



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

MAY 21 2012

Mr. David H. Baker
General Counsel
Lighter Association, Inc.
1701 Pennsylvania Ave., N.W., Suite 300
Washington, D.C. 20006

Ref. No. 12-0007

Dear Mr. Baker:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to intermediate packagings authorized for lighters. Specifically, you ask whether the intermediate packaging used to package a lighter, as prescribed in § 173.308(c)(1), is limited to the intermediate packaging examined by the authorized testing agency under the approval process required of the lighter design itself as prescribed in § 173.308(b).

The answer is no. The performance criteria prescribed for the intermediate containment (packaging) of lighters in § 173.308(c)(1) is unrelated to the examination and testing criteria prescribed in § 173.308(b). A shipper may package lighters in any intermediate packaging that meets the § 173.308(c)(1) criteria (e.g. blister pack, tray, brick) regardless of the intermediate packaging that may be indicated on an approval issued by an authorized testing agency verifying a lighter design's conformance with § 173.308(b). In addition, under § 178.601(g)(1), it is permissible to vary the number and type of lighter/intermediate packaging configurations that are further packed in a UN standard outer packaging without further design qualification testing of the package, provided an equivalent level of performance is maintained.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

December 12, 2011

Mr. Michael Stevens
Transportation Regulation Specialist
Regulatory Review and Reinvention
Office of Hazardous Materials Standards and Rulemaking
Pipeline & Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
PHH-12
Washington, D.C. 20590

Re: Specification of Type of Inner Packaging in new Lighter Classification Approvals (LAAs)

Dear Mr. Stevens:

Lighter classification approvals are issued pursuant to 49 CFR Section 173.308(b). This provision was substantially revised in 2006 (71 Fed. Reg. 3418, January 23, 2006). Under the new provision, lighter are to be reviewed by an authorized testing agency for “the escape (leakage) of gas”. 49 CFR Section 173.308(b)(1).

In addition, under the new provision, all lighters must be placed in an inner packaging that is designed to prevent movement of the lighters and inadvertent ignition. 49 CFR Section 173.308(c)(1). The provision goes on to detail that the ignition device and gas control lever of the lighters must be designed (child-resistant mechanism), or fastened, to protect against functioning or leakage during transport. In addition, if the lighters are packed vertically in a plastic tray, a partition must be used to prevent friction between the ignition device and the inner packaging. Id.

We have observed that some authorized lighter testing companies are issuing these new approvals (commonly referred to as LAAs) with a specific reference to the type of inner packaging used by the manufacturer. For example, if a manufacturer ships a 50 count “brick” of lighters to the testing agency, the testing agency then seems to limit the approval to that particular inner packaging. Not all testing agencies are writing the approvals this way, but several follow this path.

We would ask PHMSA to clarify that new lighter approvals should not be limited to a particular inner packaging. The very point of specifying the inner packaging requirements in the revised provision was to avoid having to obtain multiple approvals

for varying package configurations (12 count, 50 count, 100 count, etc.). Moreover, the express language in the provision is that lighters are to be reviewed for escape of gas. It says nothing about reviewing the inner packaging. The safety issue is whether the lighter malfunctions and emits gas.

Candidly, we believe the testing agencies are writing the approvals this way, simply because this is how they did it in the past. So we urge you to clarify that the new LAAs should not be restricted to a particular type of inner packaging. So long as the inner packaging complies with Section 173.308(c)(1), it is in compliance as to inner packaging. We believe this point needs to be clarified to the testing agencies.

Finally, we would note that in this extremely difficult economy, it makes no sense to impose an approximately \$500 expense per inner packaging configuration on manufacturers and distributors of lighters. To put this cost in perspective, some of our members have three or more packaging configurations for a single lighter design, and as many as five to ten lighter designs. It would result in a huge, additional cost, if interpreted again as requiring new approvals for each inner packaging.

Accordingly, we would request that you issue an interpretation that the new lighter classification approvals should not be limited to a specific inner packaging configuration.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David H. Baker', with a long horizontal line extending to the right.

David H. Baker
General Counsel

DHB:bd