



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

OCT 08 2019

Mr. Tom Ferguson
Senior Technical Consultant
Council on Safe Transportation of Hazardous Articles
10 Hunter Brook Lane
Queensbury, NY 12804

Reference No. 19-0018

Dear Mr. Ferguson:

This letter is in response to your February 18, 2019, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to what “a different packaging” means under § 178.601(c)(4). Specifically, you state a shipper purchased UN 4G (fiberboard) box packagings from multiple vendors, found their closure instructions required the packagings use different tapes, and researched whether one tape may be used in place of the others to reduce the costs of maintaining different tapes and shipper training. We have paraphrased your questions and answered them in the order provided.

- Q1. The Pipeline and Hazardous Materials Safety Administration (PHMSA) stated in the Reference No. 17-0121 clarification letter that it is the opinion of its Standards and Rulemaking Division that a wider tape of the same type originally tested (i.e., tensile strength and other relevant properties from industry testing standards) will perform the same when tested or transported as that used on the design qualification tested package. You ask whether PHMSA agrees that a tape of the same or greater width manufactured with “superior properties” (i.e., increased tensile strength of film or adhesion properties) to that specified by the packaging manufacturer for the tape in the UN 4G packaging’s test report should perform the same when tested.
- A1. The answer is no. Use of tape that is not identical to that used in a previously produced UN standard packaging, including tape with properties that may be improvements such as greater width, increased tensile strength, and/or adhesion, creates a different packaging under the HMR as this term is defined in § 178.601(c)(4). To be authorized for use with the existing UN packaging, tape not used in the originally tested design type must be successfully design qualification tested with the packaging or qualify for one of the selective testing variations authorized under § 178.601(g). Please note, § 178.601(g) provides a series of conditions for the selective testing of packagings that differ only in minor respects from a tested design-type. You did not provide any technical information that supports the successful completion of these design qualification requirements. You

may also apply for authorization to use different tapes for the packaging under the terms of a special permit issued by the Associate Administrator for Hazardous Materials Safety in conformance with the requirements prescribed in 49 CFR Part 107, Subpart B.

Q2. If a tape differs from that in a DOT specification packaging's test report but there is "performance data" available showing this different tape will perform in the same manner as that tested and/or transported on the original packaging, you ask whether this performance data may be used to permit use of the different tape without having to perform additional design qualification testing.

A2. The answer is no. See answer A1.

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

Sincerely,

A handwritten signature in black ink, appearing to read "T. Glenn Foster". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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

Edmanson

19-0018



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February 18, 2019

Mr. William Schoonover
Associate Administrator
Pipeline and Hazardous Materials Safety Administration
US Department of Transportation
1200 New Jersey Ave., SE
East Bldg. PHH-10
Washington, DC 20590-0001

Dear Mr. Schoonover:

The Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA) hereby submits a request for interpretation regarding the specification of tape used to close the outer packaging of a combination packaging.

COSTHA is a not-for-profit organization representing manufacturers, shippers, distributors, carriers, freight forwarders, trainers, packaging manufacturers and others associated with the hazardous materials transportation industry. In addition to promoting regulatory compliance and safety in hazardous materials transportation, COSTHA assists its members and the public in evaluating the practicality and efficacy of laws, rules and regulations for the safe transportation and distribution of hazardous materials.

§178.601(c)(4) defines a different packaging as one that differs (ie. is not identical) from previously produced packaging in structural design, size, material of construction, wall thickness, or manner of construction. In a letter of interpretation released on May 16, 2018 (reference no. 17-0121), PHMSA opined that "a wider tape of the same specification (e.g., tensile strength and other relevant properties from industry testing standards) originally tested may perform the same when tested or transported".

Council on Safe Transportation of Hazardous Articles

10 Hunter Brook Lane, Queensbury, NY 12804 * Phone: (518)761-0389 * Fax: (518)792-7781 * www.costha.com

Consider the following scenario. A shipper purchases 4G packaging from multiple vendors. While reviewing the closure instructions, the shipper finds that the tape specified for each packaging is different. To reduce the shipper's costs for training and maintaining several different tapes, the shipper researches tape designs and specifications.

Question 1:

As previously stated in 17-0121, PHMSA agrees that wider tape should perform the same when tested or transported. Does PHMSA agree that a tape of the same or greater width manufactured with superior properties (ie. increased tensile strength of film or adhesion properties) to that specified in the report should perform the same when tested or transported?

Question 2:

If a tape differs from the specification in the test report but there is performance data available showing that the tape will perform the same when tested or transported as the original packaging, would this performance data be acceptable in lieu of additional testing?

COSTHA believes the proposed language maintains safety and eliminates any potential confusion for industry.

If you have any questions or would like to discuss these issues further, please do not hesitate to contact me.

Respectfully submitted,



Tom Ferguson
Senior Technical Consultant