

NHTSA concludes that simultaneous activation of the red low air pressure indicators, an audible alert for a low air pressure condition, along with the primary and secondary air gauge indicators, provide adequate notification to the operator that a brake malfunction exists.

VIII. NHTSA's Decision

In consideration of the foregoing, NHTSA finds that Mack and Volvo have met their burden of persuasion that the FMVSS No. 101 noncompliance is, in each case, inconsequential as it relates to motor vehicle safety. Accordingly, Mack and Volvo's petitions are hereby granted, and they are exempted from the obligation to provide notification of and remedy for, the subject noncompliance in the affected vehicles under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicle that Mack and Volvo no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mack and Volvo notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2018-0025: Notice No. 19-XX]

Hazardous Materials: Notice of Issuance of Special Permit Regarding Liquefied Natural Gas

AGENCY: Pipeline and Hazardous Materials Safety Administration

(PHMSA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice as a general informational announcement concerning the issuance of a special permit. The special permit authorizes the grantee to transport Methane, refrigerated liquid (*i.e.*, liquefied natural gas or LNG) by rail tank car. The special permit and documents supporting the special permit decision have been added to PHMSA's LNG by Rail Notice of Proposed Rulemaking Docket (Docket No. PHMSA-2018-0025) for consideration by the public because the subject matter of the special permit overlaps with the subject matter of PHMSA's rulemaking proposing to authorize the transport of LNG in rail tank cars. PHMSA reviewed comments to the draft environmental assessment (Docket No. PHMSA-2019-0100) published for public review on June 6, 2019. These comments informed PHMSA's decision making in issuing the special permit and will also help to inform PHMSA's deliberations with respect to a potential LNG by rail final rule. PHMSA will consider any additional comments on the operational controls included in the special permit that are filed to the LNG rulemaking docket to aid the agency in determining what, if any, operational controls may be appropriate for inclusion in a potential final rule.

DATES: Comments must be received to Docket No. PHMSA-2018-0025 by December 23, 2019. To the extent practicable, PHMSA will consider late-filed comments in development of a potential final rule.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA-2018-0025 (HM-264) via any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* To the Docket Management System; Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket

Number (PHMSA-2018-0025) or RIN (2137-AF40) for this rulemaking at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Docket: For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> or DOT's Docket Operations Office (see **ADDRESSES**).

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 105.30, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as "Confidential"; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice.

Submissions containing CBI should be sent to Michael Ciccarone, Office of Hazardous Materials Safety, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590-0001. Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the LNG by Rail Notice of Proposed Rulemaking Docket (Docket No. PHMSA-2018-0025).

FOR FURTHER INFORMATION CONTACT: Donald Burger, Approvals and Permits (PHH-30), Telephone (202) 366-4535, or Michael Ciccarone, Standards and Rulemaking Division (PHH-10),

Telephone (202) 366-8553. U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, East Building, 2nd Floor, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: On June 6, 2019, PHMSA published a Notice of Draft Environmental Assessment for a Special Permit Request for Liquefied Natural Gas by Rail (PHMSA-2019-0100-0002) in the **Federal Register**. PHMSA solicited comment on the draft environmental assessment (EA) for a special permit request from Energy Transport Solutions, LLC. The notice requested comment on potential safety, environmental, and any additional impacts that should be considered as part of the special permit evaluation. See Docket No. PHMSA-2019-0100 for further information on the draft special permit.

The comment period closed on August 7, 2019. PHMSA received approximately 2,985 comments to the docket for the notice. In consideration of the request for special permit and the 2,985 comments received to the notice, PHMSA completed a technical evaluation and a revised EA. For more information on the comments received please see the revised EA, *Section 6 PHMSA's Response to Public Comments*, included in both this docket and the docket for the draft EA and special permit. PHMSA invites public comments relevant to the rulemaking on these materials to be submitted to the rulemaking docket (Docket No. PHMSA-2018-0025).

The special permit—as issued—includes certain operational controls that were not included in the draft special permit, draft EA, and the “Hazardous Materials: Liquefied Natural Gas by Rail” (HM-264) notice of proposed rulemaking (NPRM). Specifically, paragraph 7.c of the special permit states the following:

7.c. OPERATIONAL CONTROLS:

(1) Each tank car must be operated in accordance with § 173.319 except as specified in paragraph 7.a. above.¹

(2) Shipments are authorized between Wyalusing, PA and Gibbstown, NJ, with no intermediate stops.

(3) Within 90 days after issuance, the grantee shall prepare and submit a plan

¹ Paragraph 7.a. authorizes DOT-113C120W tank cars for bulk transport of LNG and specifies that each tank car must have a maximum permitted filling density (percent by weight) of 32.5%; a maximum operating pressure of 15 psig when offered for transportation; and remote sensing for detecting and reporting internal pressure, location, and leakage.

providing per shipment quantities, timelines, and other actions to be taken for moving from single car shipments to multi-car shipments, and subsequently to unit trains (20 or more tank cars).

(4) Trains transporting 20 or more tank cars authorized under this special permit must be equipped and operated with a two-way end of train device as defined in 49 CFR 232.5 or distributed power as defined in 49 CFR 229.5.

(5) Prior to the initial shipment of a tank car under this special permit, the grantee must provide training to emergency response agencies that could be affected between the authorized origin and destination. The training shall conform to NFPA-472,² including known hazards in emergencies involving the release of LNG, and emergency response methods to address an incident involving a train transporting LNG.

(6) While in transportation, the grantee must remotely monitor each tank car for pressure, location, and leaks.

These operational controls were added as a result of PHMSA's consideration of the comments received to the draft EA, PHMSA invites comments on these operational controls to be submitted to the rulemaking docket (Docket No. PHMSA-2018-0025). We encourage commenters to provide data on the safety or economic impacts associated with operational controls in the special permit, including analysis of the safety benefits and the potential cost-benefit impact of implementing these or other operational controls.

Issued in Washington, DC, on December 5, 2019.

William S. Schoonover,

Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modifications to Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

² NFPA-472 is a voluntary consensus standard developed by the National Fire Protection Association establishing minimum competencies for responding to hazardous materials emergencies.

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the “Nature of Application” portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 26, 2019.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT:

Donald Burger, Chief, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 5, 2019.

Donald P. Burger,

Chief, General Approvals and Permits Branch.