systems as resources to help manage the Special Permits Program. Table 3 lists the IT resources currently used by PHMSA and its fellow OAs. These systems support specific functions, including document management and fitness reviews of special permit applicants.

Table 3: IT Resources

Application	Abbreviation	Description
Hazardous Materials Information System	HMIS	HMIS is a web-based application that maintains and provides access to comprehensive information on hazardous materials incidents, exemptions and approvals, enforcement actions, and other elements that support PHMSA's regulatory program. The types of information fall within one of the following categories: incidents involving hazardous materials, approvals and special permits pertaining to safety regulations, outreach services, enforcement of hazardous materials regulations, and registration of carriers/shippers. The application also serves as a document management system for processing special permit applications and oversight of active special permits.
Hazmat Intelligence Portal	HIP	HIP is a web-based application that allows the OAs to collaborate on hazmat-related data. HIP seeks to support government hazmat professionals by providing enforcement and other information on companies involved in the hazmat industry. The system is currently under development.
Safety and Fitness Electronic Records System	SAFER	SAFER is an FMCSA web-based system that offers company safety data to government and industry professionals, as well as the public. Users can search FMCSA databases, register for a US DOT number, pay fines online, order company safety profiles, challenge FMCSA data using the DataQs system, access the Hazardous Material Route registry, obtain National Crash and Out-of-Service rates for Hazmat Permit Registrations, get printable registration forms, and find information about other FMCSA Information Systems.

3 OPERATIONAL ROLES AND RESPONSIBILITIES

This section describes the roles required for PHMSA and the other OAs to execute processes associated with the Special Permits Program. : illustrates where operational roles currently reside within PHMSA. The Coordinating Officials from the other OAs reside in different offices at their respective agencies. It is important to note that the staff and managers assigned operational roles may delegate their official responsibilities to others involved in the special permit processes.

Table 4: Current Organizational Alignment and Roles

Organizational Role	Organization	Current Organizational Position ¹
Administrator	PH-1	Pipeline and Hazardous Materials Safety Administrator
Approving Official	PHH-1	Associate Administrator for Hazardous Materials Safety
Project Officer	PHH-30	Transportation Specialist, Senior Transportation Specialist
Administrative Assistant	PHH-30	Transportation Assistant
Technical Officer	PHH-20	Chemists, Physical Scientists, and Engineers
Senior Technical Officer	PHH-20	Director, Office of Hazardous Materials Technology
Enforcement Liaison	PHH-40	Director, Office of Hazardous Materials Enforcement
Standards Liaison	PHH-10	Director, Office of Hazardous Materials Standards
International Standards Liaison	PHH-70	International Standards Coordinator
Legal Counsel	PHC-10	Assistant Chief Counsel, Hazardous Materials Safety Law Division
OA Coordinating Official	FRA, FAA, FMCSA, USCG	N/A
Applicant	Industry	N/A

3.1 Administrator

The Administrator is the Administrator of the PHMSA. The responsibilities of the Administrator in the special permits process include:

- Review and approval of significant special permit applications, based on public interest or other criteria as determined by the Administrator
- Participation in discussions to resolve issues among PHMSA staff and OA Coordinating Officials, as determined by the Administrator
- Review and approval of significant General Correspondence, based on critical safety issues or other criteria as determined by the Administrator.

¹ Note that all positions may delegate tasks to others involved in evaluating special permits.

3.2 Approving Official

The Approving Official is the Associate Administrator for Hazardous Materials Safety. Under Section 107.113(e) of the HMR, the Associate Administrator is responsible for special permits grants or denials, including approving and signing special permits documentation. The Approving Official is also responsible for:

- Reviewing evaluation plans to ensure they are complete
- Determining whether the planned evaluation is complete
- Reviewing disposition recommendations
- Approving special permit dispositions, including rejection letters, denial letters, special permits, and authorizing letters
- Resolving outstanding issues among OAs
- Maintaining and updating the SOPs for the Special Permits Program.
- Making recommendations to the Administrator concerning the disposition of significant special permits applications (based on public interest or other criteria determined by the Administrator)
- Delegating Approving Official responsibility for specific special permits, based on criteria related to the operations, transport modes, materials, or other criteria, as appropriate.

3.3 Project Officer

The Project Officer is responsible for managing the special permit review process for a specific special permit application. A Project Officer will be designated for each special permit application. The Project Officer is responsible for:

- Providing oversight of the end-to-end application evaluation and disposition processes across PHMSA and the other OAs
- Developing a draft evaluation plan (project plan) for each special permit application received
- Coordinating the evaluation of an emergency special permit application
- Coordinating the Review for Application Completeness Phase of a new, modification, renewal, or party status special permit application, which may include:
 - Creating an HMIS folder for special permit application materials
 - Conducting and coordinating application review for completeness
 - Drafting *Federal Register* summaries and/or rejection letters
 - Creating a draft evaluation plan
- Coordinating the Evaluation Review Phase of special permit application evaluations, which may include:
 - Conducting applicant fitness review
 - Conducting equivalent level of safety evaluation

October 13, 2009

- Coordinating with appropriate OA(s)
- Coordinating with Legal Staff
- Drafting and/or reviewing special permits.

3.4 Administrative Assistant

The Administrative Assistant is a PHMSA staff member who provides administrative support to the Project Officer. The Administrative Assistant is responsible for assisting the Project Officer with administrative tasks, including coordinating the application review phase of special permit application evaluations, which may include creating an HMIS folder for special permit application materials and conducting and coordinating application reviews to determine whether application materials are complete.

3.5 Technical Officer

The Technical Officer has subject matter expertise in certain aspects of hazardous materials transportation safety. The Technical Officer may be assigned to participate in the review and evaluation of a special permit application, if needed. The Technical Officer is responsible for:

- Assisting in the Sufficiency Review Phase of special permit application evaluations, which may include:
 - Providing input to draft evaluation plans
 - Drafting rejection letter justification language
- Completing technical evaluations of special permit applications, which may include:
 - Conducting equivalent level of safety evaluations
 - Coordinating with OAs
 - Drafting and/or reviewing special permits.

3.6 Senior Technical Officer

The Senior Technical Officer is responsible for:

- Assigning and managing special permit applications among appropriate Technical Officers
- Overseeing the sufficiency review phase of special permit application evaluations, which may include:
 - Providing input to draft evaluation plans
 - Drafting rejection letter justification language
- Overseeing technical evaluations of special permit applications, which could include:
 - Conducting equivalent level of safety evaluations
 - Coordinating with OAs
 - Drafting and/or reviewing special permits
- Reviewing and signing evaluations completed by Technical Officers.

3.7 Enforcement Liaison

The Enforcement Liaison is responsible for:

- Reviewing evaluation plans as requested by the Project Officer based on agreed-upon criteria for Enforcement involvement
- Oversight of applicant fitness reviews
- Managing applicant investigations.

3.8 Standards Liaison

The Standards Liaison is responsible for:

- Making recommendations as to whether the operations proposed for the special permit should be addressed through rulemaking
- Reviewing evaluation plans as requested by the Project Officer
- Overseeing the process for incorporating special permits into the HMR
- Reviewing special permits and other dispositions as requested by the Project Officer based on the agreed-upon criteria for Standards involvement, which could include:
 - Relief from hazards communication
 - Newly issued regulations
 - Requests with far-reaching effects that may be most appropriately handled under rulemaking.

3.9 International Standards Liaison

The International Standards Liaison is responsible for:

- Reviewing evaluation plans as requested by the Project Officer
- Reviewing special permits and other dispositions as requested by the Project Officer based on agreed-upon criteria for International Standards involvement.

3.10 Legal Counsel

The Legal Counsel, from PHMSA's Office of the Chief Counsel, is responsible for:

- Reviewing evaluation plans as requested by the Project Officer
- Providing legal guidance for decision making that pertains to special permits and other dispositions as requested.

3.11 OA Coordinating Official

An OA Coordinating Official is designated by the Federal Aviation Administration (FAA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), and United States Coast Guard (USCG) as the point of contact for each agency's review of a

special permit application. Consistent with the roles defined in the evaluation plan based on agreed-upon criteria for OA involvement,² the OA Coordinating Official is responsible for:

- Providing input to draft evaluation plans
- Reviewing special permit applications, applicant fitness reviews, and equivalent level-of-safety evaluations
- Completing technical evaluations of special permit applications, which could include:
 - Conducting additional applicant fitness reviews
 - Conducting equivalent level-of-safety evaluations
 - Drafting special permits
- Providing concurrence, comments, information, and acknowledgments, as appropriate, to PHMSA in accordance with established coordination schedules and milestones.

3.12 Applicant

The Applicant is a person or firm requesting a special permit to be issued by PHMSA. The Applicant is responsible for:

- Submitting a complete application for a special permit as required under 49 CFR Part 107, Subpart B - Special Permits. Applications that do not meet these application requirements may be rejected.
- Providing PHMSA with additional information or data if necessary.
- Initiating a reconsideration or appeal if necessary.
- Complying with the requirements of a special permit when issued.
- Applicants are referred to 49 CFR Part 107 Subpart B – Special Permits for the specific information, documentation, and justification required for an application. In summary, the requirements for submission, justification, and documentation include:
 - An application for new special permit must be submitted at least 120 days before the requested due date (or 60 days for a renewal).
 - Applications must include complete contact information to enable PHMSA to identify, contact and locate the party responsible for the special permit application and for compliance with the special permit if it is granted, such as the applicant and agent names, addresses, e-mail, and phone contact information
 - Applications must fully describe the proposed special permit including:
 - The regulation from which the applicant seeks relief
 - The proposed modes of transportation
 - Detailed descriptions, drawings, and supporting documents, as appropriate
 - Description of the basis for the request, how compliance will be achieved, and time periods needed for the special permit

² Triggers for OA involvement are outlined in the Coordinating with DOT Operating Administrations Sub-Process, which can be found in Section 6.3.

October 13, 2009

- Supporting facts and reasons for emergency processing if requested under §107.117
 - Description of the hazardous materials and the packaging and specifications proposed. Alternative packaging requires complete documentation on design, manufacture, and performance criteria
 - Certification of compliance with specific prohibitions regarding transport of Class 1 materials by aircraft
- Applications must include full justification for the proposal and demonstrate that the special permit will achieve an equivalent level of safety required by regulation or, if a required level of safety does not exist, is consistent with the public interest. The justification must include:
- Relevant shipping and incident experience related to the application
 - Information on any increased risks that may result if the special permit is granted, and a description of the measures to be taken to address that risk; and
 - Analysis, data, and/or tests that demonstrate the equivalent level of safety proposed. If the regulations do not establish a level of safety, an analysis that identifies the hazards, potential failures and probability of occurrence, and proposed risk mitigation.

4 APPLICATION ACTION PROCESS

PHMSA processes four different types of special permit applications:

1. Applications for new special permits
2. Applications for modifications to existing special permits
3. Applications to renew existing special permits
4. Applications to gain party status to existing special permits.

The processes utilized to review different applications types are slightly different but typically include a few core tasks. The application action process includes three key phases, as shown in Figure 1.



During the initial Review for Application Completeness Phase, PHMSA reviews application materials submitted for a special permit to ensure the information meets all of the application requirements defined under 49 CFR Part 107, Subpart B and is complete and sufficient to make a determination to grant or deny the application. During this phase, PHMSA may contact the applicant for additional information, if needed. If the application materials do not meet the specified requirements, the application may be rejected and the applicant notified. PHMSA publishes all applications for new and modification to special permits that are not rejected in the *Federal Register* for comment.

The Application Evaluation Phase follows the review phase. In this phase, PHMSA and the other OAs (FAA, FRA, FMCSA, and USCG) determine whether the proposed special permit achieves an equivalent level of safety as that required under the HMR and evaluate the safety fitness of the applicant. PHMSA develops and coordinates an evaluation plan to guide this process and ensure appropriate collaboration within PHMSA and among the OAs.

The final phase of the application action process is Application Disposition. Based on the results of the Evaluation Phase, PHMSA grants or denies the special permit. Except requests for emergency processing which are granted for one year or less, a “new” special permit, when granted, is only valid for up to 2 years. A special permit renewal, when granted, is only valid for up to 4 years. Applicants may petition for reconsideration and appeal if they are dissatisfied with the agency’s decision.

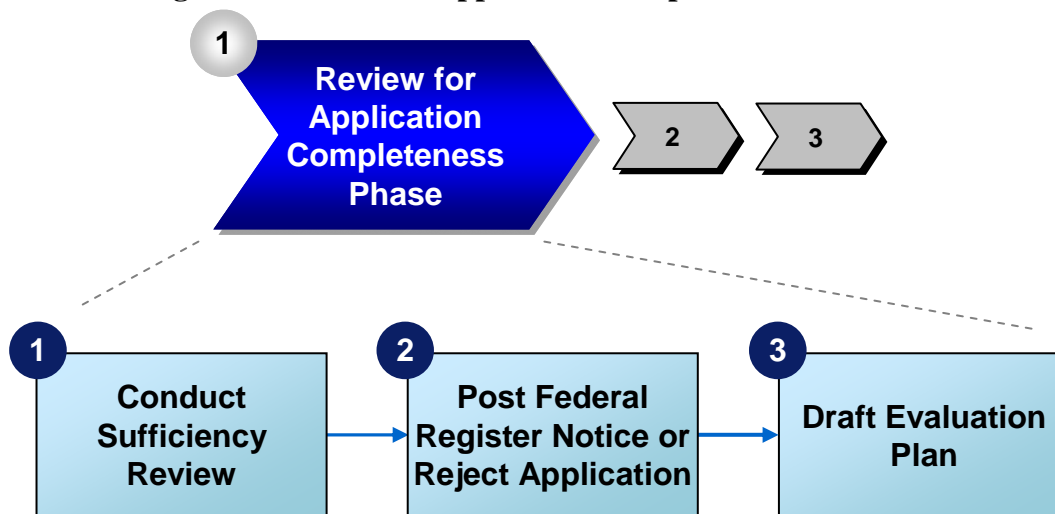
4.1 Review for Application Completeness

4.1.1 Purpose

The purpose of the review for application completeness is to determine whether an application received by PHMSA (regardless of type) has sufficient information required under 49 CFR Part 107 for the agency to determine whether the proposed special permit would provide a level of safety equivalent to that provided by the HMR. If the information contained in the application is sufficient, then the action process continues. However, if the applicant has not provided sufficient data in the application, PHMSA may request more data or reject the application outright.

4.1.2 Workflow

Figure 2: Review for Application Completeness Workflow



When PHMSA receives an application for a special permit—whether it is for a new special permit, renewal, modification or party status—the agency first reviews the application materials to determine whether the application includes the information, documentation, and justification required and whether the information is sufficient to conduct a full evaluation.

If an applicant requests emergency processing, then the Project Officer follows the Emergency Special Permit Application Review Sub-Process outlined in Section 6.1 of this document.

The Project Officer generates a new folder in HMIS and populates the folder with the relevant application materials. If the application includes non-electronic documents, the Project Officer uses a scanner to create electronic files. At this time, the Project Officer also posts a notice on the PHMSA website that the application has been received by the agency and is pending review.

After the HMIS folder is generated and populated with all relevant files, the Project Officer performs the sufficiency review. This review assesses whether the application materials include all of the information, documentation, and justification required by the HMR and whether

October 13, 2009

enough information exists to complete a comprehensive evaluation of the application, which includes an applicant fitness review and an equivalent level-of-safety evaluation.

If the Project Officer requires a technical review of the application materials to determine the sufficiency of the application to move forward in the process, then the Project Officer sends the application materials via HMIS to the Senior Technical Officer. The Senior Technical Officer assigns the application materials via HMIS to the appropriate Technical Officer for review. The Technical Officer then completes the application review for sufficiency, analyzing the application materials to determine whether they are sufficient to move on to the next phase in the process. After the technical sufficiency review is completed, the Technical Officer returns the application via HMIS to the Project Officer.

If the application is incomplete, the Project Officer may request additional information from the applicant to be provided within 30 days or may draft a rejection letter explaining why the application was not accepted and send it to the Approving Official. At this point, the application enters the disposition phase of the process, described in Section 4.3 of this document.

If or when the application is sufficient and complete, the Project Officer notifies the OA Coordinating Officials and PHMSA Office Liaisons that PHMSA has received an application. At this time, the Project Officer also drafts a summary of the application to be published in the *Federal Register*. At the end of each month, a Project Officer is designated to compile a document that includes summaries of all applications received by PHMSA and forward it to the *Federal Register* to be published for public comment. Comment periods vary depending on the type of application.

The Project Officer reviews the application and determines who needs to participate in the next phase of the application action process. This decision is based on key triggers developed by PHMSA Administrator, Associate Administrator, Office Liaisons and OA Coordinating Officials (e.g., FRA will review all special permit applications and draft special permit documents for the construction of tank cars for use in the transportation of hazardous materials).³ The Project Officer then creates a draft evaluation plan outlining the steps for the next phase of the application review and evaluation process. The evaluation plan includes an initial determination as to whether the operations requested in the application should be addressed through rulemaking and, if so, whether the special permit should be issued until such rulemaking is completed or denied. In addition, the evaluation plan identifies the individuals responsible for each step and establishes timelines for completing those steps. The draft evaluation plan also indicates whether or not the application is significant and should be reviewed and approved by the Administrator before it is issued.

Once the draft evaluation plan is complete, the Project Officer sends it to the various participants identified in the plan based on key triggers (e.g., Approving Official, Senior Technical Officer, Technical Officer, Enforcement Liaison, Standards Liaison, Legal Counsel, OAs, etc.) for review and validation. The participants are responsible for reviewing, providing edits to, and returning the plan to the Project Officer.

³ Triggers for OA involvement are outlined in the Coordinating with DOT Operating Administrations Sub-Process, which can be found in Section 6.3.

The Project Officer reviews all comments and edits, and then finalizes the evaluation plan. The evaluation plan then becomes a roadmap for the Project Officer to use during the remainder of the application action process. The evaluation plan is included in the HMIS folder.

It is important to note that the Project Officer may delegate some of the responsibilities described above to the Administrative Assistant. This is left to the discretion of the Project Officer.

4.1.3 Procedures

Table 5: Review for Application Completeness Procedures

Review for Application Completeness Procedures			
#	Description	Responsibility	Duration
1	Receive Application and Assess Application Type. Determine in application is requesting a new, modification, renewal, or party status to a special permit	Project Officer	NA
2	Determine if Application is Designated for Emergency Processing. If the applicant requests emergency processing on the application, the Project Officer then initiates the Emergency Processing Sub Process, which can be found in section 6.1	Project Officer	NA
4	Generate and Populate HMIS Folder. The Project Officer is responsible for creating an application folder in HMIS, uploading the application, and populating other applicant information.	Project Officer	2 days
5	Post Receipt of Application on PHMSA's Website. After the folder is created, HMIS will automatically update PHMSA's website to indicate that the application has been received	HMIS	1 day
7	Scan Non-Electronic Applications to PDF. If application is not electronic, then scan application documents to create electronic files; otherwise go to step 8	Administrative Assistant	NA
8	Conduct Initial Sufficiency Review. Determine whether the application meets the criteria outlined in the HMR and if the information provided is adequate to conduct and equivalent level safety evaluation. If application is sufficient, skip to step 19	Project Officer	NA
9	Contact Applicant for Additional Information if Needed. If additional information is needed, the Project Officer may contact the client and request the information be provided. When requesting readily available information, the Project Officer may contact the applicant through the most efficient means available (e.g., phone, email, mail). If information is requested that may require significant time or resources for the applicant to attain, then this request should be issued with a formal request letter.	Project Officer	NA
10	Review Addition Information Provided and Evaluate Sufficiency. If additional information provided makes the application sufficient, skip to step 19. If not, and no Technical Review is needed, draft rejection letter.	Project Officer	NA
11	Draft Rejection Letter. Draft justification for rejection letter, skip to step 17 for rejection letter review	Project Officer	NA
12	Determine if Technical Review for Sufficiency is Needed. If the application may need additional technical information in order to be sufficient, the Project Officer sends application to Senior Technical Officer via HMIS; Otherwise skip to step 19	Project Officer	NA
13	Assign Application to Appropriate Technical Officer.	Senior Technical	NA

Review for Application Completeness Procedures			
#	Description	Responsibility	Duration
	Application is assigned to technical officer based on the subject of the application and area of expertise of staff.	Officer	
14	Conduct Sufficiency Technical Review. Determine if additional information is necessary to perform technical evaluation; otherwise skip to step 19	Technical Officer	NA
15	Contact Applicant for Additional Technical Information if Necessary. If additional information is needed, the Technical Officer may contact the client and request the information be provided. When requesting readily available information, the Project Officer may contact the applicant through the most efficient means available (e.g., phone, email, mail). If information is requested that may require significant time or resources for the applicant to attain, then this request should be issued with a formal request letter.	Technical Officer	NA
16	Draft Rejection Letter if Application is Insufficient. If application is insufficient and additional information provided is still not adequate to perform technical evaluation, then draft application rejection letter stating rationale for rejection. The Technical Officer then sends the application to the Project Officer via HMIS; otherwise skip to step 19	Technical Officer or Project Officer	NA
17	Review Application Rejection Letter. The Project Officer reviews the rejection letter for quality assurance and sends letter to Approving Official via HMIS	Project Officer	NA
18	Review and Sign Application Rejection Letter. The Approving Official reviews rejection letter and signs letter before it is sent electronicall to applicant via HMIS <end of process>	Approving Official	NA
19	Notify OAs and PHMSA Offices if Application is Sufficient. If an application is determined to be sufficient by the Technical Officer or the Project Officer, the Technical Officer changes the status of the application, which will send a notice via HMIS to OA Coordinating Officials and PHMSA Office Liaisons of the application as well as update the application status on the PHMSA website.	Project Officer	NA
20	Draft Federal Register Summary Notice. Compile a summary of applications for new and modification to special permits that were determined sufficient. Summary Notice includes applications that are submitted up to the end of each month.	Project Officer	NA
21	Submit to Federal Register for Publication. After the summary notice is compiled at the end of each month, it is submitted to the Federal Register for publication.	Project Officer	NA
22	Deliver copy of Special Permit Application Federal Docket Management System. A paper copy is delivered to the Federal Docket Management System office, after sufficiency is determined	Administrative Assistant	NA
23	Determine Participants Needed to for Evaluation. After reviewing the application, the Project Officers determines which PHMSA Office Liaisons and OA Coordinating Officials need to be involved in the evaluation of the application. This determination is based on triggers and criteria establish by the OAs and PHMSA offices. OAs and PHMSA offices may also request to be involved even if the need for their involvement was not specifically triggered.	Project Officer	NA
24	Draft Evaluation Plan. The Project Officer proposes an initial	Project Officer	NA

Review for Application Completeness Procedures			
#	Description	Responsibility	Duration
	plan that outlines the order in which relevant contacts will be evaluating the application and provides rough estimates on anticipated completion time initial. The drafted evaluation plan will then be sent to and coordinated with PHMSA Office Liaisons and OA Coordinating Officials that are included in the evaluation plan, to ensure those involved have the opportunity to provide input and understand expectations.		
25	Review and Validate Draft Project Plan. PHMSA Office Liaisons and OA Coordinating Officials involved in the evaluation process, provide input and modify the evaluation plan as necessary.	PHMSA Office Liaisons, OA Coordinating Officials ⁴	NA
26	Conduct Final Review of Evaluation Plan. Project Officer compiles input from evaluators and updates evaluation plan.	Project Officer	NA

At the conclusion of this process, the application moves into the evaluation process.

4.2 Application Evaluation

The Application Evaluation Phase varies by the type of special permit application. Therefore, this section presents the purpose, workflow, and procedures for each type of application.

4.2.1 Applications for New Special Permits

4.2.1.1 Purpose

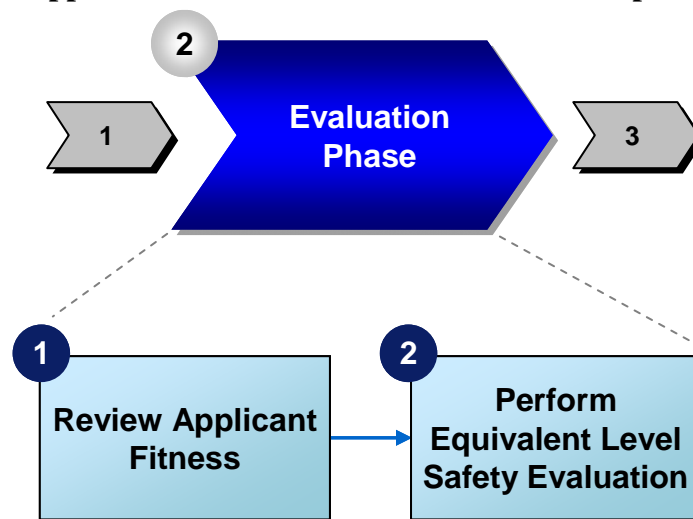
The purpose of this phase is to determine whether an applicant is fit to operate under a special permit and whether an application demonstrates a level of safety equivalent to that stated in the HMR.

4.2.1.2 Workflow

After PHMSA determines that an application for a new special permit is complete, the agency performs a comprehensive evaluation to ascertain whether the proposed special permit would provide an equivalent level of safety as that provided by the HMR. While it may differ slightly depending on the nature of the application, the evaluation process for new special permits typically involves two core procedures: (1) an applicant fitness review; and (2) an equivalent level-of-safety evaluation.

⁴ Only participants identified in step 24 would review and validate evaluation plan.

Figure 3: Application Evaluation Workflow for New Special Permits



4.2.1.2.1 Review Applicant Fitness

The objective of the applicant fitness review is to determine whether an applicant is “fit to conduct the activity authorized by the exemption or special permit.”⁵ At the beginning of the application evaluation phase, the Project Officer performs the Initial Fitness Evaluation/Review, which is outlined in the Fitness Compliance Evaluation/Reviews and Recommendations document in Section 6.2. This initial review involves accessing the Hazmat Intelligence Portal (HIP) and the Safety and Fitness Electronic Records System (SAFER) to review applicant safety records and determine whether the Advanced Fitness Evaluation/Review is needed. Directions for accessing applicant information in HIP and SAFER are included in the “Special Permits and Approvals Branch Process for Conducting Company Background Research” manual, which appears in Section 7.2 of this document. Pending enforcement investigations or information will also be provided by the Enforcement Liaison. During the initial fitness review, the Project Officer analyzes an applicant’s special permit request, safety history, and compliance record. If an applicant is determined fit based on the criteria outlined in the Initial Fitness Evaluation/Review, the Project Officer proceeds with the equivalent level-of-safety evaluation.

If the applicant’s safety and compliance record indicates a potential safety fitness problem, the Project Officer initiates a three-phased Advanced Fitness Evaluation/Review. However, because the Advanced Fitness Evaluation/Review may be a lengthy and resource-intensive process, the Project Officer may initiate the equivalent level-of-safety evaluation to determine whether the special permit application would be recommended for approval. If the application fails to demonstrate an equivalent level of safety during the evaluation, then the special permit can be denied prior to the completion of the Advanced Fitness Evaluation/Review. The Project Officer is responsible for establishing when to conduct the Advanced Fitness Evaluation/Review and equivalent level-of-safety evaluation as well as updating the evaluation plan to reflect this decision.

⁵ 49 CFR 107.113(f)(5)

October 13, 2009

As part of the Advanced Fitness Evaluation/Review, the Project Officer will seek additional information from the Technical and Senior Technical Officers, the Enforcement Liaison, the Approving Official and relevant OAs. The criteria for determining whether a three-phased review is required are outlined in detail in Section 6.2 of this SOP, which describes the Fitness Review Sub-Process.

If the applicant meets the safety fitness criteria, the Project Officer begins the equivalent level-of-safety evaluation below. If the recommendation is to deny the special permit request based on the safety fitness review, the Project Officer drafts and sends the denial letter to the Approving Officer, and the denied application enters the disposition phase of the application action process.

4.2.1.2.2 Perform Equivalent Level-of-Safety Evaluation

During this phase of the application process, the Project Officer reviews the evaluation plan and sends the application materials to the individuals responsible for conducting the equivalent level-of-safety evaluation (e.g., Senior Technical Officer, Technical Officer, OA Coordinating Officials). The individual responsible for completing the equivalent level-of-safety evaluation uses his or her professional judgment, which would include research and application of American Society of Mechanical Engineers (ASME) standards and Dunn and Bradstreet resources as appropriate. “The Special Permit Evaluation Form for New Applications” is provided to complete this step of the process. A copy of this form can be found in Section 7.1 of this SOP. The completed form is included in the HMIS folder for the special permit application.

It is important to note that the Project Officer may complete the equivalent level-of-safety evaluation if the application is of a non-technical nature (e.g., special permits related to hazardous communications). Also, an OA Coordinating Official is often delegated responsibility to act as the Technical Officer for mode-specific special permit applications and complete the equivalent level-of-safety evaluation. In these instances, the Coordinating Official uses “The Special Permit Evaluation Form for New Applications” to complete his or her review.

Once the equivalent level-of-safety evaluation is complete, the Project Officer reviews the evaluation language. At this time, the Project Officer prepares either the final draft of the special permit or the denial letter, depending on the outcome of the equivalent level-of-safety evaluation. The Project Officer also coordinates with the OAs at this point in the process if formal modal coordination is included as part of the evaluation plan. The relevant OAs (i.e., FAA Coordinating Official, FMCSA Coordinating Official, FRA Coordinating Official, and USCG Coordinating Official) review the application materials and the technical evaluation and provide comments and recommendations. OAs may also recommend operational restrictions or limitations to be incorporated into the special permit. It is the responsibility of the OAs to inform the Project Officer of their comments and recommendations as referenced in the Section 6.3 on OA coordination.

If the OAs do not concur with the recommendation based on the evaluation made by PHMSA, then the Project Officer sends the application materials, along with any input from the OAs, to the Approving Official. The Approving Official coordinates with the Administrator, as appropriate, and then works with the OAs to reach a resolution.

October 13, 2009

Once a recommendation has been made to issue or deny a special permit, the Project Officer either finalizes the special permit or drafts and sends a denial letter to the Approving Official for review.

4.2.1.3 Procedures

Table 6: Application Evaluation for New Special Permits

#	Description	Responsibility	Duration
1	Conduct Fitness Evaluation The evaluation phase begins with the Project Officer checking HIP and SAFER for past violations or incidents of applicant. If violation/incident records exist, they are added to the HMIS folder for reference during the evaluation. See Fitness Review sub-process in section 6.2 for details.	Project Officer	NA
2	Is Applicant Fit? Determine if applicant is fit to conduct operations under the special permit. If applicant is determined fit, skip to step 4.	Project Officer	NA
3	Deny SP If applicant is determined unfit to receive special permit, application is denied and project officer determines if applicant holds additional SPs; refer to Fitness Review sub-process in section 6.2 for details.	Project Officer	NA
4	Does Evaluation Plan Include OA or Technical Evaluation? If applicant is determined fit to receive the special permit, the Project Officer references the evaluation plan and coordinates the evaluation with the appropriate PHMSA offices or OAs.	Project Officer	NA
5	If project plan includes OA technical evaluation, skip to step 14. If project plan includes FRA review, send to OA Coordinating Official via HMIS.	Project Officer	NA
6	Review Application Folder in HMIS Receive PDF of HMIS Evaluation Form and supporting documents.	OA Coordinating Officials	NA
7	Does Application Pertain to Bulk Shipments by Rail? If yes, skip to step 9.	OA Coordinating Officials	NA
8	Conduct Fitness Evaluation If application does not pertain to bulk shipments by rail, conduct fitness evaluation.	OA Coordinating Officials	NA
9	Conduct Equivalent Level-of-Safety Evaluation An evaluation is conducted based on the information provided to determine whether an equivalent level of safety is achieved. Determine if provisions need to be added to the SP.	OA Coordinating Officials	NA
10	Recommend Special Permit? If not, draft justification for denial letter and send to Project Officer via HMIS.	OA Coordinating Officials	NA
11	If yes, determine if restrictions or limitation need to be added to the special permit, updated special permit, and draft evaluation justification. Send to Project Officer via HMIS.	OA Coordinating Officials	NA
12	Send to Technical Specialist Send OA technical evaluation to Technical Officer via HMIS	Project Officer	NA
13	Review FRA Technical Evaluation Once review is complete send to Senior Technical Officer via HMIS, skip to step 19.	Technical Officer	NA
14	Re-assign to Appropriate Specialist If a technical review is needed, then the Senior Technical Officer assigns the application to the appropriate staff for review.	Senior Technical Officer	NA

#	Description	Responsibility	Duration
15	Conduct Equivalent Level-of-Safety Evaluation The technical expert evaluates application to determine whether modification to SP achieves an equivalent level of safety as provided under the HMR. Conduct equivalent level of safety evaluation using Safety Documentation Evaluations form; refer to section 7.1 for details.	Technical Officer	NA
16	Consult Modes As Necessary Consult OA Coordinating Officials on equivalent level of safety evaluation (if necessary).	Technical Officer	NA
17	Draft Technical Justification or Denial Letter Draft technical justification for special permit or denial letter justification and send to Senior Technical Officer for review via HMIS.	Technical Officer	NA
18	Review Technical Evaluation Senior Technical Officer reviews letter as a quality assurance measure, and then send to Project Officer via HMIS.	Senior Technical Officer	NA
19	Review Technical Evaluation and SP Draft Project officer reviews the technical evaluation form and revised special permit language.	Project Officer	NA
20	Does Evaluation Plan Include Modal Concurrence? Project Officer decides whether OA review and concurrence is included in evaluation plan. If project plan includes concurrence by OA Coordinating Official(s), send application materials to appropriate officials via HMIS. If it does not include concurrence, skip to step 30.	Project Officer	NA
21	Review Application Folder in HMIS Receive PDF of HMIS Evaluation Form and supporting documents.	OA Coordinating Officials ⁶	NA
22	Review Fitness and Equivalent Level-of-Safety Evaluation An evaluation is conducted based on the information provided to determine whether an equivalent level of safety is achieved. Determine if provisions need to be added to the SP.	OA Coordinating Officials	NA
23	Provide Concurrence Decision and Justification. If mode does not concur, then an explanation for this decision is provided. Mode also provides restrictions/ limitations for SP, if any.	OA Coordinating Officials	NA
24	Review Concurrence Decision and Justification Project Officer reviews OA concurrence decision and justification for completeness.	Project Officer	NA
25	Does Modal Recommendation Concur with PHMSA Evaluation? If yes, skip to step 30.	Project Officer	
26	Coordinate and Document Resolution If modal recommendation does not concur with PHMSA evaluation, Approving Official coordinates with the Administrator, as appropriate on resolution of PHMSA/OA Coordinating Official decisions. Skip to step 30.	Approving Official	NA
27	Conduct Equivalent Level-of-Safety Evaluation If project plan does not include OA or technical evaluation, then conduct evaluation using Safety Documentation Evaluations form to determine if special permit application provides an equivalent level of safety as that in HMR; refer to section 7.1 for details.	Project Officer	NA
28	Write Evaluation Justification If equivalent level-of-safety test is met, then draft justification language, finalize special permit and send to Approving Official via HMIS; skip to step 30.	Project Officer	NA

⁶ The FRA Coordinating Official, FAA Coordinating Official, FMCSA Coordinating Official, and USCG Coordinating Official could all be involved in this step of the process.

#	Description	Responsibility	Duration
29	Draft Justification for Denial Letter If equivalent level-of-safety test is not met, then draft justification for denial letter, finalize denial letter, and send to Approving Official via HMIS.	Project Officer	NA
30	Review Evaluation Form for Completeness The Project Officer reviews the SP HMIS folder to ensure all relevant information is captured correctly.	Project Officer	NA
31	Finalize SP or Denial Letter The final review of the SP includes checking for format, content, and spelling. Also validate with office liaisons as necessary.	Project Officer	NA

This concludes the application evaluation process for new special permits. At this point, the application moves to the Disposition Phase of the application action process, which is described in Section 4.3.

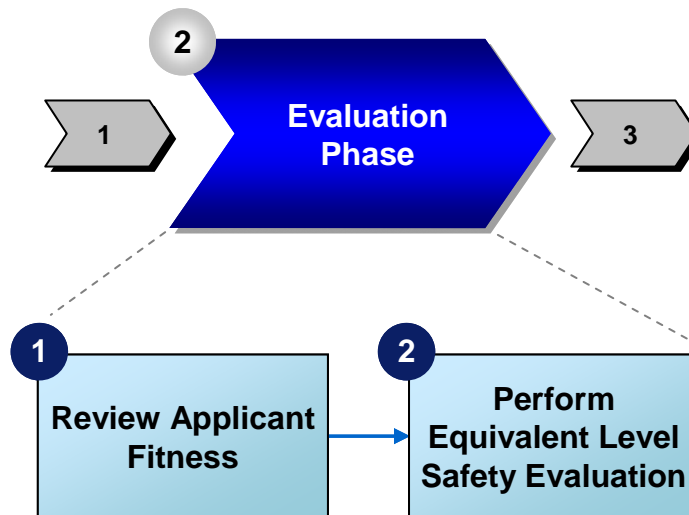
4.2.2 Applications for Modifications to Existing Special Permits

4.2.2.1 Purpose

The purpose of this step is to determine whether an applicant for a modification to an existing special permit is fit and whether the application provides a level of safety equivalent to the level of safety afforded by the HMR.

4.2.2.2 Workflow

Figure 4: Application Evaluation Workflow for Modifications of Special Permits



After PHMSA determines that an application for a modification to a special permit is complete, the agency performs a comprehensive evaluation to determine whether the proposed modification would provide an equivalent level of safety as that provided by the HMR. While it may differ slightly depending on the nature of the application, the evaluation process for modifications typically involves two core procedures: (1) an applicant fitness review; and (2) an equivalent level-of-safety evaluation.

4.2.2.2.1 Review Applicant Fitness

The applicant fitness review is consistent across all special permit application types. The Fitness Review Sub-Process in Section 6.2 provides a detailed description of the key steps involved in this effort. Pending enforcement investigations or other compliance information will be provided by the Enforcement Liaison.

4.2.2.2.2 Perform Equivalent-Level-of-Safety Evaluation

The equivalent-level-of-safety evaluation is consistent across all special permit application types. Section 4.2.1.2.2 describes the key steps for this effort. “The Special Permit Evaluation Form for New Applications” is provided to complete this step of the process. A copy of this form can be found in Section 7.1 of this SOP.

Once the equivalent level-of-safety evaluation is complete, the Project Officer reviews the evaluation language. At this time, the Project Officer prepares the final draft of the modification or denial letter, depending on the outcome of the equivalent level-of-safety evaluation. The Project Officer also coordinates with the OAs at this point in the process if formal modal coordination is included as part of the evaluation plan. The relevant OAs (i.e., FAA Coordinating Official, FMCSA Coordinating Official, FRA Coordinating Official, and USCG Coordinating Official) review the application materials and decide to concur or not concur with PHMSA’s evaluation. OAs may also recommend specific limitations or restrictions for inclusion in the modification. It is the responsibility of the OAs to inform the Project Officer of their concurrence or non-concurrence in the timeframe agreed upon in the project evaluation (reference Section 6.3).

If the OAs do not concur with PHMSA’s evaluation, then the Project Officer sends the application materials, along with any input from the OAs, to the Approving Official. The Approving Official coordinates with the Administrator, as appropriate, and then works with the OAs to reach a resolution.

Once a recommendation has been made to issue or deny a modification, the Project Officer finalizes either the modification of special permit or the denial letter and sends it to the Approving Official for review.

4.2.2.3 Procedures

Table 7: Application Evaluation for Modifications to Special Permits

#	Description	Responsibility	Duration
1	Conduct Fitness Evaluation The evaluation phase begins with the Project Officer checking HIP and SAFER for past violations or incidents of applicant. If violation/incident records exist, they are added to the HMIS folder for reference during the evaluation. Refer to Fitness Review sub-process in section 6.2 for details.	Project Officer	NA
2	Is Applicant Fit? Determine if applicant is fit to conduct operations under the special permit. If applicant is determined fit, skip to step 4.	Project Officer	NA

#	Description	Responsibility	Duration
3	Deny SP If applicant is determined unfit to receive special permit, application is denied and project officer determines if applicant holds additional SPs; refer to Fitness Review sub-process in section 6.2.	Project Officer	NA
4	Does Evaluation Plan Include Technical Evaluation? If applicant is determined fit to receive the special permit, the Project Officer decides whether review and concurrence is needed from technical experts at FRA, FAA, FMCSA, and USCG. If it is needed, skip to step 7.	Project Officer	NA
5	Evaluate Modification Request The Project Officer either recommends that the modification to the SP be granted or denied.	Project Officer	NA
6	Draft Justification or Denial Letter Project Officer drafts a justification explaining the decision in HMIS; skip to step 21.	Project Officer	NA
7	Assign to Appropriate Staff If a technical review is needed, then the Senior Technical Officer assigns the application to the appropriate staff for review.	Senior Technical Officer	NA
8	Evaluate Modification Request The technical expert evaluates application to determine whether modification to SP achieves an equivalent level of safety as provided under the HMR.	Technical Officer	NA
9	Consult OAs as Necessary Consult OA Coordinating officials on equivalent level of safety evaluation (if necessary).	Technical Officer	NA
10	Recommends Modification? The technical expert recommends whether or not PHMSA should issue the modification to the SP based on OA and his/her evaluation.	Technical Officer	NA
11	Draft Technical Justification or Denial Letter Draft letter and send to Senior Technical Officer for Review via HMIS.	Technical Officer	NA
12	Review Technical Evaluation Senior Technical Officer reviews letter as a quality assurance measure, and then send to Project Officer via HMIS.	Senior Technical Officer	NA
13	Review Technical Evaluation Form and Revised SP Draft The Project Officer reviews the technical evaluation form and revised special permit language.	Project Officer	NA
14	Does Evaluation Plan Include Modal Concurrence? Project Officer decides whether OA review and concurrence is included in evaluation plan and provides concurrence package to the OA(s) specified in the plan. If project plan includes concurrence by OA Coordinating Official(s), send application materials to appropriate officials via HMIS. If it does not include concurrence, skip to step 21.	Project Officer	NA
15	Review Application Folder in HMIS Receive PDF of HMIS Evaluation Form and supporting documents.	OA Coordinating Officials	NA
16	Review Fitness and Equivalent Level-of-Safety Evaluation An evaluation is conducted based on the information provided to determine whether an equivalent level of safety is achieved. Determine if provisions need to be added to the SP.	OA Coordinating Officials	NA
17	Provide Concurrence Decision and Justification. If mode does not concur, then an explanation for this decision is provided. Mode also provides restrictions/ limitations for SP, if any.	OA Coordinating Officials	NA
18	Review Concurrence Decision and Justification Project Officer reviews OA concurrence decision and justification for completeness.	Project Officer	NA

#	Description	Responsibility	Duration
19	Does Modal Recommendation Concur with PHMSA Evaluation? If yes, skip to step 21.	Project Officer	
20	Coordinate and Document Resolution If modal recommendation does not concur with PHMSA evaluation, Approving Official coordinates with the Administrator as appropriate on resolution of PHMSA/OA Coordinating Official decisions.	Approving Official	NA
21	Review Evaluation Form for Completeness The Project Officer reviews the SP HMIS folder to ensure all relevant information is captured correctly.	Project Officer	NA
22	Finalize SP or Denial Letter The final review of the SP includes checking for format, content, and spelling.	Project Officer	NA

This concludes the application evaluation process for modifications of special permits. At this point, the application moves to the Disposition Phase of the application action process, which is described in Section 4.3.

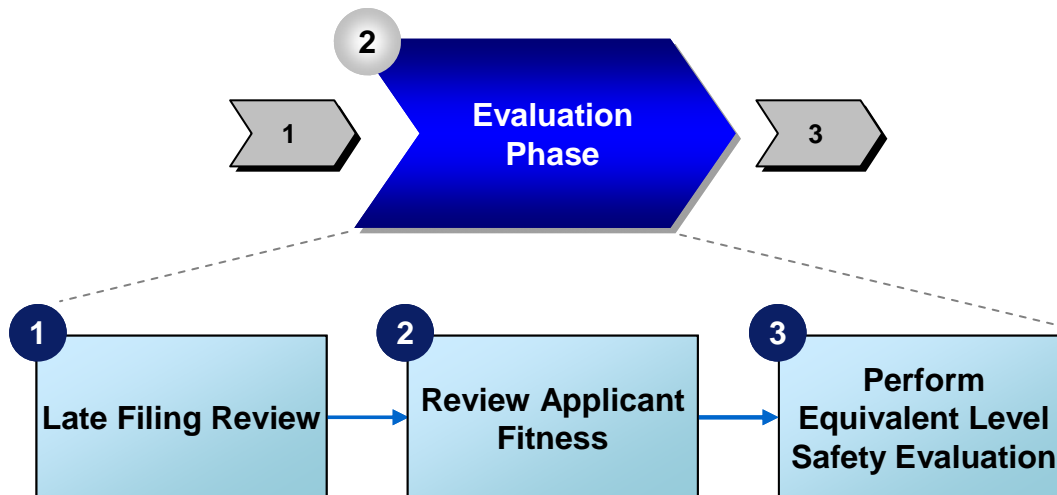
4.2.3 Applications to Renew Existing Special Permits

4.2.3.1 Purpose

The purpose of this step is to ascertain whether an application to renew an existing special permit provides a level of safety equivalent to the level of safety afforded by the HMR.

4.2.3.2 Workflow

Figure 5: Application Evaluation Workflow for Special Permit Renewals



After PHMSA determines that an application for renewal of a special permit is complete, the agency performs a comprehensive evaluation to ascertain whether the proposed renewal would provide an equivalent level of safety as that provided by the HMR. While the equivalent level-of-safety evaluation may differ slightly depending on the nature of the application, the evaluation process for renewals typically involves three core procedures: (1) a late filing review; (2) an applicant fitness review; and (3) an equivalent level-of-safety evaluation.

4.2.3.2.1 Late Filing Review

Prior to the standard applicant fitness review, the Project Officer reviews the application submission date and the original special permit expiration date. If the renewal application was submitted within 60 days of the expiration date of the special permit, then the Project Officer drafts and sends a late filing letter to the applicant.

If the submission date of the renewal application is after the special permit expired, then a letter is sent to the applicant requesting additional information regarding the use of the special permit after the expiration date. If the applicant indicates that operations under the special permit continued after the expiration date, then an enforcement memo is drafted and sent to the Enforcement Liaison, who initiates an investigation of the applicant and communicates the results to the Project Officer. At this point, or if the application for the renewal was submitted in a timely manner, the Project Officer conducts the standard applicant fitness review, which is documented in Section 6.2 of this SOP.

4.2.3.2.2 Review Applicant Fitness

The applicant fitness review is consistent across all special permit application types. Please reference the Fitness Review Sub-Process in Section 6.2, which provides a detailed description of the key steps involved in this effort. Pending enforcement investigations or information will be provided by the Enforcement Liaison.

4.2.3.2.3 Perform Equivalent Level-of-Safety Evaluation

The equivalent-level-of-safety evaluation is consistent across all special permit application types. Section 4.2.1.2.2 describes the key steps for this effort. “The Special Permit Evaluation Form for New Applications” is provided to complete this step of the process. A copy of this form can be found in Section 7.1 of this SOP. This evaluation includes checking for regulatory changes that could impact the original special permit issued and pending incidents involving the special permit.

Once the equivalent level-of-safety evaluation is complete, the Project Officer reviews the evaluation language. At this time, the Project Officer prepares the final draft of the renewal or denial letter, depending on the outcome of the equivalent level-of-safety evaluation. The Project Officer also coordinates with the OAs at this point in the process if formal modal coordination is needed. The relevant OAs (i.e., FAA Coordinating Official, FMCSA Coordinating Official, FRA Coordinating Official, and USCG Coordinating Official) review the application materials and decide to concur or not concur with PHMSA’s evaluation. OAs may also recommend specific limitations or restrictions for inclusion in the renewal. It is the responsibility of the OAs to inform the Project Officer of their concurrence or non-concurrence in a timely manner. The input from the OAs is included in the HMIS folder.

If the OAs do not concur with PHMSA, then the Project Officer should send the application materials, along with any input from the OAs, to the Approving Official. The Approving Official coordinates with the Administrator, as appropriate, and then works with the OAs to reach a resolution.

October 13, 2009

Once a recommendation has been made to issue or deny a renewal, the Project Officer finalizes either the renewal of the special permit or the denial letter and sends it to the Approving Official for review.

4.2.3.3 Procedures

Table 8: Renewal Application Evaluation Review Procedures

#	Description	Responsibility	Duration
1	Application Submitted 60 Days Prior to Expiration Date? If yes, skip to step 10. If application was not submitted 60 days prior to expiration date, project officer draft a late filing letter requesting information on shipments before and after the expiration date.	Project Officer	NA
2	Sign and Send Late Filing Letter	Approving Official	NA
3	Application Submitted Prior to the Expiration Date? Determine if application was submitted prior to the expiration date of the special permit. If it was submitted prior to expiration date, skip to step 10.	Project Officer	NA
4	Generate Letter Asking if SP Was Used to Make Shipments. If the application was not submitted prior to the expiration date of the special permit, Project Officer generates a letter asking the applicant if the SP was used to make shipments during the time it was expired.	Project Officer	NA
5	Provide Requested Information? Applicant is asked to provide requested information within 10 days. If applicant provides the requested information, skip to step 7.	Applicant	NA
6	Rejection Letter Sent to Applicant If applicant does not provide requested information, a rejection letter is sent via email.	Project Officer	
7	Did Applicant Continue Activity Under Expired SP? Determine if applicant continued activity under an expired SP. If they did not, then skip to step 10.	Project Officer	NA
8	Sign Enforcement Memo	Approving Official	NA
9	Conduct Investigation of Applicant. Upon conclusion of investigation, skip to step 13.	Enforcement Liaison	NA
10	Conduct Fitness Evaluation The evaluation phase begins with the Project Officer checking HIP and SAFER for past violations or incidents of applicant. If violation/incident records exist, they are added to the HMIS folder for reference during the evaluation. Refer to Fitness Review sub-process in section 6.2 for details.	Project Officer	NA
11	Is Applicant Fit? Determine if applicant is fit to conduct operations under the special permit. If yes, skip to step 13.	Project Officer	NA
12	Deny SP. If applicant is determined unfit to receive special permit, application is denied and project officer determines if applicant holds additional SPs; refer to Fitness Review sub-process in section 6.2.	Project Officer	NA
13	Evaluate Renewal Application. Project officer evaluates the renewal application.	Project Officer	NA
14	Needs Modal Review? Project Officer determines whether OA review and concurrence is necessary. If yes, skip to step 17.	Project Officer	NA
15	Recommend for Renewal? Project officer determines if applicant should be recommended for renewal.	Project Officer	NA

#	Description	Responsibility	Duration
16	Draft Justification for Denial or Evaluation Justification Letter If Applicant Is Recommended For Renewal , Project Officer drafts evaluation justification letter; skip to step 23. If applicant is not recommended, Project Officer drafts denial letter skip to step 24.	Project Officer	NA
17	Review Application Folder in HMIS Receive PDF of HMIS Evaluation Form and supporting documents. (Original SP application is not provided.)	OA Coordinating Officials	NA
18	Review Fitness and Equivalent Level Safety Evaluation An evaluation is conducted based on the information provided to determine whether an equivalent level of safety is achieved. FMCSA Carrier compliance data is also reviewed during this evaluation.	OA Coordinating Officials	NA
19	Provide Concurrence Decision and Justification If mode does not concur, then an explanation for this decision is provided.	OA Coordinating Officials	NA
20	Review Concurrence Decision and Justification Determine if recommendation concurs with PHMSA decision.	Project Officer	NA
21	Does Modal Recommendation Concur with PHMSA Evaluation? If yes, skip to step 23.	Project Officer	
22	Coordinate and Document Resolution If modal recommendation does not concur with PHMSA evaluation, Approving Official coordinates with the Administrator as appropriate on resolution of PHMSA/OA Coordinating Official decisions.	Approving Official	NA
23	Modify SP Language as Appropriate If OAs recommend provisions, incorporate provisions into SP draft.	Project Officer	NA
24	Review Evaluation Form for Completeness The Project Officer reviews the SP HMIS folder to ensure all relevant information is captured correctly.	Project Officer	NA

This concludes the application evaluation process for special permit renewals. At this point, the application moves to the Disposition Phase of the application action process, which is described in Section 4.3.

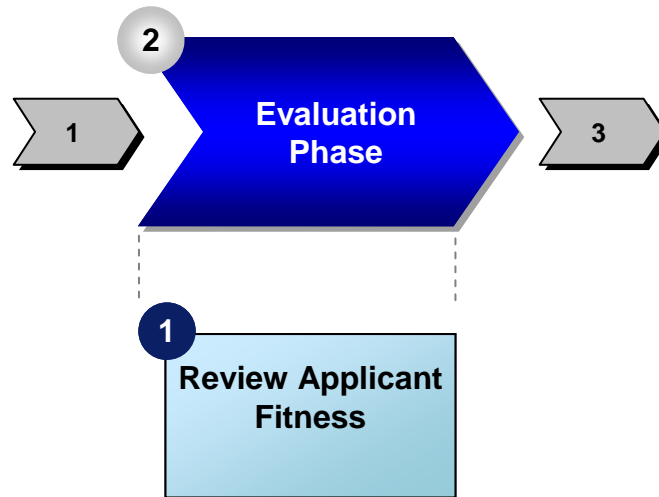
4.2.4 Applications to Gain Party Status to Existing Special Permits

4.2.4.1 Purpose

The purpose of this step is to ascertain whether an applicant requesting party status to an existing special permit is fit to perform the operations authorized under the special permit.

4.2.4.2 Workflow

Figure 6: Application Evaluation Workflow for Party Status to Special Permits



After PHMSA determines that an application for party status to a special permit is complete, the agency performs a fitness review to ascertain whether the applicant is fit to hold party status to a special permit. Since PHMSA conducted an equivalent level-of-safety evaluation during the processing and approval of the original special permit, this evaluation is not required for party status application evaluations.

4.2.4.2.1 Review Applicant Fitness

After the review for application completeness is conducted and if it is determined that the applicant has no record of previous party status to the same special permit, the applicant fitness review begins. The applicant fitness review is consistent across all special permit application types. Please reference the Fitness Review Sub-Process in Section 6.2, which provides a detailed description of the key steps involved in this effort. Pending enforcement investigations or information will be provided by the Enforcement Liaison.

The process for evaluating applications for party status is based on the outcome of the fitness review of the applicant. Once a recommendation has been made to issue or deny party status to a special permit, the Project Officer finalizes either the party status or the denial letter and sends it to the Approving Official for review.

4.2.4.3 Procedures

Table 9: Party to Application Evaluation Review Procedures

#	Description	Responsibility	Duration
1	Document Expiration Date Note SP expiration date.	Project Officer	NA
2	Conduct Fitness Evaluation The evaluation phase begins with the Project Officer checking HIP and SAFER for past violations or incidents of applicant. If violation/incident records exist, they are added to the HMIS folder for reference during the evaluation. Refer to Fitness Review sub-process in section 6.2 for details, including Approving Official coordination with the Administrator, as appropriate on resolution of PHMSA/OA Coordinating Official decisions.	Project Officer	NA
3	Determine Applicant Fitness If applicant is fit, skip to step 5.	Project Officer	NA
4	Deny SP If applicant is determined unfit to receive special permit, application is denied and project officer determines if the applicant holds additional SPs; refer to Fitness Review sub-process in section 6.2.	Project Officer	NA
5	Recommend for Party Status If project officer decides to recommend the applicant for party status, skip to step 7.	Project Officer	NA
6	Draft Justification for Denial Letter If the Project Officer does not recommend issuing the SP, a justification explaining this decision is drafted in HMIS.	Project Officer	NA
7	Write Evaluation Justification If the Project Officer recommends issuing the SP, a justification explaining this decision is drafted in HMIS.	Project Officer	NA

This concludes the Application Evaluation Phase for party status to existing special permits. At this point, the application moves to the Disposition Phase of the application action process.

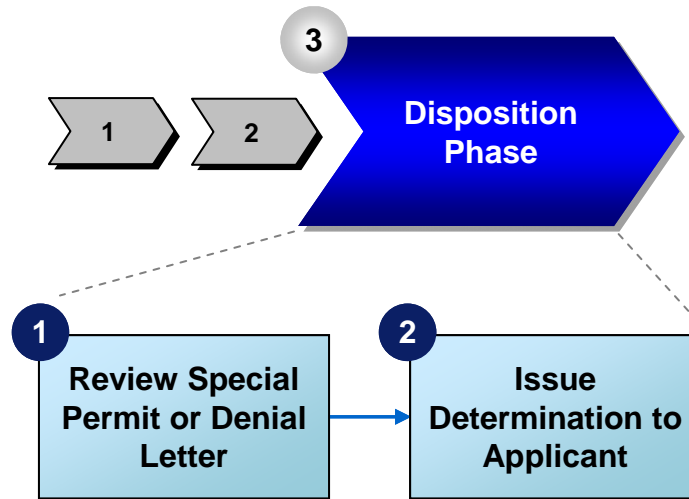
4.3 Application Disposition

4.3.1.1 Purpose

The purpose of this step, which is uniform across all application types, is to review the recommendation to deny or grant a special permit and then inform the applicant of the decision reached by PHMSA in the application evaluation process.

4.3.1.2 Workflow

Figure 7: Application Disposition Workflow



At the beginning of the Disposition Phase, the Approving Official reviews the special permit or application denial letter, depending on the outcome of the evaluation phase. If there are questions about the outcome of the evaluation phase, the Approving Official contacts the Project Officer, Technical Specialist, or other relevant participants including OAs. The Approving Official will also coordinate with the Administrator for review and approval of significant Special Permits, based on public interest or other criteria, as determined by the Administrator. Once all remaining issues are resolved and documented in the HMIS file, the Approving Official makes a final disposition on the special permit application and notifies the OAs.

If the special permit is granted, the Approving Official signs the special permit and authorization letter. Both documents are then sent to the applicant via HMIS. At this point, the OAs are informed that the special permit has been granted, and the Project Officer updates the status of the application on PHMSA’s website.

If the application is to be denied, the Approving Official signs the denial letter and it is then sent to the applicant via HMIS. At this point, the OAs are also notified that the permit was denied. The Project Officer then updates the status of the application on the PHMSA website. The applicant has the option to ask the agency to reconsider its decision. Section 6.4 of this SOP provides more detail on this reconsideration sub-process.

If PHMSA fails to reconsider a denied special permit, the applicant may also appeal PHMSA’s decision. Section 6.5 of this SOP provides more detail on this appeal sub-process .

4.3.1.3 Procedures

Table 10: Application Disposition

#	Description	Responsibility	Duration
1	Review Special Permit or Denial Letter. Review relevant documents and the justification for issuing a special permit or denial letter. The Approving Official will coordinate with the Administrator for review and approval on special permits proposed to be issued based on public interest or other significant special permits, as determined by the Administrator.	Approving Official, Administrator	NA
2	Sign Special Permit or Denial Letter. After the review and the Administrator's approval, as appropriate, the Approving Official is responsible for signing the special permit or denial letter.	Approving Official	NA
3	Send Special Permit or Denial Letter to Applicant and Relevant PHMSA Office Liaisons and OA Coordinating Officials. After the special permit and authorizing letter or denial letter is signed by the Approving Official, HMIS will automatically send a notice including the signed documents.	HMIS	NA
4	Change Application Status on PHMSA Website. After the document has been electronically signed, HMIS will also trigger a change in application status to approved on the PHMSA website.	HMIS	NA

At the conclusion of the disposition phase, the special permits application action process ends. Maintenance and oversight of active permits is managed and tracked as part of the general correspondence process, which is described in Section 5.0.

5 GENERAL CORRESPONDENCE PROCESS

The general correspondence process can be initiated by external requests from special permit holders and applicants or internal actions originating from technical findings and recommendations. The types of external requests include:

- Interpretation
- Clarification
- Revision
- Reconsideration
- Appeal
- Other.

Enforcement and compliance reviews, incident data, or technical findings may impact existing special permits and may result in the need for PHMSA to take action to issue:

- Show-Cause letter
- Termination letter.

These letters outline intended actions regarding special permits based on PHMSA's determination that the measure imposed under the special permit may not be sufficient to ensure that the special permit provides an equivalent level of safety as provided by the HMR or that the grantee may no longer be fit to conduct the operations authorized by the special permit. These letters are initiated by PHMSA, require action from permit holders, and mandate legal review.

5.1 Purpose

The purpose of general correspondence is to allow PHMSA to respond to inquiries in a documented and an organized manner. Additionally, PHMSA can communicate internally initiated action(s) with special permit holders through the general correspondence.

5.2 Workflow

Figure 8: General Correspondence Process



5.2.1 External Requests

External requests are initiated by special permit holders and applicants. When an external request is received, the Project Officer conducts an initial review and determines whether it is an interpretation, clarification, revision, reconsideration, appeal, or other request.⁷

5.2.1.1 Review and Coordination Phase

After determining the type of external request, the Project Officer creates a folder in HMIS and populates the appropriate information. The Project Officer then reviews the request and determines whether it needs to be reviewed by any of the OA Coordinating Officials or other offices within PHMSA. If a coordinated review is needed, the Project Officer is responsible for communicating with the relevant contacts and incorporating feedback provided in order to inform what actions should be initiated.

5.2.1.2 Action Determination Phase

Once the request has been reviewed, the Project Officer determines the most effective means to respond. In most cases, a general correspondence letter is drafted to the applicant. This letter is intended to address the inquiries presented in the initial request. In the case of requests for revisions to a special permit, if a revision is determined necessary, a letter is sent to the original requester as well as all other entities that hold the same special permit.

5.2.1.3 Disposition Phase

The Approving Official is responsible for reviewing all general correspondence documentation intended for distribution. The Approving Official will coordinate with the Administrator on General Correspondence on significant issues, as determined by the Administrator. After reviewing the documents, the Approving Official or Administrator must sign the general correspondence documents before they are sent to applicant and other relevant entities.

5.2.2 Internal Actions

Internal actions are typically generated from findings that impact current special permits and require an action and communication with special permit holders. PHMSA monitors information such as enforcement inspections and investigations, technical advancements, and accident data that may result in findings that require action to ensure safety and compliance with special permits. These recommendations can initiate the need for a show-cause or termination letter.

5.2.2.1 Review and Coordination Phase

The Project Officer creates a folder in HMIS and populates the appropriate information for the show-cause or termination letter. The Project Officer then requests a justification for the restrictions from the person who initiated the recommended action (e.g., Technical Officer, Enforcement Liaison, OA Coordination Official). The Project Officer coordinates a review with the Legal Counsel as the process involves possible modification or termination of potential property rights. No show-cause or termination letter may proceed without legal concurrence.

⁷ Note that the processes for reconsideration and appeal request vary from other external requests handled by general correspondence. The reconsideration and appeal sub-processes are discussed in detail in Sections 6.4 and 6.5.

October 13, 2009

After the justification is completed, the Project Officer drafts the show-cause or termination letter and sends it to the relevant special permit holders.

5.2.2.2 Action Determination Phase

Special permit holders have 30 days from receipt of a show-cause or termination letter to respond. If the special permit holder fails to respond during this timeframe, the action outlined in the show-cause or termination letter is recommended by the Project Officer and sent for review by the Approving Official. If the applicant responds within the 30 days, the Technical Officer determines whether the initial action outlined in the show-cause or termination letter should be executed or suspended upon the review and advice of the Legal Counsel. If a recommendation for action is made, the Approving Official is responsible for reviewing the recommendation prior to the execution of the action.

5.2.2.3 Disposition Phase

The Approving Official is responsible for conducting a review of the show-cause or termination letter, and the special permit holder response (if applicable). The Approving Official will coordinate with the Administrator on General Correspondence on significant issues, as determined by the Administrator, and the final action recommended. After reviewing the relevant information, the Approving Official or the Administrator must sign the general correspondence documents before the final action is executed.

After a show-cause letter is issued and a decision is rendered, the affected entity may make a request for reconsideration. A legal review of the reconsideration is required, and the Approving Official is responsible for issuing a decision. That decision on reconsideration may be appealed. For appeals, the agency's total file is provided to the Adjudication Counsel in the Office of Chief Counsel. The Adjudication Counsel reviews the file and the decisions, and advises the Approving Official on the final agency order—including the drafting of the official Final Order on Appeal.

6 SUPPORTING SUB-PROCESSES

This section describes the sub-processes used to evaluate different types of special permit applications.

6.1 Emergency Special Permit Application Review Sub-Process

Emergency processing may be requested for any type of special permit application (e.g., new, modification, renewal, and party status applications). Applicants must clearly justify why emergency processing is necessary and demonstrate that an equivalent level of safety is met.

6.1.1 Purpose

The purpose of establishing a process for emergency processing of special permit applications is to provide an efficient and thorough approach for evaluating applications that have an immediate and justifiable need for expedited review. Due to the time sensitive nature of many emergency applications, information is communicated among relevant PHMSA and OA Coordinating Officials, as well as the applicant, by the most rapid means available.

6.1.2 Work Flow

Figure 9: Application Workflow for Emergency Processing of Special Permits



6.1.2.1 Emergency Processing Justification Review

After PHMSA receives an application requesting emergency processing, the Project Officer sends the application to the affected operating administration(s) for simultaneous review for both to determine whether emergency processing is warranted. This determination is made based on the information provided in the application and through communication with the applicant. In accordance with Section 107.117 of the HMR, emergency processing may be initiated if the following criteria are met:

1. Emergency processing is necessary to prevent significant injury to persons or property (other than the hazardous material to be transported) that could not be prevented if the application were processed on a routine basis; or
2. Emergency processing is necessary for immediate national security purposes or to prevent significant economic loss that could not be prevented if the application were processed on a routine basis.⁸

⁸ HMR: Section 107.177

If timely submission of an application could have been made, PHMSA may deny the request for emergency processing despite significant economic loss. Additionally, requests for emergency processing on the basis of potential economic loss must reasonably describe and estimate the potential loss.⁹

If the Project Officer finds that emergency processing is not warranted for the application, then the Approving Authority is responsible for reviewing the Project Officer's explanation and communicating this decision to the applicant. Applications that are rejected based on the determination that an emergency does not exist are not subject to reconsideration. However, applications will be evaluated following the standard process.

6.1.2.2 Review Applicant Fitness

The steps included in the applicant fitness review for emergency processing are consistent with the standard processing. However, when emergency processing is required, the fitness review may take place concurrently with the equivalent level-of-safety evaluation. Please reference the Fitness Review Sub-Process in Section 6.2, which provides a detailed description of the key steps involved in this effort.

6.1.2.3 Perform Equivalent Level-of-Safety Evaluation

After the application is granted emergency processing, the Project Offer determines the evaluation needs of the application. Depending on the content of the application, the Project Officer may need to coordinate with the Technical Officer or the relevant OA Coordinating Officials to evaluate whether the application demonstrates an equivalent level of safety to what is outlined in the Federal Regulations. If necessary, recommendations are made for additional provisions to be included in the special permit as a result of the evaluation.

If the results from the evaluation fail to demonstrate an equivalent level of safety, the evaluator recommends that the application be denied and drafts a justification for a denial letter. The Approving Official is responsible for reviewing the application and the recommendation to either grant or deny a special permit. . The Approving Official will coordinate with the Administrator for review and approval of Emergency Special Permit applications, as determined by the Administrator. After making a determination, the Approving Official or the Administrator communicates the decision to the applicant using the most rapid means available. If a special permit is granted through an emergency application, PHMSA is responsible for publishing a notice of issuance in the *Federal Register* within 90 days of granting the special permit.

6.2 Fitness Review Sub-Process

6.2.1 Purpose

This chapter sets forth the procedures for evaluating the fitness of an applicant for a new special permit or renewal of a previously issued special permit authorizing operations or activities not otherwise provided for in the HMR. The evaluation will form the basis for a determination as to

⁹ HMR: Section 107.177

October 13, 2009

whether the applicant has the ability—and is likely to—conduct an operation or activity safely and in compliance with the special permit.

6.2.2 Definitions

- *Fitness* – means demonstrated and documented knowledge and capabilities resulting in the assurance of a level of safety and performance necessary to ensure compliance with the applicable provisions and requirements of the Hazardous Materials Regulations or a special permit or approval issued under the regulations.

6.2.3 Background

As set forth in 49 CFR 107.113(f)(5), before issuing a special permit, PHMSA makes a determination that the applicant “*is fit to conduct the activity authorized by the exemption or special permit.*” PHMSA may also modify, suspend, or terminate a special permit if it finds that the grantee has violated the special permit or the HMR in a manner demonstrating that the grantee is not fit to conduct the activity authorized by the special permit.

PHMSA uses quantitative criteria for evaluating the fitness of applicants that are submitting applications for:

- New special permits;
- Modifications to existing special permits;
- Renewals of expiring special permits; or
- Party status to an existing special permit.

These same criteria are also used for considering whether to propose to modify, suspend, or terminate the authority a grantee to conduct the activity authorized by a special permit.

Utilizing data extracted from the Hazardous Materials Intelligence Portal (HIP), the criteria provide performance-based measures to evaluate the applicant’s performance and ability to operate under the terms of the special permit as indicated in their application. The criteria provide a means to make a risk-based determination of the applicant’s fitness based on several factors, including registration, incident, inspection, and enforcement history. The factors are evaluated based on the number and severity of incidents or enforcement actions; the hazards of the materials being transported and the form of packaging (bulk/non-bulk) used in transporting the hazardous materials.

6.2.4 Initial Fitness Evaluation/Review

Upon receipt of an application for a special permit, or renewal, modification, or party status to a special permit, OHMSPA will:

- Enter the application into the Hazardous Materials Information System (HMIS);
- Conduct background research on the applicant using the Company name and the mailing and physical address(es) provided in the application. “Process for Conducting Company

October 13, 2009

Background Research for: SPECIAL PERMIT AND GENERAL APPROVAL Applications dated August 10, 2009” (attached).

- Evaluate the information from the background research.
- For applications pertaining to bulk shipments of hazardous materials by rail, applications will be forwarded to the Federal Railroad Administration to conduct the applicable fitness evaluation.

An applicant will be selected for an additional three-phased fitness determination whenever:

1. The applicant is requesting authorization to transport a § 172.504 Table 1 material.
2. In the four year period prior to the application, the applicant has been involved, directly or indirectly in the type and number of hazardous materials incidents below:
 - a) More than 1 “serious incident,” as defined by § 171.8, involving any hazardous material;
 - b) More than 1 hazardous materials incident involving any § 172.504 Table 1 material;
 - c) More than 1 hazardous materials incident involving a cargo tank motor vehicle, railroad tank car or other bulk packaging; or
 - d) More than 2 hazardous materials incidents involving any § 172.504 Table 2 materials in intermediate bulk or portable tank packaging; or
 - e) More than 30 hazardous materials incidents involving any § 172.504 Table 2 materials in non-bulk packagings.
3. In the four-year period prior to the application, the applicant has received any order or recommendation for a safety recall of a DOT specification, UN standard, or DOT special permit packaging.
4. In the four year period prior to the application, the applicant has received four civil enforcement cases and/or warning letters; or
5. A motor carrier applicants has:
 - a) A Motor Carrier Safety Rating of less than satisfactory according to the Federal Motor Carrier Safety Administration’s Safety and Fitness Electronic Records System (SAFER);
 - b) A HAZMAT Out of Service percentage of greater than the national average according to SAFER; or
 - c) A Driver or Vehicle Out-of-Service percentage of twice the national average or greater according to SAFER
6. Adverse trends are noted based on data analysis of accidents and/or investigations;

If the applicant does not meet one of those criteria, the applicant shall be considered to be “*fit to conduct the activity authorized by the exemption or special permit*” unless information available from other sources supports a determination that an applicant is a candidate for an Advanced Three Phased Fitness evaluation.

October 13, 2009

6.2.5 Advanced Fitness Evaluation/Review and Recommendations

Once an applicant is selected as a candidate for the advanced evaluation, PHMSA will conduct the following in-depth review of the applicant's safety history.

Phase 1 – PHH-30, PHH-20 and others as needed including Modal Administrations.

OHMSPA will review the documentation and conduct additional research, as appropriate, to evaluate the nature, circumstances, extent, and gravity of the matters that triggered the Advance Evaluation. Based on that review, which may include coordination with other offices within PHMSA and other modes within DOT, OHMSPA will either:

- Determine that the applicant is *“fit to conduct the activity authorized by the exemption or special permit,”* or
- Recommend a Phase 2 review.

The results of this phase will be documented and added to the applicable application folder.

Phase 2 – PHH-30, PHH-20, PHH-40, PHC-10 and Modal Partners as needed.

Upon a recommendation by OHMSPA for a Phase 2 review, PHH-30 will consult with PHH-10, 20, and 40 and PHC-10 and make a further evaluation of the nature, circumstances, extent, and gravity of the matters that triggered the Advance Evaluation and either:

- Determine that the applicant is *“fit to conduct the activity authorized by the exemption or special permit”* or
- Recommend a Phase 3 enforcement review.

The results of this phase will be documented and added to the applicable application folder.

Phase 3 – Enforcement Review

Based on the recommendation from Phase 2, PHMSA's Office of Hazardous Materials Enforcement will conduct and document a fitness compliance review of the Applicant in accordance with the OHME, Standard Operating Procedures (SOP) Chapter 19 - FITNESS COMPLIANCE REVIEWS AND ENFORCEMENT RECOMMENDATIONS. Based on that review, OHMSPA will make a determination that the applicant is:

- *“Fit to conduct the activity authorized by the exemption or special permit”* or
- *Not” fit to conduct the activity authorized by the exemption or special permit”*

The results of this phase will be documented and added to the applicable application folder and the application will be denied.

6.2.6 Additional Considerations

Once a determination of “Not fit” is made, PHMSA will determine whether the applicant holds

October 13, 2009

any other special permits or approvals to determine if additional actions need to be taken against the applicant. The special permits and approvals will be reviewed and compared to the factors that were the basis for the decision of “Not fit.” PHMSA will take steps to suspend or terminate the special permits or approvals as appropriate.

6.2.7 Modification, Suspension, or Termination

In any instance when there is reason to believe that a grantee of a special permit is not complying with the terms and conditions of the special permit or the HMR, OHMSPA will perform a Fitness Evaluation in accordance with Section 6.2.4 and, depending on the outcome, an Advance Fitness Evaluation in accordance with Section 6.2.5.

PHMSA’s Office of Hazardous Materials Enforcement and the Office of Chief Counsel will work with the OAs with hazardous materials safety enforcement authority to ensure that when these agencies identify fitness deficiencies or instances of noncompliance by grantees that OHMSPA is notified in a timely manner.

6.3 Coordinating with DOT OAs Sub-Process

6.3.1 Purpose

Establish specific interagency coordination and concurrence guidelines for applications for special permits submitted to the Pipeline and Hazardous Materials Safety Administration in accordance with 49 CFR Part 107. The guidelines will help to ensure that decisions to grant or deny special permits applications are based on complete information and include measures to ensure an equivalent level of safety for each mode of transport.

6.3.2 Parties

Federal Aviation Administration (FAA); Federal Motor Carrier Safety Administration (FMCSA); Federal Railroad Administration (FRA); United States Coast Guard (USCG); and Pipeline and Hazardous Materials Safety Administration (PHMSA).

6.3.3 Authority

Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 et seq.) authorizes the Department of Transportation to issue variances – termed special permits – from the Hazardous Materials Regulations (HMR) in a way that achieves a safety level at least equal to the safety level required under Federal hazmat law or consistent with the public interest and Federal hazmat law, if a required safety level does not exist. That authority is delegated to PHMSA.

Enforcement and compliance authority vested in the Secretary by the Federal hazmat law is delegated to the OAs as follows:

FAA - 49 CFR 1.47(k) – “...with particular emphasis on the transportation or shipment of hazardous materials by air.”

FMCSA – 49 CFR 1.73(d)- “...with particular emphasis on the transportation or shipment of hazardous materials by highway, including the manufacture, fabrication, making, maintenance, reconditioning, repair or test of containers which are represented, marked, certified, or sold for use in the bulk transportation of hazardous materials by highway.”

FRA – 49 CFR 1.49(s) – “... with particular emphasis on the transportation or shipment of hazardous materials by railroad, including manufacture, fabrication, marking, maintenance, reconditioning, repair, or test of containers which are represented, marked, certified, or sold for use in the bulk transportation or hazardous materials by railroad.”

PHMSA – 49 CFR 1.53(b)- “...with particular emphasis on the shipment of hazardous materials and the manufacture, fabrication, marking, maintenance, reconditioning, repair, or test of multi-modal containers that are represented, marked, certified, or sold for the use in the transportation of hazardous materials.”

The United States Coast Guard (USCG) in the Department of Homeland Security is authorized to enforce the HMR in connection with certain transportation or shipment of hazardous materials by water. This authority originated with the Secretary of Transportation and was first delegated to USCG prior to 2003, when USCG was made part of the Department of Homeland Security. DHS Delegation No. 0170, Sec. 2(99) & 2(100); see also 6 U.S.C. 458(b), 551(d)(2).

For purposes of this document, the term “Operating Administration” and its corresponding acronym “OA” include the DOT operating administrations identified above and the USCG.

6.3.4 PHMSA Responsibilities for Issuing Special Permits

A. General Responsibilities:

- PHMSA’s Office of Hazardous Materials Special Permits and Approvals (PHH-30) receives all applications for new, modification to, party to, and renewals of special permits related to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).
- PHH-30 reviews each application to ascertain that it conforms to the requirements set forth for special permit applications in 49 CFR Part 107 and meets the established criteria for each type of special permit.

B. Fitness Determinations:

- PHH-30 will work with the OAs to make a fitness determination for each applicant in accordance with established procedures in the Standard Operating Procedures for the Special Permits Program.

C. Special Permits of General Applicability:

October 13, 2009

- Special permits applications that relate to the manufacture, use, or testing of non-bulk or other intermodal packaging will be evaluated and approved or denied by PHH-30 after coordination with the OAs.
- Special permits applications that apply across all modes of transportation will be evaluated and approved or denied by PHH-30. Examples include special permits applications related to the classification of chemicals and other materials, and hazard communication.
- PHH-30 will notify the OAs on a regular basis of special permit applications that are under review to provide an opportunity for the OAs to (1) identify those that have mode-specific affects or impacts, or (2) to make comments and recommendations on individual applications.

D. Coordination of Mode-Specific Special Permits:

- Mode-specific special permits will be coordinated with the OA(s) that may be affected by or have particular expertise relevant to the transportation of hazardous materials in the requested transport mode. For example, applications for special permits applicable to the transportation of hazardous materials by aircraft will be coordinated with FAA; applications for special permits applicable to the transportation of hazardous materials by motor carrier will be coordinated with FMCSA; applications for special permits applicable to the transportation of hazardous materials by rail will be coordinated with FRA; and applicants for special permits applicable to the transportation of hazardous materials by vessel will be coordinated with the USCG.
- After review by scientific, engineering, and other assigned technical personnel, PHH-30 will forward to each affected OA all application materials, including the initial application and supporting documentation provided with the application or in subsequent communications with PHH-30, PHH-30's evaluation as to whether the special permit would achieve an equivalent level of safety as that provided by the HMR, and the draft special permit document. Notification will be by electronic means and will include a PHH-30 point of contact for the special permit application.
- As applicable, PHH-30 will provide its fitness determination documentation to the OA. For carrier applicants, the OA(s) will develop or provide current fitness determinations in accordance with its policies or procedures, as appropriate.

E. Coordination of Emergency Special Permits:

- PHH-30 will coordinate emergency special permit applications in the same manner as above. Mode-specific emergency special permit applications or applications that involve significant safety, security, or economic impacts will be coordinated with the OA(s) that may be affected by or have particular expertise relevant to the issue in question

October 13, 2009

- PHH-30 will notify and seek early recommendations from the OA(s) on safety considerations that should be addressed in the evaluation of the emergency special permit request. PHH-30 will perform an overall safety evaluation and develop a draft special permit, if appropriate. PHH-30 will then forward the request and other documentation to the OA(s) for review and concurrence.
- PHH-30 will evaluate and approve or deny emergency special permit applications necessary to resolve an imminent safety hazard affecting human life or health or threatening significant environmental damage with modal coordination unless such coordination cannot be accomplished within very strict time constraints.

6.3.5 OA Coordination Responsibilities

A. General Responsibilities

- Each OA will designate a point of contact responsible for concurrence on mode specific special permits. The OA contact will be responsible for the coordination of and timely processing of the modal review.
- Each OA will provide written documentation of its review, including any recommendations for mode-specific conditions to be included in the special permit. Each OA will respond to requests for review and concurrence in a timely fashion and provide specific and detailed safety justifications for matters involving non-concurrence.
- Consistent with existing agreements between PHMSA and the OA(s), each OA may conduct its own fitness inspection or investigation of applicants in its respective areas of responsibility and expertise.

B. Coordination with FAA

- PHMSA will coordinate and request concurrence from FAA on applications for new or modified special permits and for renewal applications affecting the transportation of hazardous materials by air.
 - FAA will review special permit applications and grant or denial documents that address the transportation of forbidden materials or quantities of hazardous materials by aircraft.
 - FAA will review special permit applications and grant or denial documents that specifically identify an aircraft operator as a grantee or specifically identified as performing an air carriage function.
 - FAA will review special permit applications and grant or denial documents involving the transportation by air of high hazard materials or that involve precedent-setting or significant political or economic impacts.

October 13, 2009

- FAA's POC will coordinate review and evaluation of the special permit by all appropriate FAA offices to ensure the aircraft operator is fit to carry out the terms of the special permit.
- FAA will verify that an operator is properly certificated to carry out the terms of the Special Permit.

C. Coordination with FMCSA

- PHMSA will coordinate and request concurrence from FMCSA on applications for new or modified special permits affecting the transportation of hazardous materials by highway.
 - FMCSA will review special permit applications and grant or denial documents that address the transportation of bulk quantities of hazardous materials by highway.
 - FMCSA will review special permit applications and grant or denial documents that specifically identify a motor carrier as a grantee or specifically identified as performing a motor carrier function.
 - FMCSA will review special permit applications and grant or denial documents addressing the manufacture, testing, or use of cargo tank motor vehicles.
 - FMCSA will review special permit applications and grant or denial documents involving the transportation by highway of high hazard materials or that involve precedent-setting or significant political or economic impacts.
- FMCSA will review routine party status or renewal special permit applications for which a motor carrier is a grantee to ensure the motor carrier continues to maintain a satisfactory safety performance.

D. Coordination with FRA

- PHMSA will coordinate and request concurrence from FRA on special permit applications affecting the transportation of hazardous materials by rail.
 - FRA will review all special permit applications and grant or denial documents that address the bulk (tank car or hopper car) transportation of hazardous materials by rail.
 - FRA will review all special permit applications and draft special permits documents for the construction of tank cars for use in the transportation of hazardous materials.

October 13, 2009

- FRA will review special permit applications and grant or denial documents involving the transportation by rail of high hazard materials or that involve precedent-setting or significant political or economic impacts.
- FRA generally will not review routine party status or renewal special permit applications.

E. Coordination with USCG

- PHMSA will coordinate and request concurrence from USCG on appropriate special permit applications affecting the transportation of hazardous materials by vessel as a primary mode of transportation.
 - USCG will review all special permit applications and draft special permits documents, as necessary, that involve exclusively vessel transportation or deal with the design and construction of vessels.
 - USCG will review special permit applications and grant or denial documents with life and property implications, high hazard materials, or precedent-setting or national security issues applicable to vessel transportation.
- USCG generally will not review routine party status or renewal special permit applications.

F. Accommodation and Incorporation of OA Recommendations on Special Permit Applications

- PHMSA will carefully consider all OA comments and recommendations prior to the issuance of special permits. Significant issues will be resolved through discussions with the OA to ensure that concerns raised by the OA are addressed and resolved.
- If the OA recommends operational restrictions or limitations that should govern operations under the special permit to ensure the standard for an equivalent level of safety is met, such restrictions or limitations will be incorporated into the special permit.
- If the OA recommends denial of the special permit application and the issues giving rise to the recommendation cannot be resolved, PHMSA may deny the special permit application.
- PHMSA will notify the OA of the final actions taken with respect to significant issues.
- PHMSA will notify the OA if the special permit has been issued or denied.

G. Fitness Inspections

Each OA reserves the right to conduct fitness inspections or review current safety performance data of persons offering for transportation or transporting hazardous materials by the mode of

October 13, 2009

transport for which it is responsible. In addition, each OA will cooperate in performing fitness inspections upon request by OHME, in accordance the Fitness Inspection SOP.

H. Data on Safety and Compliance

Each OA will notify PHH-30 by email of any serious violations of a special permit by the grantee that would call into question the fitness of a grantee to continue to operate under the terms of the special permit.

OA Points of Contact:

PHMSA

- Don Burger
OHMSPA
PHH-31
Donald.Burger@dot.gov
Desk: 202-366-4314
Cell: 202-280-9908
- Del Billings, Director
OHMSPA
PHH-30
Delmer.Billings@dot.gov
Desk: 202-366-4482
Cell: 202-379-8331

FAA

- Janet McLaughlin
FAA ADG
ADG-200
Janet.mclaughlin@faa.gov
Desk: 202-385-4897
Cell: 202-437-7651

FMCSA

- James O. Simmons
Chief, Hazardous Materials Division
USDOT/ FMCSA/MC-ECH
james.simmons@dot.gov
Desk: 202-493-0496
Cell: 202-577-5897

FRA

- William Schoonover
Staff Director, HM Division
RRS-12

October 13, 2009

William.Schoonover@dot.gov

Desk: 202-493-6229

Cell: 202-657-8180

USCG

- Richard Bornhorst
Chemical Engineer, Hazardous Materials Standards Division
CG-5223
Richard.C.Bornhorst@uscg.mil
Desk: 202-372-1426
Cell: 703-201-1078

6.4 Reconsideration Sub-Process

Applicants may petition for reconsideration if a special permit is denied. If applicants choose to submit a request for reconsideration, PHMSA will reevaluate the application taking into consideration the new information provided. Petitions for reconsideration are handled through the general correspondence process. As outlined in 49 CFR 107.123, requests for reconsideration must:

1. Be in writing and filed within 20 days of receipt of the decision
2. State in detail any alleged errors of fact and law
3. Enclose any additional information needed to support the request to reconsider
4. State in detail the modification of the final decision sought.

6.4.1 Purpose

The purpose of the reconsideration process is to allow applicants the opportunity to provide new information and receive additional review from PHMSA.

6.4.2 Workflow

Figure 10: Petition for Reconsideration Workflow



6.4.2.1 Sufficiency Review

The Project Officer generates a new folder in HMIS and populates the folder with the relevant application materials. If the application includes non-electronic documents, the Project Officer uses a scanner to create electronic files.

After the HMIS folder is generated and populated with all relevant files, the Project Officer performs a brief sufficiency review. This review assesses whether the petition for reconsideration meets all of the criteria required by the HMR, which is stated in Section 6.4. If the petition for reconsideration includes this information, then the Project Officer determines whether technical evaluation is needed.

6.4.2.2 Evaluation

The Project Officer sends petitions for reconsideration that require technical evaluation to the Senior Technical Officer, who is responsible for assigning the appropriate Technical Officer to conduct the evaluation. The Technical Officer evaluates the petition for reconsideration and drafts a justification that recommends issuing a special permit or denial letter, which is reviewed by the Senior Technical Officer. If the petition for reconsideration is not technical, the Project

Officer conducts the evaluation and drafts the justification for issuing a special permit or denial letter.

After the evaluation is complete, the Project Officer determines whether the petition for reconsideration needs to be reviewed by any of the OA Coordinating Officials or other offices within PHMSA, including the Administrator, if appropriate. If a coordinated review is needed, the Project Officer is responsible for communicating with the relevant contacts and documenting concurrence and other feedback provided. The Project Officer conducts a final review and quality check of the justification and sends it to the Approving Official for review.

6.4.2.3 Disposition

The Approving Official is responsible for reviewing all materials related to the petition for reconsideration and will coordinate with the Administrator for review and approval on Special Permits proposed for approval based on public interest or other significant issues as determined by the Administrator. After reviewing the documents, the Approving Official with the Administrators approval, as appropriate, must sign the special permit and authorization letters or denial letter before they are sent to the applicant.

6.5 Appeal Sub-Process

Applicants may request an appeal if a special permit is denied after a petition for reconsideration. If applicants request an appeal, PHMSA will reevaluate the application taking into consideration the new information provided. Requests are handled through the general correspondence process. As outlined in 49 CFR 107.125, the appeal must:

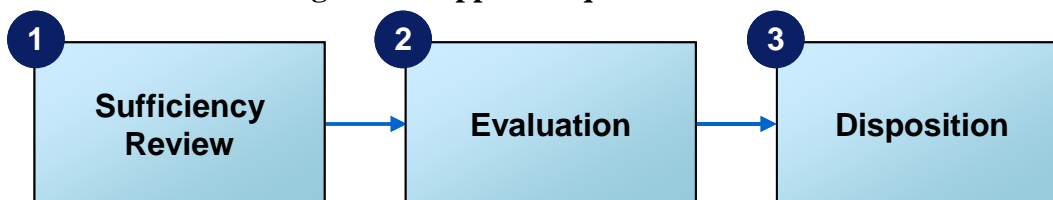
1. Be in writing and filed within 30 days of receipt of the Associate Administrator's decision on reconsideration
2. State in detail any alleged errors of fact and law
3. Enclose any additional information needed to support the appeal
4. State in detail the modification of the final decision sought.

6.5.1 Purpose

The purpose of the appeal process is to allow applicants, who were denied a special permit in the reconsideration process, the opportunity to provide new information and receive additional review from PHMSA.

6.5.2 Workflow

Figure 11: Appeal Request Workflow



6.5.2.1 Sufficiency Review

The Project Officer generates a new folder in HMIS and populates the folder with the relevant application materials. If the application includes non-electronic documents, the Project Officer uses a scanner to create electronic files.

After the HMIS folder is generated and populated with all relevant files, the Project Officer performs a brief sufficiency review. This review assesses whether the appeal request meets all of the criteria required by the HMR, which is stated in Section 6.5. If the appeal includes this information, then the Project Officer determines whether a technical evaluation is needed.

6.5.2.2 Evaluation

The Project Officer sends appeal requests that need technical evaluation to the Senior Technical Officer, who is responsible for assigning the appropriate Technical Officer to conduct the evaluation. The Technical Officer evaluates the appeal request and drafts a justification that recommends issuing a special permit or denial letter, which is reviewed by the Senior Technical Officer. If the appeal request is not technical, the Project Officer conducts the evaluation and drafts the justification to recommend issuing a special permit or denial letter.

After the evaluation is complete, the Project Officer determines whether the appeal request needs to be reviewed by any of the OA Coordinating Officials or other offices within PHMSA, including the Administrator, if appropriate. If a coordinated review is needed, the Project Officer is responsible for communicating with the relevant contacts and documenting concurrence and other feedback provided. The Project Officer conducts a final review and quality check of the justification and sends it to the Approving Official for review.

6.5.2.3 Disposition

The Approving Official is responsible for reviewing all materials related to the appeal request and will coordinate with the Administrator on Special Permit issues proposed for approval based on the public interest and other significant issues, as determined by the Administrator. After reviewing the documents, the Approving Official, with approval by the Administrator, as appropriate, must sign the special permit and authorization letters or denial letter before they are sent to the applicant.

7 APPENDIX

This section provides additional information including forms and templates that support the Special Permit Program processes.

7.1 Safety Documentation Evaluations

Safety Documentation Evaluations

September 3, 2009

Prepared by PHMSA Offices of Hazardous Materials Technology (PHH-20)
and Special Permits and Approvals (PHH-30)

Attached are three forms, the *Special Permit Safety Evaluation Form for New Applications*, the *Special Permit Safety Evaluation Form for Applications to Modify an Existing Special Permit*, and the *Special Permit Safety Evaluation Form for Applications to Renew an Existing Special Permit*. PHMSA Office of Hazardous Materials Safety (OHMS) developed the forms as part of a comprehensive review of its special permits processes. As a starting point, OHMS used the original evaluation forms that have been utilized for many years. The revised and new forms were a result of the contributions from the staff members responsible for evaluating applications for special permits, including the Office of Hazardous Materials Technology (PHH-20) and the Office of Hazardous Materials Special Permits and Approvals (PHH-30). The Office of Chief Counsel and the Office of Hazardous Materials Standards also provided input to the development of the forms.

In the review of an application for special permit, the project officer must perform a technical evaluation of the information provided by the applicant, and then make a determination as to whether the applicant has justified an equivalent level of safety. The purpose of the evaluation form is to guide the project officer through a comprehensive evaluation process and to provide documentation of that process.

The new evaluation forms include questions that serve to document information on many areas including: the hazardous materials to be shipped; packaging; testing; hazard communication; operational controls; shipping experience; safety assessment; comments to the docket; potential for regulatory incorporation; and overall evaluation and recommendation of the project officer.

The forms represent an improvement over the previous versions used to date. Greater emphasis is placed on documenting the safety assessment of each *element* of the proposed special permit (e.g. packaging). The enhanced documentation increases the level of specific justification for the equal level of safety determination.

October 13, 2009

**SPECIAL PERMIT SAFETY EVALUATION FORM
FOR NEW APPLICATIONS**

(Revised as of October 27, 2009)

Note to the Project Officer: All sections and questions must be completed. If the question is not applicable or your answer is "No" to a specific question, enter "N/A" or "No" as appropriate.

PART 1 APPLICANT

1A. Special Permit Number:

Application Number:

Registration Number if applicable:

Project Officer/Office:

1B. Date of Application:

1C. Name of Applicant:

Title:

Company Name:

Address:

Phone Number:

E-mail address (optional):

October 13, 2009

1D. U.S. Agent for foreign applicant or Consultant Name:

Company name:

Address:

Phone Number:

E-mail address (optional):

1E. Regulation(s) from which variance is requested:

1F. Summary of requested variance from the Hazardous Materials Regulations (HMR):

1G. Where will the special permit be used [physical location(s)]?

1H. How much time did the applicant request the special permit for (in months/years)?

1I. Has PHMSA previously granted similar special permits? If not, does the special permit application involve issues not addressed through the HMR or previous special permits? If yes, describe the issues.

October 13, 2009

1J. Modes of Transportation Requested:

- | | | | |
|----------------------|--------------------------|------------------|--------------------------|
| 1 Motor Vehicle | <input type="checkbox"/> | 2 Rail Freight | <input type="checkbox"/> |
| 3 Cargo Vessel | <input type="checkbox"/> | 4 Cargo Aircraft | <input type="checkbox"/> |
| 5 Passenger Aircraft | <input type="checkbox"/> | | |

1K. Is the applicant requesting emergency processing?

Y N

Summarize the justification provided for the emergency processing request. Does it satisfy the requirements in § 107.117?

PART 2 PRE-DOCKETING REVIEW

- Application contains sufficient information to support docketing.
- Application is incomplete or unnecessary and should be returned for the following reason(s).

PART 3 HAZARDOUS MATERIALS

3A. Hazardous materials covered by the application:

Proper Shipping Name/ Hazardous Materials Description <i>(include technical name if not the same as the proper shipping name)</i>	ID Number	Hazard Class/ Division (Subsidiary Hazard Class/Div.)	Packing Group	Authorized by Air in the HMR (Y/N) Pass, Air Y/N Cargo Air Y/N No air requested (N/A)

3B. Does the hazardous material meet the definition for a Class 1 material in § 173.50?

- Has it been tested, classed, and approved under § 173.56?

- Is stabilization required? If so, what type?

3C. Does the material pose risks in transportation other than the risks associated with its hazard class/division that warrant special consideration or assessment? (e.g., detonation risk; flammable or toxic gases produced upon contact with water; material can initiate or enhance a fire; article or device contains an ignition source)

PART 4 PACKAGING

4A. Is the applicant requesting a variance from the packaging requirements of the HMR? (If No - Go to Part 5)

4B. Type of packaging variance requested:

- Non-authorized specification packaging
- Quantity or size variation (e.g., for combination packagings, variation in number or size of inner packagings)
- Non-specification package. List the most comparable specification package, if applicable.

v

variations from authorized packaging:

- Change in material(s) of construction
- Increase in authorized pressure
- Alternative testing criteria (Parts 178 or 179)

4C. Packaging integrity:

If the packaging is comparable to an authorized specification packaging, does the evaluation of design criteria and test results demonstrate that the packagings are equivalent? Explain.

If the packaging is not comparable to an authorized specification packaging, does the evaluation of design criteria and test results demonstrate an appropriate integrity level? Explain.

In the case of a pressurized packaging, is the packaging designed to adequately contain any pressure that might develop in conditions

normally encountered during transportation without damage to the packaging? Explain.

4D. If intended for air transportation, does the packaging meet the performance requirements in § 173.27?

PART 5 TESTING

5A. Is the applicant seeking a variance from testing or inspection requirements? (If No – go to Part 6)

5B. Is the applicant seeking a variance from testing/inspection requirements at the time of manufacture (Parts 178 or 179)? Describe any testing/inspection alternatives or justification for waiving the required procedure.

5C. Is the applicant seeking a variance from periodic requalification (Part 180) or other testing requirements (e.g., hot water bath testing)? Describe any testing/inspection alternatives or justification for waiving the required procedure.

PART 6 HAZARD COMMUNICATION

6A. Is the applicant seeking a variance from the hazard communication requirements in Part 172? (If No - go to Part 7)

6B. Indicate hazard communication requirements for which variance is sought. (e.g., shipping papers, labeling, placarding requirements, etc.)

6C. What measures are proposed or are appropriate to ensure that the hazards associated with the shipment are communicated to transport workers and emergency response personnel?

PART 7 OPERATIONAL CONTROLS

7A. Are special handling measures needed (e.g. refrigeration, stowage and/or segregation, mode-specific operational controls)? If so, specify.

7B. Should there be any limitations on the use of the special permit if granted (e.g., time frame, number of shipments, etc.)? If so, specify.

PART 8 SHIPPING EXPERIENCE

8A. Does the application include information concerning shipping experience with the requested packaging and/or operations or a similar material, package, or operation? If so, summarize.

8B. If the special permit is granted, what special data collection and reporting requirements are needed to document shipping experience and safety performance?

PART 9 SAFETY ASSESSMENT

9A. 49 CFR § 107.105(d) prescribes requirements for justification of a special permit through comparisons with established levels of safety in the Hazardous Materials Regulations. Has the applicant demonstrated that the measures proposed for the special permit would achieve an equivalent level of safety as the HMR? Explain.

9B. Does this special permit application address a public safety issue of an unusual nature (e.g. man-made or natural disaster)?

9C. What risks are posed by granting this special permit? What measures are proposed to mitigate any risks associated with transportation operations under the special permit?

October 13, 2009

9D. What are the benefits to the public for granting this special permit?

9E. Will the special permit be used for a one-time movement of hazardous materials or a number of movements over an extended time frame? Does the number of planned movements affect the safety analysis? If so, explain (e.g., safety factors and corresponding safety controls for a one-time movement may differ from those for multiple movements).

PART 10 DOCKET COMMENTS/OTHER INFORMATION

10A. Date checked:

10B. Comments: (If Yes, summarize)

10C. Has CONFIDENTIAL or PROPRIETARY information (49 CFR 107.5) been considered in this application?

PART 11 REGULATORY REVISIONS

Could this special permit be handled by future regulatory change?

Y N If no, please explain.

PART 12 OVERALL EVALUATION & RECOMMENDATION

Note to the Project Officer: All statements that are based on proprietary or confidential material submitted by the applicant must be contained in brackets and preceded and followed by asterisks.

12A. Summarize the applicant's request. Identify similarities to and differences from the HMR requirements. Note whether the agency has issued similar special permits in the past. If the special permit application addresses issues not previously handled through the HMR or previous special permits, discuss possible impacts of granting the special permit.

12B. Provide technical conclusions and recommendations to grant or deny the special permit (e.g. based on your technical review and evaluation, explain why you agree or disagree with the applicant's rationale supporting an equivalent level of safety).

Denial. Basis for denial:

Approval. Basis for approval:

October 13, 2009

Project Officer/Date:

Office: PHH-

Office of Hazardous Materials Technology (OHMT) or
Office of Hazardous Materials Special Permits and Approvals (OHMSPA)

October 13, 2009

**SPECIAL PERMIT SAFETY EVALUATION FORM
FOR APPLICATIONS TO MODIFY AN EXISTING SPECIAL PERMIT**
(Revised as of October 27, 2009)

Note to the Project Officer: All sections and questions must be completed. If the question is not applicable or your answer is "No" to a specific question, enter "N/A" or "No" as appropriate.

PART 1 APPLICANT

1A. Special Permit Number:

Application Number:

Registration Number if applicable:

Project Officer/Office:

1B. Date of Application:

1C. Name of Applicant:

Title:

Company Name:

Address:

Phone Number:

E-mail address (optional):

October 13, 2009

1D. U.S. Agent for foreign applicant or Consultant Name:

Company name:

Address:

Phone Number:

E-mail address (optional):

1E. Summary of authorizations granted by the existing special permit, including the regulations from which the granted is exempted:

1F. New regulation(s) from which variance from the HMR is requested, if any:

1G. Where will the special permit be used [physical location(s)]?

1H. How much time did the applicant request the special permit for (in months/years)?

1I. Summary of requested modification to the special permit:

October 13, 2009

1J. Does the request for modification involve new issues not addressed through the HMR or previous special permits? If yes, describe the issues.

1K. New Modes of Transportation Requested, if any:

- | | | | |
|----------------------|--------------------------|------------------|--------------------------|
| 1 Motor Vehicle | <input type="checkbox"/> | 2 Rail Freight | <input type="checkbox"/> |
| 3 Cargo Vessel | <input type="checkbox"/> | 4 Cargo Aircraft | <input type="checkbox"/> |
| 5 Passenger Aircraft | <input type="checkbox"/> | | |

1L. Is the applicant requesting emergency processing?

Y N

Have they provided the justification? Summarize. Does it satisfy the proper determination of emergency processing in accordance with § 107.117?

PART 2 PRE-DOCKETING REVIEW

- Application contains sufficient information to support docketing.
- Application is incomplete or unnecessary and should be returned for the following reason(s).

PART 3 HAZARDOUS MATERIALS

3A. NEW Hazardous materials covered by the application: (If NONE – go to Part 4)

Proper Shipping Name/ Hazardous Materials Description <i>(include technical name if not the same as the proper shipping name)</i>	ID Number	Hazard Class/ Division (Subsidiary Hazard Class/Div.)	Packing Group	Authorized by Air in the HMR (Y/N) Pass, Air Y/N Cargo Air Y/N No air requested (N/A)

3B. Does the hazardous material meet the definition for a Class 1 material in § 173.50?

- Has it been tested, classed, and approved under § 173.56?

- Is stabilization required? If so, what type?

3C. Does the material pose risks in transportation other than the risks associated with its hazard class/division that warrant special consideration or assessment? (e.g., flammable or toxic gases produced upon contact with water; material can initiate or enhance a fire; article or device contains an ignition source; detonation risk)

PART 4 PACKAGING

4A. Is the applicant requesting a change to the packaging currently authorized in the special permit? (If No – Go to Part 5)

4B. Does the applicant request a change to the existing packaging? Describe the change(s) (e.g. variation in size, pressure)

4C. Does the applicant request the addition of a new packaging(s)? What is the requested variance from the packaging requirements of the HMR?

- Non-authorized specification packaging
- Quantity or size variation (e.g., for combination packagings, variation in number or size of inner packagings)
- Non-specification package. List the most comparable specification package, if applicable.

V

- variations from authorized packaging:
- Change in material(s) of construction
 - Increase in authorized pressure
 - Alternative testing criteria (Parts 178 or 179)

4D. For new packagings or significant changes to existing packagings:

If the packaging is comparable to an authorized specification packaging or a packaging currently authorized in the special permit, does the evaluation of design criteria and test results demonstrate that the packagings are equivalent? Explain.

If the packaging is not comparable to an authorized specification packaging or a packaging currently authorized in the special permit,

does the evaluation of design criteria and test results demonstrate an appropriate integrity level? Explain

In the case of a pressurized packaging, is the packaging designed to adequately contain any pressure that might develop in conditions normally encountered during transportation without damage to the packaging? Explain.

4D. If intended for air transportation, does the packaging meet the performance requirements in § 173.27?

PART 5 TESTING

5A. Is the applicant seeking a variance from testing or inspection requirements that was not previously authorized in the special permit? (If No – go to Part 6)

5B. Is the applicant seeking a variance from testing/inspection requirements at the time of manufacture (Parts 178 or 179)? Describe any testing/inspection alternatives or justification for waiving the required procedure.

- 5C. Is the applicant seeking a variance from periodic requalification (Part 180) or other testing requirements (e.g., hot water bath testing)? Describe any testing/inspection alternatives or justification for waiving the required procedure.

PART 6 HAZARD COMMUNICATION

- 6A. Is the applicant seeking a variance from the hazard communication requirements in Part 172 that was not previously authorized in the special permit? (If No - go to Part 7)

- 6B. Indicate hazard communication requirements for which variance is sought. (e.g., shipping papers, labeling, placarding requirements, etc.)

- 6C. What measures are proposed or are appropriate to ensure that the hazards associated with the shipment are communicated to transport workers and emergency response personnel?

PART 7 OPERATIONAL CONTROLS

7A. Are special handling measures needed as a result of the changes requested in the application for modification (e.g. refrigeration, stowage and/or segregation, mode-specific operational controls)? If so, specify.

7B. Should there be any new limitations on the use of the special permit (e.g., time frame, number of shipments, etc.)? If so, specify.

PART 8 SHIPPING EXPERIENCE

Summarize the shipping history provided with the application, including incidents involving shipments made under the special permit. Does the shipping history indicate safety issues that should be addressed? Explain.

PART 9 SAFETY ASSESSMENT

9A. 49 CFR § 107.105(d) prescribes requirements for justification of a special permit through comparisons with established levels of safety in the Hazardous Materials Regulations. Has the applicant demonstrated that the new measures proposed for the special permit would achieve an equivalent level of safety as the HMR? Explain.

9B. Does this special permit application address a public safety issue of an unusual nature (e.g. man-made or natural disaster)?

9C. What risks are posed by granting this special permit? What measures are proposed to mitigate any risks associated with transportation operations under the special permit?

9D. What are the benefits to the public for granting this special permit?

9E. Does the application for modification propose changes to the use of the special permit such as a change from one-time movement to an extended time frame? Does the number of planned movements affect the safety analysis? If so, explain (e.g., safety factors and corresponding safety controls for a one-time movement may differ from those for multiple movements).

October 13, 2009

PART 10 DOCKET COMMENTS/OTHER INFORMATION

10A. Date checked:

10B. Comments: (If Yes, summarize)

10C. Has CONFIDENTIAL or PROPRIETARY information (49 CFR 107.5) been considered in this application?

PART 11 REGULATORY REVISIONS

Does this request for modification suggest a need for possible regulatory changes? If yes, should this be issued? Explain.

PART 12 OVERALL EVALUATION & RECOMMENDATION

Note to the Project Officer: All statements that are based on proprietary or confidential material submitted by the applicant must be contained in brackets and preceded and followed by asterisks.

12A. Summarize the applicant's request for modification. Identify similarities to and differences from the requirements of the existing special permit. If the special permit application for modification addresses issues not previously handled through the HMR or previous special permits, discuss possible impacts of granting the request for modification.

12B. Provide technical conclusions and recommendations to grant or deny the special permit (e.g. based on your technical review and evaluation, explain why you agree or disagree with the applicant's rationale supporting an equivalent level of safety).

Denial. Basis for denial:

Approval. Basis for approval:

Project Officer/Date:

Office: PHH-

Office of Hazardous Materials Technology (OHMT) or
Office of Hazardous Materials Special Permits and Approvals (OHMSPA)

October 13, 2009

**SPECIAL PERMIT SAFETY EVALUATION FORM
FOR APPLICATIONS TO RENEW AN EXISTING SPECIAL PERMIT**
(Revised as of October 27, 2009)

Note to the Project Officer: All sections and questions must be completed. If the question is not applicable or your answer is "No" to a specific question, enter "N/A" or "No" as appropriate.

PART 1 APPLICANT

1A. Special Permit Number:

Application Number:

Registration Number if applicable:

Project Officer/Office:

1B. Date of Application:

1C. Name of Applicant:

Title:

Company Name:

Address:

Phone Number:

E-mail address (optional):

October 13, 2009

1D. U.S. Agent for foreign applicant or Consultant Name:

Company name:

Address:

Phone Number:

E-mail address (optional):

1E. Summary of authorizations granted by the existing special permit, including the regulations from which the grantee is exempted:

October 13, 2009

- 1F. Modes of Transportation Requested, if any:
1 Motor Vehicle 2 Rail Freight
3 Cargo Vessel 4 Cargo Aircraft
5 Passenger Aircraft

1G. Where will the special permit be used [physical location(s)]?

1H. How much time did the applicant request the special permit for (in months/years)?

1I. Does the available data indicate that the applicant is fit to conduct the activity authorized by the special permit? If no, describe the issues.

1J. Summarize the shipping history provided with the application, including incidents involving shipments made under the special permit. Does the shipping history indicate safety issues that should be addressed? Explain?

Project Officer/Date:

Office: PHH-

Office of Hazardous Materials Special Permits and Approvals (OHMSPA)

7.2 Process for Conducting Company Background Research for Special Permit and General Approval Applications

Step 1: Logging Into HIP

All companies that are submitting an application to PHH-31 for a special permits or approval will need to be checked in the Hazardous Materials Intelligence Portal (HIP). The link to the HIP is shown below:

<https://hip.phmsa.dot.gov/analytics/saw.dll?Dashboard>

The login information is identical to that which you use to log on to your computer every day.

User ID: FirstName.LastName

Password: [Enter Password]

The login screen is shown below:

Oracle Business Intelligence

Please enter your User ID and Password below, and then press the Log In button.
For HELP Desk or New User Access Call: 5-Help or (202) 385-4357

User ID

Password

Select a Language

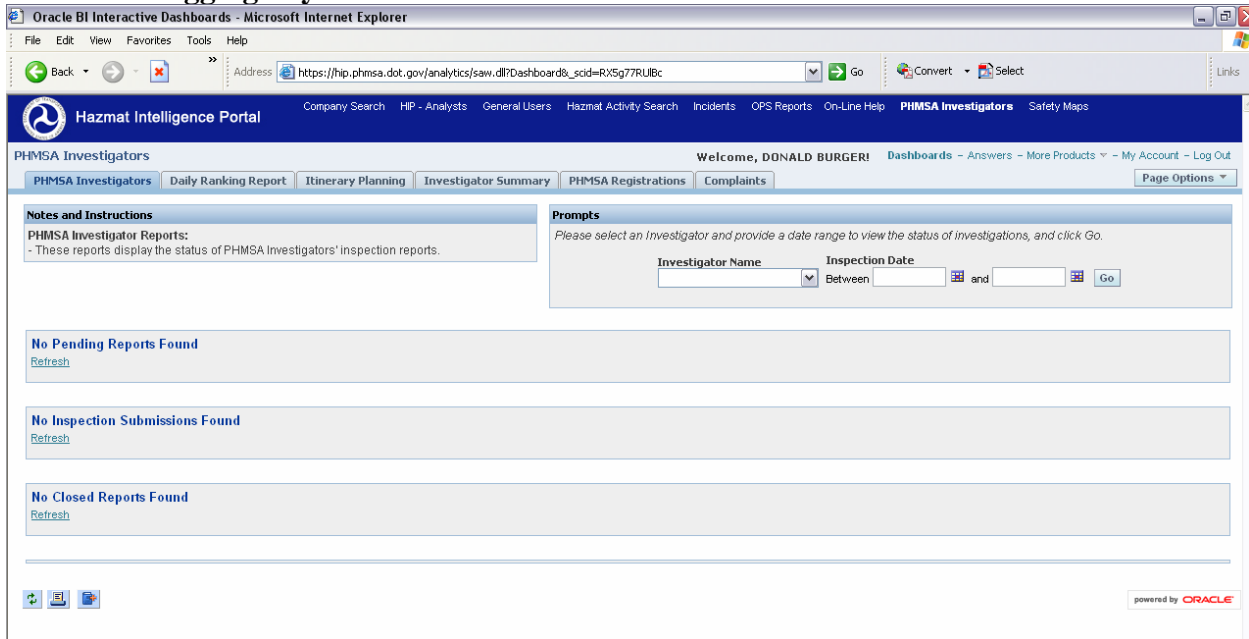
Oracle Business Intelligence 10.1.3.3.2

You are accessing a U.S. Government information system. This information system, including all related equipment, networks, and network devices, is provided for U.S. Government-authorized use only. Unauthorized or improper use of this system is prohibited, and may result in civil and criminal penalties, or administrative disciplinary action. The communications and data stored or transiting this system may be, for any lawful Government purpose, monitored, recorded, and subject to audit or investigation. By using this system, you understand and consent to such terms.

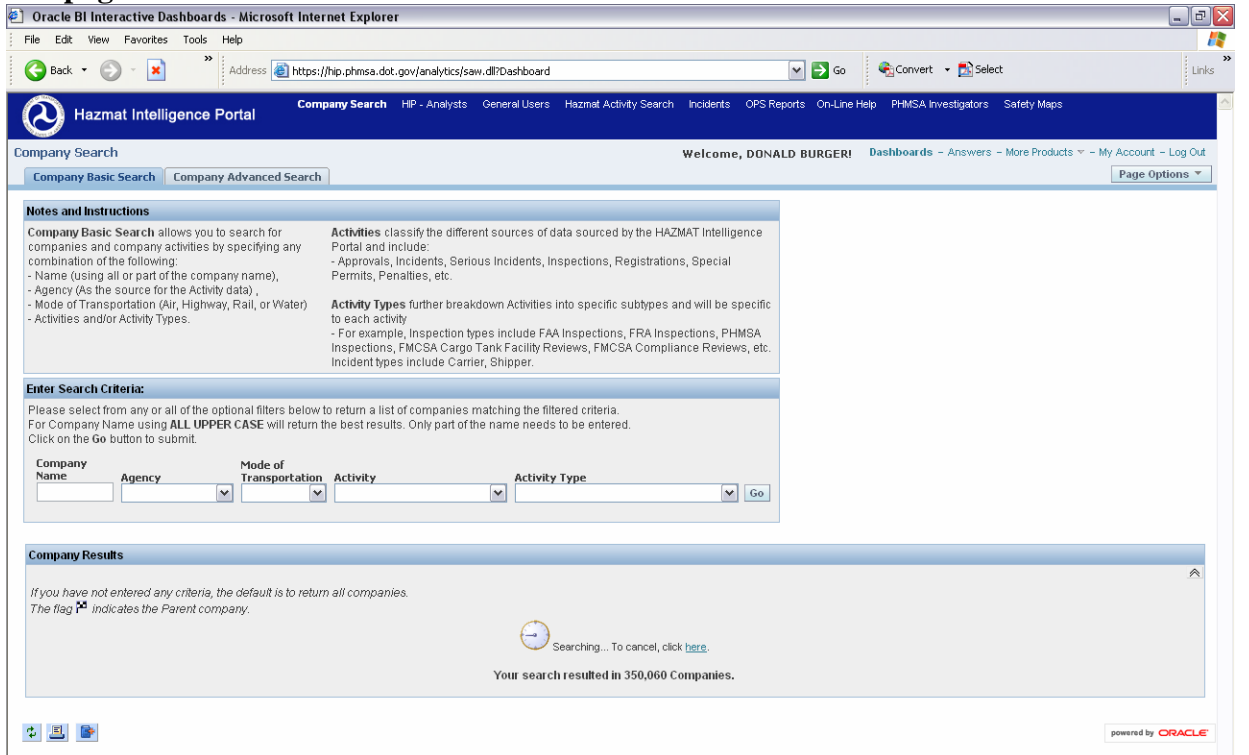
October 13, 2009

Step 2: Accessing the Search Page

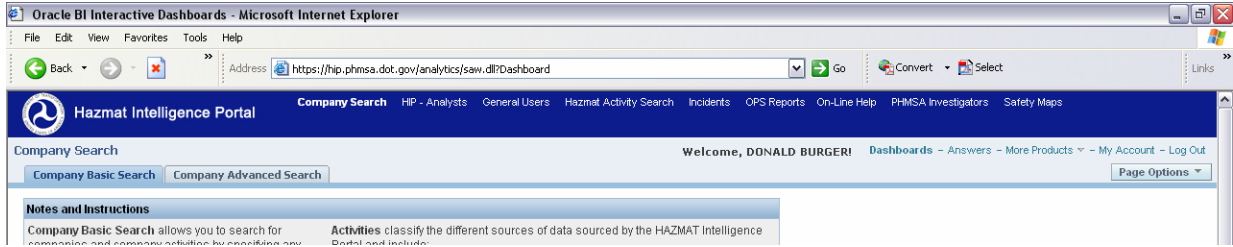
2.1 – After logging in you will come to this screen:



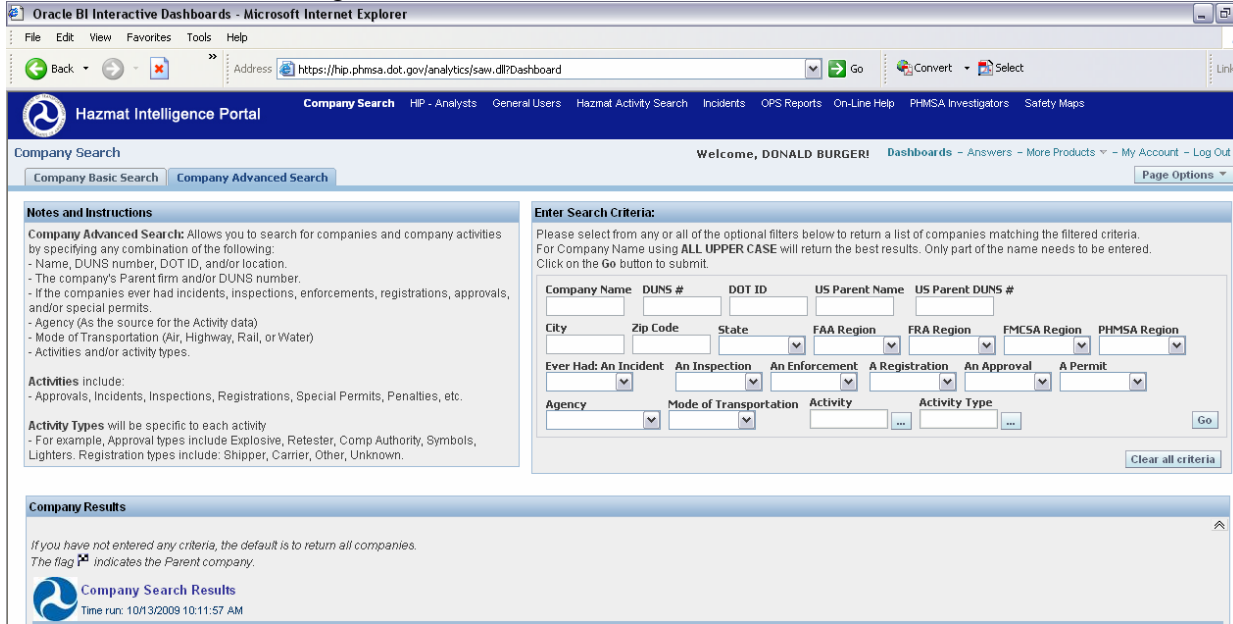
2.2 – Click on the “Company Search” link at the top of the page. That will bring you to this page.



2.3 – For more detailed search criteria, click on the “Company Advanced Search Tab”



It will return the following screen:



October 13, 2009

2.4 – Enter the information available for the application being worked upon.

For example on a request from:

Environmental Restoration, LLC
Fenton, MO

Enter:

COMPANY NAME: ENVIRONMENTAL RESTORATION
CITY (IF NEEDED): FENTON (to help shorten a large list)
STATE: (IF NEEDED): MO (to help shorten a large list)

The screenshot shows the Oracle BI Interactive Dashboards interface in Microsoft Internet Explorer. The browser address bar shows the URL: https://hip.phmsa.dot.gov/analytics/saw.dll/Dashboard. The page title is "Hazmat Intelligence Portal" and the user is logged in as "DONALD BURGER". The main navigation bar includes "Company Search", "HIP - Analysts", "General Users", "Hazmat Activity Search", "Incidents", "OPS Reports", "On-Line Help", "PHMSA Investigators", and "Safety Maps".

The "Company Search" section is active, showing "Enter Search Criteria:" with various filters. The "Company Name" field is set to "ENVIRONMENTAL RESTORATION/". The "State" is set to "MO". The "City" is set to "Fenton". The "Ever Had" section has "An Incident", "An Inspection", "An Enforcement", "A Registration", "An Approval", and "A Permit" all checked. The "Go" button is visible.

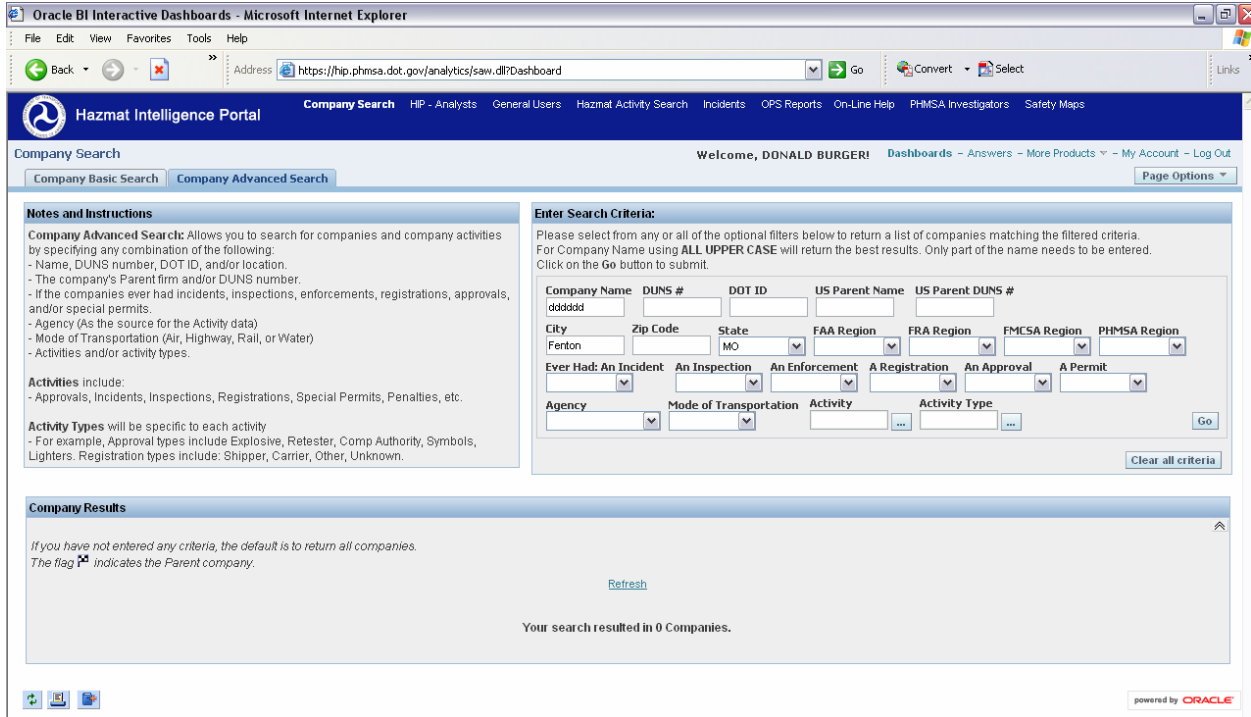
The "Company Results" section shows a table of search results. Below the table, it states "Your search resulted in 1 Companies."

US Parent Company Name	Company Facility Name	DUNS #	DOT #	Agency	Activity	Activity Type	Mode of Transportation	# of Activities	Latest Activity Date
ENVIRONMENTAL RESTORATION, LLC	ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	008198421	611682	FMCSA-HIGHWAY	INSPECTION / REVIEW	FMCSA ROADSIDE CARRIER INSPECTIONS	HIGHWAY	3	10/21/2008
					VIOLATIONS	FMCSA OTHER VIOLATIONS	HIGHWAY	16	04/06/2005
				PHMSA-HAZMAT	PHMSA REGISTRATION	SHIPPER	HIGHWAY	2	06/30/2010
					SPECIAL PERMITS	PTE	AIR	1	07/31/2011
						HIGHWAY		4	07/31/2011
						RAIL		1	07/31/2011
				WATER		1	07/31/2011		

Click on the company link or the appropriate company link(s) if there is (are) more than one. Then proceed to: **Step 2.5.**

October 13, 2009

2.4.1 – If there is no company information in HIP as shown below:



2.4.1.1 – Create a PDF of the page.

2.4.1.2 – Scroll to the bottom of the screen and click the center icon,

“Printer Friendly”    and select “PDF”.

2.4.1.3 – Name and Save the file: [Company Name] Company Search

October 13, 2009

2.5 – Company Information – If company information is returned. As shown below:

Company Profile
 Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC
 1666 FABICK DR
 FENTON MO, 63026 USA

DOT Number: 611682
 DUNS Number: 008198421
 US Parent DUNS #: 008198421
 US Parent Name: ENVIRONMENTAL RESTORATION, LLC

Phone: (636) 227-7477
 Fax:
 Web:
 CEO: DENNIS GREANEY

Summary Reports
 Note: All Currently Active and Expired Special Permits and PHMSA Registrations will be displayed for the company.

PHMSA Current Registrations for this Facility
 Time run: 10/13/2009 10:55:06 AM

Company Facility Name	Expires	Registered	Registration #	Transportation Modes	Company Size	Registration Type
ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	06/30/2010	06/16/2008	0613085510400R	HIGHWAY	Small Business	SHIPPER

Active Special Permits for all Facilities Associated to the US Parent
 Time run: 10/13/2009 10:55:06 AM

Facility is the US Parent	Company Facility Issued Special Permit	Expires	Special Permit #	Type	Summary	Special Permit Tracking #
PARENT	ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	07/31/2011	11296	PTE	Authorizes the transportation in commerce of certain waste aerosol cans containing flammable gas propellants, including isobutane and propane, overpacked in removable head DOT Specification 17H for UN1A2 steel drum, or disposal.	2009080169
PARENT	ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	07/31/2011	11396	PTE	To authorize the transportation in commerce of certain flammable, non-flammable gases, Division 2.1 and 2.2 in aerosol containers overpacked in strong outside packages with no weight limitations.	2009080172
PARENT	ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	07/31/2011	11624	PTE	To authorize the transportation in commerce of household hazardous wastes identified as paint or paint related material, Class 3 material, in quantities greater than those presently authorized.	2009080173
PARENT	ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	07/31/2011	13192	PTE	To authorize the transportation in commerce of certain laptop quantities of hazardous materials with shrink-wrap as an overpack without required markings and labels.	2009080175

There are 4 Active Special Permits associated to any company associated to this facilities US Parent

Company Location
 Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FEHTON, MO 63026

Activity Summary By Year

Company Facility Activities for last 10 years
 Time run: 10/13/2009 10:55:06 AM

Company Facility Name: ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FEHTON, MO 63026

Agency	Activity	2005	2008	2010	2011
FMCSA-HIGHWAY	INSPECTION / REVIEW	2	1		
	VIOLATIONS	16			
PHMSA-HAZMAT	PHMSA REGISTRATION		1	1	
	SPECIAL PERMITS				4

Parent Company Activities for last 10 years
 Activities by any company with the same parent company
 Time run: 10/13/2009 10:55:06 AM

US Parent Company Name: ENVIRONMENTAL RESTORATION, LLC

Agency	Activity	2005	2008	2010	2011
FMCSA-HIGHWAY	INSPECTION / REVIEW	2	1		
	VIOLATIONS	16			
PHMSA-HAZMAT	PHMSA REGISTRATION		1	1	
	SPECIAL PERMITS				4

Activity Summary By Mode

Company Facility Activities by Mode
 Time run: 10/13/2009 10:55:06 AM

Company Facility Name: ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FEHTON, MO 63026

Activity	FMCSA-HIGHWAY PHMSA-HAZMAT				
	HIGHWAY	HIGHWAY	AIR	RAIL	WATER
INSPECTION / REVIEW		3			
PHMSA REGISTRATION			2		
SPECIAL PERMITS			4	1	1
VIOLATIONS		16			

Parent Company Activities by Mode
 Activities by any company with the same parent company
 Time run: 10/13/2009 10:55:06 AM

US Parent Company Name: ENVIRONMENTAL RESTORATION, LLC

Activity	FMCSA-HIGHWAY PHMSA-HAZMAT				
	HIGHWAY	HIGHWAY	AIR	RAIL	WATER
INSPECTION / REVIEW		3			
PHMSA REGISTRATION			2		
SPECIAL PERMITS			4	1	1
VIOLATIONS		16			

2.4.1.1 – Create a PDF of the page.

2.4.1.2 – Scroll to the bottom of the screen and click the center icon,

“Printer Friendly”    and select “PDF”.

2.4.1.3 – Name and Save the file: [Company Name] Summary

October 13, 2009

2.6 – Additional HIP Data Screens

2.6.1 Using the links to the right of the “Summary” as shown below



2.6.2 – Create additional reports for the following tabs:

- Inspections
- Incidents
- Violations
- Penalties and Enforcements
- Registrations
- Approvals and Permits

2.6.3 – Create a PDF of each of the pages.

2.6.3.1 – Scroll to the bottom of the screen and click the center icon,

“Printer Friendly”    and select “PDF”.

2.6.3.1.1 – Name and Save the file: [Company Name] Inspections

2.6.3.1.2 – Name and Save the file: [Company Name] Incidents

2.6.3.1.3 – Name and Save the file: [Company Name] Violations

2.6.3.1.4 – Name and Save the file: [Company Name] Penalties

2.6.3.1.5 – Name and Save the file: [Company Name] Registrations

2.6.3.1.6 – Name and Save the file: [Company Name] Permits

Note: If reports contain multiple pages, for example more than 25 permits or approvals, each of the pages will need to be converted to a PDF file. In those instances add additional description to the file name.

For example if Environmental restoration had 31 Special Permits:

- *Environmental Restoration Permits 1-25.pdf, followed by a second file*
- *Environmental Restoration Permits 25-31.pdf*

Note: Fitness data will not be reported for other locations of the same company that do not share the same physical address.

Examples of the individual report screens are shown on the following pages.

2.6.4 – Inspections

Oracle BI Interactive Dashboards - Microsoft Internet Explorer

Address: https://hip.phmsa.dot.gov/analytics/saw.dll/Dashboard

Hazmat Intelligence Portal

Company Search HIP - Analysts General Users Hazmat Activity Search Incidents OPS Reports On-Line Help PHMSA Investigators Safety Maps

Welcome, DONALD BURGER! Dashboards - Answers - More Products - My Account - Log Out

Summary Company Detail **Inspections** Incidents Complaints Violations Penalties and Enforcements Registrations Approvals and Permits EPA Hazmat Page Options

Company Profile
Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC 1866 FABICK DR FENTON MO, 63026 USA	DOT Number: 611682 DUNS Number: 008198421 US Parent DUNS #: 008198421 US Parent Name: ENVIRONMENTAL RESTORATION, LLC	Phone: (636) 227-7477 Fax: Web: CEO: DENNIS GREANEY
--	---	--

Inspections Reports

Inspections at this Facility by Agency and Type for last 10 years

Hazmat portal captures inspection data from the following activity types:

- FAA Inspections
- FMCSA Cargo Tank Facility Reviews
- FMCSA Compliance Reviews
- FMCSA Hinge Inspections
- FMCSA Non Ratable Review
- FMCSA Roadside Carrier Inspections
- FMCSA Shipper Reviews
- FRA Inspections
- PHMSA Inspections

Agency	Inspection or Review Type	# of Inspections	
		2005	2008
FMCSA-HIGHWAY	FMCSA ROADSIDE CARRIER INSPECTIONS	2	1
Total Inspections Per Year		2	1

[Print](#) - [Download](#)

Registration(s) Active For Inspections During last 10 Years

Click on the Registration number to see the registration(s) that were active at the time of an inspection or review

Inspection Year	Registered?	Registration Number
2005	No Registration Found	
2008	Registered for Year	0613085510400R

[Print](#) - [Download](#)

PHMSA Inspections

No PHMSA Inspections were Found for this Facility in last 10 years. [Refresh](#)

No PHMSA Inspections were Found to Summarize for this Facility in last 10 years. [Refresh](#)

PHMSA Inspections

No PHMSA Inspections were Found for this Facility in last 10 years. [Refresh](#)

No PHMSA Inspections were Found to Summarize for this Facility in last 10 years. [Refresh](#)

FAA, FRA, and USCG Inspections

No FAA Inspections were Found for this Facility. [Refresh](#)

No USCG Inspections were Found for this Facility in last 10 years. [Refresh](#)

No FRA Inspections were Found for this Facility in last 10 years. [Refresh](#)

FMCSA Inspections

FMCSA Carrier Roadside Inspections for last 10 years
Time run: 10/13/2009 11:05:38 AM

Inspection Id	Report Number	Inspection Level ID	Inspection Date	Cargo Tank	Border	Location FMCSA Region	Report State	Facility Roadside	Shipping Paper Number	Size Weight EHF	Hazmat OOS Total	Total Hazmat Violations	Total Violations
29851672	BBAN004825	2	10/21/2008	412	False	MVSC	TN	Facility	1497546	True	0	0	5
17909679	000T103G7R	1	04/06/2005		False	MVSC	IA	Facility		False	0	0	7
17911221	000T110459	1	04/06/2005		False	MVSC	IA	Facility		False	0	0	9

There are 3 Carrier Roadside Inspection(s) recorded for this Facility in last 10 years. [Print](#) - [Download](#)

No FMCSA Safety Reviews were Found for this Facility. [Refresh](#)

No FMCSA HMPIP Inspections were Found for this Facility in last 10 years. [Refresh](#)

No FMCSA Security Reviews were Found for this Facility in last 10 years. [Refresh](#)

2.6.5 – Incidents

October 13, 2009

Oracle BI Interactive Dashboards - Microsoft Internet Explorer

Address: <https://hip.phmsa.dot.gov/analytcs/saw.dll?Dashboard>

Hazmat Intelligence Portal

Company Search HIP - Analysts General Users Hazmat Activity Search Incidents OPS Reports On-Line Help PHMSA Investigators Safety Maps

Company Scorecard **Welcome, DONALD BURGER!** Dashboards - Answers - More Products - My Account - Log Out

Summary Company Detail Inspections **Incidents** Complaints Violations Penalties and Enforcements Registrations Approvals and Permits EPA Hazmat Page Options

Company Profile
Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC 1666 FABICK DR FENTON MO, 63026 USA	DOT Number: 611682 DUNS Number: 008198421 US Parent DUNS #: 008198421 US Parent Name: ENVIRONMENTAL RESTORATION, LLC	Phone: (636) 227-7477 Fax: Web: CEO: DENNIS GREANEY
---	---	--

Incidents Reports

No Incidents were Found for this Facility in the Last 10 Years. Refresh

Refresh

Refresh

No NRC Incidents were Found for this Facility in the Last 10 Years. Refresh

Refresh

No URI Incidents were Found for this Facility in the Last 10 Years. Refresh

Refresh

powered by ORACLE

javascript:void(null) Trusted sites

October 13, 2009

2.6.6 – Violations

Oracle BI Interactive Dashboards - Microsoft Internet Explorer

Address: https://hip.phmsa.dot.gov/analytcs/saw.dll?Dashboard

Hazmat Intelligence Portal Company Search HIP - Analysts General Users Hazmat Activity Search Incidents OFS Reports On-Line Help PHMSA Investigators Safety Maps

Company Scorecard **Welcome, DONALD BURGER!** Dashboards - Answers - More Products - My Account - Log Out

Summary Company Detail Inspections Incidents Complaints **Violations** Penalties and Enforcements Registrations Approvals and Permits EPA Hazmat Page Options

Company Profile
Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC
1666 FABICK DR
FENTON MO, 63026 USA

DOT Number: 611682
DUNS Number: 008198421
US Parent DUNS #: 008198421
US Parent Name: ENVIRONMENTAL RESTORATION, LLC

Phone: (636) 227-7477
Fax:
Web:
CEO: DENNIS GREANEY

Violations Reports

No PHMSA Violations were Found for this Facility.
[Refresh](#)

No FRA Defects were Found for this Facility.
[Refresh](#)

No FAA Violations were Found for this Facility.
[Refresh](#)

No FMCSA Shipper Roadside Violations were Found for this Facility.
[Refresh](#)

FMCSA Roadside Carrier Violations for last 10 years
Time run: 10/13/2009 11:27:36 AM

Inspection Id	Violation Date	Citation Code	Inspection Violation Unit	Inspection Violation Category	Post Crash	Violation Type	Violations Total
17911221	04/06/2005	392.2C	1		0	False SHIPPER TE	1
		392.2W	1		0	False SHIPPER TE	1
		390.21(A)	1		0	False SHIPPER RD	1
17909679	04/06/2005	396.3A1BA	1		0	False SHIPPER RD	1
		396.17(C)	1		0	False SHIPPER RD	1
17911221	04/06/2005	396.17(C)	1		0	False SHIPPER RD	1
		393.60(B)	1		0	False SHIPPER RD	1
17909679	04/06/2005	393.9	2		0	False SHIPPER RD	1
		396.17(C)	2		0	False SHIPPER RD	1
		396.17(C)	2		0	False SHIPPER RD	1
17911221	04/06/2005	139.	D		0	False SHIPPER RD	1
		391.11(B)(5)	D		0	False SHIPPER RD	1
17909679	04/06/2005	395.8	D		0	False SHIPPER RD	1
		391.41(A)	D		0	False SHIPPER RD	1
17911221	04/06/2005	391.41(A)	D		0	False SHIPPER RD	1
		395.8(A)	D		0	False SHIPPER RD	1

There are 16 Roadside Carrier Violation(s) for this Facility.
[Print - Download](#)

No FMCSA Shipper Roadside Violations were Found for this Facility.
[Refresh](#)

No FMCSA Review Violations were Found for this Facility.
[Refresh](#)

powered by ORACLE

October 13, 2009

2.6.7 – Penalties and Enforcements

Oracle BI Interactive Dashboards - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address: https://hip.phmsa.dot.gov/analytcs/saw.dll?Dashboard

Convert Select

Hazmat Intelligence Portal Company Search HIP - Analysts General Users Hazmat Activity Search Incidents OPS Reports On-Line Help PHMSA Investigators Safety Maps

Company Scorecard **Welcome, DONALD BURGER!** Dashboards - Answers - More Products - My Account - Log Out

Summary Company Detail Inspections Incidents Complaints Violations **Penalties and Enforcements** Registrations Approvals and Permits EPA Hazmat Page Options

Company Profile
Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC 1666 FABICK DR FENTON MO, 63026 USA	DOT Number: 611692 DUNS Number: 008198421 US Parent DUNS #: 008198421 US Parent Name: ENVIRONMENTAL RESTORATION, LLC	Phone: (636) 227-7477 Fax: Web: CEO: DENNIS GREANEY
--	---	--

Penalties & Enforcements Reports

No Penalties By Mode were Found for this Facility in last 10 years. [Refresh](#)

No PHMSA Penalties were Found for this Facility in last 10 years. [Refresh](#)

No FRA Penalties were Found for this Facility in last 10 years. [Refresh](#)

No FAA Warning Letters were Found for this Facility in last 10 years. [Refresh](#)

No FAA Penalties were Found for this Facility in the last 10 years. [Refresh](#)

No FAA Discrepancies were Found for this Facility in last 10 years. [Refresh](#)

October 13, 2009

2.6.8 – Registrations

Oracle BI Interactive Dashboards - Microsoft Internet Explorer

Address: https://hip.phmsa.dot.gov/analytics/saw.dll/Dashboard

Hazmat Intelligence Portal Company Search HIP - Analytics General Users Hazmat Activity Search Incidents OPS Reports On-Line Help PHMSA Investigators Safety Maps

Company Scorecard **Welcome, DONALD BURGER!** Dashboards - Answers - More Products - My Account - Log Out

Summary Company Detail Inspections Incidents Complaints Violations Penalties and Enforcements **Registrations** Approvals and Permits EPA Hazmat Page Options

Company Profile
Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC 1666 FABICK DR FENTON MO, 63026 USA	DOT Number: 611682 DUNS Number: 008198421 US Parent DUNS #: 008198421 US Parent Name: ENVIRONMENTAL RESTORATION, LLC	Phone: (636) 227-7477 Fax: Web: CEO: DENNIS GREANEY
---	---	--

Registrations Reports

Shipper & Carrier Registrations by Mode of Transportation and Year for last 10 years
Time run: 10/13/2009 11:30:42 AM

Company Facility Name: **ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026**

Registration Type	# of PHMSA Registration by Mode of Transportation	
	HIGHWAY	
SHIPPER		2
Total Registrations		2

[Print - Download](#)

Registration Type	# of PHMSA Registrations Started	
	2008	2010
SHIPPER	1	1
Total Registrations	1	1

Shipper Registration by Mode of Transportation in last 10 years
Time run: 10/13/2009 11:30:42 AM

Company Facility Name: **ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026**

Mode	# of Registrations	
	2008	2010
HIGHWAY	1	1
Total Registrations	1	1

[Print - Download](#)

PHMSA Registrations in last 10 years
Time run: 10/13/2009 11:30:42 AM

Company Facility Name: **ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026**

Registration #	Year Range	Expires	Registered	Transportation Modes	Company Size	Suspense Type	Registration Comments	Question	Question Description	Question State	Registration Type
061308551040 OR	2008 - 2010	06/30/2010	06/16/2008	HIGHWAY	Small Business	F		G	None of the above	N/A	SHIPPER
091707001009P	2007 - 2008	06/30/2008	09/18/2007	HIGHWAY	Small Business	F	* CITY DOES NOT MATCH POSTAL CODE IN FY1 POSTAL CODE TABLE. CORRECTED SPELLING OF CITY NAME, 9/18/07 JFG. Ver'd Dec 9/19/07 KP.	G	None of the above	N/A	SHIPPER

There are 2 Registration Record(s) by Registered Location for this Facility.

[Print - Download](#)

No CargoTank Registration Details were Found for this Facility.

[Refresh](#)

powered by ORACLE

October 13, 2009

2.9 – Approvals and Permits

Oracle BI Interactive Dashboards - Microsoft Internet Explorer

Address: https://hip.phmsa.dot.gov/analytics/saw.dll?Dashboard

Hazmat Intelligence Portal

Company Search HIP - Analysts General Users Hazmat Activity Search Incidents OPS Reports On-Line Help PHMSA Investigators Safety Maps

Company Scorecard

Welcome, DONALD BURGER! Dashboards - Answers - More Products - My Account - Log Out

Summary Company Detail Inspections Incidents Complaints Violations Penalties and Enforcements Registrations Approvals and Permits EPA Hazmat Page Options

Company Profile

Time run: 10/13/2009 10:55:06 AM

ENVIRONMENTAL RESTORATION, LLC 1666 FABICK DR. FENTON MO, 63026 USA	DOT Number: 611682 DUNS Number: 008198421 US Parent DUNS #: 008198421 US Parent Name: ENVIRONMENTAL RESTORATION, LLC	Phone: (636) 227-7477 Fax: Web: CEO: DENNIS GREANEY
---	---	--

Approvals & Permits Reports

Special Permits

All Special Permits ever granted to any company with the same US Parent as this facility
Time run: 10/13/2009 11:32:22 AM

Company Facility Name	Special Permit #	Special Permit Tracking #	Expires	Status	Special Permit Type	Summary	Application Date	Grant Date	Regulations Affected	Hazardous Material	Emergency Indicator	Emergency Description	Modification Summary	Enforcement Action
ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	11296	2009080169	07/31/2011	Active	PTE	Authorizes the transportation in commerce of certain waste aerosol cans containing flammable gas propellants, including isobutane and propane, overpacked in removable head DOT Specification 17H for UN1A2 steel drum, or disposal.	08/07/2009	08/04/2009	Section 173.306	N				N
	11396	2009080172	07/31/2011	Active	PTE	To authorize the transportation in commerce of certain flammable, non-flammable gases, Division 2.1 and 2.2 in aerosol containers overpacked in strong outside packages with no weight limitations.	08/07/2009	08/04/2009	173.306(a)(3)	N				N
	11624	2009080173	07/31/2011	Active	PTE	To authorize the transportation in commerce of household hazardous wastes identified as paint or paint related material, Class 3 material, in quantities greater than those presently authorized.	08/07/2009	08/04/2009	173.173(b)(2)	N			To modify the special permit to authorize the transportation in commerce of household hazardous wastes identified as paint or paint related material, Class 3, in quantities greater than those presently authorized.	N
	13192	2009080175	07/31/2011	Active	PTE	To authorize the transportation in commerce of certain labpack quantities of hazardous materials with shrink-wrap as an overpack without required markings and labels.	08/07/2009	08/04/2009	173.12(b)	N			To modify the exemption to provide additional relief from the stowage and segregation requirements for all hazardous materials shipped in a lab pack.	N

[Print](#) - [Download](#)

There are 4 Special Permits associated to any company associated to the US Parent of this facility.

Special Permits Granted for Modes of Transportation

All Special Permits ever granted to any company with the same US Parent as this facility
Time run: 10/13/2009 11:32:22 AM

Company Facility Name	Domestic Ultimate Name	Special Permit #	Special Permit Tracking #	Expires	Status	Cargo Aircraft Indicator	Cargo Vessel Indicator	Ferry Vessel Indicator	Motor Vehicle Indicator	Passenger Aircraft Indicator	Rail Freight Indicator
ENVIRONMENTAL RESTORATION, LLC - 1666 FABICK DR, FENTON, MO 63026	ENVIRONMENTAL RESTORATION, LLC	11296	2009080169	07/31/2011	Active	N	N	N	Y	N	Y
		11396	2009080172	07/31/2011	Active	N	N	N	Y	N	N
		11624	2009080173	07/31/2011	Active	N	N	N	Y	N	N
		13192	2009080175	07/31/2011	Active	Y	Y	N	Y	N	N

[Print](#) - [Download](#)

There are 4 Special Permits associated to any company associated to the US Parent of this facility.

No Approvals by Type were Found for this Facility or it's US Parent.
[Refresh](#)

No Explosive Approval Details were Found for this Facility or it's US Parent.
[Refresh](#)

No Lighter Approval Details were Found for this Facility or it's US Parent.
[Refresh](#)

No Approval Symbol Details were Found for this Facility or it's US Parent.
[Refresh](#)

No Comp Authority Approval Details were Found for this Facility or it's US Parent.
[Refresh](#)

No Retester Approval Details were Found for this Facility or it's US Parent.
[Refresh](#)

No FRA One Time Movements were Found for this Facility.
[Refresh](#)

No RAM Certifications were Found for this Facility.

October 13, 2009

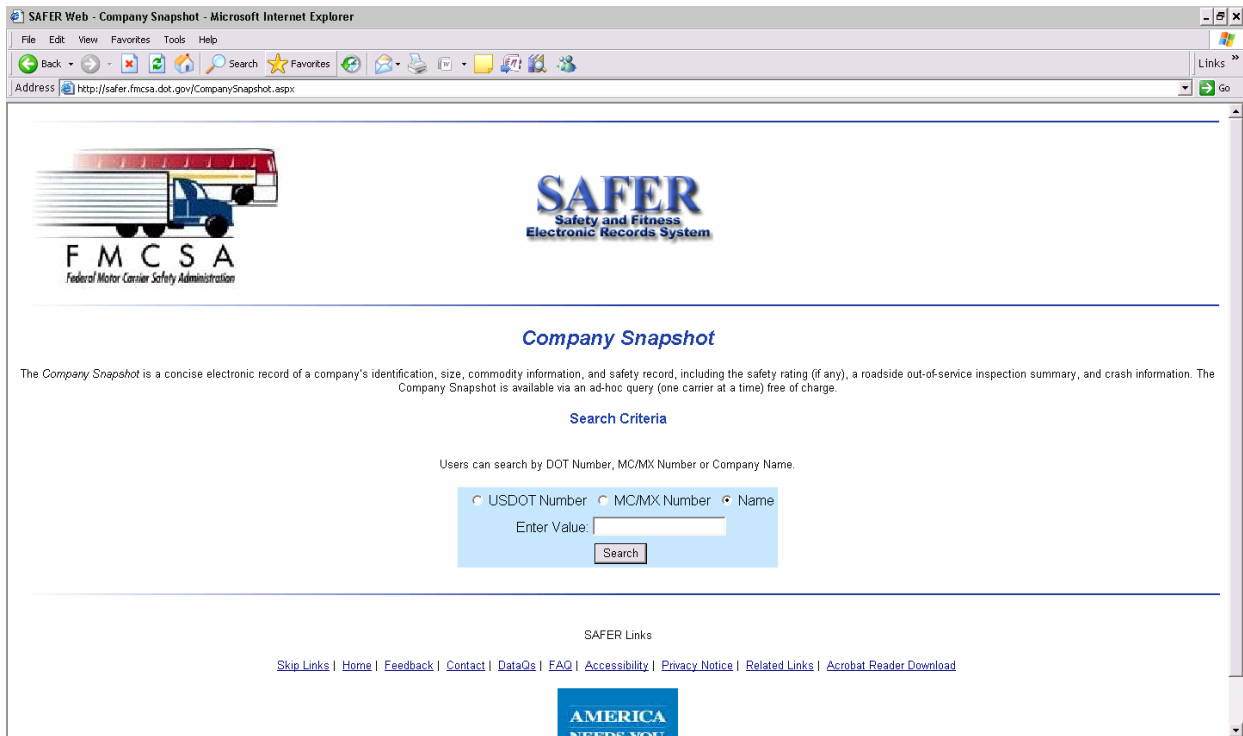
3.0 – This provides us with a complete record of the HIP data relative to the Company that is applying for either a Special Permit or Approval.

The following will provide the details for conducting fitness searches of the Federal Motor Carrier Safety Administration’s Safety and Fitness Electronic Records System (SAFER) Database.

Step 3 – Accessing SAFER

3.1 – The link to the SAFER system is shown below:

<http://safer.fmcsa.dot.gov/CompanySnapshot.aspx>



October 13, 2009

3.2 – Enter the company search information:

3.2.1 – For the company:

Environmental Restoration, LLC
Fenton, MO

Enter:

- Company name: Environmental Restoration
- Select Search by “Name”
- Click “Search”

The search returns:

SAFER WEB - Select Company - Microsoft Internet Explorer

Address: <http://safer.fmcsa.dot.gov/keywordv.asp?searchstring=%2AENVIRONMENTAL+RESTORATION+%2A&SEARCHTYPE=>

FMCSA
Federal Motor Carrier Safety Administration

SAFER
Safety and Fitness
Electronic Records System

Possible Keyword Matches

CARRIER/DBA NAME	LOCATION
ENVIRONMENTAL RESTORATION INC	COURTDALE, PA
ENVIRONMENTAL RESTORATION INC	GREENFIELD, IN
ENVIRONMENTAL RESTORATION LLC	FENTON, MO
ENVIRONMENTAL RESTORATION SERVICES	ALEXANDRIA BAY, NY
INTEGRATED ENVIRONMENTAL RESTORATION SERVICES INC	TAHOE CITY, CA
OLD OAK ENVIRONMENTAL RESTORATION INC	FORT PLAIN, NY
TRADEWINDS ENVIRONMENTAL RESTORATION INC	HOLTSVILLE, NY
TURNKEY ENVIRONMENTAL RESTORATION LLC	LACKAWANNA, NY

SAFER Links

[Skip Links](#) | [Home](#) | [Feedback](#) | [Contact](#) | [DataGs](#) | [FAQ](#) | [Accessibility](#) | [Privacy Notice](#) | [Related Links](#) | [Acrobat Reader Download](#)

**AMERICA
NEEDS YOU.
BUCKLE UP.**

3.2.2 – Select the appropriate company: Environmental Restoration Services, LLC., Fenton, MO by clicking the appropriate link.

SAFER Web - Company Snapshot ENVIRONMENTAL RESTORATION LLC - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address http://safer.fmcsa.dot.gov/query.asp?searchtype=ANY&query_type=queryCarrierSnapshot&query_param=USDOT&original_query_pa

USDOT Number
 MC/MX Number
 Name

Enter Value: ENVIRONMENTAL RE

Search

Company Snapshot

ENVIRONMENTAL RESTORATION LLC
USDOT Number: 801905

[ID/Operations](#) | [Inspections/Crashes](#) | [Safety Rating](#) | [Insurance](#)

Other Information for this Carrier

- SafeStat Results
- Licensing & Insurance

Carriers: If you would like to update the following ID/Operations information, please complete and submit form [MCS-150](#) which can be obtained [online](#) or from your State FMCSA office. If you would like to challenge the accuracy of your company's safety data, you can do so using FMCSA's [DataQs](#) system.

Carrier and other users: FMCSA provides the Company Safety Profile (CSP) to motor carriers and the general public interested in obtaining greater detail on a particular motor carrier's safety performance then what is captured in the Company Snapshot. To obtain a CSP please visit the [CSP order page](#) or call (800)832-5660 or (703)280-4001 (Fee Required).

For help on the explanation of individual data fields, click on any field name or for help of a general nature go to [SAFER General Help](#).

The information below reflects the content of the FMCSA management information systems as of **08/06/2009**.

Entity Type:	Carrier		
Out of Service (Interstate Only):	No	Out of Service Date:	None
Legal Name:	ENVIRONMENTAL RESTORATION LLC		
DBA Name:			
Physical Address:	1666 FABICK DRIVE FENTON, MO 63026		
Phone:	(636) 227-7477		
Mailing Address:	1666 FABICK DRIVE FENTON, MO 63026		
USDOT Number:	801905	State Carrier ID Number:	
MC or MX Number:	614047	DUNS Number:	--
Power Units:	30	Drivers:	29
MCS-150 Form Date:	04/15/2009	MCS-150 Mileage (Year):	73,798 (2007)
Operation Classification:			
<input checked="" type="checkbox"/> Auth. For Hire	Priv. Pass.(Non-business)	State Gov't	
<input type="checkbox"/> Exempt For Hire	Migrant	Local Gov't	
<input checked="" type="checkbox"/> Private(Property)	U.S. Mail	Indian Nation	
<input type="checkbox"/> Priv. Pass. (Business)	Fed. Gov't	<input checked="" type="checkbox"/> CONTRACTOR	
Carrier Operation:			
<input checked="" type="checkbox"/> Interstate	<input type="checkbox"/> Intrastate Only (HM)	<input type="checkbox"/> Intrastate Only (Non-HM)	

Cargo Carried:		
<input checked="" type="checkbox"/> General Freight	Liquids/Gases	Chemicals
Household Goods	Intermodal Cont.	Commodities Dry Bulk
Metal: sheets, coils, rolls	Passengers	Refrigerated Food
Motor Vehicles	Oilfield Equipment	Beverages
Drive/Tow away	Livestock	Paper Products
Logs, Poles, Beams, Lumber	Grain, Feed, Hay	Utilities
Building Materials	Coal/Coke	Agricultural/Farm Supplies
Mobile Homes	Meat	<input checked="" type="checkbox"/> Construction
<input checked="" type="checkbox"/> Machinery, Large Objects	<input checked="" type="checkbox"/> Garbage/Refuse	Water Well
Fresh Produce	US Mail	<input checked="" type="checkbox"/> HAZARDOUUS WAST

[ID/Operations](#) | [Inspections/Crashes](#) | [Safety Rating](#) | [Insurance](#)

Inspection results for 24 months prior to: 08/06/2009

Total inspections: 28

Note: Total inspections may be less than the sum of vehicle, driver, and hazmat inspections. Go to [Inspections Help](#) for further information.

Inspections:

Inspection Type	Vehicle	Driver	Hazmat
Inspections	20	25	1
Out of Service	3	2	0
Out of Service %	15%	8%	0%
Nat'l Average % (2005-2006)	23.14%	6.80%	5.39%

[ID/Operations](#) | [Inspections/Crashes](#) | [Safety Rating](#) | [Insurance](#)

The Federal safety rating does not necessarily reflect the safety of the carrier when operating in intrastate commerce.

Carrier Safety Rating:

The rating below is current as of: 08/06/2009

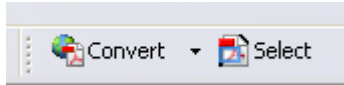
Review Information:

Rating date:	05/07/2008	Review Date:	05/05/2008
Rating:	Satisfactory	Type:	Compliance Review



October 13, 2009

3.2.3 – To add this page to the file, from the from the internet explorer tool bar select:



Click: Convert to ADOBE PDF

3.2.4 – Then save the file as:

[company name] Safer.PDF

3.2.5 – After saving, import the PDF into HMIS/FYI as you would for any other file.

These documents will provide us an overview of how the company has been performing and give us a information used in determining the “Fitness” of the company.

4.0 – The HIP and SAFER Data is then used to determine Initial Fitness as described in: Section 6.2 of the *PHMSA Special Permits Program Standard Operating Procedures*.