

December 4, 2010

ACTION PLAN TO ENHANCE SAFETY OVERSIGHT OF THE APPROVALS PROGRAM

Background

In Mid 2009, based on the program audits and investigations conducted and communicated by both the Office of Inspector General (OIG) and the House Transportation and Infrastructure (T&I) Committee and by its own more recent internal program wide review and assessment, PHMSA began an office-wide enhancement and modernization effort in the Office of Hazardous Materials Safety. PHMSA acted to develop and implement the plans and solutions to address the program improvement recommendations from the OIG and House T&I. This PHMSA program focus and enhancement project was communicated and managed through the development and delivery of an Action Plan generated in Mid August 2009 for the Special Permits Program.

In October 2009, PHMSA completed a comprehensive program review of the Approvals Program. PHMSA's review identified deficiencies and gaps in current processes and developed measures to enhance procedures, reduce redundancies, and increase oversight and accountability. Utilizing the identified program gaps and vulnerabilities from its own internal review and aligned with the program improvement recommendations and lessons learned from Special Permits Program Review, PHMSA develops this action plan for Approvals.

Action Plan

Based on a comprehensive internal review of the Approvals Program, we have developed an action plan with the following goals:

Goals

- Enhance safety oversight of the Approvals Program
- Improve operational efficiency within the program and the Office of Hazardous Materials Safety
- Improve coordination between Office of Special Permits and Approvals and its modal partners
- Improve data collection and analysis

Strategies

The action plan takes into account the resources available within the Office of Hazardous Materials Safety, including both personnel and information technology; the process and procedures used to manage the program; the criteria used to make an assessment of an equivalent level of safety; the process for evaluating the fitness of applicants and their safety performance; increased compliance audits and oversight of special permit holders; enhanced accountability of those operating under the terms of special permits; and the need to modernize the information technology (IT) system that supports the program.

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Action Item	Action	Due Date	Completion
<p>Program review. conduct a broad-based, top-to-bottom review of the Approvals program, covered current operational procedures, staff responsibilities, documentation of procedures, criteria for technical and safety justifications and fitness to perform activities authorized by an approval, and coordination with DOT operating administrations. The review identified deficiencies and gaps in current processes and developed measures to enhance procedures, reduce redundancies, and increase oversight and accountability. We will consider information provided by other OHMS divisions, DOT operating agencies, other government officials (e.g. OIG, House T&I staff) and approval holders.</p>	<ul style="list-style-type: none"> • The program review identified deficiencies in the Approvals program that will be addressed through the Action Plan, including: <ul style="list-style-type: none"> ○ Documentation of standard operating procedures to ensure process and program coordination consistency, ○ Revised evaluation forms and process that enhances the safety equivalency review justification, and ○ A resource focus and development of a fitness determination and review process for every application. 		✓ Nov 6, 2009
<p>Approvals issued to associations. Within 15 days, revise the existing policy statement on Special Permits issued to members of industry associations or similar industry organizations to apply to Approvals issued to industry trade associations. Within 45 days, revise Approvals issued to the members of industry associations in accordance with the policy statement.</p>	<ul style="list-style-type: none"> • Worked in conjunction with the Special Permits Action Plan. Revise the policy statement on issuance of Approvals to members of an industry association. • As of Jan 2010 approvals were reissued to members of industry associations as the preliminary step to reissuing approvals to individual entities. 	Dec 19, 2009 Jan 18, 2010	✓ Dec 19, 2009 Jan 18, 2010
<p>Safety documentation evaluations. Within 60 days, review the criteria, policy, and procedures used to determine that the activity sought under an approval will achieve an “equivalent level of safety,” as applicable, and, as necessary, revise the criteria, policy, and procedures to ensure that the regulatory standard for equivalent level of safety is met and supported with appropriate justification and documentation. Develop process to ensure ongoing review and revision as necessary of safety criteria.</p>	<p>Review of the approval evaluation process resulted in the Approvals Safety Evaluation Kit.</p> <ul style="list-style-type: none"> • These enhanced safety evaluation forms and procedures will be used by the Approvals team to ensure that the regulatory standard for equivalent level of safety is met and supported with appropriate justification and documentation. • Includes procedures for review of safety criteria based on HazMat inspection, enforcement, and incident data. 	Feb 2, 2010	✓ Feb 2, 2010
<p>Inter-agency coordination. Within 60 days, review and enhance procedures for coordinating the issuance of Approvals with FAA, FRA, FMCSA, and the USCG, including methods to evaluate the fitness of applicants to conduct the activities authorized by the Approval.</p>	<ul style="list-style-type: none"> • Implemented Approvals Inter-Agency coordination for selected approval types. • Continuing to work with modal partners to refine processes and procedures. Operating administrations will notify PHMSA any serious violations of an approval by the grantee that would call into question the fitness of a grantee 	Feb 2, 2010	✓ Feb 2, 2010

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<p>Enforcement. develop and implement a comprehensive review and inspection procedure and process for determining fitness of approval applicants and grantees. The procedure also includes specific processes of defining, evaluating and program outputs on fitness determinations. The procedures will take advantage of the modal resources when responsibility is applicable and appropriate for enforcing HMR The process and procedure will also work to enhance the availability of data needed to appropriately and effectively provide the necessary oversight to ensure that holders of Approvals are operating safely and within the conditions established in the Approvals.</p>	<p>Worked in conjunction with the Special Permits Action Plan</p> <ul style="list-style-type: none"> - Developed and implemented a comprehensive review and inspection procedure and process for determining fitness of special permit and approval grantees - Includes specific processes of defining, evaluating and program outputs on fitness determinations. 		<p>✓ Sep 4, 2009</p>
<p>Applicant “fitness.” review the policy and procedures for determining the fitness of Approval applicants, including the criteria considered in determining “fitness” (such as past safety record, previous incidents and violations, staffing and resources, and carrier safety rating if applicable) and the process and criteria for initiating on-site fitness reviews. As necessary, revise the policy and procedures to ensure that fitness determinations are well-founded and supported with appropriate documentation.</p>	<p>Worked in conjunction with the Special Permits Action Plan</p> <ul style="list-style-type: none"> • Developed and implemented processes and procedures for determining fitness of all applicants filing for approvals, including foreign applicants; • Defined fitness and set general criteria that when intelligence or data show to meet criteria, process invokes further review for possible investigation/inspection; • Coordinate with other agencies as they play a key role in further review when referred for additional evaluation.. 		<p>✓ Sep 4, 2009</p>
<p>Standard Operations Procedures. <u>Within 60 days,</u> review and update, as appropriate, written Standard Operating Procedures (SOPs) for the Approvals Program, incorporating recommendations from the top-to-bottom review and the policies and procedures developed to address “equivalent level of safety,” applicant fitness, and inter-agency coordination. The SOPs will detail the procedures utilized to review Approval applications, including interaction with the other DOT operating administrations and permit holders, and enhanced safety oversight measures.</p>	<p>This SOP product is a first phase document and is part of an ongoing effort to produce a more refined SOP that represents an evolving re-engineered, revised and more uniform / comprehensive program operation. The SOP's are evergreen and will be revised continuously as the program enhances, evolves and improves.</p>	<p>Feb 2, 2010</p>	<p>✓ Feb 2, 2010</p>

Action Item	Action	Due Date	Completion
<i>Publishing Approvals in the Federal Register. Within 90 days,</i> develop written policies and plans for publishing Approvals applications in the Federal Register.	PHMSA developed polices and plans detailing: <ul style="list-style-type: none"> • which Approval applications will be published; • the details that will be provided when the applications are published. 	Mar 4, 2010	✓ Mar 4, 2010
<i>Elimination of Approvals Backlog. Within 60 days,</i> develop and implement a plan to reduce the number of approvals that have been in process for more than 90 days. <i>Within 120 days,</i> Eliminate the backlog of pending Approvals (and Special Permits) that have been in process for more than 90 days.	Plan implemented to sharply focus on reallocating and adding resources, process enhancements, and IT support to complete the pending workload while following the new process and procedures. The backlog of Special Permits has been eliminated. Based upon volume and resources, PHMSA expects to eliminate the backlog of remaining approvals by September 30, 2010.	Feb 2, 2010 Sep 30, 2010	✓ Dec 15, 2009
<i>Expiration Dates for CAs and other Approvals. Within 60 days,</i> develop a plan for incorporation of expiration dates into Approvals that do not have expiration dates and are determined to require them.	PHMSA implement the plan that addresses incorporation of expiration dates into designated Approvals. Implementation of the plan is affected by the significant resource needs and practical impacts of adding expiration dates to more than 50K approvals.	Feb 2, 2010	✓ Feb 2, 2010
<i>Data Collection and Analysis. Within 90 days,</i> develop a plan of action and resource assessment for enhancing data collection and analysis including documentation of workflow and business processes to support the IT modernization task of this action plan.	Completed in conjunction with the Special Permits Action Plan	Mar 4, 2010	✓ Mar 4, 2010
<i>Third Party Certification Agencies (3rd Party Labs). Within 90 days,</i> Develop a plan to address the inspection, management and oversight of the Third Party Certification Agencies and data collection	PHMSA has: <ul style="list-style-type: none"> • Developed application and review processes and procedures for approval of Certification Agencies (3rd Party Labs) • Developed management processes and procedures; • Implemented renewal process and expiration dates. 	Mar 4, 2010	✓ Mar 4 2010
<i>PHMSA Safety Review Board</i> – establish a review board to review internally contested safety decisions	PHMSA has documented internal procedures for dispute resolution and has drafted a PHMSA Order to establish a Safety Review Board.	Feb 2, 2010	✓ Feb 2, 2010

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<p>IT modernization. <u>Within 180 days, award a</u> contract to modernize the information technology system that supports the work flow and processing of Approvals and approvals to enhance productivity, accountability, and overall management of the safety function responsibilities assigned to the Office of Approvals and Approvals. As part of this project, establish a mechanism for alerting holders of Approvals 90 days in advance of the expiration of a Approval or approval and develop a notification system to communicate safety concerns or other issues with permit holders and to expedite notification of PHMSA and the operating administrations when incidents occur. The system will also include a data warning system for monitoring the performance of holders of specific Approvals and approvals.</p>	<p>This effort was being worked in conjunction with the Special Permits Action Plan. PHMSA awarded an IT modernization contract, based on our comprehensive needs, vulnerabilities and business assessment, that will re-engineer, streamline and improve the efficiency and broader coordination, communication and transparency of the tracking and processing of special permit and approval program actions. (NOTE: Utilizing existing IT support services - the IT modernization effort has been in motion since mid 2009 and has made much progress to streamline, improve, enhance and support the special permits processing changes)</p>	<p>Feb 5, 2010</p>	<p>✓ Feb 5, 2010</p>
<p>Approvals identified for further assessment. <u>Within 180 days,</u> review all open Approvals to identify those that should be reviewed because of safety concerns. Identify any Approvals or approvals where the prior safety justification requires further analysis and review. Develop a plan for completing such review and modifying or rescinding Approvals as necessary.</p>	<p>PHMSA has determined that the Safety Evaluation category of approvals <i>may</i> require further assessment. This category includes approvals issued to requirements contained in International Standards (IMDG/ICAO CAAs), and approvals for lithium batteries and fuel cells. PHMSA's plan establishes a systematic process for reviewing those approvals and determining if further assessment is required.</p>	<p>Jun 2, 2010</p>	<p>✓ June 2, 2010</p>
<p>Incorporation of Approvals into HMR. <u>Within 180 days,</u> develop a plan, including identification of team members and an implementation schedule, for an ongoing review of all open Approvals with a view towards identifying those that should be made part of the HMR. The plan will include a schedule for incorporating identified Approvals into the HMR and will be included as part of the business plans for each participating office.</p>	<p>PHMSA has completed plan to codify certain approvals into regulation. Approvals issued to the members of an association have broad applicability and demonstrated safety records, therefore, these approvals are the first priority tasking for this initiative.</p>	<p>Jun 2, 2010</p>	<p>✓ June 2, 2010</p>
<p>Website Updates – Approvals: perform continual updates of documents and policies consistent with the noted completion dates in this action plan.</p>	<p>PHMSA continues to regularly post all action plan deliverables, operational procedures and plan updates to its public website</p>	<p>On Going</p>	<p>On Going</p>