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**HAZARDOUS MATERIALS: MANDATORY REGULATORY REVIEWS TO UNLEASH AMERICAN ENERGY AND IMPROVE GOVERNMENT EFFICIENCY**

**Pipeline and Hazardous Materials Safety Administration**

**U.S. Department of Transportation**

**Docket No. PHMSA-2025-0032 (HM-265B)**

**Advance Notice of Proposed Rulemaking**

**August 4, 2025**

Introduction

The Reusable Industrial Packaging Association (“RIPA”) is pleased to submit the following comments on the Pipeline and Hazardous Materials Safety Administration’s (“PHMSA”) Advance Notice of Proposed Rulemaking titled *“Hazardous Materials: Mandatory Regulatory Reviews to Unleash American Energy and Improve Government Efficiency.”* The ANPRM seeks information from regulated entities and the public on whether to repeal or amend regulations, codify Special Permits or Approvals, regulatory interpretations or letters of interpretation to remove undue regulatory burdens and make more efficient the Hazardous Materials Regulations (“HMR”). RIPA’s comments will focus on issues that we believe meet the aforementioned criteria for regulatory improvement, including:

(1) Special Permits:

(a) Several Special Permits issued to reconditioners are ripe for inclusion in the HMR based on data which shows they have been used safely by numerous companies for years.

(b) DOT should revise the manner in which Special Permits and Approvals are issued to ensure that holders of “party-to” status retain their authorization even if the original holder is no longer an operating entity.

(c) DOT should notify holders of Special Permits and Approvals in advance of the expiration date; and,

(d) DOT should extend the renewal period for “M” (and “R”) numbers from 5 years to 10 years.

(2) Ultrasonic leakproofness testing for metal and plastic drums, as well as intermediate bulk containers;

(3) Revisions to the pass/fail criteria for design type testing and periodic retesting;

(4) Extension of the annual periodic retesting period for certain packaging design types;

(5) Allowance for the use of a non-bulk package for multiple design type or design requalification tests; and,

(6) Limitations on the use of the U.S. Army Materiel Command, Packaging, Storage and Containerization Center, Logistics Support Activity (LOGSA) laboratory at Tobyhanna, PA.

RIPA is the North American trade association for companies that recondition and manufacture reusable industrial packagings, including steel and plastic drums and various types of intermediate bulk containers (“IBCs”). RIPA’s members collect and recondition or reprocess used industrial packagings and return them to service as shipping containers or, if the packagings are determined to be no longer fit for service, clean and prepare them for scrap recycling. RIPA’s membership includes companies that conduct the vast majority of container reconditioning and reprocessing in North America.

**Special Permits and Approvals**

Many RIPA members hold at least one and as many as four DOT Special Permits or Approvals, generally with “party-to” status. These Special Permits and Approvals have all been active for years and, based upon a review of DOT incident reports filed since issuance, have a perfect or near perfect safety record in transportation. As such, RIPA believes that the following Special Permits and Approvals should be codified into the Hazardous Materials Regulations.

(1) DOT-SP 16323. This Special Permit authorizes the installation of a tested inner IBC receptacle of a composite IBC without the need to subject the replacement inner receptacle to a leakproofness test after installation. This SP has been in place for more than ten (10) years and, according to responses provided to the association by RIPA members, as well as a search of the DOT incident reporting system, these IBCs have compiled an outstanding record of safety in transportation.

According to RIPA’s survey of production statistics,[[1]](#footnote-1) which is produced every two years, since 2011 (one year after this SP was issued), approximately 18,121,000 275- and 330-gallon composite IBCs have been reprocessed and sold in the U.S. Given that these statistics are gathered only every other year, assuming the same number of IBCs are sold in each of the non-survey years, RIPA estimates that about 36 million reprocessed IBCs have been sold in the U.S. since 2015. According to the Survey, more than 50% or about 18 million of these units are rebottled, meaning that a new IBC inner receptacle is placed in a cage. Not every IBC reprocessor is party to the Special Permit so we are not able to accurately estimate the total number of IBC inner receptacles managed under the SP. However, if just 50% of the 18 million re-bottled units are sold by holders of SP 16323, about 9 million IBCs subject to this SP have been filled and placed in commerce since 2015, with a superb transportation safety record.

For these reasons, we respectfully ask DOT to incorporate the essential provisions of DOT-SP 16323 into the Hazardous Materials Regulations.

(2) DOT-SP 21231. This Special Permit authorizes the reconditioning for reuse of 1A1 and 1A2 steel drums with capacities greater than 100 liters, that bear marked nominal head/body/head thicknesses of 1.0/0.8/1.0. Specific operational requirements are outlined in the Special Permit.

As part of the original application for this Special Permit, the applicant noted that PHMSA’s predecessor agency adopted performance standards for packaging in Docket No. HM-181. 55 Fed. Reg. 52402 (December 21, 1990). Prior to that time, reconditioning of steel drums was limited to minimum thicknesses of the DOT 17 series steel drums, which were those with minimum steel thicknesses in the top head, body and bottom head of 0.92 mm (0.036 inch). Additionally, footnote 1 to the DOT Table (173.28 (b)) includes authorization to recondition steel drums with top head, body and bottom head thicknesses of 1.09 mm and 0.82 mm respectively.

In the approximately 35 years since DOT adopted these minimum thicknesses for reuse, enormous strides have been made globally in the production of high-quality steel, as well as innovations in the manufacture of steel drums, both of which allowed manufacturers to produce news drums with reduced steel thicknesses compared to those produced in the early 1990s. As new steel drum steel thicknesses were lowered, the number of reconditionable steel drums fell simply because the DOT regulations would not authorize this activity. This, despite the fact that globally there are few restrictions on reconditioning activities based on steel thicknesses. For example, in Europe, nearly all reconditioned steel drums would not meet the DOT minimum thickness requirements for reuse, and in Canada, steel drums with marked thicknesses of 1.0/0.8/1.0 have been reconditioned for decades.

Based upon estimates provided to the Reusable Industrial Packaging Association (“RIPA”)   
by its members regarding the number of new 55-gallon steel drums marked nominally “1.0/0.8/1.0,” about 25%, or 6.25 million of the approximately 25 million new 55-gallon steel drums manufactured in the U.S. are marked with these nominal thicknesses. Again, referring to RIPA’s biennial production survey, we estimate that about 20 million reconditioned steel 55-gallon drums are sold annually by U.S. reconditioners. Since new steel drums are the primary feedstock for reconditioners in the U.S., this means that approximately 5 million 1.0/0.8/1.0 reconditioned steel drums are sold annually by domestic reconditioners. Extending this calculation to cover the two and one-half years DOT-SP 21231 has been in force, we estimate that about 12.5 million 1.0/0.8/1.0 drums have been successfully reconditioned, filled and transported safely in the U.S. during the life of the Special Permit.

For these reasons, RIPA respectfully asks DOT to authorize the reconditioning and reuse of 55-gallon open- and tight-head steel drums with marked steel thicknesses of 1.0/0.8/1.0.  
  
(3) Approval CA2009050053. This Approval, which was first issued in, 2011, authorizes the use of equipment utilizing ultrasonic sensing devices to test steel and plastic drums for leaks. In the years since this Approval, the use of ultrasonic leakproofness testers, often in conjunction with other testing methods, has become widely used. More recently, ultrasonic testing methods have become available, under Approval, for leakproofness testing of intermediate bulk containers.

The reason this testing method has gained wide support in the U.S. and globally is its extreme sensitivity. These machines can detect leaks in any part of a drum or IBC with an aperture as low as 10/1000th inch (0.25 mm; an industry standard for the lowest aperture available for purchase) under required test pressure (kPa or psi) appropriate to the Packing Group for which the packaging is certified (per 178.604(c)).   
  
Given the enormous number of steel and plastic drums, as well as IBCs, that are manufactured and reconditioned in the U.S. - easily in excess of 50 million units per year - if one assumes only 25% of these packagings are tested using ultrasound systems - an estimate we believe to be quite low - this means that in the 14 years this Approval has been active, at least 175 million packagings have been tested and sold and transported safely.

For these reasons, RIPA respectfully requests that DOT include ultrasonic leakproofness testing as an authorized alternative leakproofness test method in Appendix B to Part 178 of 49 CFR.

(4) Renewal of “Party-to” status when the original SP or A is no longer valid. RIPA would like the Agency to revise the manner in which Special Permits and Approvals are issued to guarantee that holders of “party-to” status are able to retain their authorization even if the holder of the original SP or A is no longer an operating entity or fails for any reason to reapply for a renewal. Although RIPA cannot point to a specific occurrence in which the holder of “party to” status has been denied renewal because the original permit holder is no longer in business or failed to renew, given the Agency’s methodology for issuing Special Permits and Approvals to a named entity, and subsequently issuing “party-to” status to other companies seeking similar authority based upon the original SP or A, it is likely that the fact situation described above will arise sooner rather than later. We urge DOT to get ahead of this potential problem by clarifying that the Agency will always consider applications for holders of “party-to” status to be valid even if the holder of the original SP or A is no longer an operating entity or fails for any reason to renew.

(5) DOT notification of Special Permit and Approval holders. RIPA believes that with the advent of artificial intelligence, it would be a relatively simple matter for PHMSA to issue an electronic notice to holders of Special Permits and Approvals in advance of the recommended renewal period. This would be a particularly useful benefit for small businesses that hold several SP & As and would, in fact, help DOT avoid having to manage last-minute renewal requests.

(6) Extend the “M” number renew period from 5 to 10 years. RIPA believes that the renewal period of Approvals for “M” (and existing “R”) numbers should be revised to once every 10 years. These numbers comprise a small data-base within the Agency and are simply an “address book” telling regulators and the public the name of the holder and its location(s). The current 5-year renewal period, while not a particularly onerous burden on affected companies, is arbitrary and the usefulness of the database would not be harmed if the renewal period were to be lengthened.   
  
**Limit the use of the U.S. Army Materiel Command, Packaging, Storage and Containerization Center, Logistics Support Activity (LOGSA) laboratory to testing packaging designs that have failed in transportation or which are deemed by DOT to present a significant risk of failure in transportation.**

For several decades, PHMSA has contracted with a laboratory operated by the U.S. Army Materiel Command, Packaging, Storage and Containerization Center, Logistics Support Activity group to test UN-marked packagings that are intended for use in hazardous materials transportation.[[2]](#footnote-2) The laboratory is supposed to provide “Independent compliance testing of performance certifications…[and]…validate that designs being manufactured are capable of passing all applicable tests prescribed in the Hazardous Materials Regulations (HMR)….”[[3]](#footnote-3)

DOT has used this laboratory to test hundreds of packaging designs, ranging from small combination packagings to intermediate bulk containers. The purpose and value of these often randomly conducted tests is, frankly, something of a mystery to the regulated community. Even in cases where a packaging design fails, DOT concedes that the tests in and of themselves do not prove the design is fundamentally flawed, only that the packagings selected for testing failed the design type tests. Such a finding often results in a fine levied against the offending company, and generally no other action is taken.

RIPA believes that the laboratory has too often been used by the Agency in a manner that resembles regulatory harassment when, for example, a commonly produced design (e.g. 55-gallon open head drum) fails the design test after being (a) loaded onto and unloaded from a truck following transportation, (b) stored at the Tobyhanna test facility, often for weeks, awaiting testing, and (c) possibly “failing” a design test because one packaging out of, for example, 18 for steel drums, including the vibration test, failed.

RIPA acknowledges that in the early days of performance packaging design and development, the Tobyhanna test lab was a valuable backstop for the Agency. Today, however, more than 35 years after the adoption of performance packaging in the U.S., the lab’s usefulness has waned as an enforcement tool.

For these reasons, we believe PHMSA should reassess the purpose of the test laboratory as well as its contractual relationship with LOGSA. In our view, the laboratory should be used for the following two purposes: (1) The testing of packaging designs that have actually failed in transportation. Although there are many factors that must be considered by enforcement personnel when determining causation (e.g. handling, storage, transportation conditions, etc.), packaging design may legitimately be one of those factors. (2) Testing packaging designs that DOT enforcement personnel have determined present or may present an imminent hazard in transportation and the future use of which may endanger public health and safety.

**Extend to Three Years the Interval Between Periodic Retesting Requirements for Certain UN Packagings**

For several years, DOT has entertained arguments in favor of extending the interval between periodic design type testing or eliminating the periodic retesting requirement altogether. In HM-265A, PHMSA asked for public comment on the justification for extending intervals in the periodic retest requirement.[[4]](#footnote-4) RIPA provided extensive comments to support its view that for packaging designs that have a proven record of safety in transportation, the Agency should extend the periodic re-testing requirement beyond one year.[[5]](#footnote-5) Other commenters supported this view.

It is clear that DOT took these comments to heart, at least with regard to steel drum designs. The Agency recently issued DOT-SP 21921 which provides relief from annual design type re-testing requirements for tight head and open head 55-gallon steel drums, under specific conditions.

Given that the Agency has accepted, in principle, the concept of extending the annual periodic retest requirement, RIPA believes PHMSA should extend this same relief to plastic drums and intermediate bulk containers.

RIPA believes the design re-qualification period should be set initially at three-years for companies that maintain a written quality assurance plan and that can demonstrate their packaging designs have not changed materially and have been used safely in transportation for three years or longer. This approach would enable a manufacturer (or remanufacturer) to conduct requalification tests on 1/3rd of its various drum and IBC designs each year.

The savings available to manufacturers and reconditioners from a three-year requalification period are substantial. In our comments to HM-265A, RIPA collected data from four members that are self-certifiers to highlight the potential savings. We believe these estimates are, if anything, on the low end of savings today.

(1) Company A performs a minimum of 110 UN tests per year. The material, labor and overhead costs for these tests is approximately $375,000.00 annually.

(2) Company B tested 7 different remanufactured open head steel drum design types in 2023. Each test consisted of destroying 21 drums for a total of 147 drums at a cost of about $25/drum or $3,675. In addition, 2 employees are required to spend 8 hours each per full test or 112 hours for 7 tests at an average of $75/hour for a total of $8,400. Other tangible costs are incurred such as forklift fuel for 7 days, PPE for the employees and loss of employee time spent handling other production tasks. These additional costs are about $2,000. The total cost is $14,075 per year for the testing of 7 different 1A1 design types remanufactured into a 1A2 design type.

(3) Company C performs approximately 125 different periodic design tests each year. Test costs range from $1,700 for a small, simple packaging to $12,000+ for a custom-built, dual-rated container. These costs include the price of drums destroyed in the testing process and associated labor.

(4) Company D performs about 75 different steel drum design type tests per year. The cost of each design test is approximately $1,000, resulting in a total annual cost of about $75,000 per year.

Importantly, RIPA strongly believes that U.S. companies should be authorized to continue to self-certify their initial design type and periodic requalification tests.In HM-265A, DOT asked commenters to address this question. RIPA believes that many companies would not see a benefit in abandoning the self-certification option, given that they have invested in the test facility, staff, and equipment to perform the tests. It should be noted that in addition to the required tests, company-owned test facilities are often used to monitor ongoing production output. Also, sending packagings out to a third party for testing would likely result in uncertain lead times and, with shipping costs added in, this could add significantly to overall costs.

Conclusion

The Reusable Industrial Packaging Association believes the issues we have addressed in our comments are extremely important and we urge PHMSA to prioritize them as the Agency moves towards the next stage of the rulemaking process. RIPA looks forward to working with PHMSA going forward. If there are any questions, please contact Paul Rankin, [prankin@ripaus.com](mailto:prankin@ripaus.com).

1. U.S. Packaging Reconditioning Industry Survey and Statistics; Reusable Industrial Packaging Association [↑](#footnote-ref-1)
2. Performance Oriented Packaging Testing; Policies and Procedures; October 22, 2008 [↑](#footnote-ref-2)
3. Ibid [↑](#footnote-ref-3)
4. 88 Fed. Reg 43016 et seq.; July 5, 2023; Docket No. PHMSA-2019-0031 (HM-265A) [↑](#footnote-ref-4)
5. Reusable Industrial Packaging Association; Comments on Docket No. PHMSA-2019-0031; December 4, 2023 [↑](#footnote-ref-5)