



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

MAR 21 2012

Mr. Lawrence W. Bierlein
1101 30th Street, NW
Suite 500
Washington, DC 20007

Reference No.: 11-0276

Dear Mr. Bierlein:

This responds to your letter requesting clarification of Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the shipment of 1.4S explosive devices. In your letter, you describe a company that holds several 1.4S explosive device classifications issued as approvals in accordance with § 173.56. Some of these approvals refer to the required packaging by Packing Instruction numbers specified in § 173.62, such as PI 142, while others specify the packaging directly on the face of the approval. You note that § 173.61(e)(3) allows various 1.4S classification approvals (other than compatibility groups A or L), with proper inner and (if required) intermediate packaging to be shipped in the same required outer packaging, without having to test and seek separate classification approval for each mixed packaging. You ask if several of these different 1.4S devices (not in compatibility groups A or L) may be shipped in the same outer packaging, under the provisions of § 173.61(e)(3)?

The answer is yes. Section 173.61(e)(3) allows for 1.4S explosives to be packaged together with explosives of any other compatibility group except A or L, and the combined package may be treated as belonging to any of the package compatibility groups except S. However, the shipper must ensure that the approved explosives are shipped in accordance with the prescribed combination packing instructions as required by each explosives approval. This includes adhering to any specific packing instructions such as ensuring that explosives packagings requiring orientation arrows are packaged as prescribed. Further, it is the opinion of this Office that § 173.61(e)(3) indicates an outer packaging is an overpack or outer packaging that contains the approved combination packaging which follows its individual specific packing instruction for each approved explosive.

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

Sincerely,

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

Andrews
§173.61
Explosive
11-0276

LAWRENCE W. BIERLEIN

ATTORNEY AT LAW

November 7, 2011

Mr. Charles Betts
Standards Division Director (PHH-10)
Pipeline & Hazardous Materials Safety Administration
U.S. Department of Transportation
Washington, DC 20590

Re: Interpretation of Sec. 173.61

Dear Mr. Betts:

An issue has arisen as a result of phone calls through the PHMSA hotline and related telephone conversations with staff, but not with anyone in Standards. Nothing has been sent to the company in writing by the agency, although requested, yet the company receiving this oral advice is reluctant to move forward based upon what they were told.

Specifically, the company holds several 1.4S explosive device classifications. These are issued under Sec. 173.56 in the form of Approvals identifying the application, prescribing the proper shipping name, UN number, classification code, EX number, and product designation. Some of these Approvals refer to required packaging by Packing Instruction number in Sec. 173.62, such as PI 142, while others specify the packaging directly on the face of the Approval.

The question is whether several of these different 1.4S devices may be shipped in the same outer packaging, under the provisions of Sec. 173.61(e)(3). These devices all are classified 1.4S and none are in compatibility groups A or L.

The mixed packaging that is used conforms to the requirements set forth in the PI or on the Approval itself, i.e., the inner packaging is as prescribed, the proper intermediate packaging if required is used, and the outer packaging is a UN 4G fiberboard box.

This paragraph of the regulations was adopted on June 21, 2001, with the statement in the rulemaking preamble that, "Based on our own initiative, for Class 1 (explosives) mixed packaging requirements, we are revising paragraph (e)(3) to allow explosives of compatibility group S that are allowed to be packaged with explosives of all other compatibility groups, except A and L, to be treated as belonging to any of the packaged compatibility groups except S." 66 Fed. Reg. 33326. We know of no subsequent change to this regulation.

The hotline declared that placement of any 1.4S device in the same packaging with a different 1.4S device thereby constituted a new device, requiring fire testing, etc., of that particular mixed packaging. Having multiple products shipped in various numbers per carton based upon customer requests, such an interpretation would impose a massive financial burden on the company. The burden would entail the cost of testing and awaiting Approvals based on the results of each variation of mixed packaging, or shipping each device separately in its own packaging. In effect, this oral advice nullifies Sec. 173.61(e)(3).

Please confirm that Sec. 173.61(e)(3) remains valid, and allows various 1.4S classification Approvals (other than compatibility groups A or L), with proper inner and (if required) intermediate packaging to be shipped in the same required outer packaging, without having to test and to seek a separate classification Approval of each mixed packaging.

Please contact me if you have any questions on this request for an interpretation of Sec. 173.61. Thank you.

Sincerely,

Lawrence W. Bierlein