



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

NOV 21 2003

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

Ms. Sarah L. Basham  
Director of Transportation  
Corporate Regulatory Affairs  
The Sherwin-Williams Company  
101 West Prospect Avenue  
Cleveland, OH 44115-1075

Reference No.: 03-0266

Dear Ms. Basham:

This is in response to your letter requesting clarification of the provisions for reuse of packagings under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Your company reuses empty non-bulk specification drums for the storage and disposal of hazardous waste. You ask if you must bring the drums into compliance with part 178 as specified in § 173.22(a)(4) or whether you can take advantage of the exception for reuse of a packaging as specified in § 173.12(c).

You do not have to bring the drums into compliance with part 178 of the HMR as required by § 173.22(a)(4). Section 173.12 provides exceptions for shipments of waste materials. Specifically, § 173.12(c) excepts a previously used packaging that is being reused for the shipment of hazardous waste to designated facilities from the reconditioning and reuse provisions contained in § 173.28 and part 178 if the conditions and limitations specified for such reuse are met.

I trust this satisfies your inquiry.

Sincerely,

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



030266

173.12



Environmental, Health, &  
Regulatory Services

Corbin  
§ 173.12  
Exceptions  
03-0266

THE SHERWIN-WILLIAMS COMPANY  
101 WEST PROSPECT AVENUE  
CLEVELAND, OH 44115-1075

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 16, 2003

Mr. Edward T. Mazzullo  
Director of Office of Hazardous Materials Standards  
USDOT/RSPA (DHM-10)  
400 7<sup>th</sup> Street SW  
Washington, DC 20590-001

Dear Mr. Mazzullo:

Our company reuses empty UN-certified 55-gallon drums for the temporary storage and disposal of hazardous waste. The waste drums are picked up at our facilities at regular intervals by licensed hazardous waste transporters and taken to disposal facilities.

In 49CFR §173.22(a)(4) the regulations indicate that when dealing with packaging subject to the requirements of part 178, it is the shipper's responsibility to perform all functions necessary, as identified by the packaging manufacturer, to bring the package into compliance. In other words, the shipper is instructed to specifically follow the closure instructions the manufacturer provides for any UN-packaging used.

In 49CFR §173.12(c) the one-time reuse of UN-packaging for the transport of hazardous waste is authorized. The regulations in that section indicate that such reused packagings are not subject to the requirements of part 178.

Based on these regulations, our question is whether the requirements of 173.22(a)(4) apply to UN-approved drums that are being reused for hazardous waste. Specifically, is it necessary to have written closure instructions from the original manufacturer or distributor available and to have directed personnel in following those closure instructions? Can you please provide a written interpretation in response to this question? Thank you for your prompt assistance with this matter.

Sincerely,  
THE SHERWIN-WILLIAMS COMPANY

Sandra L. Basham  
Director of Transportation  
Corporate Regulatory Affairs