U.S. Department
of Transportation
**Research and
Special Programs
Administration**

JUN - 6 2003

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

Ms. Robin J. Eddy Bolte
Safety and Compliance Manager
Allied Universal Corporation
3901 N.W. 115th Avenue
Miami, Florida 33178

Ref. No. 02-0126

Dear Ms. Eddy Bolte:

This responds to your letter regarding the testing of specification packagings under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, your company uses a tested combination packaging design type that consists of a fiberboard box containing four plastic bottles with child resistant screw-on caps. Your company intends to purchase similar caps from a different manufacturer. You state that using similar design inner plastic bottles with child resistant screw-on caps that are made by a different manufacturer would be permissible under the definition of a "different packaging" in § 178.601(c)(4)(ii). In addition, it is your understanding that this would be permissible under selective testing variation 1, in § 178.601(g)(1). I apologize for the delay in responding.

Your understanding of the provisions in § 178.601(c)(4)(ii) is incorrect. A combination packaging which differs only in that the outer packaging has been successfully tested with different inner packagings is not considered a different packaging. The [tested] inner packagings may be assembled in this outer packaging without further testing. However, the use of untested inner packagings provided by a different manufacturer would not satisfy this requirement and, therefore, the packaging would be different.

Your understanding of § 178.601(g)(1) Variation 1 is correct. Provided the closure is of similar design (e.g., screw cap, friction lid, etc.), the inner packagings are of similar design (i.e., shape), and the material of construction offers the same or greater impact resistance than that of the originally tested inner packaging, further testing of a tested design type is not necessary. Therefore, provided an equivalent level of performance can be ascertained, you may, under Variation 1, use inner packagings constructed by a different manufacturer.

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178.601(c)(4)

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

Hattie L. Mitchell

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

Stevens
§178.601(c)(4)
Testing Packages
02-0126

ALLIED UNIVERSAL CORP., 3901 N.W. 115th Avenue, Miami, Florida 33178
305-888-2623
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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

April 25, 2002

Subject: Interpretation, Different Packaging 49 CFR §178.601(c)(4)

Dear Mr. Mazzullo:

I am writing to you once again as my company is trying to determine package testing requirements as specified in 49 CFR §178, Subpart M.

Our concern is in regards to the testing of a fiberboard box (packaging code 4G) per the requirements in 49 CFR §178, Subpart M. Currently, the box we utilize holds the following certification: UN 4G/Y19.4/S/02/USA/(number for approving agency). The fiberboard box inner packaging is four plastic bottles with a child resistant screw-on cap. Our question concerns the inner packaging. The child resistant screw-on cap, may we purchase it from another manufacturer, one who did not make the cap that was utilized during the performance oriented testing, without requalifying the package? Or do we have to retest the package if we buy the child resistant screw-on cap from another manufacturer? 49 CFR §178.601(c)(4)(ii) states that testing is required for different packaging, but a different package does not include a combination packaging which differs only in that the outer packaging has been successfully tested with different inner packagings. A variety of such inner packagings may be assembled in this outer packaging without further testing. That definition moves us to believe that the inner plastic bottles and child resistant screw-on caps could be made by a variety of manufactures, and not require additional performance oriented packaging testing because the outer package (the fiberboard box) has the stayed the same.

I did speak to one of your agents at the Hazardous Material Hotline on April 22, 2002. After a brief conversation with her, and further conversations with an engineer, she determined that no such additional testing was required so long as the original fiberboard box provided in the original United Nations authorization was continued to be used. Changing the manufacturer of the inner plastic bottle and child resistant screw-up on cap did not warrant additional performance oriented packaging testing.

My company would like you to once again review this question and to provide an interpretation in writing. We our concerned that 49 CFR 178.601(c)(4) is open to a variety of interpretations based upon whomever is involved in the conversation.

If you should have any questions, please call me at 800-437-8715, extension 183.

Thank you.

Sincerely,

Robin J. Eddy Bolte
Safety and Regulatory Compliance Manager
Allied Universal Corp.

cc: J. Palmer, COO/General Manager