



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

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

**AUG 24 2001**

Ms. Kimberly Roberson  
HR/Safety Administrator  
Fuji Foods, Inc.  
6206 Corporate Park Drive  
Brown Summit, NC 27214

Reference No.: 01-0143

Dear Ms. Roberson:

This is in response to your request concerning how a food manufacturer should test their sample products and creations to prove that they do not have hazardous properties according to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

The HMR do not require testing of food products to prove that they do not contain a hazardous material. The HMR govern the transportation of hazardous materials in commerce. Under § 173.22 of the HMR, it is the shipper's responsibility to properly classify a hazardous material in accordance with the hazard class definitions in Part 173 or determine that the material is not subject to these regulations. This determination must be based on the product in the form in which it will be offered for transportation. With the exception of Class 1 materials, such determinations are not required to be verified by this office. Generally, manufacturers have the information needed to properly classify the materials and products they produce. In some cases, it may be necessary to have the material tested.

I trust this satisfies your request.

Sincerely,

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



**Fuji Foods USA**™  
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Corbin  
§ 173.22  
Shipper's Responsibility  
01-0143

May 31, 2001

Edward T. Mazullo  
Director of the Office of Hazmat Standards  
USDOT-RISPA (DHM-10)  
400 7<sup>th</sup> Street S.W.  
Washington D.C. 20590-0001

Dear Mr. Mazullo:

I spoke with a representative from the answer line at the Department of Transportation during the month of May. I called in with a question on how should a food manufacturer test their sample products and creations to prove that they have no hazardous properties according to the DOT guidelines. The representative replied that we as a food manufacturer did not have to do any specific tests to prove to DOT that the products are non-hazardous and do not fall under any of the nine DOT hazard classes. He did recommend that our chemists use the MSDS sheets and their chemical knowledge of the ingredients to determine if the product would fall under any of the hazard classes.

I am requesting to receive this statement in writing from the DOT. I would like a statement for our files that states that it is the responsibility of the manufacturer to determine if a product is hazardous and that the manufacturer does not have to prove that the product is non-hazardous to DOT.

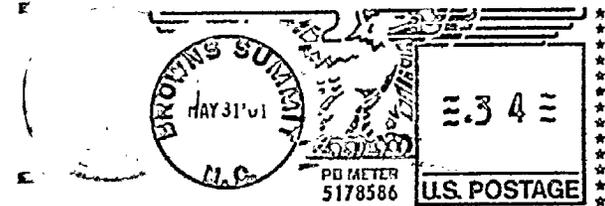
If you have any questions concerning this request please notify Kimberly Roberson at Fuji Foods, Inc. at 336-375-3111 ext. 12. Thanks for your time and efforts.

Sincere Thanks,

Kimberly Roberson  
HR/Safety Administrator  
Fuji Foods, Inc.



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Edward T. Mazullo  
Director of the Office of Hazmat Standards  
USDOT-RISPA (DHM-10)  
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