

(4) *Question:* Is a hazardous material subject to the HMR that only crosses a road with public access?

*Answer:* The transportation of hazardous materials that takes place by motor vehicle and within a contiguous plant boundary is not subject to the HMR. However, intra-plant transport that utilizes or crosses a public road is subject to the HMR during that portion of the transportation unless access to the public road is restricted by gates, traffic signals, guard stations, or similar controls, in accordance with § 171.1(d)(4). Please see Q3.

(5) *Question:* Are hazardous materials installed or used in or on a motor vehicle (e.g., gasoline in the motor vehicle's fuel tank) subject to the HMR?

*Answer:* Hazardous materials that are installed or used in or on a motor vehicle such as the motor vehicle's fuel, suspension, or safety systems are not subject to the HMR. Fuel systems and safety equipment may be subject to the Federal Motor Carrier Safety Regulations (FMCSR) and National Highway Traffic Safety Administration (NHTSA) requirements.

(6) *Question:* Is the filling of a package with a hazardous material subject to the HMR if it is not being offered for transportation in commerce?

*Answer:* The answer is no. However, if there is a chance of future transportation in commerce, the stakeholder should consider placing that hazardous material in packaging suitable for transportation of that material in commerce to minimize safety risks associated with its re-packaging.

(7) *Question:* Are stationary (storage) tanks containing a hazardous material such as propane subject to the HMR?

*Answer:* The answer is no, unless the tank is transported in commerce containing a hazardous material or its residue or if it is represented and maintained as a DOT packaging usable for hazmat transportation.

(8) *Question:* Are hazardous materials being transported for personal use subject to the HMR? For example, are pesticides that are transported from a store by individuals to treat their garden subject to the HMR?

*Answer:* The answer is no. Under part 171, the phrase "in commerce" means in furtherance of a commercial enterprise. Transportation in a private motor vehicle for personal use is not considered in furtherance of a commercial enterprise even when transported in a leased or rented vehicle.

(9) *Question:* Are privately-owned Department of Transportation (DOT) cylinders used for SCUBA diving

subject to the HMR even when not transported in commerce?

*Answer:* A SCUBA tank that is represented as conforming to HMR requirements—*i.e.*, marked with a DOT specification marking—must be maintained by the owner of said SCUBA tank in accordance with the applicable specification requirements whether or not it is in transportation in commerce.

(10) *Question:* Are government-owned hazardous materials transported for government purposes by contractor personnel subject to the HMR?

*Answer:* The answer is yes. As provided in § 171.1(d)(5), the HMR do not apply to transportation of a hazardous material in a motor vehicle, aircraft, or vessel operated by a federal, state, or local government employee solely for noncommercial federal, state, or local government purposes. However, contractor personnel are not considered government employees and the provisions of the HMR apply.

(11) *Question:* Are gasoline cans transported by a landscaping company by motor vehicle subject to the HMR?

*Answer:* Commercial businesses—such as landscaping, swimming pool services, or construction companies—transporting hazardous materials are considered "in commerce" and subject to the HMR. However, when used in support of a business, the HMR provides an exception in § 173.6 for the transport of "materials of trade."

(12) *Question:* Are household hazardous wastes transported by a private person to a county drop-off facility subject to the HMR?

*Answer:* The answer is no, provided the household hazardous wastes are the individual's personal property and he or she is not engaged in a commercial activity, such as a landscaping company or carpentry service.

## VI. Future FAQ Topics

With the completion of the first set of FAQ specific to HMR Applicability, PHMSA has begun compiling its next set of FAQ. As such, the next set of FAQ will pertain to LOIs addressing questions regarding the incident reporting requirements specified in §§ 171.15 and 171.16. In addition, PHMSA will continue concurrent work on future FAQ notices and, in response to the comments received, subsequent topics may include FAQ pertaining to batteries, classification, hazard communication, hazardous substances, hazardous wastes, modal-specific requirements, or packaging.

Signed in Washington, DC on December 6, 2022, under authority delegated in 49 CFR 1.97.

**William A. Quade,**

*Deputy Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

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**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### Hazardous Materials: Notice of Applications for New Special Permits

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

**ACTION:** List of applications for special permits.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

**DATES:** Comments must be received on or before January 9, 2023.

**ADDRESSES:** Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:** Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–13, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

**SUPPLEMENTARY INFORMATION:** Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–13, 1200

New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal

hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 6, 2022.

**Donald P. Burger,**  
Chief, General Approvals and Permits Branch.

| Application No.             | Applicant   | Regulation(s) affected                                     | Nature of the special permits thereof   |
|-----------------------------|---|--|---|
| <b>Special Permits Data</b> |   |  |   |
| 21478-N .....               | Fibre Drum Sales, Inc .....                           | 172.200, 172.500 .....                                     | To authorize the transportation in commerce of intermediate bulk containers (IBCs), containing only a residue of a hazardous material, in the manner authorized for non-bulk packagings in 49 CFR 173.29(c). (modes 1, 2)   |
| 21479-N .....               | Astra Space Operations, Inc ..                        | 173.301(f)(1), 178.35(e) .....                             | To authorize the transportation in commerce of cylinders that are not equipped with pressure relief devices. (modes 1, 2, 3, 4, 5)  |
| 21480-N .....               | Korean Air Lines Co., Ltd .....                       | 172.101(j)(1), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).   | To authorize the transportation in commerce of certain explosives that are forbidden for transportation by aircraft. (mode 4)   |
| 21483-N .....               | Trinity Industries, Inc. ....                         | 172.203(a), 172.302(c), 179.100-12(c).                     | To authorize the manufacture, mark, sale, and use of DOT 105 tank cars equipped with a welded protective housing. (mode 2)  |
| 21484-N .....               | Probe Technology Services, Inc.                       | 173.301(a)(1), 173.304(a), 173.304a(a)(2), 173.304a(a)(2). | To authorize the transportation in commerce of non-DOT specification cylinders containing sulfur hexafluoride. (modes 1, 2, 3, 4, 5)  |
| 21486-N .....               | Colorado Department of Public Health and Environment. | 171.2(k) .....   | This special permit authorizes the transportation in commerce of packages of non-hazardous material identified as "Biological substance, Category B", for purposes of shipping and packaging drills conducted to evaluate bioterrorism, chemical terrorism and pandemic influenza preparedness. (modes 1, 4, 5) |

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**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**Hazardous Materials: Notice of Actions on Special Permits**

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

**ACTION:** Notice of actions on special permit applications.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of

Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

**DATES:** Comments must be received on or before January 9, 2023.

**ADDRESSES:** Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:** Donald Burger, Chief, Office of Hazardous Materials Safety General Approvals and Permits Branch, Pipeline

and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

**SUPPLEMENTARY INFORMATION:** Copies of the applications are available for inspection in the Records Center, East Building, PHH-13, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 6, 2022.

**Donald P. Burger,**  
Chief, General Approvals and Permits Branch.

| Application No.                     | Applicant                         | Regulation(s) affected   | Nature of the special permits thereof   |
|-------------------------------------|-----------------------------------|--|---|
| <b>Special Permits Data—Granted</b> |                                   |  |   |
| 8723-M .....                        | Dyno Nobel Inc .....              | 173.242(c) .....   | To modify the special permit to authorize UN Portable Tanks as authorized packagings.                 |
| 11194-M .....                       | Mission Systems Orchard Park Inc. | 172.203(a), 172.301(c), 173.302a(a)(1), 173.304a(a)(1), 180.205. | To modify the special permit to authorize the cylinders to be used for underwater breathing purposes. |
| 11859-M .....                       | Mission Systems Orchard Park Inc. | 173.301(f), 173.302(a)(1), 178.65(a)(2).                         | To modify the special permit to update the maximum service pressure and minimum test pressure.        |