



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUL 11 2012

Reference No.: 12-0096

Dear Mr. Altemos:

This responds to your email dated April 16, 2011 requesting clarification of the intent of Selective Testing Variation "5" specified in § 178.601(g)(5) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter, you state it is your understanding that Variation "5" requires that specified leakproofness, hydrostatic, and stacking tests need only be performed on one sample (i.e., packaging), but the testing must otherwise be performed in accordance with the requirements of each applicable section. Your understanding is that nothing in Variation 5 precludes the use of a test sample for more than one required test, provided the validity of the test results is not affected.

Your understanding is incorrect. Under the selective testing provisions of § 178.601(g), Variation "5" allows for a single packaging that differs from a tested design type only to the extent that the closure device or gasketing differs from that used in the originally tested design type without further testing, provided an equivalent level of performance is maintained subject to the specific qualifying conditions.

As specified in § 178.601(g)(5)(i), a packaging with the replacement closure devices or gasketing must successfully pass the drop test specified in the orientation that most severely tests the integrity of the closure or gasket. As specified in § 178.601(g)(5)(ii), when intended to contain liquids, a packaging with replacement closure devices or gasketing must successfully pass the leakproofness test specified in § 178.604, the hydrostatic pressure test specified in § 178.605, and the stacking test specified in § 178.606. The test must be conducted precisely as specified in the referenced sections using the number of samples prescribed in the referenced sections. When performance tests are referenced in selective testing, the number of samples specified in the individual series provision must be followed. Section 178.601(k) states that "except as provided in this section, one test sample must be used for each test performed under this subpart." Therefore, PHMSA believes that § 178.601(k) requires that one test sample must be used for each test.

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

HMT ASSOCIATES, L.L.C.

603 KING ST.
SUITE 300
ALEXANDRIA, VA 22314-3105

703-549-0727

FACSIMILIE: 703-549-0727

Andrews
§ 178.603
Testing
12-0096
E.A. ALTEMOS
PATRICIA A. QUINN

WRITERS DIRECT DIAL NUMBER

703-549-0727, ext. 11

April 16, 2012

Mr. Charles Betts
Director, Standards and
Rulemaking (PHH-10)
Pipeline and Hazardous Materials
Safety Administration
Department of Transportation
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, D.C. 20590-0001

Dear Mr. Betts,

This is to request confirmation of the intent of Selective Testing Variation 5 (see §178.601(g)(5)) in relation to the number of single packaging test samples required for testing under that variation and whether a sample may be used for more than one test.

Selective Testing Variation 5 provides that single packagings that differ from a tested design type only to the extent that the closure device or gasketing differs from that used in the originally tested design type may be used without further testing if “a packaging with the replacement closure devices or gasketing...successfully pass[es] the drop test specified in §178.603 in the orientation which most severely tests the integrity of the closure or gasket” (emphasis added). As you know, §178.603 requires a total of 6 test samples – three dropped in each of two orientations (with neither of the required orientations necessarily being one that “most severely tests the integrity of the closure or gasket”). My understanding of the intent of Variation 5 based on its wording is that the drop test need only be performed on one sample (i.e., “a packaging”) by dropping in the orientation most severely testing the closure/gasket - but otherwise in the manner prescribed in §178.603 (i.e., in terms of the required preparation of the samples for the test, the “target” required, the drop height, and criteria for passing the tests). Any interpretation that the number of samples and the drop orientations prescribed in §178.603(a) must be applied under Variation 5 would appear to render the variation null since no provision would be made for reduction in the number of samples drop tested (as

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compared to the “standard” number of samples required) and neither of the drop orientations prescribed in §178.603 may necessarily be the orientation “which most severely tests the integrity of the closure or gasket” as required under the variation.

Variation 5 goes on to provide that for packagings intended to contain liquids, in addition to the drop test discussed above, “a packaging with the replacement closure devices or gasketing must successfully pass the leakproofness test specified in §178.604, the hydrostatic pressure test specified in §178.605, and the stacking test specified in §178.606” (emphasis added). As you know, the referenced sections require three separate test samples for each of these three different tests. My understanding of the intent of Variation 5 based on its wording is that the specified leakproofness, hydrostatic and stacking tests need only be performed on one sample (i.e., “a packaging”), but the testing must otherwise be performed in accordance with the requirements in the applicable section. Again, any interpretation that the number of samples prescribed in the leakproofness test in §178.604, in the hydrostatic pressure test in §178.605, and in the stacking test in §178.606 must be employed under Variation 5 would appear to render the variation null since no provision would be made for a reduction in the number of samples tested (as compared to the “standard” number of samples required).

Finally, since nothing in Variation 5 precludes the use of a test sample for more than one required test, my understanding is that, provided the validity of the test results is not affected, a sample may be used for more than one test – for example, in both the stacking and the drop tests.

Confirmation at your earliest convenience that the foregoing reflects the intent of Selective Testing Variation 5 in relation to the number of packaging test samples required for testing and whether a sample may be used for more than one test will be greatly appreciated. Thank you for your consideration of this matter, and please do not hesitate to contact me if you have questions or require additional information in relation to this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. A. Altemos', with a long horizontal flourish extending to the right.

E. A. Altemos