

the SIP. This was made clear in PHMSA's April 18, 2003, final rule, which was coordinated with EPA. As we stated in the preamble to the final rule, the additional K-EPA27 "marking requirement will preempt state marking requirements for cargo tanks tested with the EPA Method 27 test, eliminating possible confusion by enforcement personnel attempting to verify that a cargo tank has met the HMR leak test requirements." 68 FR at 19263.

The portion of 6 NYCRR 230.4(a)(3) which requires marking the "date each tank last passed the pressure and vacuum test * * * near the U.S. Department of Transportation certificate plate," is "substantively the same as" requirements in the HMR. Otherwise, however, the provisions that specify that the marking be a minimum 2" size and include "NYSDEC" clearly go beyond—and are not substantively the same as—requirements in 49 CFR 180.415(b) for the marking of a packaging or container that is "represented, marked, certified, or sold as qualified for use in transporting hazardous material."

Similarly, the recordkeeping requirements in 6 NYCRR 230.6(b) and (c) are substantively different from specific requirements in the HMR on "inspecting," "maintaining," "repairing" and "testing a package [or] container * * * that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce."

A State requirement for additional markings on the cargo tank itself increases the potential that the markings required by the HMR will not be complete or clear and that shipments will be delayed by State inspectors who are familiar only with their own State's requirements, or by Federal inspectors who cannot discern which markings are those required by the HMR. The inconsistencies among the gasoline tank truck marking requirements of the different States in the Northeast OTR and these States' lack of complete reciprocity amply demonstrate the need for a uniform Federal marking system to eliminate confusion whether a cargo tank has undergone the required inspections and tests.

Confusion and non-compliance are also created by the requirement in 6 NYCRR 230.6(b) to maintain a copy of the pressure-vacuum test results on the transport vehicle. In the *Harmon* case, the Court of Appeals found that the HMR "require only that a limited amount of documentation be carried in the vehicle, which avoids carrier confusion and promotes quick access to critical documentation. Colorado's

requirement of additional information [to carry an inspection report on the vehicle] could create confusion in an emergency situation and could thereby increase the potential hazard" during transportation. 951 F.2d at 1583.

Contrary to the assertion of the Pennsylvania Department of Environmental Protection, a requirement to carry the test and repair records on the vehicle does not eliminate "the need to place a copy of the results in archived files." The FMCSA (or NYSDOT) inspector who visits a carrier's principal place of business or regional or terminal office will be frustrated when the test results are not maintained at that location, but only on the vehicle. As NPGA commented, "the vehicle file is the primary source of information regarding the vehicle's qualifications for continued use," and the requirement to maintain test and repair records on the vehicle "would seem to cause the vehicle owner to not comply with these DOT requirements." The differences among the States within the Northeast OTR make confusion and lack of compliance with the HMR's requirements inevitable.

NYSDEC's two-year retention period for records of pressure-vacuum testing and repairs in 6 NYCRR 230.6(c) also creates confusion and potential non-compliance. Most seriously, this provision tells cargo tank owners that they may discard repair records after two years, but the HMR require that records of repair must be retained "during the time the cargo tank motor vehicle is in service and for one year thereafter." 49 CFR 180.413(f). In addition, the requirement to retain more than one set of pressure-vacuum test records (covering the last two or more annual tests, depending on the State) will inevitably lead to confusion as to which set of records cover the most recent testing.

IV. Ruling

Federal hazardous material transportation law does not preempt that part of 6 NYCRR 230.4(a)(3) requiring that a gasoline transport vehicle must be marked, near the U.S. DOT specification plate, with the date on which the tank was last tested for vapor tightness. However, that marking must be substantively the same as specified in 49 CFR 180.417(b): "K-EPA27" in association with the date (month and year) of the most recent test.

Federal hazardous material transportation law preempts (1) the provisions in 6 NYCRR 230.4(a)(3) which require that the marking be a minimum two inches and contain "NYS

DEC"; (2) the requirement in 6 NYCRR 230.6(b) for maintaining a copy of the most recent pressure-vacuum test results with the gasoline transport vehicle; and (3) the requirement in 6 NYCRR 230.6(c) to retain pressure-vacuum test and repair results for two years, because these requirements are not substantively the same as requirements in the HMR on the marking, inspecting, maintaining, repairing, or testing of a package or container that is represented, marked, certified, or sold as qualified for transporting hazardous material.

V. Petition for Reconsideration/Judicial Review

In accordance with 49 CFR 107.211(a), any person aggrieved by this decision may file a petition for reconsideration within 20 days of publication of this decision in the **Federal Register**. A petition for judicial review of a final preemption determination must be filed in the United States Court of Appeals for the District of Columbia or in the Court of Appeals for the United States for the circuit in which the petitioner resides or has its principal place of business, within 60 days after the determination becomes final. 49 U.S.C. 5127(a).

This decision will become PHMSA's final decision 20 days after publication in the **Federal Register** if no petition for reconsideration is filed within that time. The filing of a petition for reconsideration is not a prerequisite to seeking judicial review of this decision under 49 U.S.C. 5127(a).

If a petition for reconsideration is filed within 20 days of publication in the **Federal Register**, the action by PHMSA's Chief Counsel on the petition for reconsideration will be PHMSA's final action. 49 CFR 107.211(d).

Issued in Washington, DC on January 15, 2009.

David E. Kunz,
Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2008-0333]

Pipeline Safety: Requests for Special Permit

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

ACTION: Notice.

SUMMARY: The Federal pipeline safety laws allow a pipeline operator to request PHMSA to waive compliance with any part of the Federal pipeline safety regulations by granting a special permit to the operator. PHMSA is publishing this notice to provide a list of special permit requests we have received from pipeline operators seeking relief from compliance with certain pipeline safety regulations. This notice seeks public comment on these requests, including comments on any environmental impacts. At the conclusion of the 30 days comment period, PHMSA will evaluate each request individually to determine whether to grant or deny a special permit.

DATES: Submit any comments regarding any of these special permit requests by February 23, 2009.

ADDRESSES: Comments should reference the docket number for the special permit request and may be submitted in the following ways:

- *E-Gov Web Site:* <http://www.Regulations.gov>. This site allows the public to enter comments on any Federal Register notice issued by any agency.

• *Fax:* 1-202-493-2251.

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

- *Hand Delivery:* DOT Docket Management System: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, submit two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at <http://www.Regulations.gov>.

Note: Comments are posted without changes or edits to <http://www.Regulations.gov>, including any personal information provided. There is a privacy statement published on <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

General: Kay McIver by telephone at (202) 366-0113; or, e-mail at kay.mciver@dot.gov.

Technical: Steve Nanney by telephone at (713) 272-2855, or, e-mail at steve.nanney@dot.gov.

SUPPLEMENTARY INFORMATION: PHMSA has filed in the Federal Docket Management System (FDMS) requests for special permits we have received from pipeline operators seeking relief from compliance with certain pipeline safety regulations. Each request has been assigned a separate docket number in the FDMS. We invite interested persons to participate by reviewing these special permit requests and by submitting written comments, data or other views. Please include any comments on environmental impacts granting the special permit may have.

Before acting on any special permit request, PHMSA will evaluate all comments received on or before the comment closing date. We will consider comments received after this date if it is possible to do so without incurring additional expense or delay. We may grant a special permit or deny a request based on the comments we receive.

PHMSA has received the following special permit requests:

Docket No.	Requester	Regulation(s) affected	Nature of special permit
PHMSA-2008-0188	Texas Eastern Transmission, L.P. ("TETLP") (Spectra Energy).	49 CFR 192.611	To authorize Texas Eastern Transmission, L.P. (TETLP) to operate two pipeline segments on its 24-inch Line 12 system downstream of its Grantville Compressor station in Lebanon County, Pennsylvania to Bernville Compressor station in Pennsylvania without reducing operating pressure as a result of changes from Class 1 to Class 2 locations. Grantville Line 12 would continue to operate at its maximum allowable operating pressure ("MAOP") of 1,050 psig without replacing the pipe in the new Class 2 area.
PHMSA-2008-0213	Empire Pipeline	49 CFR 192.611	To authorize the Empire Pipeline to operate 5 segments on its 24-inch natural gas pipeline without reducing the operating pressure as a result of changes from Class 1 to Class 3 locations. The special permit is sought with respect to these five segments: Segment 1: (MP 57.33 to MP 57.49) in the town of Byron, Genesee County, NY, west of NY Route 237. Segment 2: (MP 76.09 to MP 76.42) located in the town of Henrietta, in Monroe County, NY and 375 feet west of East River Road. Segment 3: (MP 84.88 to MP 85.19) located in the town of Pittsford, Monroe County, NY, beginning approximately 200 feet west of West Bloomfield Road and continuing approximately 3/10th of a mile to the west. Segment 4: (MP 23.30 to MP 23.81) located in the town of Pendleton, Niagara County, NY, west of Transit Road (Route 78). Segment 5: (MP 25.19 to MP 25.54) located in the town of Lockport, Niagara County, New York, east of Old Beattie Road.

Docket No.	Requester	Regulation(s) affected	Nature of special permit
PHMSA-2008-0257	Texas Eastern Transmission.	49 CFR 192.112(a)(1), 49 CFR 192.112(c)(1), 49 CFR 192.112(c)(2)(i), 49 CFR 192.112(c)(2)(ii), 49 CFR 192.112(c)(2)(iii), 49 CFR 192.112(d)(2)(i), 49 CFR 192.112(f)(1), 49 CFR 192.620(d)(5)(iii).	To authorize an increase in MAOP on the Texas Eastern Transmission, L.P. ("TETLP") 36-inch Lines 1 and 2 from the Uniontown, Pennsylvania compressor station to a mainline regulating station, approximately 7 miles west of its Lambertville, New Jersey compressor station. The pipeline system operating pressure would increase to 80% of specified minimum yield strength (SMYS) in Class 1 locations, 67% SMYS in Class 2 locations, and 56% SMYS in Class 3 locations. There are no Class 4 areas on the system and TETLP does not propose to include future Class 4 areas under this special permit. The existing pipeline system pressure is 1000 psig and will be uprated to 1112 psig. The MAOP uprate is part of two proposed pipeline capacity expansion projects, called the TEMAS and TIME III Projects.
PHMSA-2008-0285	TransCanada Keystone Pipeline LP 36-inch XL Pipeline.	49 CFR 195.106	To authorize TransCanada to design, construct and operate the proposed 36-inch TransCanada Keystone XL Pipeline Project, using a design factor and operating stress level of 80% SMYS.
PHMSA-2008-0327	Trunkline LNG (TLNG).	49 CFR 190.341	To authorize Trunkline LNG (TLNG) to operate two potassium formate heat-exchange vaporizers at the TLNG facility near Lake Charles, Louisiana. These vaporizers are part of a nearly completed expansion project at the facility and are referred to as the IEP (Infrastructure Expansion Project). This request is to adjust the allowed distance between the second and third vaporizers.
PHMSA-2008-0330	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate 2 segments on its 30-inch Mainline 200, and its 36-inch Mainline 300 pipeline systems located in Mt. Juliet, Wilson County, Tennessee, without reducing operating pressure as a result of changes from original Class 1 or Class 2 to Class 3 locations, and without replacing the pipe in Class 3 areas.
PHMSA-2008-0331	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate six segments of 30-inch SM-80 and 30-inch SM-80-Loop pipelines in Cabell and Putnam Counties, WV, at the current 935 psig operating pressure without replacing pipe in the Class 3 locations. The SM-80 and SM-80-Loop pipelines are parallel to one another across their full length starting at Boyd County, Kentucky and ending at the Lanham compressor station at Rocky Fork, West Virginia.
PHMSA-2008-0332	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate 5 segments of 20-inch Mainline 1804 pipeline system in Adams and York Counties, PA without reducing operating pressure as a result of changes from Class 1 to Class 3 locations.
PHMSA-2008-0345	Columbia Gas Transmission (CGT).	49 CFR 192.611	To authorize Columbia Gas Transmission (CGT) to operate four segments of its 24-inch Mainline R-701 pipeline in Southern Ohio without reducing operating pressure as a result of changes from Class 1 to Class 3 locations. Line R-701 runs south to north starting at Burlington, Ohio and ending at McArthur, Ohio.

Authority: 49 U.S.C. 60118(c)(1) and 49 CFR 1.53.

Issued in Washington, DC on January 15, 2009.

John Gale,

Director, Office of Regulations.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of an Entity Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the name of one newly-designated entity whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

DATES: The designation by the Director of OFAC of the one entity identified in this notice, pursuant to Executive Order 13224, is effective on January 6, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622-2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the "Order") pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701-1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism.

The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On January 6, 2009, the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, one entity whose property and interests in property are blocked pursuant to Executive Order 13224.

The designee is as follows:

1.WAAD PROJECT (a.k.a. AL-WAAD AL-SADIQ; a.k.a. 'MASHURA WAAD LAADAT AL-AAMAR; a.k.a. WAAD; a.k.a. WA'AD AS SADIQ; a.k.a. WAAD COMPANY; a.k.a. WAAD FOR REBUILDING THE SOUTHERN SUBURB; a.k.a. WAAD PROJECT FOR RECONSTRUCTION; a.k.a. WA'D PROJECT; a.k.a. WAED; a.k.a. WA'ED ORGANIZATION; a.k.a. WA'ID COMPANY), Harat Hurayk, Lebanon; Beirut, Lebanon; Telephone No. 009613679153; Telephone No. 009613380223; Telephone No. 03889402; Telephone No. 03669916 [SDGT].

Dated: January 6, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E9-1310 Filed 1-22-09; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations of Individuals and Entities Pursuant to Executive Order 13448 or Executive Order 13464 and Identifications of Individuals and Entities Blocked Pursuant to the JADE Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of two newly-designated individuals and twenty-three entities whose property and interests in property are blocked pursuant to Executive Order 13448 of October 18, 2007, "Blocking Property and Prohibiting Certain Transactions Related to Burma" or Executive Order 13464 of April 30, 2008, "Blocking Property and Prohibiting Certain Transactions Related to Burma." OFAC is also identifying certain individuals and entities that are subject to the blocking provisions of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (the "JADE Act").

DATES: The designation by the Director of OFAC of two individuals and twenty-three entities identified in this notice, pursuant to Executive Order 13448 or Executive Order 13464 is effective January 15, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., (Treasury Annex),