

INTERESTED PARTIES FOR HAZARDOUS MATERIALS TRANSPORTATION

April 26, 2013

The Honorable Bill Shuster
Chairman
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Nick Rahall
Ranking Member
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Jeff Denham
Chairman
Railroads, Pipelines, and Hazardous Materials
Subcommittee
U.S. House of Representatives
Washington, DC 20515

The Honorable Corrine Brown
Ranking Member
Railroads, Pipelines, and Hazardous Materials
Subcommittee
U.S. House of Representatives
Washington, DC 20515

RE: FY 2014 PHMSA Budget Request – User Fee Proposal

Dear Chairmen Shuster and Denham and Ranking Members Rahall and Brown:

The undersigned industry associations represent all sectors of the economy engaged in the transportation of hazardous materials which are essential to Americans' quality of life. We are writing to alert you to our concerns with the Administration's proposed \$12 million user fees to be paid by applicants for special permits and approvals (SP/A) issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA). This fee proposal, with charges ranging from \$700 to \$3,000 per application, is identical to the user fee the Administration proposed in FY 2013. Congress wisely rejected this proposal last year, and we urge you to once again reject this initiative in order to protect American jobs and promote innovation.

PHMSA states that it needs the user fees to support its oversight of the new conditions it has imposed on SP/A applicants. However, the user fee proposal is without merit:

- Currently, about 35 full-time equivalents (FTE) are dedicated to the SP/A program. \$12 million would support a staff of 66 FTEs. PHMSA has inflated the costs of this program by about 50%.
- The SP/A workload is decreasing. For example, applicants for classification approvals are no longer scrutinized for "fitness" and special permits in effect over ten years are being incorporated into the HMR.
- The excess user fee revenue would be used to underwrite the agency's general fund, although only a fraction of the regulated community are holders of special permits and approvals.

- No death has been attributed to special permits or approvals since 1971 when agency records began to be kept.
- The government, not private companies, is the largest holder of approvals and special permits. The government will pay no fees.
- Historically, fees have not been imposed on foreign entities for fear of retaliatory fees on US exports giving foreign shippers a competitive advantage in the U.S.
- Part of the revenue will have to be used to hire additional federal workers to administer and collect the fees.
- It is the business activity, not the size, of a company that determines how many applications may be filed. Many payers will be small businesses.
- Despite statements that PHMSA is accelerating incorporation of special permits into the HMR, no new resources are requested to support this rulemaking activity.
- The fees would be payable per application, meaning that any application returned for corrections and re-filing would result in unfair redundant fee payments.
- Other DOT modal administrations issue approvals or what amount to special permits; none assess fees.

This program, which provides safety benefits to the public and facilitates technical innovations important to our economy, has been successfully run for decades without user fees. PHMSA's proposal could be the start of a trend for user fees for other regulatory actions including letters of interpretation or petitions for rulemaking necessary for compliance and good government.

PHMSA'S user fees are not fair or equitable but are a hidden tax on companies that innovate and produce goods needed to strengthen and rebuild the US economy. User fees are not "self-executing," as described by PHMSA Administrator Cynthia Quarterman. Approval by congressional authorizing committees is needed. We again urge you to reject this initiative.

Respectfully,

Agricultural Retailers Association
 American Chemistry Council
 American Coatings Association
 American Petroleum Institute
 American Pyrotechnics Association
 American Trucking Associations
 Association of Hazmat Shippers, Inc.

The Chlorine Institute, Inc.
 Compressed Gas Association
 Council on Safe Transportation of
 Hazardous Articles
 Dangerous Goods Advisory Council
 The Fertilizer Institute
 Gases and Welding Distributors Association

Industrial Packaging Alliance of North America
Institute of Makers of Explosives
International Vessel Operators Dangerous
Goods Association, Inc.
National Association of Chemical Distributors
National Association of Shell Marketers
The National Industrial Transportation League
National Private Truck Council
National Propane Gas Association
National Tank Truck Carriers, Inc.
New England Fuel Institute
Petroleum Marketers Association of America

Radiopharmaceutical Shippers & Carriers
Conference
Railway Supply Institute, Inc.
PRBA-The Rechargeable Battery Association
Reusable Industrial Packaging Association
Sporting Arms & Ammunition Manufacturers'
Institute
Steel Shipping Container Institute
Transportation Intermediaries Association
Truckload Carriers Association
Utility Solid Waste Activities Group