



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

APR 9 1998

Ms. Marcia C. Davies, Ph.D.
Department of the Army
Corps of Engineers, Omaha District
HTRW Center of Expertise
12565 West Center Road
Omaha, Nebraska 68144-3869

Dear Dr. Davies:

This is in response to your letter of March 4, 1998, requesting clarification of the packaging requirements for small quantities of hazardous materials under the Hazardous Materials Regulations (49 CFR parts 171-180). Specifically you ask whether the prototype testing required by § 173.4(a)(6) requires each test to be performed on the same packaging.

The answer is no. As you pointed out in the original HM-181 final rule (55 FR 52402) § 173.4 has a note which states "Each of the test in paragraph (a)(6) of this section may be performed on a different but identical package; i.e., all tests need not be performed on the same package." Therefore, the intention of this section is that you may perform each test on a different package. This point will be clarified in a future rulemaking.

I hope this information is helpful.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
HTRW CENTER OF EXPERTISE
12565 WEST CENTER ROAD
OMAHA, NEBRASKA 68144-3869
04 MAR 1998

LaValle
File: 1734

Environmental Cost, Compliance and Technology Branch
HTRW Center of Expertise

Diane LaValle
Office of Hazardous Materials Standards
400 7th SW
Washington D.C. 20590

Dear Ms. LaValle:

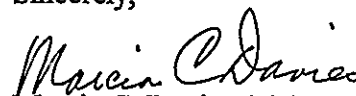
In follow up to our telephone conversation on February 27, 1998 regarding the Department of Transportation regulations found at 49 CFR 173.4 *Small quantity exceptions*, I am writing on behalf of the U.S. Army Corps of Engineers HTRW Center of Expertise to confirm our understanding of the testing requirements specifically identified under 49 CFR 173.4(a)(6). In reading 49 CFR 173.4(a)(6), one could interpret the language to mean that the shipper must develop a prototype package and subject a single prototype package to all five drop tests and the compression test identified in 49 CFR 178.606(c).

However, upon reviewing the original HM-181 final rule (55 FR 52608) language associated with 49 CFR 173.4(a)(6), an explanatory note was found stating: "Note: Each of the tests in paragraph (a)(6) of this section may be performed on a different but identical package i.e., all tests need not be performed on the same package."

We have examined *Federal Register* notices affecting section 173.4 from the original publication date to the present and have not been able to find any language that would indicate that Research and Special Programs Administration has deleted this clarification note, neither have we been able to find the explanatory note printed in any later published Title 49 Code of Federal Regulations.

Therefore, we are requesting clarification on the testing requirements for packages intended to be covered under the *Small quantity exception* criteria and whether or not the 12/21/90 clarification note stands. We would further request that if the Office of Hazardous Materials Standards is aware of any additional clarification language that a copy or reference be provided. Our point of contact is Ed Bave. If necessary, he can be reached at (402) 697-2634. Thank you for your prompt attention in this matter.

Sincerely,


Marcia C. Davies, Ph.D.
Director, USACE Hazardous,
Toxic and Radioactive Waste
Center of Expertise

Enclosures