§ 172.514 Bulk packagings.

* * * * *

(b) Each bulk packaging that is required to be placarded when it contains a hazardous material, must remain placarded when it is emptied, unless it—

(1) Is sufficiently cleaned of residue and purged of vapors to remove any potential hazard;

(2) Is refilled, with a material requiring different placards or no placards, to such an extent that any residue remaining in the packaging is no longer hazardous;

(3) Contains the residue of a hazardous substance in Class 9 in a quantity less than the reportable quantity, and conforms to § 173.29(b)(1) of this subchapter; or

(4) Is an empty IBC transported in accordance with § 173.29(d).

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 5. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96 and 1.97.

■ 6. In § 173.29, redesignate current paragraphs (d) through (h) as paragraphs (e) through (i) and add new paragraph (d) to read as follows:

§ 173.29 Empty packagings.

* * * * *

(d) A steel, rigid plastic, or composite IBC not exceeding 2,100 L (550 gallons) containing only the residue of hazardous materials in packing group II or III of hazard Class or Division 3, 4.1, 5.1, 6.1, 8, and 9, is excepted from subpart C (shipping papers). Furthermore, transport vehicles and freight containers are not subject to the subpart F (placarding) of Part 172 of this subchapter and the marking requirements in § 172.331 (UN ID Number), provided the following conditions are met:

(1) Prior to shipment, the offeror must ensure that no more than 0.3 percent by weight of the total capacity of the IBC remains in the packaging;

(2) IBCs must be transported in a fully enclosed transport vehicle or freight container;

(3) Transportation is only authorized to a reconditioning, remanufacturing, requalification, disposal, or repair facility;

(4) A document (in paper or electronic form) must accompany the shipment of IBCs that denotes the phrase ''Residue IBC(s)'' and indicates the number of IBCs containing hazardous materials for each Class or Division of material transported;

(5) IBCs shall be marked and labeled in accordance with subpart D (marking) and subpart E (labeling) of Part 172 of this subchapter; and

(6) Transportation is authorized for only motor vehicle or rail.

* * * * *

Issued in Washington, DC, on July 31, 2026, under the authority delegated in 49 CFR 1.97.

Paul J. Roberti,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2026–15820 Filed 8–3–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 173

[Docket No. PHMSA–2025–0094 (HM–268F)]

RIN 2137–AG08

Hazardous Materials: Reducing Burdens by Allowing Continued Use of Department of Transportation Special Permit Packagings

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule removes undue regulatory burdens by allowing for the continued use of packagings authorized under a manufacturing special permit for the useful life of the package. Manufacturing special permits typically authorize the manufacture, mark, sale, and use of the packaging authorized by the special permit.

DATES: This final rule is effective September 3, 2026.

FOR FURTHER INFORMATION CONTACT: Tony Horne, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–8553, *tony.horne@dot.gov.*

I. PHMSA Action

A. What action is PHMSA taking in this final rule?

PHMSA is revising 49 CFR 173.23 to allow for the continued use of a U.S. Department of Transportation (DOT) special permit (SP) packaging (*i.e.,* packaging associated with a manufacturing special permit) for which the SP has expired but the packaging remains otherwise safe and usable. Specifically, PHMSA is allowing DOT SP packagings to be used for the duration of their usable life regardless of the status of the grantee and whether the SP was not renewed—*e.g.,* when the original grantee has gone out of business but some of their packagings remain in commerce because a shipper has yet to use it for hazardous material shipment.

B. Does this action apply to me?

Effective 30 days after publication of this final rule, persons with a DOT SP packaging that is compliant with the requirements in 49 CFR 173.23 and the conditions of the most recent DOT SP on file with PHMSA may continue to use the packaging in hazardous materials service.

C. Why is PHMSA taking this action?

PHMSA is taking this action in response to commenter feedback and to allow the use of otherwise safe and usable packaging. Prohibiting the use of these packages solely because the original manufacturer (*i.e.,* the original special permit holder) has gone out of business or chose not to renew an SP is unnecessary. Authorizing the continued use of such packagings relieves an economic burden without compromising public safety.

II. Summary of Comments Received in Response to the Notice of Proposed Rulemaking

PHMSA published a notice of proposed rulemaking (NPRM), cited as *HM–268F,* to gather feedback on revising the HMR to allow conditional continued use of packagings authorized under a manufacturing special permit for the duration of its useable life.[1] Please refer to the NPRM for background and discussion of the proposed change.

The following table alphabetically lists commenters to the NPRM:

Commenter name	Docket No.
Commercial Vehicle Safety Alliance (CVSA)	PHMSA–2025–0094–0013

[1] 90 FR 28571 (Jul. 1, 2025).

Commenter name	Docket No.
Compressed Gas Association, Inc	PHMSA–2025–0094–0005
Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA)	PHMSA–2025–0094–0006
Dangerous Goods Advisory Council (DGAC)	PHMSA–2025–0094–0011
Industrial Packaging Association of North America	PHMSA–2025–0094–0012
Institute of Makers of Explosives	PHMSA–2025–0094–0009
International Vessel Operators Dangerous Goods Association (IVODGA)	PHMSA–2025–0094–0007
National Tank Truck Carriers	PHMSA–2025–0094–0003
PerVisum Ltd	PHMSA–2025–0094–0002
Sporting Arms and Ammunition Manufacturers' Institute	PHMSA–2025–0094–0004
William Forbes	PHMSA–2025–0094–0008

PHMSA received eleven comments, the majority of which supported the NPRM. Specifically, commenters noted that the structural integrity and safety of packagings do not degrade simply because the underlying manufacturing SP expires or is not renewed by the grantee. Stakeholders emphasized that the current regulatory framework creates an ''unnecessary burden'' that forces the premature disposal of ''perfectly functional packagings,'' resulting in unwarranted economic and environmental waste. Commenters noted that the proposal would also eliminate unnecessary administrative hurdles and provide critical certainty for shippers and carriers, thereby reducing confusion in port operations and preventing the refusal of safe shipments without compromising safety standards.

However, several commenters expressed concerns and asked for clarification on certain topics. In addition, one commenter suggested some changes to improve the proposal. PHMSA responds as follows:

A. Expired/Inactive Manufacturing Special Permits and Use of Packagings

With regard to the continued use of packagings conforming with manufacturing DOT SPs that have expired, CVSA and William Forbes commented that expired DOT SPs are not readily available online and difficult to locate. The commenters suggested that the inability to access the SPs would be a burden for industry to demonstrate shipment compliance and would create barriers for enforcement personnel to verify the terms of the DOT SP. Similarly, COSTHA and IVODGA shared concerns that carriers may deny shipments based on expired SPs. Those commenters requested that PHMSA provide clear guidance to carriers and enforcement personnel to avoid unnecessary disruptions.

PHMSA acknowledges the concerns raised by these commenters and reiterates the following. First, PHMSA notes that there are many measures in place that demonstrate responsibility for maintenance or availability of SPs by shippers and carriers. Two standard parts of every SP issued by PHMSA—Sections 8 (Special Provisions) and Section 10 (Modal Requirements)—require that a current copy of the SP be maintained at facilities where it is used and be carried aboard transport vehicles used to move SP packages. Moreover, in Section 11 (Compliance), hazmat employees who perform a function subject to an SP must receive training on the requirements and conditions of said SP in addition to the training requirements of the HMR. This is reinforced in the general requirements of the HMR in 49 CFR 171.2(c), which states that each person performing a function covered by a SP must perform that function in accordance with the SP. Furthermore, the training requirements in 49 CFR 172.704(b) mandate that each hazmat employee must be provided function-specific training concerning requirements of SPs issued by the agency. This demonstrates further that entities need to have a copy of the SP to use the packaging. Second, PHMSA also makes SPs available at its website through its SP search page, and this will be expanded to include expired manufacturing SPs. Thus, PHMSA finds that the availability of expired manufacturing SPs to the public will not be a compliance or enforcement concern or lead to the denial of shipments by carriers.

B. Life of the Packaging

CVSA and William Forbes commented that the ''life of the packaging'' should be defined because current manufacturing SPs do not include information regarding the lifespan. The commenters question whether enforcement personnel would be able to ascertain if a packaging that is used after the expiration or non-renewal of an SP is still within its usable lifespan and, therefore, in compliance with the HMR. The commenters suggest that all manufacturing SPs should define the lifespan of the packaging.

PHMSA acknowledges the concerns but disagrees with the premise. Except for a few package types—*e.g.,* a DOT 3HT cylinder—the HMR do not designate a lifespan (*i.e.,* a service life) for an authorized package, nor does PHMSA typically designate lifespans as a provision in manufacturing SPs. Rather, the service life depends generally on whether the packaging conforms in all respects to requirements of the HMR and, specifically—for a packaging subject to periodic evaluation—whether it can achieve requalification for continued service. This applies to SP packaging as well. Thus, the service life of an SP packaging is the duration of time from production until the packaging can no longer meet the required conditions or a service life as specified in the SP. As noted by commenters supporting the proposed change, the current rules create situations where packaging is rendered obsolete solely by permit expiration—rather than functional failure—forcing businesses to discard functional packaging and procure costly replacements, a cycle that not only destabilizes distribution networks and burdens customers, but also suppresses industry innovation while generating significant economic and environmental waste without any tangible improvement to safety.

COSTHA and IVODGA further requested that PHMSA confirm whether packagings manufactured prior to the expiration of a SP can be reused, and whether shipments that are already prepared and waiting in warehouses—prior to the SP expiration—remain authorized once the SP has expired.

PHMSA confirms that SP packagings manufactured during the life of the SP can be reused if they conform in all respects to the requirements of the SP and the HMR. In addition, shipments prepared prior to the SP expiration remain authorized for transport.

C. Safety Concerns

CVSA asked how PHMSA will handle packagings whose SP has been terminated or not renewed due to a safety issue identified by the agency. They admit that, ''while uncommon, there have been instances in the past when the agency chose not to renew a special permit due to safety concerns.''

PHMSA's position remains that, if an SP was terminated due to safety issues, the permit will be removed from the PHMSA website and replaced with a termination letter, and the packaging will no longer be authorized for use. Termination of an SP is equivalent to the removal of any of its authorizations. Therefore, PHMSA finds this final rule will not have any impact on authorized shipments per se and should not cause any safety concerns.

D. Party Status

COSTHA, IVODGA, and PerVisum Ltd. requested clarification regarding the continuation of ''party status'' for SPs if the original applicant is no longer in business. In addition, PerVisum Ltd. asked whether older SPs would be amended to remove the statement ''See individual authorization letter'' on the line that indicates the grantee of the SP.

PHMSA clarifies that party status is not authorized for manufacturing SPs. Such a packaging may be used as provided in 49 CFR 173.22a. Once the manufacturing SP expires, manufacturing cannot continue but existing packagings may continue to be used so long as the packaging continues to conform to the provisions of the SP as well as all applicable HMR requirements. The change adopted in this final rule will allow for the continued use of a manufacturing SP for the duration of its usable life as discussed above, regardless of the status of the grantee.

PerVisum Ltd. asked whether the statement ''See individual authorization letter'' will be removed from older SPs. PerVisum Ltd. linked this question to a broader inquiry about whether ''Party Status'' would no longer be applied to these SPs under this rule. PHMSA is clarifying that party status is not issued for manufacturing SPs; therefore, the statement ''See individual authorization letter'' does not appear on any current manufacturing SPs.

E. Suggested Additional Conditions to the Proposed Change

DGAC supports the change allowing the continued use of SP packaging but provided several suggested conditions to include upon its adoption into a final rule: (1) a copy of the most recent SP must be maintained at each facility utilizing the packaging; (2) the packaging must be marked with the SP number; and (3) the packaging must be used and maintained in accordance with the provisions contained in the SP.

PHMSA appreciates the feedback offered by DGAC. The change adopted in this rulemaking requires conformance with the terms of the most recent version of the SP. As discussed earlier, the terms of manufacturing SPs currently include the requirements that a copy of the SP must be maintained at each facility using the packaging, and that the packaging must be marked with the SP number. Note that, in some instances, the manufacturing SP may include other markings in addition to the DOT SP number on the package. PHMSA notes that SPs also contain standard language in Section 11 (Compliance) stating that no person may use or apply the SP—including displaying its number—when the SP has expired or is otherwise no longer in effect. The action in this rulemaking supersedes that provision. Therefore, future manufacturing SPs issued will no longer contain the provision and persons using manufacturing SP packaging may disregard the instruction within the SP that prohibits continued use or application.

For the reasons discussed above, PHMSA is revising 49 CFR 173.23 to allow for the continued use of a SP packaging for which the SP has expired but the packaging remains otherwise safe and usable. Authorizing continued use of such packagings relieves an economic burden without compromising public safety. PHMSA finds this revision will not have an adverse impact on safety.

III. Regulatory Analysis and Notices

A. Legal Authority

This final rule is published under the authority of the Secretary of Transportation as set forth in the Federal Hazardous Materials Transportation Laws (49 U.S.C. 5101 *et seq.*) and delegated to the PHMSA Administrator pursuant to 49 CFR 1.97.

B. Executive Order 12866; Regulatory Planning and Review

Executive Order (E.O.) 12866 (*Regulatory Planning and Review*), as implemented by 49 CFR part 5, subpart B, requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' [2] In arriving at those conclusions, E.O. 12866 requires that agencies should consider ''both quantifiable measures . . . and qualitative measures of costs and benefits that are difficult to quantify'' and ''maximize net benefits . . . unless a statute requires another regulatory approach.'' E.O. 12866 also requires that ''agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating.'' Pursuant to 49 CFR part 5, subpart B, PHMSA and other Operating Administrations must generally choose the ''least costly regulatory alternative that achieves the relevant objectives'' unless required by law or compelling safety need. In addition, 49 CFR part 5, subpart B specifies that regulations should generally ''not be issued unless their benefits are expected to exceed their costs.''

Executive Order 12866 (*Regulatory Planning and Review*) and 49 CFR part 5, subpart B also require that PHMSA submit ''significant regulatory actions'' to the Office of Management and Budget (OMB) for review.[3] This rulemaking is not considered a significant regulatory action under Section 3(f) of E.O. 12866 and, therefore, was not formally reviewed by OMB.

PHMSA has complied with the requirements in E.O. 12866 as implemented by 49 CFR part 5, subpart B and determined this final rule will result in cost savings by reducing regulatory burdens and regulatory uncertainty for affected entities by allowing use of packagings manufactured under a SP for the useful life of the packaging beyond expiration of the SP. PHMSA finds the cost savings are associated with the reduction in burdens for new SP applications (*e.g.,* renewals) and lost inventory. Those cost savings may also result in reduced costs for the public to whom those entities may generally transfer a portion of their compliance costs. In addition, the final rule will produce budget savings for the Federal Government, hence taxpayers, due to the reduction of SP applications that would otherwise need to be processed by PHMSA personnel.

The table below presents PHMSA's estimates of the costs and associated number of hours for SP applications, renewals, and for additional parties to join an existing SP. These estimates are based on prevailing compensation rates for specific occupations involved in developing and processing SP applications, and the number of hours

[2] 58 FR 51735 (Oct. 4, 1993); 91 FR 22431 (Apr. 27, 2026); DOT Order 2100.7 (*Ensuring Reliance Upon Sound Economic Analysis in Department of Transportation Policies, Programs, and Activities*); *see also* DOT Order 2100.6B (*Policies and Procedures for Rulemakings*).

[3] 58 FR 51735 (Oct. 4, 1993).

each occupation is estimated to commit to a SP application, renewal or additional party application. The rows marked ''private'' are the estimates for an SP applicant to apply, renew, or for another entity to join as a party to the SP. The rows marked ''government'' are the estimated costs for PHMSA to process SP applications, renewals, and additional party applications. PHMSA has not developed a comprehensive list of the SPs that would be affected by this rule and hence cannot estimate total cost savings.

Occupation title	Sector	New special permit		Special permit renewal		New special permit—additional parties	
		Hours	Cost	Hours	Cost	Hours	Cost
General and Operations Managers	Private	3.25	$310	2	$191	0.7	$62
Engineers	Private	25	2,091	3.75	314	5.0	418
Lawyers	Private	4	524	1.5	196	0.8	105
Office and Administrative Support Occupations	Private	1.75	63	1.75	63	0.4	13
Private Sector Subtotal		34	2,987	9	764	6.8	597
General and Operations Managers	Government	6	819	1	136	1.2	164
Engineers	Government	16	1,815	6	681	3.2	363
Lawyers	Government	4	580	2	290	0.8	116
Compliance Officers	Government	10	860	4	344	2.0	172
Government Subtotal		36	4,074	13	1,451	7.2	815
Grand Total		70	7,062	22	2,215	14	1,412

C. Executive Orders 14192 and 14219

PHMSA has determined that this final rule is an E.O. 14192 (*Unleashing Prosperity Through Deregulation*) deregulatory action.[4] PHMSA finds the total costs of the rule on the regulated community will be less than zero. This final rule does not implicate any of the factors identified in section 2(a) of E.O. 14219 (*Ensuring Lawful Governance*) indicative of a regulation that is ''unlawful . . . [or] that undermine[s] the national interest.''[5]

D. Energy-Related Executive Orders 13211, 14154, and 14156

PHMSA has analyzed this final rule in accordance with the principles and criteria contained in E.O. 14156 (*Declaring a National Energy Emergency*) and E.O. 14154 (*Unleashing American Energy*).[6] The President has declared a national emergency to address America's inadequate energy development production, transportation, refining, and generation capacity and asserted a Federal policy to unleash American energy by ensuring access to abundant supplies of reliable, affordable energy from (inter alia) the removal of ''undue burden[s]'' on the identification, development, or use of domestic energy resources. PHMSA finds this final rule to be consistent with E.O. 14156 and E.O. 14154 because it will not hinder or unduly burden the transportation or production of energy or energy-related products.

In addition, this final rule is not a ''significant energy action'' under E.O. 13211 (*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*), which requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.''[7] Because this final rule is not a significant action under E.O. 12866, it will not have a significant adverse effect on supply, distribution, or energy use; accordingly, OIRA has not designated this final rule as a significant energy action.

E. Executive Order 13132: Federalism

PHMSA analyzed this final rule in accordance with the principles and criteria contained in E.O. 13132 (*Federalism*) and the Presidential Memorandum (*Preemption*) published in the **Federal Register** on May 22, 2009.[8] Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have ''substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.'' The Federal Hazardous Materials Transportation Laws contain an express preemption provision at 49 U.S.C. 5125(b) that preempts State, local, and Tribal requirements on certain covered subjects, unless the non-Federal requirements are ''substantively the same'' as the Federal requirements, including the following:

(1) The designation, description, and classification of hazardous material;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(3) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

(5) The design, manufacture, fabrication, inspection, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

This final rule addresses items covered in Paragraphs 2 and 5 above and would preempt State, local, and Tribal requirements not meeting the ''substantively the same'' standard. Though the final rule may operate to preempt some State requirements, it would not impose any regulation that has substantial direct effects on the States, the relationship between the National Government and the States, or the distribution of power and responsibilities among the various levels of government. The preemptive effect of the regulatory amendments in this final rule is limited to the minimum level necessary to achieve the objectives of the Federal Hazardous Materials Transportation laws. Therefore, the consultation and funding requirements of E.O. 13132 do not apply.

[4] 90 FR 9065 (Feb. 6, 2025).

[5] 90 FR 10583 (Feb. 25, 2025).

[6] 90 FR 8433 (Jan. 29, 2025); 90 FR 8353 (Jan. 29, 2025).

[7] 66 FR 28355 (May 22, 2001).

[8] 64 FR 43255 (Aug. 10, 1999); 74 FR 24693 (May 22, 2009).

F. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to conduct a Final Regulatory Flexibility Analysis (FRFA) for a final rule that has been subject to notice-and-comment rulemaking under the APA unless the agency head certifies that the final rule will not have a significant economic impact on a substantial number of small entities. E.O. 13272 (*Proper Consideration of Small Entities in Agency Rulemaking*) obliges agencies to establish procedures promoting compliance with the Regulatory Flexibility Act.[9] DOT posts information on a dedicated web page to help small businesses understand and navigate Federal regulatory processes.[10] This final rule was developed in accordance with E.O. 13272 and DOT implementing guidance to ensure compliance with the Regulatory Flexibility Act. Because the final rule will reduce burdens, PHMSA certifies that it does not have a significant impact on a substantial number of small entities.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act (UMRA, 2 U.S.C. 1501 *et seq.*) requires agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. For any proposed or final rule that includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate of $100 million or more (in 1996 dollars) in any given year, the agency must prepare, amongst other things, a written statement that qualitatively and quantitatively assesses the costs and benefits of the Federal mandate.

This final rule does not impose unfunded mandates under UMRA because it does not result in costs of $100 million or more (in 1996 dollars) per year for either State, local, or Tribal governments, or to the private sector.

H. National Environmental Policy Act

PHMSA has analyzed this rule pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and has determined it is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Under Section 9 of DOT Order 5610.1D, PHMSA may apply a categorical exclusion (CE) established in another Operating Administration's procedures. PHMSA followed the requirements outlined in DOT Order 5610.1D to apply the Federal Highway Administration's CE to this deregulatory action. PHMSA has determined no unusual circumstances are present under 23 CFR 771.117(b). PHMSA's Categorical Exclusion Determination memo for this action is available on PHMSA's website.[11]

I. Executive Order 13175

PHMSA analyzed this final rule according to the principles and criteria in E.O. 13175 (*Consultation and Coordination with Indian Tribal Governments*) and DOT Order 5301.1A (*Department of Transportation Tribal Consultation Policies and Procedures*).[12] Executive Order 13175 requires agencies to assure meaningful and timely input from Tribal government representatives in the development of rules that significantly or uniquely affect Tribal communities by imposing ''substantial direct compliance costs'' or ''substantial direct effects'' on such communities or the relationship or distribution of power between the Federal Government and Tribes.

PHMSA assessed the impact of the final rule and determined that it will not significantly or uniquely affect Tribal communities or Indian Tribal governments. The rulemaking's regulatory amendments have a broad, national scope; therefore, this final rule will not significantly or uniquely affect Tribal communities, much less impose substantial compliance costs on Tribal governments or mandate Tribal action. For these reasons, PHMSA has concluded that the funding and consultation requirements of E.O. 13175 and DOT Order 5301.1A do not apply.

J. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d) requires that PHMSA provide interested members of the public and affected agencies with an opportunity to comment on information collection and recordkeeping requests. This rulemaking will not create, amend, or rescind any existing information collections.

K. Executive Order 13609 and International Trade Analysis

E.O. 13609 (*Promoting International Regulatory Cooperation*) requires agencies to consider whether the impacts associated with significant variations between domestic and international regulatory approaches are unnecessary or may impair the ability of American business to export and compete internationally.[13] In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

Similarly, the Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

PHMSA engages with international standards setting bodies to protect the safety of the American public. PHMSA has assessed the effects of the final rule and has determined that its regulatory amendments will not cause unnecessary obstacles to foreign trade.

L. Cybersecurity and Executive Order 14028

E.O. 14028 (*Improving the Nation's Cybersecurity*) directed the Federal Government to improve its efforts to identify, to deter, and to respond to ''persistent and increasingly sophisticated malicious cyber campaigns.''[14] PHMSA has considered the effects of the final rule and has determined that its regulatory amendments will not materially affect the cybersecurity risk profile for affected entities.

[9] 67 FR 53461 (Aug. 16, 2002).

[10] DOT, *Rulemaking Requirements Related to Small Entities* (last accessed Sept 3, 2024), available at: *https://www.transportation.gov/regulations/rulemaking-requirements-concerning-small-entities.*

[11] DOT, PHMSA, *Implementing Procedures* (Aug. 28, 2025), available at: *https://www.phmsa.dot.gov/planning-and-analytics/environmental-analysis-and-compliance/implementing-procedures.*

[12] 65 FR 67249 (Nov. 9, 2000).

[13] 77 FR 26413 (May 4, 2012).

[14] 86 FR 26633 (May 17, 2021).

M. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform its rulemaking process better. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.* DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, or on DOT's website at *http://www.dot.gov/privacy.*

List of Subjects 49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

In consideration of the foregoing, PHMSA amends 49 CFR Chapter I as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGING

■ 1. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.81, 1.96, and 1.97.

■ 2. In § 173.23, add paragraph (j) to read as follows:

§ 173.23 Previously authorized packaging.

* * * * *

(j) Notwithstanding the prohibition of use of an expired manufacturing special permit (as defined in 49 CFR 107.1) in accordance with 49 CFR 107.109(b), a packaging having been manufactured in accordance with a special permit which has expired and has yet to be adopted as an authorized packaging for broad and general use in this subchapter, may continue to be used in hazardous materials transportation service for its useful life provided the packaging continues to conform to applicable requirements of this subchapter and the terms of the most recent version of the special permit.

Issued in Washington, DC, on July 31, 2026, under the authority delegated in 49 CFR 1.97.

Paul J. Roberti,

Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2026–15810 Filed 8–3–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 173

[Docket No. PHMSA–2025–0091 (HM–268C)]

RIN 2137–AG05

Hazardous Materials: Reducing Burdens on Domestic Companies Using Battery-Powered Equipment in Trades

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule modernizes the Materials of Trade (MOT) exception in the Hazardous Materials Regulations (HMR) by increasing the maximum allowable quantities of lithium batteries that can be transported as MOTs. This increase removes an undue regulatory burden which constrains the ability of construction, landscaping, mowing, tree service, food service, and entertainment companies to perform their trade.

DATES: This final rule is effective September 3, 2026.

FOR FURTHER INFORMATION CONTACT: Arthur Pollack, Standards and Rulemaking Division, Pipeline and Hazardous Materials Safety Administration (PHMSA), 1200 New Jersey Avenue SE, Washington, DC 20590–0001, 202–366–8553, *arthur.pollack@dot.gov.*

I. PHMSA Action

A. What action is PHMSA taking in this final rule?

This final rule removes undue regulatory burdens by increasing the maximum allowable quantities of lithium batteries that can be transported as MOTs. This allowance applies to domestic companies in sectors such as construction, landscaping, mowing, tree service, food service, and entertainment—enabling them to carry the power sources required to perform their trade safely and more efficiently.

B. Does this action apply to me?

Effective 30 days after publication of this final rule, lithium batteries transported under conditions meeting the definition of an MOT under 49 CFR 171.8 may take advantage of the increased quantity limits outlined in 49 CFR 173.6.

C. Why is PHMSA taking this action?

PHMSA is taking this action in response to commenter feedback and to modernize 49 CFR 173.6 to update the quantity limits for lithium batteries under MOTs. The HMR currently limits the aggregate gross weight of materials of trade—other than certain diluted mixtures of Class 9 materials—in a motor vehicle to 200 kg (440 pounds). This revision increases this allowance for lithium batteries by authorizing up to 30 kg (66 pounds) per battery, a 500 kg (1102 pounds) gross vehicle limit, and no limit for batteries installed in equipment, while including safety provisions to prevent short circuits, shifting damage, and accidental activation. This action will reduce regulatory burdens for companies that transport batteries and battery-powered equipment in support of a trade without any compromise in safety because of the safety provisions included in the revision. Finally, this action advances the goals of multiple Executive Orders and provides annualized cost savings to American businesses—please see a more detailed discussion in the Executive Order (E.O.) 12866 discussion in ''Section III. Regulatory Analysis and Notices.''

II. Summary of Comments Received in Response to the Notice of Proposed Rulemaking

PHMSA published a notice of proposed rulemaking (NPRM), cited as *HM–268C,* to gather feedback on modernizing the HMR to authorize increased quantities of lithium batteries under the MOTs exception.[1] Please refer to the NPRM for background and discussion of the proposed change.

The following table alphabetically lists commenters to the NPRM:

[1] 90 FR 28578 (Jul. 1, 2025).