U.S. Department of Transportation

Pipeline and Hazardous Materials Safety Administration

Meeting Minutes

Date of Meeting: Thursday, May 15, 2014 – 1 pm to 2:25 pm

Time of Meeting: 1 pm to 2:25 pm

Title of Meeting: May 15, 2014 Third-Party Packaging Test Laboratories Conference Call

Participants:

Pipeline and Hazardous Materials Safety Administration (PHMSA):

-Michael Nicks (Headquarters)

-Benjamin Moore (HQ)

-Anthony Lima (HQ)

-Don Burger (HQ)

-Shawn Wolsey (HQ)

-Lucy DiGhionno (HQ)

-Mike Donahue (HQ) [joined later]

-Katelin Maits (Eastern Region)

-Rene Silva (Western Region)

-Ted Turner (Central Region)

-Colleen Abbenhaus (Eastern Region)

U.S. Army Logistics Support Activity, Packaging Storage and Containerization Center (LOGSA)

Sharon Smith

Third-Party Packaging Test Laboratories:

-Ten-E Packaging Services Inc. (Minnesota) – Several participants

-Gaynes Labs, Incorporated – Yury Beyderman

-DelValCo Consultants – George Thorpe

-Pro-Pack Testing Lab, Inc. – Manny Rosa

-gh Package & Product Testing and Consulting, Inc. (Ohio) – Perry Hock

-SGS North America, Inc. – Jason Sherrier

-Professional Services Industries – Dan John

-Techni-Corr, Inc. d/b/a Arvco Container Corporation – Brittany Finnerty

-Advanced Packaging Technology Labs Inc. – Dzintars Petersons and Rich Thomas

-Southeast Testing & Engineering – Charles Radev

-Horizon Package Testing Service, Inc. – Jim Stevens

-Ten-E Packaging Services Inc. (Ontario, CA) – Matthew Anderson

-High Q LLC – Scott Bischoff

-Mauser USA, LLC – Tatiana Smoleeva

-Westpak, Inc. (San Jose) – Jorge Campos

-Westpak, Inc. (San Diego) – Andrew Thomas

-ANAMA Package & Container Testing Services, Inc. – Anton Cotaj

-Purple Diamond Packaging LLC – Zach Loughery

-T-MAK LABS, Inc. – Tim Phelan

Michael Nicks opened the meeting. There were no agenda items posted to the board as requested, so during the meeting, please keep questions to technical questions and interpretation of the approvals. Interpretations of the Hazardous Materials Regulations are to be handled by the Standards Division.

Lucy DiGhionno discussed R&D work PHMSA is conducting pertaining to packaging. The agency would like to conduct more R&D work in packaging and would like more stakeholder

involvement. Contact the agency with any potential research ideas. The agency intends to post our testing reports online. Another R&D Forum will occur this year, likely in the fall.

Anthony Lima indicated the next lab meeting could be held at LOGSA to solicit ideas for R&D research ideas.

Michael Nicks will alert the labs via email and the bulletin board of the next R&D Forum.

Larry Anderson asked if the labs can be informed of active R&D projects and if current results are available.

Ben Moore discussed current projects including the examination of 4GV drop tests, the vibration standard, the stack test, hydrostatic and leakproofness tests (three tests at once versus one at-a-time), and closure. Current results are on hold because of funding.

Lucy DiGhionno indicated that the reports have to be vetted before they can be released. White papers summarizing each project are currently being prepared and will be posted on the R&D website.

Michael Nicks will post links for R&D information on the bulletin board. Reports will be placed on the bulletin board when final. In the future, when labs are asked to RSVP, the labs should indicate if they are attending the meeting.

Discussion opened up to the labs to ask questions.

Rich Thomas asked what the official communication method is (i.e., email or the bulletin board). How do we ensure everyone is getting every email?

Don Burger responded that it is best if each lab has one designated POC. Official information can be provided to that person and the lab itself could disseminate the information

Michael Nicks indicated that the agency tries to send information via email and the bulletin board; however, the bulletin board is preferred. Each lab should notify PHMSA of their designated POC.

Yury Beyderman asked about questions that were submitted for the previous meeting (which was cancelled) and the status of those questions. The question pertained specifically to inclusion of non-essential items. Photos, etc. were included with the emailed question.

Michael Nicks responded these questions should be posted to the bulletin board. The agency has the email and can post to the bulletin board.

Larry Anderson indicated that the labs have had informal conversations about the bulletin board and other issues. Many labs are using the bulletin board for answers to questions based on projects they have going on. Timing of answer is critical to getting work completed. How can response times be improved?

Don Burger agreed that it appears answers are not being posted in a timely manner. The intention was not necessarily to answer within a certain timeframe and all do their best to answer timely.

Larry Anderson commented that DOT says the third-party packaging test labs are an extension of the agency, hence the detailed reporting requirements. There is concern that labs may avoid using the bulletin board, and the labs want to be sure it is used effectively.

Don Burger responded that with some questions, there is a need to ensure the answers provided are correct and accurate, and as such need to be coordinated. We do not want to provide inaccurate information; however, we want to try to be timely with our responses as we do see labs as important and an integral part of the hazmat transportation system.

Manny Rosa asked for clarification pertaining to a unique packaging where a designation is unclear, and when told what the proper designation is, whether an email is acceptable or an official letter is required.

Don Burger responded that for legal issues the only interpretations that are legally binding are those that come from the Office of Chief Counsel. If guidance is given in a less official manner such as an email, the benefit of the doubt will be given to those who are given incorrect guidance. We agree we need to be sure we do a better job of answering questions in a timely manner.

Perry Hock commented that enforcement personnel instructed him to call in for questions to get verbal answers since these would not be binding.

Anthony Lima responded if something formal is needed, request it in writing. The answer can then be posted on the bulletin board.

Manny Rosa commented that labs need to be given confidence that if the labs approach PHMSA for answers, this cannot lead to an enforcement case or penalty.

Don Burger responded that it be reasonably assured that if given advice in writing that a lab will not be penalized for this.

Charles Radev asked if there is a manual of interpretations. He also asked if 2 inch tape is used for the tests and the packaging end user uses 3 inch tape whether this would be in compliance.

Don Burger responded that there are several ways to search for interpretations: Call the info center or go to the website to search for interpretations. There are several letters of interpretation for tape.

Dzintars Petersons asked if a field officer is finding a reoccurring problem with lab findings or documentation issues whether those issues will be listed on the bulletin board

Michael Nicks responded that no formal feedback for October 2013 reports has been given because how we evaluate the reports is changing. PHH-31 is reviewing the reports and documenting any issues. Letters are being drafted by PHH-31 to provide feedback to the labs.

We are behind on this due to the change in procedure. Field Operations will only be involved if we find issues involving incorrect testing of packaging; we will then request field ops perform a fitness inspection.

Dzintars Petersons asked if issues will be posted on the bulletin board, specifically common issues.

Michael Nicks responded that common issues can be posted on the bulletin board.

Manny Rosa asked whether anything is being done to address self-certifiers. Self-certifiers should be held to the same standard. The package users do not care if packaging was certified by a self-certifier.

Anthony Lima responded we have recently received a report for a company improperly using an M number on a packag[ing] not produced at their facility. We want to ensure the same standards for everyone in the business. Field Ops will pull back on oversight of labs; Field Ops will not be involved in lab report reviews. Approvals is reviewing the reports; if they see non-compliance, they will identify and handle it. No enforcement action will be made by Field Ops for reports. We would only perform a compliance inspection in the case of a report or a specific issue discovered in the field. We would do a fitness inspection if Approvals requests. No enforcement action will come of a fitness inspection.

Manny Rosa asked if there any plans for a face-to-face meeting.

Don Burger responded that we are taking this into advisement and if we do, it will not be until later in the year.

Anthony Lima: We could open a post on the bulletin board on possible locations for a face-to-face meeting. Another way we are supporting the third-party system: if you know of any foreign or domestic entities that might be falsifying your reports or your symbols, please let us know. We are aware of an entity using multiple third party symbols and are investigating it. We want to protect your interests.

Michael Nicks announced that common items from October 2013 reports will be posted on the bulletin board.

Jim Stevens asked a question about whether certifying a packaging manufactured outside of the country but the packaging is shipped within the USA is allowed.

Michael Nicks responded that this has been answered twice before during the May 2013 and September 2013 meetings. The answer is no, unless there is reciprocity. The September 2013 meeting minutes have been revised to reflect this.

Anthony Lima further clarified that unless there is reciprocity or unless that packag[ing] is manufactured or marked in the USA, a domestic mark cannot be used, to include third party symbols.

Anton Cotaj asked how a combination packaging where the bottle is made in China and the box is made in the U.S. be certified.

Don Burger responded that whoever takes responsibility for the completed design is the manufacturer. The USA mark is appropriate if they are a domestic manufacturer. It depends on who is the manufacturer and where the final step is taken; it depends where the final part of the manufacturing process is completed. It does not matter where the components come from. It depends on where the packaging is marked. If this is done within the USA, then it is appropriate to perform certification.

Perry Hock asked about a 4G box is purchased from Canada, but assembled in the USA. This is theoretical, especially for states along the border.

Don Burger responded that we have yet to see it occur. Let's stick to things we actually see happening.

Perry Hock responded that there is a letter of interpretation pertaining to where the packaging is assembled or manufactured.

Don Burger responded that this should stop being discussed at this time. Submit a request for interpretation from Standards. Specify that the outer packaging is made in Canada and shipped to U.S. to be assembled here.

Manny Rosa asked if the USA obtains reciprocity whether the labs will be informed.

Don Burger responded that we will let labs know if this occurs.

Michael Nicks discussed issues identified in the October 2013 reports.

Issues included:

-Email submissions were not formatted per approval requirements.

-The last column was not being used correctly. Only SP or Approval numbers are to be populated in in the last column of the spreadsheet (i.e., special permit 9168). The last column is not for the lab symbol.

-Detailed description of packaging components, i.e. manufacturer name or location, were not provided.

-Detailed closure instructions were not provided. These need to be detailed to ensure repeatability.

-Sample test reports for all design types tested were not submitted. 4G and 4GV are the same; infectious category A infectious substances boxes are different.

-Activity reports were not complying completely with Appendix C (i.e., column 1 was displayed incorrectly with a "+" in front of the symbol).

-Drop test orientation was not identifiable relative to a design component.

-Tare mass of each component was not provided.

-Stack test for DQ test for plastic and composites intended to contain liquids performed was performed by dynamic stack test.

Rich Thomas asked whether the tare weights of components, specifically cap liners that are glued in need to be individually documented.

Ben Moore answered that these do not need to be documented.

Larry Anderson asked if a competent authority (e.g., China) authorizes a laboratory to certify packagings, can the laboratory do this?

Don Burger responded that PHMSA does not regulate other countries' marks. Labs may certify a package with another country's mark (symbol) if the country authorizes a laboratory to do so.

Rich Thomas asked whether there is a way to see changes tracked on updated lab approvals.

Don Burger responded that we will have to review this offline. When we make substantial changes, we include a cover letter with changes. Any across-the-board consequential action will be communicated to the labs.

Michael Nicks announced that we intend to have feedback on October 2013 reports within a few weeks and April 2014 feedback will hopefully be provided more timely; meeting is adjourned.