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Office of Hazardous Materials Safety
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
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Washington, D.C. 20590

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Comments on the PHMSA Research and Development Public Forum, January 17, 2014

These comments are submitted by the Reusable Industrial Packaging Association (RIPA). RIPA is the national trade organization for packaging reconditioners, manufacturers and related businesses.

RIPA appreciates the opportunity to comment on matters raised at the R&D Public Forum held January 17, 2014. In particular, RIPA is addressing the five “on-going” R&D projects in packaging testing that were discussed, as well as the “future initiatives” unveiled at the session.

RIPA would like an explanation of the five packaging projects’ origin. Was any part of the packaging industry involved in identifying these projects? Is LOGSA / Tobyhanna assigned *sole* responsibility for managing the projects and conducting the tests? Will self-certifiers be asked for input on these or future projects? What is the role, if any, of commercial 3rd-party testers in project selection and/or management?

According to data we have seen, \$300K was awarded last year for R&D under the auspices of OHMS. We understand that a part of these funds was awarded to LOGSA to conduct RnD and these projects are well underway. We believe an equivalent level of funding is still assigned to compliance testing. Is that correct?

The stated purposes of the research projects are to: 1) See whether test results are affected by certain variances in the test methods, and 2) Determine if greater consistency in test methods might enhance packaging performance and safety.

One project focuses on the placement of fittings for the hydrostatic pressure test to ascertain if test results are affected by fitting a pressure line through a steel drum's plug as opposed to the head. This is an issue that has been considered by industry and some evidence suggests that test results are not affected.

Other research projects would look at the time needed for the "cold conditioning" of IBCs, and whether leakproofness testing with compressed air is equally effective using other "suitable gases". While RIPA does not object to this research, we do wonder if these specific projects represent the highest and best use of scarce agency funds.

Significantly, PHMSA surprised RIPA, specifically, and representatives of the industrial packaging industry, generally, by unveiling interest in a new test aimed at companies that reuse, recondition and remanufacture packagings. PHMSA presented a Power Point slide with the following research objective:

"Determine if, in addition to leakproofness testing, other testing is recommended for reused, reconditioned and remanufactured packaging."

RIPA believes such a proposal is fraught with potential problems both for the Agency and those companies that it targets. RIPA outlined some of these concerns to DOT at the public meeting; however, it is vitally important that the Agency understand fully our concerns.

First, we are deeply disappointed that the Agency would consider applying a unique test to only one part of the industrial packaging industry, i.e. firms that reuse, recondition or remanufacture packagings. This concept is discriminatory by design and, for this reason alone, we advise that it be abandoned immediately.

Second, the Agency has offered absolutely no safety basis for this proposal. Reused, reconditioned and remanufactured packagings have been used by the tens of millions in domestic and international commerce every year for many decades. By all measures, these packagings have performed exceptionally well in transportation and are, literally, a global product.

Third, in offering up this proposal, DOT implies that it is ready and willing to abandon the very thing it claims to be seeking in its role at the United Nations Subcommittee of Experts on the Transport of Dangerous Goods (COE): regulatory harmonization. Performance testing of packagings constitutes one of the bright spots of the UN system. The performance tests used by the U.S. are literally harmonized with all other nations that

participate in or subscribe to the tenants of the U.N. model regulations. A new performance test for a subset of packagings would open up the door to global dis-harmonization of the 50+ year-old UN performance packaging scheme.

Fourth, the Agency appears willing to impose potentially significant new costs on only those companies that reuse, recondition or remanufacture packagings. Although DOT may believe this proposal targets a relatively small number of companies, the Agency may not be aware that it will actually affect a larger number of companies throughout the U.S., i.e. those that reuse industrial packagings in controlled distribution chains and those using such packagings for one-time shipments of wastes. Currently, these firms are authorized to reuse non-bulk packagings without the need to perform a leakproofness test prior to reuse. (See 49 CFR 173.28)

RIPA does not know the sort of test DOT is considering, although we believe the individuals who proposed this idea must have something in mind or it would not have been presented in a public forum. Regardless, it is axiomatic that the test would require new equipment and take additional time to conduct. These direct costs – alone and in combination – could be substantial. Again, since the Agency has offered no safety basis for a test, we ask that this idea be abandoned immediately.

Finally, RIPA would like to express interest in participating in all public meetings between DOT and commercial 3rd-party test labs. We are seeking this opportunity because RIPA and its members use 3rd-party labs for some testing and requirements imposed on these firms eventually impact all companies performing tests. We believe transparency would be beneficial for all interested parties.

Please contact RIPA if we can provide additional information.