



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

DEC 27 2006

400 Seventh Street, S.W.
Washington, D.C. 20590

Mr. Robb Boros
Patterson Logistics Services, Inc.
1905 Lakewood Drive
Boone, IA 50036

Ref. No.: 06-0251

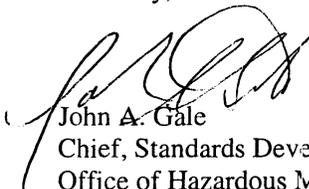
Dear Mr. Boros:

This is in response to your September 14, 2006 letter regarding the use of the small quantity exception in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if, under the provisions in § 173.4, a non-specification packaging that differs only in minor respects from the tested prototype may be used to transport small quantities of hazardous materials without further testing.

The answer is yes. The exception in § 173.4 for small quantities requires the completed package, as demonstrated by prototype testing, to be capable of sustaining the drop test and compressive load test in §§ 173.4(a)(6). A non-bulk packaging that differs only in minor respects from a successfully tested prototype may be used without further testing provided the differences would not affect the capability of the package to sustain the drop test and compressive load test specified in § 173.4(a)(6). The selective testing variations in § 178.601(g) for non-bulk combination packagings and packages, although not applicable to non-specification packages, may be used as examples of the types of packaging variations that would not require additional prototype testing under § 173.4.

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

Sincerely,


John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards



060251

173.4
178.601(g)



Associate Administrator for Hazardous Materials Safety
 Att: Special Permits & Approvals PHH-32
 PHMSA
 U.S. Department of Transportation
 400 7th Street, SW
 Washington, DC 20590-0001

Lichenlaub
 § 173.4
 § 178.601(g)
 Testing
 06-0251 September 14, 2006

This is an application for approval permitting the use of specific selective testing guidelines pertaining to combination packaging as provided in 178.601(g) for packagings that comply with the Small Quantity Exceptions as found in 173.4. Approval would provide relief from unnecessary prototype testing of complete packagings based on a previously tested completed packaging where the former differs from the latter as are the conditions prescribed for combination packagings in 178.601(g)(1) and 178.601(g)(4). Approval would also provide relief from requiring a proven completed packaging tested in accordance with 173.4 after applying the additional testing requirements as provided in 178.601(g)(2).

I work for a distribution company that provides dental, medical and veterinarian supplies to doctors, clinics, hospitals and laboratories in each of the aforementioned specialties. When classifying materials, I found numerous items eligible for 173.4 - Small quantity exceptions. However, after reviewing 173.4, it's my interpretation that independent prototype testing would be required for each completed packaging when there is any measure of difference between designs.

Non-bulk combination packagings are permitted slight variations to inner packaging [178.601(g)(1)] and outer packaging [178.601(g)(4)] without requiring additional performance testing, provided an equivalent level of performance is maintained. Provided we can agree that completed packagings as used in 173.4 are effectively combination packagings, it seems they could be afforded the same variations as larger non-bulk combination packaging. In reviewing the regulations further it's my understanding this is not the case, regardless of the similarities completed packagings in 173.4 has in comparison to performance tested combination packagings; such as that packaging under 173.4 must pass drop tests and a stack compression test that bear a striking resemblance to those tests required for performance tested combination packaging.

The existence of 173.4 establishes that combination packaging consisting of inner receptacles measured in terms of milliliters and grams poses less of a risk during transport than combination packaging containing inner receptacles measured in terms of liters and kilograms. Logic would then indicate that combination packagings in accordance with selective testing provisions 178.601(g)(1) and 178.601(g)(4) consisting of inner receptacles measured in terms of milliliters and grams would also to pose less a risk during transport than variations of non-bulk combination packaging containing inner receptacles measured in terms of liters and kilograms or the original tested packaging design. Logic would further dictate that if packagings meeting 173.4 requirements are sufficient for transport by their exception from the rest of the Subpart, variations on such packagings provided they adhere to the applicable portions of selective testing provisions 178.601(g)(1) and 178.601(g)(4), would be equally sufficient and not require the additional prototype testing as stipulated in 173.4.

Furthermore, the same reasoning would imply that selective testing variation 178.602(g)(2) for non-bulk combination packagings could also apply to packagings meeting 173.4. In order to provide relief from testing various inner receptacles in a single completed packaging design, such a completed packaging would be subjected to the prototype testing under 173.4(6) but would be required to incorporate the same additional parameters non-bulk combination packaging requires under 178.602(g)(2), such as requiring fragile (glass) inner receptacles and an increase in drop height from 1.8 to 3.6 meters.

Thank you for taking the time to consider this application for approval. If I can be of any assistance I can be reached at 515.433.1700.

Robb Boros
 Compliance Coordinator
 Patterson Logistics Services, Inc.

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