

CHAPTER 16

Enforcement Recommendations

SECTION 16.1 – PURPOSE

The Office of Hazardous Materials Safety Field Operations is the component within PHMSA that has the most contact with the regulated community in their operating environment. OHMS field staff not only engages the public in detailed conversation, but have the opportunity to scrutinize their operations thoroughly. Because of this we have the responsibility of being the eyes and ears of PHMSA.

It is not enough that we report when the regulated public may not be complying with the HMR, we also have the responsibility of advising the appropriate office when we observe that a regulation or special permit may be deficient or obsolete. For this purpose, the Director of Field Operations has established the Enforcement Recommendation program.

SECTION 16.2 – PROCEDURES

When in the course of inspections and investigations, a situation is observed which appears to indicate that the HMR, approval, or permit may be deficient, outdated, or that they simply do not address and should address; investigators will document that situation just as they would document noncompliance on the part of the regulated public.

Investigators shall take photographs, obtain documentation, prepare observation reports, and take detailed notes supporting what was observed.

Upon returning to the office, prepare a memorandum for the supervisor's signature to the appropriate Division Director. The memorandum will as a minimum include the following:

- A detailed description of what was observed, when observed, where observed, and who was present when observed.
- A statement of what is believed to be deficient or obsolete.
- Supporting evidence that helps the staff in the Headquarters office responsible to understand the issue. Remember, they were on the inspection, and must rely on the investigator for all the detail they have to understand the problem and initiate corrective measures.
- Recommendations on what actions are believed to be necessary to correct the problem.

- Recommendations should be specific. It is not enough to say change the HMR. State how the HMR should be changed or the special permit modified. Be part of the part of the correction, not just the discoverer of the problem.
- The memorandum will be numbered for easy reference and tracking purposes. A spread sheet is located on the “P” drive to facilitate numbering. The spread sheet is named Enforcement Recommendations.

An example of an Enforcement Recommendation is in Appendix A to this manual to assist with the format.

NOTE: This does not preclude writing the inspection report.