



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

NOV 14 2017

Mr. Jay Johnson, DGSA
Regulatory Compliance Manager
Inmark Packaging
675 Hartman Road, Suite 100
Austell, GA 30168

Reference No. 15-0140

Dear Mr. Johnson:

This letter is in response to your June 18, 2015 email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the term "positive means of closure." Specifically, you describe two scenarios and ask if the additional or secondary "positive means" of closure requirements are met as prescribed in §§ 173.4a(e)(2) and 173.27(d). Your scenarios are paraphrased and responded to as follows:

Scenario 1: For a cap that uses ratchet-type back-off protection to keep the closure permanently attached to the container, are the additional or secondary "positive means" of closure requirements prescribed in §§ 173.4a(e)(2) and 173.27(d) met?

Scenario 2: Your letter cites a previous letter of clarification we issued on this topic (Reference No. 11-0165) and challenges its conclusion that the break-away ring design depicted did not provide a secondary positive means of closure as required by §§ 173.4a(e)(2) and 173.27(d).

The acceptable methods of additional or secondary positive means of closure provided within the HMR are examples, and are not an exhaustive list. We agree that the ratchet-type back-off protection described in your letter satisfies the positive means of closure requirements of the HMR. Upon further review, we agree that the break-away ring closure securement depicted in the interpretation issued by this Office on October 18, 2011 (Ref. No. 11-0165) satisfies the additional or secondary positive means of closure requirements of the HMR. We are thereby rescinding and replacing Interpretation 11-0165 issued on this topic and will notify its recipient as quickly as possible.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Shane Kelley
Acting Director,
Standards and Rulemaking Division

Stevens
§173.27(d)
Closures/Air

15-0140

Dodd, Alice (PHMSA)

From: Stevens, Michael (PHMSA)
Sent: Tuesday, July 07, 2015 4:04 PM
To: Dodd, Alice (PHMSA)
Subject: FW: Positive means of closure.

As promised. Thanks!

From: DerKinderen, Dirk (PHMSA)
Sent: Thursday, July 02, 2015 10:28 AM
To: Foster, Glenn (PHMSA)
Cc: Betts, Charles (PHMSA); Stevens, Michael (PHMSA)
Subject: RE: Positive means of closure.

Glenn,

Mike and I have already done work on this so it won't be a heavy lift to create an interp request (assigned to Mike of course) and get a response out to Mr. Johnson. The bigger hurdle will be whether we want to retract an older letter (11-0165) that Mr. Johnson references with regard to his request. I'll leave to Mike to explain as he is our air packaging expert with respect to 173.27 but I will gladly also provide input.

Sincerely,
Dirk Der Kinderen

From: Betts, Charles (PHMSA)
Sent: Wednesday, July 01, 2015 4:49 PM
To: Foster, Glenn (PHMSA)
Cc: Supko, Ben (PHMSA); Nicklous, Joseph (PHMSA); Freeman, Cheryl (PHMSA); DerKinderen, Dirk (PHMSA); Moore, Benjamin (PHMSA)
Subject: RE: Positive means of closure.
Importance: High

Glenn –

Please work with PHH-20 (Ben Moore) to draft of response to Jay Johnson's question regarding "positive means of closure". If you have not already done so, please treat this as a new request for interpretation.

Thanks,
Charles

From: Nicklous, Joseph (PHMSA)
Sent: Wednesday, July 01, 2015 2:50 PM
To: Freeman, Cheryl (PHMSA); DerKinderen, Dirk (PHMSA); Moore, Benjamin (PHMSA)
Cc: Supko, Ben (PHMSA); Betts, Charles (PHMSA)
Subject: RE: Positive means of closure.

Jay Johnson is asking about this. Is a formal letter being prepared?

Joseph J Nicklous
Chief, Sciences Branch

Engineering and Research Division
Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590
(202)366-4545
joseph.nicklous@dot.gov

From: Betts, Charles (PHMSA)
Sent: Tuesday, June 23, 2015 9:45 AM
To: Freeman, Cheryl (PHMSA)
Cc: Nicklous, Joseph (PHMSA); Moore, Benjamin (PHMSA); Supko, Ben (PHMSA); DerKinderen, Dirk (PHMSA)
Subject: RE: Positive means of closure.

Good morning Cheryl –

Please work with Dirk.

Thanks,
Charles

From: Freeman, Cheryl (PHMSA)
Sent: Tuesday, June 23, 2015 9:44 AM
To: Betts, Charles (PHMSA)
Cc: Nicklous, Joseph (PHMSA); Moore, Benjamin (PHMSA); Supko, Ben (PHMSA)
Subject: FW: Positive means of closure.

Hi Charles,

Ben Moore has looked at the information below and has a recommendation on this. Who in your shop should he work with to coordinate a respond to Mr. Johnson?
Since Mr. Johnson is referring to a letter of interp and an FAA compliance issue, I do not believe Ben should just respond to him in an informal e-mail.

Cheryl

Cheryl West Freeman, P.E.
Chief, Engineering Branch
Engineering and Research Division
Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590
(202)366-4545
Cheryl.freeman@dot.gov

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From: Nicklous, Joseph (PHMSA)
Sent: Friday, June 19, 2015 9:36 AM
To: Freeman, Cheryl (PHMSA)
Subject: FW: Positive means of closure.

All yours....

From: Supko, Ben (PHMSA)
Sent: Friday, June 19, 2015 9:34 AM
To: Nicklous, Joseph (PHMSA)
Cc: Betts, Charles (PHMSA); Falat, Lad (PHMSA)
Subject: FW: Positive means of closure.

Joe,

Please have your non-bulk guys take a look and respond to Jay.

The letter cited in Jay's request is found at the following URL:

<http://www.phmsa.dot.gov/staticfiles/PHMSA/Interpretations/2011/110165.pdf>

An example of a recent letter is available at the following URL:

http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_3CEB23861D08AD53DF2DF441E9D8E311195C0200/filename/140225.pdf

Also, please touch base with Charles and his staff on the response.

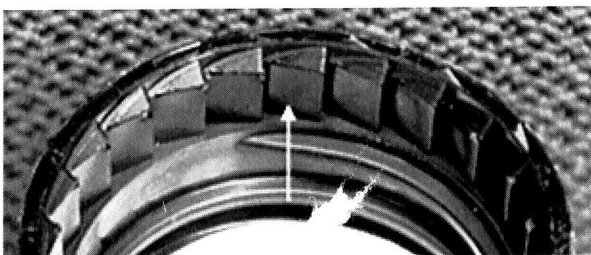
Thank you,

Ben

From: Jay Johnson [<mailto:jayj@inmarkinc.com>]
Sent: Thursday, June 18, 2015 4:34 PM
To: Supko, Ben (PHMSA)
Subject: Positive means of closure.

Hello Ben,

We have a trigger sprayer with matching ratchets to keep the closure permanently attached to the container.



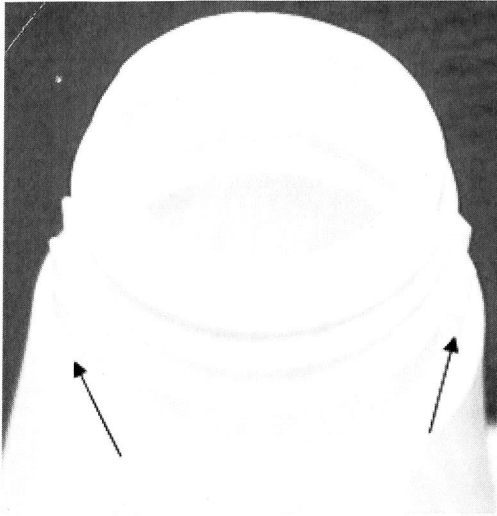


Figure 2A

Would this be considered “positive means of closure”?

I have a FAA inspector that has indicated that more is required and used PHMSA Letter of Interpretation No. 11-0165 as reference.

Your assistance would be greatly appreciated.

Kind Regards,

Jay Johnson, DGSA | Regulatory Compliance Manager



675 Hartman Road, Suite 100 Austell GA 30168

o 770-373-3300 | d 770-373-3356 | m 770-377-0205 | f 770-373-3357 | e jayj@inmarkpackaging.com

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U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

OCT 18 2011

Ms. Melissa Russell
Thermofisher
4481 Campus Drive
Kalamazoo, MI 49008

Reference No. 11-0165

Dear Ms. Russell:

This is in response to your e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the term "positive means of closure." Specifically, you ask what is the additional "positive means" of closure requirement to the tape, wire and shrink-wrap as specified in the HMR (e.g., §§ 173.4a(e)(2) and 173.27(d)) for a cap that has a tamper-evident seal ("non-backoff" cap). You state that the tamper-evident cap has a break-away ring such as the cap on a 20-ounce bottle of soda or on a gallon of milk. You also state that the non-backoff cap locks the closure to a container to avoid unwanted loosening.

In addition to tape, wire and shrink-wrap, the HMR does not specify other methods of a positive means of closure. However, it is the opinion of this Office that the tamper-evident cap you reference does not meet the HMR positive means of closure requirement. To ensure that the closures are held securely in place during transportation, you may wish to contact the packaging manufacturer for additional methods to those given as examples in the HMR.

I hope this information is helpful. Please contact this office should you have additional questions.

Sincerely,

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

McIntyre
\$173.27
Aircraft
11-0165

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Friday, July 15, 2011 1:40 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 & 173.476)

Hi Carolyn,

This caller requested her e-mail be submitted as a letter of interpretation after speaking with me in the HMIC and being referred to interp letters 04-0011 and 09-0299.

Thanks,
Victoria

Victoria Lehman
Hazmat Information Center (HMIC)
<http://phmsa.dot.gov/hazmat/info-center>
(202) 366-1035

-----Original Message-----

From: PHMSA-Feedback [mailto:PHMSA-Feedback]
Sent: Thursday, July 14, 2011 4:04 PM
To: PHMSA HM InfoCenter; PHMSA Webmaster
Subject: Hazmat Information Center Feedback: Shippers-General Requirements for Shipments and Packagings (Sections 173.1 & 173.476)

Good afternoon Mr. Charles E. Betts,

We are trying to make a determination in regards to 'positive means of closure'. I understand that all closures (mine specifically is a screw-type/threaded) need to be secured in such a way to prevent loosening due to vibration or change in temperature. This can be done w/ tape, wire, shrink wrap, etc.

What is the additional 'positive closure' requirement for a cap that has a tamper evident seal or a cap that is classified as 'non-backoff'. The tamper evident cap has a break-away ring like the cap on a 20oz bottle of soda or on a gallon of milk. The non-backoff cap locks the closure to a container to avoid unwanted loosening.

Please let me know. Thanks in advance!!

Name: Melissa Russell
Email: melissa.russell@thermofisher.com
Phone: 269-544-5632