

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
21211-N .....	The Home Depot Inc .....	172.301(a)(1), 172.301(c), 172.301(d).	To authorize the transportation of hand sanitizer for donation in non-bulk combination packages without certain markings.
21213-N .....	Space Exploration Technologies Corp.	172.300, 172.400, 173.302(a)	To authorize the transportation in commerce of satellites containing krypton, compressed in non-DOT specification cylinders.
21220-N .....	Fireworks Over America .....	172.301(a)(1), 172.401(a)(2) ...	To authorize the transportation in commerce of fireworks classed as UN0355 by China as UN0431 within the US.
21223-N .....	Atlas Pyrovision Entertainment Group, Inc.	173.56 .....	To authorize the transportation of pyrotechnic articles that are reclassified as fireworks.
21225-N .....	Praxair Distribution, Inc .....	173.301(f), 179.500-12 .....	To authorize the transportation in commerce of dinitrogen tetroxide in multi-unit tank cars equipped with pressure relief devices.

## Special Permits Data—Denied

20705-M .....	Exhaust Center, Inc .....	177.834(h), 178.700(c)(1) .....	To modify the special permit to authorize three new tank designs.
21143-N .....	Tradewater LLC .....	172.700(a), 173.306(a) .....	To authorize the transportation in commerce of refrigerant gases in DOT 2Q receptacles as limited quantities by motor vehicle and rail without requiring training in accordance with Part 172 subpart H.
21170-N .....	Westwind Helicopters, Inc .....	172.101(j) .....	To authorize the transportation in commerce of certain hazardous materials by passenger-carrying aircraft in quantities that exceed the limitation in Column (9A) of the 172.101 Table.

## Special Permits Data—Withdrawn

21230-N .....	National Air Cargo Group, Inc	175.501(d) .....	To authorize the carriage of a Division 2.2 material exceeding the quantity limitations for cargo aircraft.
21236-N .....	Tesla, Inc .....	173.185(b)(1) .....	To authorize the transportation in commerce of lithium ion cells within alternative packaging.

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## DEPARTMENT OF TRANSPORTATION

## Pipeline and Hazardous Materials Safety Administration

## Hazardous Materials: Notice of Applications for Modifications to Special Permit

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

**ACTION:** List of applications for modification of 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. 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.

**DATES:** Comments must be received on or before June 22, 2021.

**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-30, 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 June 2, 2021.

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

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data			
11947-M .....	Patts Fabrication, Inc .....	173.241, 173.242, 173.243, 177.834(h).	To modify the special permit to authorize additional hazmat to be transported. (mode 1).



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12240-M .....	Spence Air Service .....	172.101(j), 172.200, 172.204(c)(3), 172.301, 173.27(b)(1), 175.33, 175.75(b).	To modify the special permit to waive certain marking and shipping paper requirements. (mode 5).
13173-M .....	Luxfer Canada Limited .....	172.101(j), 173.302a(a)(1), 180.205(g).	To modify the special permit to authorize use the manufacture, marking, sale, and use of non-DOT specification fully wrapped carbon-fiber reinforced aluminum lined cylinders which are manifolded and permanently mounted in a protective frame for the transportation in commerce of the materials authorized by this special permit and authorize the use of a pneumatic proof pressure test for periodic requalification. (modes 1, 2, 3, 4).
13220-M .....	Entegris, Inc .....	173.302, 173.302c .....	To modify the special permit by authorizing additional carbon steels specified for the cylindrical shell of the pressure vessel. (modes 1, 2, 3).
14518-M .....	Federal Cartridge Company ....	172.301(c), 173.56(b), 173.62	To modify the special permit to authorize primers to be shipped without an EX approval. (mode 1).
16231-M .....	Thales Alenia Space .....	172.101(j), 173.301(f), 173.302a(a)(1), 173.304a(a)(2).	To modify the special permit to authorize additional 2.3 hazmat. (modes 1, 3, 4).
20279-M .....	City Carbonic LLC .....	180.207(d)(1) .....	To modify the special permit to remove specific manufacturer applicability to the manufacture of authorized cylinders. (modes 1, 2, 3, 4, 5).
21069-M .....	Catalina Composites, Inc .....	173.302a, 178.71(l)(1) .....	To modify the special permit to authorize ISO 9712 as alternative to ISO 11515:2013 Section 9.1.1 certification. (modes 1, 2, 3, 4).

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**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

[Docket No. PHMSA-98-3599; PD-19(R)]

**Hazardous Materials: The New York State Department of Environmental Conservation Requirements on Gasoline Transport Vehicles**

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

**ACTION:** Dismissal of petition for reconsideration of an administrative determination of preemption.

**SUMMARY:** This proceeding was initiated in February 1998, when the National Tank Truck Carriers, Inc. (NTTC) applied to the Pipeline and Hazardous Materials Safety Administration<sup>1</sup> (PHMSA) for a determination that the HMTA preempted certain marking and record keeping requirements of the New York State Department of

Environmental Conservation (NYSDEC). PHMSA found that the HMTA preempted the NYSDEC requirements because the requirements were not substantively the same as requirements in the HMR on the marking, maintaining, repairing, or testing of a package or container that is represented, marked, certified, or sold as qualified for transporting hazardous material. NYSDEC's petition for reconsideration of that decision is dismissed on the grounds of mootness. NYSDEC has made significant revisions to its regulations, and the revised rules do not appear to impose the same requirements on regulated entities as the previous version of the rules that were challenged in this proceeding. It therefore does not appear that reconsidering PHMSA's preemption determination regarding the now-superseded NYSDEC rules would have any practical effect.

**FOR FURTHER INFORMATION CONTACT:** Vincent Lopez, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; Telephone No. 202-366-4400; Facsimile No. 202-366-7041.

**SUPPLEMENTARY INFORMATION:**

*Petitioner:* New York State Department of Environmental Conservation.

*Local Law Affected:* New York Codes, Rules and Regulations (NYCRR),

Chapter 6, Sections 230.4(a)(3), 230.6(b) & (c).<sup>2</sup>

*Applicable Federal Requirements:* Federal Hazardous Material Transportation Law (HMTA), 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR parts 171-180.

*Mode Affected:* Highway.

**I. Background**

This proceeding was initiated in February 1998, when NTTC applied to PHMSA for a determination that the HMTA preempted certain marking and record keeping requirements of NYSDEC.

After NTTC filed its application, two key rulemakings occurred that delayed PHMSA's decision on NTTC's claims. The rulemakings, one initiated by PHMSA, and the other by the United States Environmental Protection Agency (EPA), although not related, addressed many of the issues raised in NTTC's application. The agencies' rulemaking activities spanned several years and culminated in December 2009, when EPA issued a rule change and clarification of its rules.<sup>3</sup>

<sup>2</sup> The NYSDEC repealed and replaced Part 230, with an effective date of February 11, 2021. The marking requirement in 6 NYCRR 230.4(a)(3), as amended, was recodified in 6 NYCRR 230.6(a)(2). The recordkeeping and retention requirements of 6 NYCRR 230.6(b) and (c), as amended, were recodified in 6 NYCRR 230.7(a)(1) and (a)(2), respectively.

<sup>3</sup> Final Rule, 73 FR 1916 (January 10, 2008); corrections, 73 FR 12275 (March 7, 2008); Final

<sup>1</sup> At the time of NTTC's application, PHMSA did not exist. PHMSA was created on February 20, 2005, when the Secretary of Transportation redelegated hazardous materials safety functions from the Research and Special Programs Administration (RSPA) to PHMSA's Administrator. For consistency, the terms "PHMSA," "the agency," and "we" are used throughout this decision, regardless of whether an action was taken by RSPA before February 20, 2005, or by PHMSA after that date.

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