



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

1200 New Jersey Avenue, SE
Washington, DC 20590

May 12, 2022

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

Reference No. 19-0018R

Dear Mr. Ferguson:

This letter is in further 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 ask for clarification regarding the use of tape with properties that are superior to tape used in a package’s original design qualification testing or for which performance data is available demonstrating the tape will perform in the same manner as the tested tape.

A summary of the questions in your letter and our revised answers are as follows:

- Q1. You note that “the Pipeline and Hazardous Materials Safety Administration (PHMSA) stated in the Reference No. 17-0121 clarification letter that it is of the opinion . . .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 would also agree that a different type of 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. We responded: *“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.

Our response is revised to state that a change in tape from the originally tested package to tape with verifiable equal or superior properties (e.g., tensile strength of film or adhesion properties) that will perform the same or better when tested does not constitute a change in design that would require additional design qualification testing.

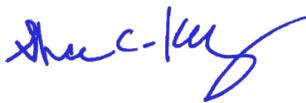
Q2. If a tape differs from that in a DOT specification packaging's test report but there is "performance data" available showing this different tape will perform in the same manner as that tested and/or transported on the original packaging, you ask whether this performance data may be used to permit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

A2. We responded: *"The answer is no. See answer A1."*

Consistent with our revised response to Q1, our response is revised to state that if there is data available showing that a different tape with equal or superior properties (e.g., tensile strength of film or adhesion properties) will perform the same or better than the tape used in testing the original packaging, this information could be used to permit the use of the different tape without having to perform additional design qualification testing.

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

Sincerely,



Shane Kelley
Director,
Standards and Rulemaking Division