



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety Administration**

Office of  
Chief Counsel

1200 New Jersey Avenue, S.E.,  
PHC-10, Room E26-331  
Washington, D.C. 20590-0001  
Phone: (202)366-4400  
Fax: (202) 366-7041

***Hazardous Materials Safety  
Law Division***

**LETTER OF INTERPRETATION**

February 26, 2014

Mr. Paul W. Rankin, President  
Reusable Industrial Packaging Association  
51 Monroe Street, Suite 812  
Rockville, MD 20850

Reference No.: 12-0056R and CHI-13-001R

Dear Mr. Rankin:

On May 16, 2012 and August 16, 2013, PHMSA issued Interpretations No. 12-0056 and CHI-13-001, respectively. At the request of the Reusable Industrial Packaging Association, a review of those letters and the relevant requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), PHMSA hereby rescinds both letters and issues the following Interpretation with respect to the matters discussed in those letters.

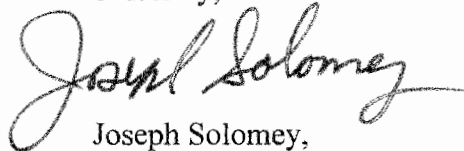
In accordance with § 180.350(b), the replacement of the rigid inner receptacle of a composite IBC with one from the original manufacturer is considered a repair. As stated in § 180.352(d)(1), repaired IBCs may be returned to service provided: (i) The repaired IBC conforms to the original design type, is capable of withstanding the applicable design qualification tests, and is retested and inspected in accordance with the applicable requirements of this section; (ii) an IBC intended to contain liquids or solids that are loaded or discharged under pressure is subjected to a leakproofness test as specified in § 178.813 of this subchapter and is marked with the date of the test; (iii) the IBC is subjected to the internal and external inspection requirements as specified in § 180.352(b); (iv) the person performing the tests and inspections *after the repair* [emphasis added] must durably mark the IBC near the manufacturer's UN design type marking to show the country in which the tests and inspections were performed, the name or authorized symbol of the person performing the tests and inspections, and the date (month, year) of the tests and inspections; and (v) retests and

inspections performed in accordance with paragraphs (d)(1)(i) and (ii) of this section may be used to satisfy the requirements for the 2.5 and five year periodic tests and inspections required by paragraph § 180.352(b).

Additionally, in accordance with 180.352(g)(1), the owner or lessee of the IBC must keep records of periodic retests, initial and periodic inspections, and tests performed on the IBC if it has been repaired and manufactured. As stated in 180.352(g)(2), those records must include design types and packaging specifications, test and inspection dates, name and address of test and inspection facilities, names or name of any person conducting the test or inspections, and test, inspection specifics and results. In accordance with 180.352(g)(3), those records must be kept for each packaging at each location where periodic tests are conducted, until such tests are successfully performed again or for at least 2.5 years from the date of the last test. These records must be available for inspection by a representative of the Department of Transportation upon request.

In summary, as noted above, a person replacing the rigid inner receptacle of a composite IBC with one from the original manufacturer must then fulfill all of the HMR requirements associated with the repair of the IBC, including tests, inspections, record-keeping, and marking.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Solomey". The signature is fluid and cursive, with the first name "Joseph" written in a larger, more prominent script than the last name "Solomey".

Joseph Solomey,  
Senior Assistant Chief Counsel for  
Hazardous Materials Safety



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**Hazardous Materials Safety  
Law Division**

**LETTER OF INTERPRETATION**

February 26, 2014

Mr. Dan Dengler  
MD Packaging Solutions LLC  
11 Olde Mill Run  
Medford, NJ 08055

Reference No.: 12-0056R and CHI-13-001R

Dear Mr. Dengler:

On May 16, 2012 and August 16, 2013, PHMSA issued Interpretations No. 12-0056 and CHI-13-001, respectively. At the request of the Reusable Industrial Packaging Association, a review of those letters and the relevant requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), PHMSA hereby rescinds both letters and issues the following Interpretation with respect to the matters discussed in those letters.

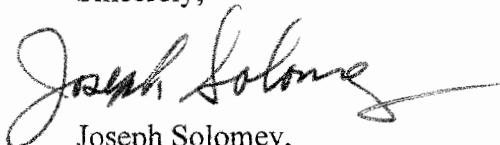
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inspections performed in accordance with paragraphs (d)(1)(i) and (ii) of this section may be used to satisfy the requirements for the 2.5 and five year periodic tests and inspections required by paragraph § 180.352(b).

Additionally, in accordance with 180.352(g)(1), the owner or lessee of the IBC must keep records of periodic retests, initial and periodic inspections, and tests performed on the IBC if it has been repaired and manufactured. As stated in 180.352(g)(2), those records must include design types and packaging specifications, test and inspection dates, name and address of test and inspection facilities, names or name of any person conducting the test or inspections, and test, inspection specifics and results. In accordance with 180.352(g)(3), those records must be kept for each packaging at each location where periodic tests are conducted, until such tests are successfully performed again or for at least 2.5 years from the date of the last test. These records must be available for inspection by a representative of the Department of Transportation upon request.

In summary, as noted above, a person replacing the rigid inner receptacle of a composite IBC with one from the original manufacturer must then fulfill all of the HMR requirements associated with the repair of the IBC, including tests, inspections, record-keeping, and marking.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Solomey", with a long horizontal flourish extending to the right.

Joseph Solomey,  
Senior Assistant Chief Counsel for  
Hazardous Materials Safety



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**Hazardous Materials Safety  
Law Division**

**LETTER OF INTERPRETATION**

February 26, 2014

Lawrence W. Bierlein, Esq.  
1101 30<sup>th</sup> Street NW  
Suite 500  
Washington DC 20007

Reference No.: 12-0056R and CHI-13-001R

Dear Mr. Bierlein:

On May 16, 2012 and August 16, 2013, PHMSA issued Interpretations No. 12-0056 and CHI-13-001, respectively. At the request of the Reusable Industrial Packaging Association, a review of those letters and the relevant requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180), PHMSA hereby rescinds both letters and issues the following Interpretation with respect to the matters discussed in those letters.

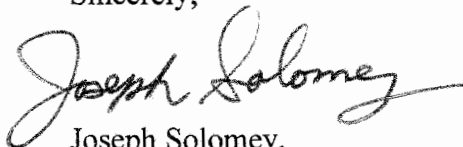
In accordance with § 180.350(b), the replacement of the rigid inner receptacle of a composite IBC with one from the original manufacturer is considered a repair. As stated in § 180.352(d)(1), repaired IBCs may be returned to service provided: (i) The repaired IBC conforms to the original design type, is capable of withstanding the applicable design qualification tests, and is retested and inspected in accordance with the applicable requirements of this section; (ii) an IBC intended to contain liquids or solids that are loaded or discharged under pressure is subjected to a leakproofness test as specified in § 178.813 of this subchapter and is marked with the date of the test; (iii) the IBC is subjected to the internal and external inspection requirements as specified in § 180.352(b); (iv) the person performing the tests and inspections *after the repair* [emphasis added] must durably mark the IBC near the manufacturer's UN design type marking to show the country in which the tests and inspections were performed, the name or authorized symbol of the person performing the tests and inspections, and the date (month, year) of the tests and inspections; and (v) retests and

inspections performed in accordance with paragraphs (d)(1)(i) and (ii) of this section may be used to satisfy the requirements for the 2.5 and five year periodic tests and inspections required by paragraph § 180.352(b).

Additionally, in accordance with 180.352(g)(1), the owner or lessee of the IBC must keep records of periodic retests, initial and periodic inspections, and tests performed on the IBC if it has been repaired and manufactured. As stated in 180.352(g)(2), those records must include design types and packaging specifications, test and inspection dates, name and address of test and inspection facilities, names or name of any person conducting the test or inspections, and test, inspection specifics and results. In accordance with 180.352(g)(3), those records must be kept for each packaging at each location where periodic tests are conducted, until such tests are successfully performed again or for at least 2.5 years from the date of the last test. These records must be available for inspection by a representative of the Department of Transportation upon request.

In summary, as noted above, a person replacing the rigid inner receptacle of a composite IBC with one from the original manufacturer must then fulfill all of the HMR requirements associated with the repair of the IBC, including tests, inspections, record-keeping, and marking.

Sincerely,

A handwritten signature in black ink, reading "Joseph Solomey". The signature is fluid and cursive, with the first name "Joseph" and last name "Solomey" clearly distinguishable.

Joseph Solomey,  
Senior Assistant Chief Counsel for  
Hazardous Materials Safety



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Phone: (202)366-4400  
Fax: (202) 366-7041  
Email: joe.solomey@dot.gov

***Hazardous Materials Safety Law  
Division***

**LETTER OF INTERPRETATION**

August 16, 2013

Lawrence W. Bierlein, Esq.  
1101 30<sup>th</sup> Street NW  
Suite 500  
Washington DC 20007

Reference No.: CHI-13-001

Dear Mr. Bierlein:

On May 16, 2012, PHMSA issued PHMSA Interpretation No. 12-0056 (Interpretation) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) related to the repair of intermediate bulk containers (IBCs). Due to correspondences between yourself and this office, I thought it necessary to clarify PHMSA's interpretation of the HMR as it relates to the repair of IBCs. More specifically, this letter will cover the requirement to test, inspect, and durably mark damaged IBCs that have been repaired.

As stated in § 180.352(d)(1), damaged IBCs may be repaired and the inner receptacles of composite packagings may be replaced and returned to service provided: (i) The repaired IBC conforms to the original design type, is capable of withstanding the applicable design qualification tests, and is retested and inspected in accordance with the applicable requirements of this section; (ii) an IBC intended to contain liquids or solids that are loaded or discharged under pressure is subjected to a leakproofness test as specified in § 178.813 of this subchapter and is marked with the date of the test; and (iii) the IBC is subjected to the internal and external inspection requirements as specified in § 180.352(b).

In the interpretation 12-0056, PHMSA clarified that the HMR allow a company that repairs IBCs to rely on the leakproofness test and internal visual inspection of a replacement inner receptacle conducted by a third party. PHMSA also affirmed that the company relying on the third party

testing and inspection would need *evidence* to establish that the leakproofness test and internal visual inspection was performed in accordance with § 178.813 and the internal visual inspection was performed before the IBC is filled and offered for transportation (§ 180.352(g)). Furthermore, the letter stated that this evidence should be from the third party that performed the tests and inspections and identify the company as able to rely on that testing for the purposes of the repair.

It is the responsibility of the person that repairs the IBC to make sure these requirements are met before the IBC is filled and placed into transportation in commerce. If an inspector shows up at a company's facility and sees that it conducts repairs of composite IBCs by replacing the rigid inner receptacle, the company must provide *evidence* of leakproofness tests and internal visual inspections. If the testing and inspections are done on-site, this is generally done at the discretion of the inspector through a demonstration of the company's testing or inspection procedures. If the company relies on a third party to conduct the required testing and inspections, then the company must provide evidence of its reasonable and mutually acknowledged reliance.

In your correspondence dated August 24, 2012, you cited an email between William Schoonover, PHMSA's Deputy Associate Administrator for Field Operations, and Paul Rankin, the President of Reusable Industrial Packaging Association, as evidence that the Interpretation had been, in part, "retracted by the head of Field Operations as unnecessary". Specifically, you say that based on this email exchange a company does not need an individual letter addressed to it from a manufacturer. Furthermore, you proposed that this contradicts and therefore invalidates (at least in part) the Interpretation issued just three months earlier.

We would like to clarify that Mr. Schoonover correctly expressed the Agency position that a letter individually addressed to a company is not needed. However, this does not contradict the Interpretation. A company wishing to rely on a third party's leakproofness test and internal visual inspection in the circumstances described in the Interpretation is obligated to provide evidence of a mutually recognized arrangement between the two companies in the form of an acknowledgment of that arrangement. It need not be in a letter at all. Therefore, nothing from Mr. Schoonover in the exchange you cited contradicts the Agency guidance set forth in PHMSA Interpretation No. 12-0056.

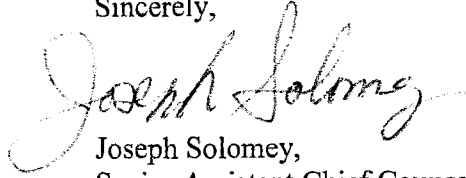
Once a company replaces the rigid inner receptacle of a composite IBC, according to the HMR, it has conducted a repair. This triggers the requirement for a leakproofness test and an internal visual inspection as specified in §180.352(d)(1) on the rigid inner receptacle of a composite IBC. Additionally, in accordance with §180.352(d)(1)(iv), the person performing the tests must durably mark the month and year of the testing and inspections after the repair. If the inner bottle has been tested, inspected, and marked by a third party, the date durably marked must also reflect the date of repair. If the inner bottle is marked with the month and year prior to the date of repair, it would need to be re-tested in accordance with §180.352(d)(1).

Therefore, in response to your correspondence dated August 24, 2012, I am issuing this letter as a clarification and affirmation of PHMSA Interpretation No. 12-0056.

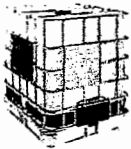


I hope this information is helpful. Please contact this office if you have any additional questions.

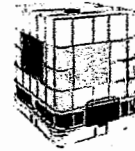
Sincerely,

A handwritten signature in cursive script, reading "Joseph Solomey". The signature is written in dark ink and is positioned above the printed name and title.

Joseph Solomey,  
Senior Assistant Chief Counsel for  
Hazardous Materials Safety



Leary  
3180.352  
IBC  
12-6056



## **MD Packaging Solutions, LLC**

11 Olde Mill Run Medford, NJ 08055 Phone (609) 499-1311, Fax (866) 439-1713

U.S. DOT  
PHMSA Office of Hazardous Materials Standards  
Attn: PHH-10  
East Building  
1200 New Jersey Avenue, SE.  
Washington, DC 20590-0001

To whom it may concern:

I am seeking clarification/interpretation of section 180.352 "**Requirements for retest and inspection of IBCs**".

By definition section 180.350 defines a "REPAIRED IBC" as among other things, *the replacement of the rigid inner receptacle of a composite IBC with one from the original manufacturer.*

Question seeking interpretation: In the process of Repairing an IBC or replacing the rigid inner receptacle of a composite IBC with one from the original manufacturer, does the manufacturer's (of the new inner receptacle) original leak proof test satisfy the required leak proof test per 178.813 for the repaired IBC? Does it matter if the previous outer cage was not damaged and the reason for the REPAIR is simply because the previous inner receptacle could not be cleaned? Any assistance that you could provide in this matter would be greatly appreciated. Please do not hesitate to contact me with any questions.

Dan Dengler  
MD Packaging Solutions LLC  
11 Olde Mill Run  
Medford, NJ 08055  
Ph (609)-499-1311  
[ddengler@mdpkg.com](mailto:ddengler@mdpkg.com)



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Washington, D.C. 20590

MAY 16 2012

Mr. Dan Dengler  
MD Packaging Solutions LLC  
11 Olde Mill Run  
Medford, NJ 08055

Ref. No. 12-0056

Dear Mr. Dengler:

This responds to your February 6, 2012 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the requirement for retest and inspection of intermediate bulk containers (IBCs). Specifically, you ask if you may rely on the leakproofness test and internal visual inspection conducted by the original manufacturer to satisfy the requirement in § 180.352 when repairing an IBC or replacing the inner receptacle of a composite IBC.

Yes. As specified in § 180.352(d)(1), each repaired IBC must be subjected to a leakproofness test as specified in § 178.813, an internal visual inspection and must be marked with the date of the test. The inner receptacle of a composite IBC may be leakproofness tested without the outer packaging provided the test results are not affected (§ 178.813(b)). If you choose to rely on the leakproofness test conducted by the manufacturer of the inner receptacle to satisfy this requirement, you must have evidence to establish that the leakproofness test was performed in accordance with § 178.813 and the internal visual inspection was performed before the IBC is filled and offered for transportation (§ 180.352(g)). The evidence of these tests/inspections should be from the manufacturer of the inner receptacle and identify your company as able to use this certification.

I hope this information is helpful. If you have further questions, please contact this office.

Sincerely,

Ben Supko  
Acting Chief, Standards Development  
Standards and Rulemaking Division

MAUSER USA, LLC



MAUSER USA, LLC 35C Cotters Lane East Brunswick, New Jersey 08816 USA

Christopher Lind, Director  
Technology and Regulatory Affairs

Phone: 732.353.7014  
Fax: 732.353.7074

[Chris.Lind@Mausergroup.com](mailto:Chris.Lind@Mausergroup.com)

East Brunswick 3/5/2012

Mr. Mike Porreca  
President  
National Container Group

**Subject: IBC Inner Receptacles**

The inner receptacles for IBCs or replacement bottles are visually inspected for defects prior to valve installations. After valve installation the bottles are leakproofness tested in accordance with Sec. 178.813 to insure the bottom seam and valve are intact and leak free, capped and security sealed.

The bottles are molded with the marks required by 49 CFR 178.703 (b) (6) (i):

(6) For each composite IBC, the inner receptacle must be marked with at least the following information:

(i) The code number designating the IBC design type, the name and address or symbol of the manufacturer, the date of manufacture and the country authorizing the allocation of the mark as specified in paragraph (a) of this section;

That is 31HA1/M number /Date/USA. The current M numbers for Mauser USA LLC factories producing the bottles are M4118 (Mt Vernon), M4119 (Anniston), M4601 (Houston), and M4602 (Rancho Cucamonga).

Please feel free to contact me if we can provide any additional information or assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christopher Lind', is written over a horizontal line.

Christopher Lind

Schuetz Container Systems Inc.  
200 Aspen Hill Road  
North Branch, NJ 08876

**SCHUTZ**

March 14, 2012

To: ICS

Re: Testing of inner bottles for IBCs

To Whom It May Concern:

The inter receptacles for IBCs or replacement bottles you purchase from us are visually inspected for defects prior to valve installations. After valve installation the bottles are leakproofness tested in accordance with Sec. 178.813 to insure the bottom seam and valve are intact and leak free, capped and security sealed. In addition, the bottles are molded with the marks required by 49 CFR 178.703 (b) (6) (i).

Sincerely,

Tatiana Smoleeva  
Technical Service  
Phone: 908-526-6161 x 1126