



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

NOV 16 2011

Perry Hock
Gh Package/Product Testing and Consulting, Inc.
4900 Thunderbird Lane
Fairfield, OH

Ref. No.: 11-0195

Dear Mr. Hock:

This responds to your letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) applicable to the use of third party markings on packaging not authorized for use under the HMR. Specifically, you ask if a third party laboratory should assign its approval number to packagings (such as a large packaging, Intermediate Bulk Container, or non-bulk Packaging) that pass all required tests, but are still required to obtain approval from a DOT competent authority to ship the package.

The answer to your question is no. While the third party laboratory may provide a test report to the shipper, the shipper is still required to apply for a competent authority approval (CAA) for the packaging before the certification number can be assigned to the packaging.

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "T. Glenn Foster".

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

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, August 09, 2011 3:51 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Hazmat Safety Feedback: Other

Andrews
§178.3
§178.516
Marking of Packagings
11-0195

Hi Carolyn,

We received the following request for a letter of interpretation at the HMIC.

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: Tuesday, August 09, 2011 11:22 AM
To: HMIS (PHMSA); PHMSA Webmaster
Subject: Hazmat Safety Feedback: Other

I would like to request a formal interpretation about the use of the third party mark/symbol and packagings not authorized for shipment in the Code of Federal Regulations, Title 49. Specifically, the use of the mark as it pertains to Large Packagings.

I work for an approved 3rd party test facility and we would like clarification on the use of our certification mark/approval symbol.

If the large packaging is not authorized by the CFR 49 - such as a large packaging for airbag inflators or modules, do we as a laboratory assign our approval mark, the "+AP" and certification number, if the large packaging passes all the required tests? I ask since the pack still requires DOT Competent Authority Approval to ship the pack.

I personally have two trains of thought:

1. The +AP signifies to the DOT and the shipper that the pack passed all the required tests for large packagings. As pursuant to the CFR 49, it is the shippers responsibility to then ensure the pack is authorized or approved by the DOT. If the shipper requires the Competent Authority Approval (CAA), the shipper would then apply for the CAA. It is the responsibility of the shipper to and comply with the CFR and all the parts of their CAA.
2. The pack is not authorized by the CFR 49, thus the +AP is not allowed (unless explicitly stated in the Competent Authority Approval that the pack must be tested by an approved third party lab) and the shipper must self certify the pack after the DOT has issued the CAA.

I would also like consideration on this matter to include Intermediate Bulk Containers and Non-Bulk packagings that are not authorized in the CFR 49, and therefor would require CAA approval for shipment.

Regards,
Perry Hock
gh Package / Product Testing and Consulting, Inc.

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