



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

March 20, 2026

The Honorable Derek D. Barrs
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
6th Floor, West Building
Washington, DC 20590-9898

RE: Clarification Requested Regarding the Applicability of Hazardous Materials Safety Permits in 49 CFR Part 385 Subpart E

Dear Administrator Barrs,

On behalf of the members of the Commercial Vehicle Safety Alliance (CVSA), I am writing to request that the Federal Motor Carrier Safety Administration (FMCSA) provide written clarification regarding the applicability of Hazardous Materials Safety Permits (HMSP) in 49 CFR Part 385 Subpart E.

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America.

As noted above, CVSA is requesting clarification from FMCSA regarding the applicability the HMSP requirements in 49 CFR Part 385 Subpart E. Specifically, the language in § 385.403(f) conflicts with the guidance given in response to DOT Regulatory Guidance Question 1 § 385.403.

§ 385.403(f) requires an HMSP for a carrier that transports:

“A shipment of methane (compressed or refrigerated liquid), natural gas (compressed or refrigerated liquid), or any other compressed or refrigerated liquefied gas with a methane content of at least 85 percent, in bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons)”

However, DOT Regulatory Guidance Question 1 to § 385.403 contradicts that, reading:

Question 1: Is transportation of compressed natural gas (CNG) in a non-liquefied state subject to the HMSP requirements?

Guidance: Although CNG is classified as a Division 2.1 hazardous material, it is not “compressed or refrigerated liquid methane or liquefied gas with a methane content of at least 85 percent” as described in 49 CFR 385.403(f). Therefore, the transportation of this material does not require a HMSP.

The regulatory text indicates that an HMSP would be required for shipments containing methane or natural gas found in the hazardous materials table in 49 CFR 172.101 for:

- Methane, compressed (UN1971), or Natural gas, compressed (UN1971)
- Methane, refrigerated liquid (UN1972), or Natural gas, refrigerated liquid (UN1972) when having a methane content of at least 85 percent and transported in a bulk packaging having a capacity equal to or greater than 3,500 gallons

The regulation itself does not exclude the compressed forms of methane and natural gas; however, the guidance indicates that an HMSP is only required for:

- Methane, refrigerated liquid (UN1972), or Natural gas, refrigerated liquid (UN1972) when having a methane content of at least 85 percent and transported in a bulk packaging having a capacity equal to or greater than 3,500 gallons

In researching this discrepancy, it appears the issue may stem from a change in the regulations published in the “Federal Register” on October 1, 2015. Prior to that date, the language in § 385.403(f) mirrored that of the interpretation question. In 2015, however, FMCSA made regulatory changes to the paragraph to reflect the shipping names in the Hazardous Materials Table in 49 CFR 172.101. In the “Federal Register” notice (docket number FMCSA-2015-0207), the agency wrote, “FMCSA also changes the terminology in paragraph (f) to make it consistent with the proper shipping name language in the Hazardous Materials Table in 49 CFR 172.101. In the process, the agency may have failed to update the response in DOT Regulatory Guidance Question 1 to conform to the new language.

Language Prior to October 1, 2015

(f) A shipment of compressed or refrigerated liquefied methane or liquefied natural gas, or other liquefied gas with a methane content of at least 85 percent, in a bulk packaging having a capacity equal to or greater than 13,248L (3,500 gallons).

[69 FR 39367, June 30, 2004, as amended at 77 FR 59826, Oct. 1, 2012]

Language Effective October 1, 2015

(f) A shipment of methane (compressed or refrigerated liquid), natural gas (compressed or refrigerated liquid), or any other compressed or refrigerated liquefied gas with a methane content of at least 85 percent, in bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons).

[69 FR 39367, June 30, 2004, as amended at 77 FR 59826, Oct. 1, 2012; 80 FR 59073, Oct. 1, 2015]

Conflicts between regulatory text and guidance create confusion for both enforcement officials and the regulated industry and can result in inconsistent application of regulatory requirements. Clear and accurate guidance is needed to facilitate industry compliance, providing guidelines that can be easily and consistently followed. Enforcement needs clear regulatory language and guidance in order to ensure the uniform application of enforcement actions across the nation. CVSA requests that FMCSA address the inconsistency between the language in § 385.403(f) and the guidance given in response to DOT Regulatory Guidance Question 1 § 385.403.

CVSA works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our roadways. Commercial motor vehicle safety continues to be a challenge, and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency's consideration of this request.

If you have questions or comments, please do not hesitate to contact me at 202-998-1008 or collin.mooney@cvsa.org.

Respectfully,

A handwritten signature in black ink, appearing to read 'Collin B. Mooney'.

Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance