

2002 at 1 p.m. at the Mezzanine, 405 Capitol Street, Charleston, West Virginia, to provide small business owners and representatives of trade associations with an opportunity to share information concerning the federal regulatory enforcement and compliance environment.

Anyone wishing to attend or to make a presentation must contact Stephen M. Glass in writing or by fax, in order to be put on the agenda. Stephen M. Glass, District Counsel for the U.S. Small Business Administration, West Virginia District Office, 320 West Pike Street, Suite 330, Clarksburg, WV 26301, phone 1 (800) 767-8052 press 8 for West Virginia and then ext. 229, fax (304) 623-0023, e-mail: stephen.glass@sba.gov.

For more information, see our Web site at www.sba.gov/ombudsman.

Dated: March 29, 2002.

Michael L. Barrera,
National Ombudsman.

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SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region VII Regulatory Fairness Board

The Small Business Administration Region VII Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Monday, April 29, 2002 at 12:30 p.m. at the Wichita Area Chamber of Commerce, 350 W. Douglas, Wichita, Kansas 67202-2970, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning the regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Edgar Poindexter in writing or by fax, in order to be put on the agenda. Edgar Poindexter, U.S. Small Business Administration, Wichita District Office, 271 West Third Street North, Suite 2500, Wichita, KS 67202-1212, phone (316) 269-6631, fax (316) 269-6618, e-mail: edgar.poindexter@sba.gov

For more information, see our Web site at www.sba.gov/ombudsman.

Dated: March 29, 2002.

Michael L. Barrera,
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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST-01-10380]

Hazardous Materials: Knowledge Required for Civil Penalty Enforcement Proceedings

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of public meeting and invitation to comment.

SUMMARY: Interested parties are invited to submit comments for consideration by DOT in developing additional guidance as to when a reasonable person offering, accepting or transporting a hazardous material in commerce would be deemed to have knowledge of facts giving rise to a violation of Federal hazardous material transportation law or the Hazardous Materials Regulations.

DATES: *Public meeting.* The public meeting will be held on June 19, 2002, from 9 a.m. to 4 p.m. The meeting will end before 4:00 p.m. if all topics have been addressed and all participants heard.

Comments. Written comments must be received by July 19, 2002.

ADDRESSES: *Public meeting.* The public meeting will be held in Room 2201 of the U.S. Department of Transportation headquarters building (Nassif Building), 400 Seventh Street, SW, Washington, DC 20590-0001. Any person desiring to attend the public meeting must notify LCDR Thomas Sherman by telephone or e-mail (see **FOR FURTHER INFORMATION CONTACT** below) no later than June 5, 2002, in order to facilitate entry to the Nassif Building. It is recommended attendees arrive early to facilitate new enhanced building security procedures. Each person should indicate which of the four topics described at the end of this notice that he or she wishes to discuss.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact LCDR Sherman as soon as possible.

Comments. You must address comments to the Dockets Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590-0001. You must identify the docket number (OST-01-10380) and submit two copies of your comments. If you want to confirm that we received your comments, include a self-addressed, stamped postcard.

You may also submit comments by e-mail by accessing the DOT Dockets

Management System website at: <http://dms.dot.gov>. Click on "Help," "DMS Web Help," or "DMS Frequently Asked Questions" to obtain instructions for filing a document electronically.

The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address. You may review public dockets there between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except public holidays. You may also review comments on-line at the DOT Dockets Management System website at: <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: LCDR Thomas Sherman, Intermodal Hazardous Materials Programs, Office of the Associate Deputy Secretary, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20009. Telephone: 202-366-5846; Fax: 202-366-0263; or E-mail (preferred): Tom.Sherman@ost.dot.gov.

SUPPLEMENTARY INFORMATION:

Federal hazardous material transportation law provides that DOT may assess a civil penalty against a person that "knowingly violates" that law or the HMR. 49 U.S.C. 5123(a)(1). The same section of the law also states that

A person acts knowingly when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

This statutory definition of "knowingly" was added in the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), Public Law 101-615, section 12, 104 Stat. 3259 (Nov. 16, 1990), to "cover violations that are committed negligently" and to "negate any inference that the term only encompasses actions based on actual knowledge or reckless actions." H. Report No. 101-444, Part 1, Committee on Energy and Commerce, p. 47 (Apr. 3, 1990) (emphasis in original).¹

¹ In its regulations, the Research and Special Programs Administration (RSPA) had implemented the "knowingly" standard for assessment of a civil penalty in the original Hazardous Material Transportation Act, Pub. L. 93-633, section 110, 88 Stat. 2160 (Jan. 3, 1975), and defined "knowingly" to mean that a person (1) has actual knowledge of the facts that give rise to the violation, or (2) should have known of the facts that give rise to the violation. A person knowingly commits an act if the act is done voluntarily and intentionally.

Former 49 CFR 107.299, added 48 FR 2653 (Jan. 20, 1983), revised 56 FR 8624 (Feb. 28, 1991), moved to 49 CFR 107.3 (Definitions), 61 FR 21094 (May 9, 1996). When RSPA revised § 107.299 in 1991 to define "knowingly" consistent with the language adopted in HMTUSA, it noted that