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U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

DEPT. OF TRANSPORTATION  
DOCKETS

400 Seventh Street, S.W.  
Washington, D.C. 20590

2006 APR -7 P 3: 06

APR 26 2005

Mr. Don Hausz  
President  
All-Out Fire Equipment Co., Inc.  
385 High Street  
Holbrook, NY 11741

PHMSA-2005-23199-1

PROPOSED TERMINATION OF RIN APPROVAL

Dear Mr. Hausz;

This letter constitutes notification that, in accordance with 49 C.F.R. § 107.713(b)(4), I am proposing termination of All-Out Fire Equipment Co., Inc.'s (All-Out Fire) approval as a retester of cylinders with Retester Identification Number (RIN) of A261. This action is being proposed based on the June 15 and 16, 2004 Office of Hazardous Materials Enforcement (OHME) compliance inspection of All-Out Fire.

From a review of the inspection and the enclosed report (Inspection Report No. 04421033), I have a reasonable belief that All-Out Fire knowingly committed the following violations of the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171-180:

Violation No. 1: Representing, certifying, and marking DOT specification and exemption cylinders as having been successfully retested in accordance with the HMR, without actually conducting hydrostatic testing, in violation of 49 C.F.R. §§ 171.2(c), 180.205(c), 180.205(g)(1), and 180.209(a)(1).

Violation No. 2: Representing, certifying, and marking DOT specification cylinders as having been successfully retested in accordance with the HMR, when the test records had recorded the cylinders as having failed the visual inspection, in violation of 49 C.F.R. §§ 171.2(c), 180.205(h), and 180.205(i).

Violation No. 3: Representing, certifying, marking, and offering DOT specification cylinders as having been successfully retested in accordance with the HMR, when the cylinders were tested by an unauthorized retest operator, in violation of 49 C.F.R. §§ 171.2(c), 107.805(g), and 180.205(b) and in violation of RIN A261 Approval Letter of October 10, 2001.

For  
address  
to  
the  
solicitor  
NT: S  
Access  
to AFD.

Violation No. 4: Representing, certifying, marking, and offering DOT specification cylinders as having been successfully retested in accordance with the HMR, without maintaining complete retest and reinspection records, in violation of 49 C.F.R. §§ 171.2(c) and 180.215(b).

Violation No. 5: Representing, certifying, and marking DOT specification cylinders as having been successfully retested in accordance with the HMR, without maintaining current copies of applicable regulations, in violation of 49 C.F.R. §§ 171.2(c) and 180.215(a)(4).

Violation No. 6: Allowing an employee to perform functions subject to the HMR, including and not limited to representing, certifying, and marking DOT specification and exemption cylinders as having been successfully retested, while failing to provide hazmat training and testing of its employee, in violation of 49 C.F.R. §§ 171.2(c), 172.702(b), 172.702(d), and 172.704(d).

Many of these violations were also noted during the compliance inspections conducted by OHME at All-Out Fire in 1992 and 2000. This pattern of non-compliance indicates continuous disregard for compliance with the regulations governing the retesting operations authorized under the approval. To date, there is no documentation showing that All-Out Fire has taken any action to correct the violations noted during the inspection of June 15 and 16, 2004. The inspector's follow-up communication with All-Out Fire indicated that it was allowing another unauthorized person to conduct retesting on All-Out Fire's behalf. There is also no evidence to show that All-Out Fire has initiated a recall of the cylinders, which were marked as properly re-qualified and returned to service without ever having been subjected to hydrostatic testing.

In addition, a written statement of All-Out Fire's previous employee, Mr. James Mylett, was forwarded to PHMSA by the Suffolk County District Attorney's office. The statement indicated that All-Out Fire condoned the practices of its employees to stamp high-pressure cylinders and label low-pressure cylinders, as having been properly retested, when none of these cylinders was subjected to the required hydrostatic testing during March 2002 through August 2003.

Based on a review of the above facts and circumstances, and the company's prior non-compliance history, I have a reasonable belief that All-Out Fire knowingly violated the terms of its RIN approval and has demonstrated a lack of fitness to perform hydrostatic tests on compressed gas cylinders. Therefore, I am proposing to terminate All-Out Fire's approval. As provided in 49 C.F.R. § 107.713(c)(1), All-Out Fire may file a written response to this notification. All-Out Fire must file its response within 30 days of receipt of this notification.

After considering All-Out Fire's response, or if no response is received within 30 days, I will notify All-Out Fire of my decision. If there are any questions concerning this letter, please contact me at (202) 366-0656.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. McGuire". The signature is fluid and cursive, with a large initial "R" and "M".

Robert A. McGuire  
Associate Administrator for Hazardous Materials Safety

cc: Mr. Delmer Billings - DHM-30  
Mr. Douglas S. Smith - DHM-40  
Mr. Chris Michalski - DHM-42

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**