



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

September 2, 2025

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

RE: Docket Number: PHMSA-2025-0104
Hazardous Materials: Adoption of DOT Special Permit 21478

Dear Acting Administrator Kochman,

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments in response to the Pipeline and Hazardous Materials Safety Administration's (PHMSA) notice of proposed rulemaking (NPRM) seeking stakeholder feedback on the agency's proposal to adopt the provisions of Department of Transportation (DOT) special permit (SP) 21478 into the Hazardous Materials Regulations (HMR), Docket Number PHMSA-2025-0104.

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.

Specifically, PHMSA is proposing to amend Title 49 CFR § 173.29 to adopt the provisions of DOT-SP 21478 into a new paragraph in § 173.29, which will allow for intermediate bulk containers (IBC) containing not more than 0.3% of material by weight of the total capacity of certain classes or divisions, packing groups II and III to be transported similarly to non-bulk in § 173.29(c). PHMSA is also proposing a conforming amendment to § 172.514 and § 172.331 to make clear that transport vehicles used to ship IBCs in accordance with the conditions of the empty packaging exception are not subject to ID number marking or placarding requirements.

Both CVSA's industry and enforcement members are strongly opposed to the changes being proposed by PHMSA, for a number of reasons. First, neither industry nor enforcement have the capability to determine whether the amount of the material in the IBC is equal to or less than 0.3% of the total capacity. The regulation would be

unenforceable by commercial motor vehicle inspectors. For example, under this scenario, a 500-gallon IBC would have an allowance of up to 1.5 gallons. There is no practical way for an inspector to determine whether the amount in the IBC is not more than 1.5 gallons. Likewise, there is no way for the motor carrier to ensure that the 0.3% limit has not been exceeded.

In addition, while the proposal is limited to IBCs containing materials that are being shipped to a reconditioning, remanufacturing, requalification, disposal or repair facility, there is no provision that requires documentation that the IBCs are being shipped for one of these purposes, making this difficult to enforce during a roadside inspection.

Furthermore, the proposal to no longer require shipping papers, placards and ID numbers on the transport vehicle creates a significant safety risk. Under this scenario, IBCs containing materials that are prohibited from being shipped together per § 177.848 “Segregation of hazardous materials” due to the safety risks associated with them mixing if there is a crash or other incident could mistakenly be shipped together. While the individual IBCs must still be marked and labelled or placarded, inspectors may be unable to look at each IBC when a trailer is fully loaded to verify the segregation requirements are being met. The shipping paper is the most practical tool to verify compliance with segregation requirements.

The NPRM states that the proposal is intended to provide industry with relief from undue burden associated with hazard communication requirements for low-risk transportation of empty packaging and eliminate the need for special permit renewal requests. However, the inability of both enforcement and industry to effectively determine the amount of the material being transported, combined with the additional risk of two materials that are prohibited from being shipped together mixing unintentionally create significant safety concerns.

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 highways. 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 commitment to safety and stakeholder involvement.

If you have further 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