



**U.S Department of
Transportation
Pipeline and Hazardous Materials
Safety Administration**

ORDER

PHMSA 3770.1

Subject: SAFETY REVIEW BOARD

Originating Office
PH-1

Date
April 05, 2010

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1. **PURPOSE:** This order establishes a Safety Review Board within the Pipeline and Hazardous Materials Safety Administration (PHMSA) to resolve differences of professional judgment concerning pipeline or hazardous materials safety issues.

It is not intended to modify or usurp any authority of the PHMSA Administrator.

2. **SCOPE:** This order applies to differences of professional judgment related to an approval, denial, rejection, suspension, termination, modification, declaration, interpretation, clarification, order, or similar action that affects pipeline or hazardous materials transportation safety.

This order does not apply to differences of professional judgment involving legal matters, responsibilities, duties, or decisions delegated and required by law as being within the purview of the Office of Chief Counsel (to include but not limited to enforcement actions initiated to address non-compliance with pipeline safety or hazardous materials regulatory requirements).

3. **BACKGROUND:**
 - a. Pipeline Safety. PHMSA administers the national regulatory program to assure the safe transportation of natural gas, petroleum, and other hazardous materials by pipeline under 49 U.S.C. 60101 et seq. and 49 U.S.C. 5101 et seq.
 - b. Hazardous Materials Safety. PHMSA has been delegated authority to administer the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C.5101et seq.), which authorizes the Secretary of Transportation to regulate the safe and secure transportation of hazardous materials in commerce. The Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) establish safety and security requirements for the commercial transportation of hazardous materials.
4. **SAFETY REVIEW BOARD:** The Safety Review Board consists of the following five members:
 - a. Chair. The Chief Safety Officer or other senior executive designated in writing by the Chief Safety Officer.
 - b. Legal Officer. The PHMSA Chief Counsel or senior attorney designated in writing by the PHMSA Chief Counsel.

- c. Board members. The Associate Administrator (or a designee) for Pipeline Safety or for Hazardous Materials Safety. The Associate Administrator for the program in which the concern has been raised shall not serve on the Board. Rather, the Administrator shall appoint, in that Associate Administrator's place, an individual with subject matter expertise.
- d. Senior Policy Advisor.

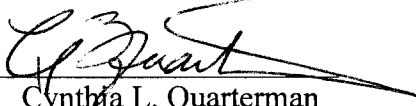
5. FUNCTIONS AND POWERS OF THE SAFETY REVIEW BOARD:

- a. The Safety Review Board is responsible for the consideration and disposition of matters arising from differences of professional judgment between or among PHMSA staff members on safety matters, decisions, and actions.
- b. The Safety Review Board shall consider and resolve issues referred to it by any PHMSA employee but only after internal processes for achieving consensus have been exhausted.
- c. At its discretion, the Safety Review Board may refer an issue to the Deputy Administrator or the Administrator for resolution or to the Associate Administrator for consideration of an issue or implementation of an action.

6. SAFETY REVIEW BOARD PROCESS:

- a. The PHMSA complainant shall refer the concern to the Safety Review Board in writing. The referral document shall include a memorandum summarizing the issue, including the specifics of the difference of professional judgment, and sufficient background information to enable the Board members to gain a full understanding of the issue to be decided. The referral document shall also include a summary of efforts to achieve consensus on the issue to be decided. The documents must be provided to the Associate Administrator of the program in which the concern has been raised.
- b. The Chair shall convene a meeting of the Safety Review Board as soon as practicable after receipt of the referral document. The meeting shall include all parties to the issue and shall ensure a thorough and open discussion of the issue in question and a fair and equal opportunity for all sides to present and document their views. If necessary, the Safety Review Board shall convene additional meetings to provide an opportunity for a full and fair discussion.
- c. The Safety Review Board may request additional information or analysis to assist in the development and support of its decision. In addition, the Safety Review Board may ask technical experts to participate in its consideration of the issue in question; such experts may be drawn from PHMSA or elsewhere in the Department of Transportation.
- d. The Safety Review Board shall meet separately to decide the issue in question as soon as practicable after it completes its meetings with the parties to the dispute; consultations with technical experts, as necessary; and review of all relevant documentation. Decisions shall be made by majority vote, with each member having one vote. Individual votes shall be confidential. The decision shall be documented in writing and shall include a summary of all oral and written presentations, information, and analyses related to the decision.

7. **DISCLAIMER:** This Order is issued exclusively for the internal management of PHMSA and the guidance of its officers and employees. This Order creates no rights, legal or equitable, in any other person.
8. **EFFECTIVE DATE:** April 15, 2010



Cynthia L. Quarterman
Administrator