



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

OCT 1 1998

Ms. Robin J. Eddy
Training and Regulatory Compliance Manager
Allied Universal Corp.
8350 N.W. 93 Street
Miami, Florida 33166-2098

98-0130

Dear Ms. Eddy:

This is in response to your June 9, 1998 letter concerning the reuse of one gallon UN 1H1 plastic drums or non-specification bottles as inner receptacles of combination packages, under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and DOT-E 6614. Your questions are paraphrased and answered as follows:

- Q1. Are we permitted to reuse UN 1H1 plastic drums if they are placed inside a UN standard fiberboard box as a combination package, under the provisions of § 173.28?
- A1. Yes, under certain conditions. For example, §§ 173.202 and 173.203 authorize the use of inner plastic receptacles and an outer UN 4G fiberboard box as a combination packaging meeting a packing group II or III level respectively. Inner receptacles of a combination packaging need only conform to the general requirements of §§ 173.24 and 173.24a. If UN 1H1 plastic drums are used as the inner receptacles, the drums are not subject to the reconditioning, leakproofness testing, and marking requirements in § 173.28(b) and (c).

Because the UN 1H1 drums were not requalified in accordance with § 173.28 prior to reuse, they may not be returned as a single packaging. Therefore, the emptied drums being returned to your facility must be packaged as inner receptacles of an authorized combination packaging as when they previously contained a greater quantity of hazardous material. (See § 173.29)

incompatible residue, rupture, or other damage which reduces their structural integrity;
(2) Reconditioned in accordance with § 173.28(c);
(3) Marked, in a permanent manner, with the minimum thickness in millimeters of the packaging material as required by § 178.503(a)(9) and conform to the minimum thickness criteria based on the capacity of the drums, as listed in § 173.28(b)(4)(i); and
(4) If intended to contain liquids, subjected to a leakproofness test prescribed in § 178.604, and the retest and marking requirements prescribed in § 173.28(b)(2), unless excepted under the exclusive use provisions of § 173.28(b)(7).

- Q2. Our company transports the packages to retailers who, in turn, sell them to their customers. When the plastic drums are emptied, the customers return the drums to the retail facility where they are picked up by our company. Do we qualify for exclusive use relief under § 173.28(b)(7)(iii) and, therefore, not subject to leakproofness testing and marking?
- A2. "Exclusive use of the refiller" as referenced in § 173.28(b)(7)(iii), or dedicated service, means the original filler and the end user who returns the drum for refilling are sole participants in the transportation cycle and, therefore, control the loading, unloading, and handling of the drums. The scenario you described does not satisfy this condition.
- Q3. Are exemption holders authorized to reuse the polyethylene bottles under the provisions of DOT-E 6614?
- A3. Yes. The polyethylene bottles authorized under DOT-E 6614 are non-specification, inner receptacles that are packed in an outer polyethylene crate. Reuse requirements prescribed in § 173.28 apply to specification packagings only. DOT-E 6614 does not address the reuse of the inner bottles. Therefore, the non-specification inner packagings may be reused as discussed under A1 above.

I hope this satisfies your request. Please contact this office if you need additional information.

Sincerely,

Hattie L. Mitchell

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards

Stevens
File 173.28



ALLIED UNIVERSAL CORP., 8350 N.W. 93 Street, Miami, Florida 33166-2098

305-888-2623

Fax 305-885-4671

June 9, 1998

Mr. Edward Mazzullo
Director for Hazardous Materials Standards
U.S. Department of Transportation
400 Seventh Street, S.W., DHM-10
Washington, D.C. 20590-0001

Re: Reuse of One-Gallon Containers

Dear Mr. Mazzullo:

Per my conversation with John P. Heneghan, Hazardous Material Enforcement Chief, Southern Region, I am writing to you to ask for the clarification of two questions regarding the use of one gallon containers which contain Packing Group II and III hazardous materials.

First question regards combination packaging. Based upon the requirements in 49 CFR §173.28, may a UN certified, plastic, non-bulk container (gallon jug) be reused if it is an inner package, placed inside of a UN certified, cardboard box (referred to by Allied Universal Corp. as a 4 x 1 container)? If it is legal, what are the limitations?

To answer the question above, the following is a brief description of the shipping of these containers: Allied Universal Corporation would package Packing Group II and III hazardous materials in one gallon, UN certified jugs. The jugs would be placed in a UN certified cardboard box (4 x 1). The boxes are placed upon a pallet, loaded onto Allied trucks, and shipped to Allied customers for sale. The customer would be charged with collecting all used, empty containers (one-gallon jugs, not the cardboard boxes). The Allied trucks would pick-up the used containers and return all used containers to the Allied facility for visual inspection and refill with like hazardous material. The one-gallon containers would once again be placed into new UN certified cardboard boxes and reshipped to the customer location. As specified in 49 CFR §173.28(a)(b)(7)(iv)(B), all one-gallon containers that fail visual inspection or are to be filled on a date more than five years from their manufacture date, shall be placed out of service.

Second question regards DOT-E 6614. This attached exemption exempts all holders from 49 CFR §173.202 and §173.203. Upon reading this exemption, it does not clearly state whether or not the bottle, described in section seven "a" of the exemption, may be

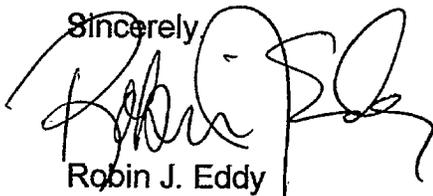
reused. In light of various safety concerns, and to maintain an equal economic playing field in the industry, the reuse of these bottles needs to be clarified in DOT-E 6614. Can the bottles be reused? And if they can, do all the requirements in 49 CFR 173.28 apply? What are the requirements for reuse, if reuse is legal?

If you could please respond to these questions in writing as soon as possible, I would greatly appreciate it. Allied is currently addressing packaging concerns, brought to our attention by Mr. Heneghan, and time is of the essence. Your answers to the above questions will help to expedite the decisions we need to make concerning the shipping of our one-gallon jugs.

If you should have any questions, please contact me at (305) 888 – 2623, extension 113.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robin J. Eddy', written over a circular stamp or mark.

Robin J. Eddy
Training and Regulatory Compliance Manager

cc: attachment, DOT-E 6614