



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

JAN 17 2001

Mr. Robert Budzn
Coordinator Regulatory Affairs
Diversey Lever
3630 E. Kemper Road
Cincinnati, OH 45241

Ref. No. 00-0227

Dear Mr. Budzn:

This is in response to your August 11, 2000, letter regarding clarification of the provisions in §§ 173.28 and 173.29 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your questions are paraphrased and answered as follows:

Q1: Must the minimum thickness be marked on a drum each time it is reused even if the manufacturer has already marked the drum with the minimum thickness at the time of manufacture.

A1: The answer is no. To reuse a metal or plastic drum used as single packaging or as an outer packaging of a composite packaging, the drum must be marked in a permanent manner with the nominal or minimum thickness of the packaging material (§ 173.28(b)(4)). A packaging not marked at the time of manufacture with the nominal or minimum thickness may be permanently marked at a later date by the reuser or reconditioner provided the integrity of the container is not degraded and the packaging was initially intended to be reused.

Q2: How is the term "exclusive use of the refiller" defined with respect to § 173.28(b)(7)(iii)?

A2: "Exclusive use of the refiller" as referenced in § 173.28(b)(7)(iii) means the transport vehicle may not carry materials shipped by any person other than the refiller of the drums.

Q3: What is required to confirm that a contracted carrier is operating under "exclusive use" as specified in § 173.28(b)(7)(iii).



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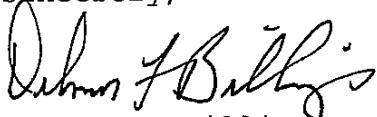
A3: There are no specific requirements under the HMR to confirm that a contracted carrier is operating under "exclusive use."

Q4: Are labels required on drums that contain only the residue of a hazardous material?

A4: The answer is yes. Section 173.29(a) requires an empty packaging that contains only the residue of a hazardous material to be transported in the same manner as when it previously contained a greater quantity of that hazardous material.

I hope this satisfies your request.

Sincerely,



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



DiverseyLever

BAH

8 173.28 (2)(iii)
Reuse of Packagings
00-0227

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August 11, 2000

Mr. Edward Mazzullo
Director of Hazardous Material Standards
U.S. D.O.T.
FAX. # 1-202-366-3012
Hot line # 1-800-467-4922

Mr. Mazzullo,

In speaking with Mr. Michael Steven of the Hot line response group a number of questions were asked of the DOT related to sections 173.28 and 173.29 of the 49 CFR as related to recycling of packaging. Some of the questions had responses as anticipated, others, specifically 173.28 (7)(iii), questions needed additional feedback and due to that, Mr. Steven indicated a letter should be submitted to you for a formal written reply to address the questions asked and are as follows.

1. How is "dedicated" and "exclusive use" defined with respect to the exemption of not having to do the leakproof testing if recycling?
2. What should label status be on the empty containers?
3. If a contracted transport carrier complies to dedicated, what is needed to confirm this?
4. If a contract carrier picks up material other than the contracted (recycle) material, who becomes liable for the violation?
5. Are there alternatives to stamping the current wall thickness into the packaging?

These would be the possible given parameters:

Product would be manufactured at company site.

UN certified product package is used.

Product is sent from company manufacturing site either by a- company vehicle or by b- common carrier to company distribution center.

Product is sent from company distribution center to customer on company owned vehicles.

Empty containers are returned to company distribution center on company owned vehicle from customer.

Return of empties to manufacturing site from company distribution center is possibly done in two manners,

a- by company owned vehicle or b- a contracted (dedicated) transport carrier.

Once returned, container is cleaned.

Product refilled is same or similar product (ie. Soap/Detergent).

Resend out as in beginning.

We look forward to your response, hopefully in the estimated 3 to 4 weeks response time.

Regards,

Robert J Babin
Coordinator Regulatory Affairs
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