

### **HOW TO REQUEST AN APPROVAL**

Transporting Hazmat under the Hazardous Materials Regulations



U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration

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#### **NASA Moon Rover Testing**

RESOLVE Project rover undergoes field tests. NASA's Kennedy Space Center petitioned PHMSA for a hazardous materials approval to ship three prototype moon rovers, and their lithium battery power sources, by cargo-only aircraft to a Hawaii field testing facility.

NOTE: This document serves as guidance for approval applications other than those for energetic materials (e.g., explosives), Class 7 materials, approval and certification agencies, manufacturers of UN pressure receptacles, cylinder requalifiers, and foreign manufacturers of DOT-specification cylinders.

#### **APPROVAL AUTHORITY**

A shipper or carrier is required to obtain an approval prior to performing a specific function under the Hazardous Materials Regulations (HMR), the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO TI), and the International Maritime Dangerous Goods (IMDG) Code that requires Pipeline and Hazardous Materials Safety Administration's (PHMSA) Associate Administrator<sup>†</sup> or competent authority approval, as appropriate. An approval is written consent, including a competent authority approval, from the Associate Administrator, the Associate Administrator's designee, or as otherwise prescribed in the HMR, to perform a function for which prior authorization by the Associate Administrator or competent authority (or "appropriate authority" as used in the ICAO TI) is required under the HMR or authorized international standard.

An approval by the competent authority, required under international standard, is called a competent authority approval, and includes:

- A specific regulation in the HMR;
- A special permit or approval; and
- A separate document issued to one or more persons by the Associate Administrator.

Requests to perform any function not authorized in the HMR must be made as required for special permits in 49 CFR Part 107 Subpart B. If there is no regulatory citation in the HMR requiring approval from the Associate Administrator, an approval will not be issued.

<sup>&</sup>lt;sup>†</sup> The Associate Administrator is the competent authority of the United States.



PHMSA reviews each approval request and may issue an approval if the request achieves a level of safety at least equal to that required by the HMR, or is consistent with the public interest and will adequately protect against risks to life and property, or the applicant meets the qualifications required by the applicable regulation and is fit to conduct the requested activity.

#### HOW DO I APPLY FOR AN APPROVAL?

An application containing all of the required information in 49 CFR 107.705 must be submitted via:

- · E-mail: approvals@dot.gov;
- FAX: (202) 366-3753 or Telephone: (202) 366-3308; or
- Mail: U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration Associate Administrator for Hazardous Materials Safety

Attn: Approvals, PHH-31 1200 New Jersey Ave, SE Washington, D.C. 20590-0001

#### The Application:

Your approval application must contain at least the following information.

#### Requirements:

- Cite the section of the HMR that requires the applicant to apply for approval;
- Describe the activity for which approval is requested;
- Specify the duration of the proposed approval;
- Specify which mode(s) of transportation the proposed approval impacts, as applicable;
- Provide additional specified information in the section containing the approval;



#### Applying for An Approval (continued)

You may request confidential treatment for information contained in the application; however, you must comply with 49 CFR 105.30.

- Provide the name, mailing address, e-mail address, and telephone number of the person on whose behalf the application is made or, if different, the person requesting the approval;
- Provide a designation of agent for service in accordance with 49 CFR 105.40 if the person on whose behalf the filing is made is not a U.S. resident; and
- For an approval that provides exceptions from regulatory requirements or prohibitions:
  - o Identify any increased risk to safety or property that may result if the approval is granted, and specify the measures necessary or appropriate to address this risk; and
  - o Substantiate, with applicable analyses or evaluations, if appropriate, that the proposed activity will achieve an equivalent level of safety to that required by the regulation.

#### Agency Guidance for Approval Applications:

PHMSA may request additional information related to an applicant's request, so the applicant should be prepared to provide this information in a timely manner.

Renewal applications should include a statement describing all relevant operational, shipping, and incident experience that the applicant is aware of in connection with the approval since its issuance or most recent renewal.

#### **HOW IS MY APPLICATION REVIEWED?**

PHMSA may request additional information; or may approve or deny your application, in whole or in part, or may impose additional requirements based on safety and fitness evaluations. If denied, you may request reconsideration of the decision in accordance with 49 CFR 107.715, and if the reconsideration request is denied, you may appeal the decision in accordance with 49 CFR 107.717.



#### PHMSA and medical research

PHMSA has issued approvals authorizing the transportation of mosquitoes containing an infectious substances for the purpose of research.

If denied, you will be notified in writing and provided with a brief statement of reasons for the denial.

#### WHEN SHOULD I APPLY FOR AN APPROVAL?

Applicants should apply for an initial approval at least 120 days prior to when the approval will be needed. If a current approval holder files an application for renewal at least 60 days before their approval expires, and the application is complete and conforms to the requirements of 49 CFR 107.705, the approval will not expire until final administrative action on the application for renewal has been taken and the approval has been granted or denied. Operation under an expired approval not filed within 60 days of the expiration date is prohibited.

# MAY I USE AN APPROVAL GRANTED TO ANOTHER PERSON FOR THE SAME FUNCTION?

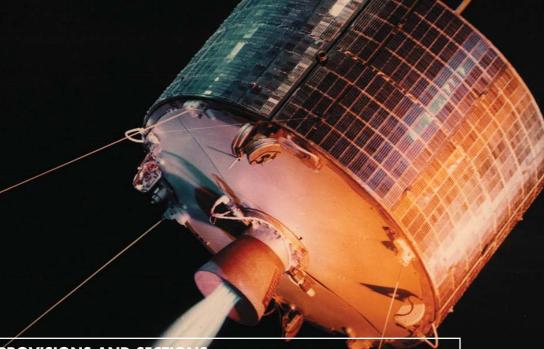
Oftentimes, conditions for use by a party other than the holder of the approval will be specified within the approval (e.g., a person other than the holder may reoffer a package under the approval so long as no change or modification is made to the package). If a person other than the approval holder wants to change or modify the package and reoffer the package, a separate approval is required. If an approval authorizes the manufacture of a packaging, persons other than the approval holder may use the approved packaging so long as it is not modified and all terms of the approval are met. Persons other than the approval holder, however, may not manufacture packagings authorized under the approval.

#### MAY I MODIFY MY APPROVAL?

A modification may be requested to any approval, by the approval holder, in accordance with 49 CFR 107.705.

## WHO IS RESPONSIBLE FOR MONITORING COMPLIANCE AND ENSURING SAFETY?

Responsibility for compliance with the terms of an approval falls directly on the person or company authorized to perform specific functions under the terms of the approval. An approval may be modified, suspended, or terminated if the performance of the approval holder is, among other things, found unfit to perform the specified functions, or the approval holder fails to meet required conditions.



EXAMPLE APPROVAL PROVISIONS AND SECTIONS	
Citation	Purpose
49 CFR 173.185(e)(5)	
ICAO TI Part 3, Chapter 3, Special Provision A88	Authorizes prototype and low production lithium cells and batteries to be offered for transportation aboard cargo aircraft.
49 CFR 172.102(c)(2) Special Provision A54	
ICAO TI Part 3, Chapter 3, Special Provision A99	Authorizes lithium batteries exceeding 35 kg net weight per package to be offered for transportation aboard cargo aircraft.
49 CFR 178.601(g)(7) and 178.801(h)	Authorizes selective testing of UN specification non-bulk packagings and intermediate bulk containers (IBCs), respectively, when packagings only differ in minor respects from a tested type.
49 CFR 178.601(h) and 178.801(i)	Authorizes equivalent specification non-bulk packagings and IBCs when construction or testing differs from that required by the HMR.
IMDG Code, Part 4, Chapter 4.1, Section 4.1.3.7	Authorizes packagings having specifications other than those authorized in the standard based on technological and scientific progress.
49 CFR 173.196(c)	
ICAO TI Part 2, Chapter 6, Section 6.3.61	Authorizes a live animal containing an infectious substance to be transported.

Image Source: NASA

#### For additional information contact:

The Hazardous Materials Info Center 1-800-HMR-4922 (1-800-467-4922)

> Email: infocntr@dot.gov http://hazmat.dot.gov

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