



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, D.C. 20590

**Pipeline and Hazardous
Materials Safety
Administration**

JAN 05 2015

Mr. Mark Ludwikowski, Esq.
Sandler, Travis & Rosenberg, P.A.
1300 Pennsylvania Avenue, N.W., Suite 400
Washington, DC 20004-3062

Ref. No.: 14-0047

Dear Mr. Ludwikowski:

This is in response to your email dated March 11, 2014, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) relating to the classification of airbag inflators. Your client produces the same model or same family of inflators using the same designs across multiple manufacturing sites.

Q1. You ask whether a single testing lab report for a particular inflator model or inflator family can be used across your client's multiple manufacturing sites and if this is dependent upon whether the inflator is classed as Class 9 (UN3268) or if the company submits an application to PHMSA for and EX approval.

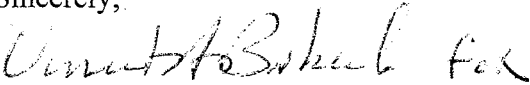
A1. An EX approval for an explosive article remains valid for the same article produced by the same manufacturer at multiple facilities within the United States. However, approvals issued for explosive articles manufactured at a facility outside the United States are only valid for articles produced at that facility unless an authorized laboratory has examined the article and issued a test report conforming to the provisions of §173.166(b)(1) for the article as produced at each additional facility outside of the United States. This applies regardless of whether the article is ultimately classed as a Class 9 (UN3268) or classed and approved as Division 1.4G and assigned an EX number by the PHMSA Associate Administrator.

Q2. You also ask whether the energetics used in the inflators must be exactly the same across manufacturing sites and if the energetics must be of the same origin.

A2. The energetic formulations used in inflators must be exactly the same in order to be included in a single design type under the provisions of § 173.166(b)(1). Variations in energetic formulations may be authorized under the provisions of the EX approval process in § 173.56 if the explosive examination laboratory documents the variations in a report by analogy to an inflator previously tested, and PHMSA concurs by issuing an EX approval for the inflator.

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,


Shane C. Kelley
Acting International Standards Coordinator
Standards and Rulemaking Division



Babich
§173.166
§173.56(b)(1)
Air Bags Inflators
14-0047

SANDLER, TRAVIS & ROSENBERG, P.A.
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March 11, 2014

VIA FIRST CLASS MAIL AND EMAIL: infocntr@dot.gov

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
East Building
Washington, DC 20590-0001
Attn: PHH-10

**RE: Interpretation Request – Use of Test Reports for Multiple Manufacturing Sites
Daicel Corporation**

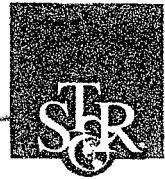
Dear Sir or Madam:

Further to our email communications with Mr. William Fink at PHMSA on February 6, 2014, on behalf of our client Daicel Corporation (“Daicel”) 823 Umaba, Ibogawa-Cho, Tatsuno-shi, Hyogo, Japan 671-1681, we hereby request an interpretation concerning the following issue.

Daicel and its affiliates in the United States, Thailand, Poland, China and Korea manufacture airbag inflators at these various locations. Often, the same exact model inflators (or inflator families) using the same designs are manufactured across these multiple Daicel manufacturing sites. The company would like to know whether a single testing lab report for a model inflator or inflator family can be used for its multiple manufacturing sites if the inflator designs are the same. Assuming that the test report can be used for multiple sites, is the origin of the energetics used in the inflator critical? In other words, must the energetics also be exactly the same across manufacturing sites and must the energetics be of the same origin? The new regulations at 49 C.F.R. 173.166(b) only reference design type, specifically:

(b) *Classification.* (1) An air bag inflator, air bag module, or seat-belt pretensioner, excluding those which contain flammable or toxic gases or mixtures thereof, may be classed as Class 9 (UN3268) if the air bag inflator, air bag module, or seat-belt pretensioner, or if more than a single air bag inflator, air bag module, or seat-belt pretensioner is involved **then the representative of the maximum parameters of each design type**, is examined and successfully tested by a person or agency who is

1300 Pennsylvania Avenue, N.W., Suite 400, Washington, D.C. 20004-3062 USA



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authorized by the Associate Administrator to perform examination and testing of explosives under § 173.56(b)(1)...

(emphasis added).

This question applies regardless of whether or not the company submits an approval application to PHMSA for an EX approval under the new inflator regulations. In the revised regulations, PHMSA explained that:

As was proposed in the NPRM, persons who test and examine air bag inflators, air bag modules, or seat-belt pretensioners would be required to provide a detailed report on **each tested design** to the manufacturer. Key components of the report include a description of the design; explanation of the tests performed and results; and a recommended classification for tested designs... In summary, the proposed NPRM amendments provided manufacturers of air bag inflators, air bag modules, or seat-belt pretensioners with the option to utilize new designs that are proven to meet the criteria of a Class 9 through established test criteria, without receiving an EX approval from PHMSA.

Hazardous Materials: Approval and Communication Requirements for the Safe Transportation of Air Bag Inflators, Air Bag Modules, and Seat-Belt Pretensioners (RRR), 78 Fed. Reg. 45880, 45882 (July 30, 2013). (emphasis added).

Thank you for your consideration of this inquiry. Please let me know if you have any questions or if we can be of assistance.

Sincerely yours,

SANDLER, TRAVIS & ROSENBERG, P.A.

By: 

Mark Ludwikowski

cc: William Fink

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Wednesday, March 12, 2014 1:13 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Interpretation Request - Use of Test Reports for Multiple Manufacturing Sites
Attachments: Interpretation Request - Use of Test Reports for Multiple Sites.pdf; Mark Ludwikowski.vcf; Mark Ludwikowski.vcf

Importance: High

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation.

Thanks,
Victoria
d

From: Mark Ludwikowski [<mailto:mludwikowski@strtrade.com>]
Sent: Tuesday, March 11, 2014 6:20 PM
To: INFOCNTR (PHMSA)
Cc: Fink, William (PHMSA)
Subject: Interpretation Request - Use of Test Reports for Multiple Manufacturing Sites
Importance: High

Dear Sir or Madam,

Attached, please find the interpretation request submitted on behalf of our client Daicel Corporation. Please let us know if you have any questions. A hard copy of this request is being sent by first class mail.

Thank you.

Mark Ludwikowski

Mark Ludwikowski
Member

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