



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

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

**MAY 12 2011**

Mr. Edward A. Altemos  
HMT Associates, L.L.C.  
603 King St., Suite 300  
Alexandria, VA 22314-3105

Reference No. 11-0047

Dear Mr. Altemos,

This is in response to your e-mail and our subsequent conversation requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to Special Provision (SP) 47, found in § 172.102(c)(1) of the HMR. You state that you are transporting "Solids containing flammable liquids, n.o.s.," (UN3175) which provides SP 47, and request clarification of the second sentence in SP 47 that reads as follows:

Except when the liquids are fully absorbed in solid material contained in sealed bags, each packaging must correspond with a design type that has passed a leakproofness test at the Packing Group II level.

You request confirmation of your opinion that this provision is not intended to apply to the inner packagings of combination packagings.

Your understanding is correct. A leakproofness test is not required for the inner packaging of a combination packaging. It should be noted, however, that for combination packagings to be shipped by air, the inner packagings must meet the pressure differential capability requirements specified in § 173.27(c).

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

Sincerely,

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

## Drakeford, Carolyn (PHMSA)

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**From:** Betts, Charles (PHMSA)  
**Sent:** Thursday, February 17, 2011 12:46 PM  
**To:** Drakeford, Carolyn (PHMSA)  
**Subject:** FW: Question on SP 47, 172.102(c)(1)

McIntyre  
§ 172.102 SP 47  
Special Provisions  
11-0047

Carolyn –

Please log in this request for clarification and assign for proper handling.

Thanks,  
Charles

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**From:** Altemos, Edward A. [<mailto:ealtemos@pipeline.com>]  
**Sent:** Thursday, February 17, 2011 11:25 AM  
**To:** Betts, Charles (PHMSA)  
**Subject:** Question on SP 47, 172.102(c)(1)

Hello Charles,

I hope you can provide a quick reality check on my interpretation of Special Provision 47 in 172.102(c)(1) of the HMR. This attached to the HMT entry “Solids containing flammable liquids, n.o.s.” (UN3175).

The second sentence in SP 47 states: “Except when the liquids are fully absorbed in solid material contained in sealed bags, each packaging must correspond to a design type that has passed a leakproofness test at the Packing Group II level.” My question is whether this provision is intended to apply to the inner packagings of combination packagings. My view, for the following reasons, is that it is not intended to, and your confirmation (or otherwise) would be appreciated.

First of all, as the sentence is written a leakproofness test capability would not be required if the solid containing flammable liquid was in a “sealed bag”. This makes sense for a single packaging, but if it is intended to apply equally to inner packagings of combination packagings it is a peculiar requirement in that only if bags are used is the leakproofness test unnecessary. If the solid containing flammable liquid were packed, for example, in sealed glass, plastic, or metal containers, the test would be necessary. This doesn't make much sense in that sealed glass, plastic or metal inner packagings would certainly afford equal, and most probably significantly greater protection against leakage of liquid than a sealed plastic bag. This suggests that this provision was intended to apply to single packagings such as drums, for which the leakproofness test would not be required if the solid containing flammable liquid material were in a sealed bag (liner) within the single packaging.

In addition, the sentence in question speaks to “a design type that has passed a leakproofness test.” Again, only single packagings for liquids are required, as a “design type,” to be subjected to leakproofness testing as a design qualification test. Leakproofness testing is not applicable to inner packagings. So, again, as worded this provision appears to me to be directed towards single packagings and not the inner packagings of combination packagings.

As an aside, I note that the sentence in question does not appear in the corresponding UN Special Provision 216. Perhaps a future alignment with the UN test would resolve this issue – or at least explicitly stating that the leakproofness test requirement applies only to single packagings would clarify intent and applicability.

Your confirmation of my thinking regarding the non-applicability of the sentence in question to the inner packagings of combination packagings will be much appreciated! For your information, I ask the question in consideration of a limited quantity material that would be reclassified (at least for the present time) as an ORM-D consumer commodity. Thanks for your consideration.

Best regards,

Andy

P.S. I checked the available interpretation letters, and could not find one that addressed this issue (although, to be honest, I thought I remembered seeing something about it in the past).