



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

FEB 12 2001

Ref. No: 00-0216

Mr. Gerald A. Gordon, Sc.D.  
Regulatory Compliance Specialist  
Greif Bros. Corporation  
245 Eisenhower Lane South  
Lombard, Illinois 60148

Dear Mr. Gordon:

This is in response to your August 2, 2000, letter requesting clarification regarding what constitutes a "different packaging" under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically you ask whether building a barrier into the sidewall of an otherwise identical fiber drum requires a new design qualification test. You provided information to support your belief that such a change should not require testing as a "different packaging."

It is your position that as long as critical mechanical and structural properties of the combined sidewall remain essentially the same, minor variations in sidewall composition (e.g., the presence of very thin layers of polyethylene or aluminum foil) should not cause the drum to be considered a "different packaging."

We disagree. You are changing both the design and manner of construction of the drum by sandwiching layers of polyethylene or aluminum foil between the layers of fiberboard. The drum is a "different packaging" as defined in § 178.601 and, therefore, design qualification testing is required. If, however, a polyethylene or aluminum foil barrier is applied to the inside surface of a packaging, it is considered a surface treatment and is not considered a different packaging.

I hope this information is helpful.

Sincerely,

Edward T. Mazzullo  
Director, Office of Hazardous  
Materials Standards



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August 2, 2000

Mr. Robert A. Monniere, Attorney  
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Dear Mr. Monniere:

I am writing in response to your letter of May 16, 2000, which offered a compromise in light of Greif's corrective actions in areas pertaining to DOT's Notice of Proposed Violation of January 11, 1999, but also raised the issue of the definition of the material of construction of a fibre drum sidewall, and whether building a barrier into the sidewall of an otherwise identical drum necessitates a new design qualification test. Per our telephone conversation of this morning, Greif Bros. Corporation is **not** prepared to accept the compromise offered by the Acting Chief Counsel, until this issue has been resolved.

In collaboration with our Technical Advisor, Gordon Rousseau of HMT Associates, we have prepared a discussion of this issue, which is attached. We hope this discussion will persuade DOT that as long as critical mechanical and structural properties of the combined sidewall remain essentially the same, minor variations in sidewall composition (e.g., the presence of very thin layers of polyethylene or aluminum foil) should not cause the drum to be considered "different", requiring a new design qualification test.

It is my understanding that as a result of our rejection of the compromise offer and the submission our discussion of the issue, resolution of this matter will be put on hold while DOT considers our arguments and decides what action it should take.

Thank you for your advice and assistance in this matter.

Sincerely,

Gerald A. Gordon, Sc.D.  
Regulatory Compliance Specialist

Cc: Gordon Rousseau  
Leigh Evans  
Peter Apostoluk  
Joe Grebe

Geof Eaton  
C. J. Guilbeau  
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