



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

AUG 25 2005

400 Seventh Street, S.W.  
Washington, D.C. 20590

Mr. Lawrence W. Bierlein  
McCarthy, Sweeney & Harkaway, P.C.  
2175 K Street, NW  
Washington, DC 20037

Ref. No. 05-0172

Dear Mr. Bierlein:

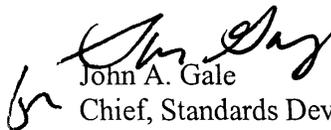
This responds to your July 14, 2005 letter requesting clarification on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), to perfume inserts for magazines. Specifically, you are requesting a *di minimis* determination for the perfume inserts for domestic transportation, and as the U.S. Competent Authority for international transportation, similar to that provided in Special Provision 47 of the HMR, Special Provision 216 of the International Maritime Dangerous Goods (IMDG) Code and Special Provision A46 of the International Civil Aviation Organization (ICAO) Technical Instructions.

According to your letter, companies intend to distribute small amounts of perfume in packets affixed to the inside pages of fashion magazines. Each packet contains approximately 0.3 mL of perfume having a flashpoint ranging from 55°-73° F, depending upon the particular perfume. A few drops of perfume are placed on a porous base in a foil pouch, and heat and vacuum-sealed. They are packed into the magazine insert and shipped, 42 to an inner chipboard carton, with 24 inner cartons per outer shipping carton. Each completed carton does not exceed 30 kg mass and meets the general packaging criteria of § 173.24.

Based on the information and test results provided in your letter, it is the opinion of this Office that these inserts containing perfume for affixing in magazines are similar to the articles described in the referenced Special Provisions, and are not subject to the requirements of the HMR, IMDG Code, or the ICAO Technical Instructions.

I hope this answers your inquiry.

Sincerely,

  
John A. Gale

Chief, Standards Development  
Office of Hazardous Materials Standards



050172

173.120

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July 14, 2005

Boothe  
§ 173.120  
Definitions  
85-0172

Dr. Robert A. McGuire  
Associate Administrator for  
Hazardous Materials Safety  
Pipeline & Hazardous Materials Safety Administration  
U.S. Department of Transportation  
Washington, DC 20590

Dear Dr. McGuire:

On behalf of Estee Lauder, Inc., and Valois, Inc., I hereby request your consideration of the status of the items described below. Please review these materials in the context of the statutory definition of "hazardous material" as being in a particular amount and form that when in transportation may pose an unreasonable risk to health and safety or property. We ask for a *de minimis* characterization of these items by PHMSA for domestic transportation, and as the U.S. Competent Authority for international transportation, akin to that provided in Special Provision 47 in title 49 (and SP 216 of the UN Model Regulations) for alcohol wipes, cleaning card, pens, and similar articles.

Concept. The companies intend to distribute small amounts of perfume in packets affixed to the inside pages of fashion magazines. I have enclosed examples of these individual packets, some printed and some before printing that you can take apart. I also enclose two sample pages with the insert affixed, and two magazines illustrating the proposal.

Contents. Each packet contains approximately 0.3 mL of perfume having a flashpoint ranging from 55-73°F, depending upon the particular perfume.

Fabrication. A few drops of perfume are placed within a foil pouch that is heat and vacuum-sealed utilizing custom machinery. The perfume is on a porous base. The sealed unit cannot be opened except by pulling Tab 1 on the insert, which removes the foil seal and lets air into the aluminum pouch. Squeezing Tab 2 on the insert then will release approximately 6 tiny sprays of the fragrance. Squeezing Tab 2 without first pulling Tab 1 will not release the perfume.

The perfume is placed into the magazine insert and these inserts are shipped, 42 to an inner chipboard carton, with 24 inner cartons per outer shipping carton. Each completed carton has a mass not exceeding 30 kg and meets the general packaging criteria of Sec. 173.24.

A pallet of these outer cartons is shipped to a contractor who affixes the insert to a sturdy page, and these individual pages in turn are sent to a magazine binder. Once the pages are bound into magazines, they are distributed to subscribers or retail outlets for publications.

Testing. The inserts as inserted in magazines has been tested by PIRA, the UK testing institute. PIRA conducted three distinct physical tests, performed sequentially on magazines containing the inserts -- a 2.25 ton dynamic compression test, a series of drop tests to a maximum height of 60", and a static compression test of a stack of magazines for 24 hours. The PIRA Test Certificate is attached, showing the success of the inserts during this test regimen.

Based upon the nature of these inserts and their similarity to other small items characterized as not being subject to hazardous materials or dangerous goods regulations, we request a determination of de minimis status for the inserts in transportation, from the point of manufacture through delivery to the ultimate magazine reader. Please let me know if you have any questions on this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence W. Bierlein", written in a cursive style.

Lawrence W. Bierlein

Enclosures