



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

JUN 18 2008

1200 New Jersey Avenue, SE
Washington, D.C. 20590

Mr. Jack Oody
Volunteer Drum
3311 John Sevier Highway
Knoxville, TN 37914

Ref. No.: 08-0129

Dear Mr. Oody:

This is in response to your May 1, 2008 letter requesting clarification of the shipper's responsibility for determining that a packaging is authorized under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the HMR require the shipper to maintain a copy of the original test report for a drum manufactured to a DOT specification, and whether a single test report may be used for DOT specification drums that are manufactured using different dimensions than the originally tested design-type.

The shipper is required to determine that a packaging or container is an authorized packaging under the HMR (see § 173.22(a)(2)). In making that determination, the shipper may accept the packaging manufacturer's certification marking on the drum (see § 173.22(a)(3)). The HMR do not require the shipper to maintain a copy of the original test report; however, the packaging manufacturer must make the test report available to the user of a packaging upon request (see § 178.601(l)). In addition, a DOT specification drum produced with reductions in the external dimensions (i.e., length, width, or diameter) of up to 25 percent of the dimensions of a tested packaging may be used without additional testing provided an equivalent level of performance is maintained, and the packaging is identical to the tested design-type in all other respects (see § 178.601(g)(3)).

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards

Eichenlaub
 §178.601(c)(4)
 §178.601(b)(4)

Drakeford, Carolyn <PHMSA>

From: Gorsky, Susan <PHMSA>
Sent: Friday, May 02, 2008 6:38 AM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: Questions
Attachments: Greif Century VOL 00480200.pdf

Testing
 08-0129

Could you enter this as a request for interpretation please? Thanks.

Susan

From: Drumman43@aol.com [mailto:Drumman43@aol.com]
Sent: Thursday, May 01, 2008 2:56 PM
To: Gorsky, Susan <PHMSA>
Subject: Questions

Susan Gorsky
 Department of Transportation

May 1, 2008

I seem to be in the middle of a disagreement between DOE buyer and user of Grief fiber drums. Grief submits UN test reports that cover a wide variety of containers without specifically pointing to one container. This makes it difficult to match paperwork to containers for specific packaging purposes. The big question is the one outlined below by my customer. Maybe you could cut some corners for me by giving me the CFR regs that allow them to do so.

It was determined that in order to accept Grief's reasoning (as conveyed in the attached pdf file sent from Grief via Volunteer Drum), we need an official Department of Transportation (DOT) interpretation of their regulations. If Grief can provide us with an official DOT interpretation, we can accept the drums based on the Grief pdf and the interpretation. If they do not have an official DOT interpretation, we cannot accept the drums.

"Another option would be for Grief to tell us specifically what regulation they are referencing that allows them to perform one test for many different sized drums. If they can show that there is regulatory approval for this approach, we will accept the drums."

Jack Oody
 Volunteer Drum
 865-673-9396

Wondering what's for Dinner Tonight? Get new twists on family favorites at AOL Food.

5/7/2008



366 Greif Parkway
Delaware, OH 43015
(740) 657-6565
Fax: (740) 657-6592
www.greif.com
March 17, 2003

Re: Manufacturer's Certification of Compliance

Greif manufactures all packagings certified for use with hazardous materials in accordance with the applicable regulations under 49CFR parts 171 to 180 as written by USDOT. Greif applies its registered symbol "GBC" and the required certification markings as evidence of this certification.

DOT regulations allow a customer to accept the UN marking on a packaging as the manufacturer's certification that all tests have been conducted and that the packaging has been manufactured in accordance with the appropriate regulations.

I have attached below, excerpts from the appropriate regulatory sections referencing the shippers responsibilities and manufacturers responsibilities in 49CFR. They clearly define our position.

49CFR§173.22 Shipper's responsibility.

(a) Except as otherwise provided in this part, a person may offer a hazardous material for transportation in a packaging or container required by this part only in accordance with the following:

(2) The person shall determine that the packaging or container is an authorized packaging, including part 173 requirements, and that it has been manufactured, assembled, and marked in accordance with:

(i) Section 173.7(a) and parts 173, 178, or 179 of this subchapter;

(ii) A specification of the Department in effect at the date of manufacture of the packaging or container;

(iii) National or international regulations based on the UN Recommendations on the Transport of Dangerous Goods, as authorized in §173.24(d)(2);

(iv) An approval issued under this subchapter; or

(v) An exemption issued under subchapter A of this chapter.

This would seem to require that each user of a container have on file a copy of the current test certifications. However, the subsequent paragraph allows a shipper to accept as the container manufacturer's certification the complete markings on the side of the container (see the portions in bold below).

173.22(a)(3) In making the determination under paragraph (a)(2) of this section, the person may accept:

*(i) Except for the marking on the bottom of a metal or plastic drum with a capacity over 100 liters which has been reconditioned, remanufactured or otherwise converted, **the manufacturer's certification, specification, approval, or exemption marking (see §§178.2 and 179.1 of this subchapter)***

Paragraph 178.2 explains that for UN Certified packagings, the UN mark is the manufacturer's certification of compliance with all applicable regulations. See the bold information below.

§178.2 Applicability and responsibility.

(a) Applicability.

(1) The requirements of this part apply to packagings manufactured-

(i) To a DOT specification, regardless of country of manufacture; or

(ii) To a UN standard, for packagings manufactured within the United States. For UN standard packagings manufactured outside the United States, see §173.24(d)(2) of this subchapter. For UN standard packagings for which standards are not prescribed in this part, see §178.3(b).

(2) A manufacturer of a packaging subject to the requirements of this part is primarily responsible for compliance with the requirements of this part. However, any person who performs a function prescribed in this part shall perform that function in accordance with this part.

(b) **Specification markings.** When this part requires that a packaging be marked with a DOT specification or UN standard marking, marking of the packaging with the appropriate DOT or UN markings is the certification that-

(1) Except as otherwise provided in this section, all requirements of the DOT specification or UN standard, including performance tests, are met; and

(2) All functions performed by, or on behalf of, the person whose name or symbol appears as part of the marking conform to requirements specified in this part.

Enforcement of the UN mark as a certification is provided under 49 CFR 171.2 which makes it a violation (Maximum penalty for a violation is \$27,500 per occurrence) to manufacture, mark and sell or offer any package that does not comply with the regulatory requirements. (see the underlined information below)

§171.2 General requirements.

(c) No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of this subchapter or an exemption, approval or registration issued under this subchapter or subchapter A of this chapter, governing its use in the transportation in commerce of a hazardous material, whether or not it is used or intended to be used for the transportation of a hazardous material, unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired and retested, as appropriate, in accordance with applicable requirements of this subchapter, or an exemption, approval or registration issued under this subchapter or subchapter A of this chapter.

(d) The representations, markings, and certifications subject to the prohibitions of paragraph (c) of this section include, but are not limited to-

(1) Specification identifications that include the letters "ICC," "DOT," "MC," or "UN";

(2) Exemption, approval, and registration numbers that include the letters "DOT," "EX," "M," or "R"; and

(3) Test dates associated with specification, registration, approval, retest or exemption markings indicating compliance with a test or retest requirement of this subchapter, or an exemption, an approval or a registration issued under this subchapter or subchapter A of this chapter.

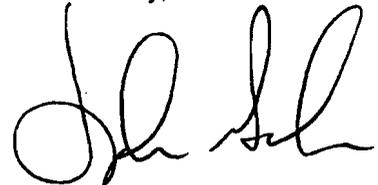
171.2(f) No person shall, by marking or otherwise, represent that-

(1) A container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this title unless it meets the requirements of all applicable regulations issued under the Federal hazardous material transportation law; or

As you can see, there is little benefit to maintaining detailed records of test reports since you are permitted to accept the packing manufacturer's certification marks on the drum as evidence that the packaging, as provided to you was manufactured in compliance with the applicable regulations.

If you would like additional explanation of the above, let me know.

Sincerely,



Joseph J Grebe
Director, Product Technical
& Regulatory Support

TESTING and TECHNICAL SERVICE OFFICE

UNITED NATION/IMO/DOT
PERFORMANCE TEST**GREIF**Date Tested: 12/28/2007
Report #: F-1880-XX-122807
Closure Notification: F11-F

ORIGINAL DESIGN TYPE RESULT SHEET

Drum Style: Greif Lok Rim Fibre Drum UN Code: 1G Packing Group I
GBC Code: FLR300X1587U1 / LOK-RIM Cover: SteelDimensions: I.D.: 393.7 MM / 15.5 In. O.H.: 955.7 MM / 37.625 In.UN Certified Markings:  1G/X75/S/YR
USA/GBC  1G/Y75/S/YR
USA/GBC  1G/Z75/S/YR
USA/GBCCapacity Range: 24.6 - 113.6 Litres / 6.5 - 30 Gallons
Test Mass - Gross: 75 KG / 165.4 Lbs.
Tare: 4.0 KG / 8.8 Lbs.
Net: 71.0 KG / 156.6 Lbs.Package Preparation: Drums filled with poly pellets to a minimum of 95%.Conditioning: 24 Hours at 23°C, ±2°C Temperature and 50%, ±2% Relative Humidity.**Drop Tests (49 CFR 178.603)**Drop Height: 1.8 Metres / 70.87 InchesResults Diagonal Top Drop: **3 Drums Passed**Results Diagonal Bottom Drop: **3 Drums Passed**Results Flat Drop: **Not Applicable****Vibration Test (49 CFR 178.608)**

Results: Capable of withstanding, without rupture or leakage, the vibration tests procedure in 49 CFR 178.60

Leakproofness Test (49 CFR 178.604)

Air Pressure Applied: _____ psi

Results after 5 minutes: **Not Applicable****Hydraulic (Hydrostatic) Test (49 CFR 178.605)**

Internal (Hydraulic) Pressure: _____ kPa for a period of _____ minutes

Results: **Not Applicable****Static Compression Test (49 CFR 178.606)**Total Mass: 922.5 KG (12.3 Drums x 75 KG each)Duration: 24 Hours Stacking Load Density: N/AResults: **3 Drums Passed**TEST RESULTS CERTIFIED BY: **GREIF**
TESTING and TECHNICAL SERVICESJoseph Grebe
Director, Testing and
Technical Services

This test report is the property of Greif. The know-how, methods and techniques disclosed in this report are confidential information which can only be used by those persons with specific written authorization from Greif.

Testing and Technical Service Office

366 Greif Parkway
Delaware, Ohio 43015
Phone: 740-657-6565
Fax: 740-657-6596

GREIF

January 02, 2008

UNITED NATIONS/IMO/DOT PERFORMANCE TEST

Test Type:	Annual Retest	Report No:	F-1880-XX-122807
Plant:	Englishtown, NJ	Test Date:	12/28/2007
Drum Code:	FLR300X1587U1	Expiration Date:	12/27/2008

Mr. Geoff Eaton,

Attached are our laboratory test result sheets of the U.N. Chapter 9 Performance Test on the fibre drums that were sent to Greif - Alsip, IL Technical Center.

These sample containers that were made with the proper components passed the required Drop, vibration and compression tests for the following UN Marking(s):

1G/X75/S/YR

1G/Y75/S/YR

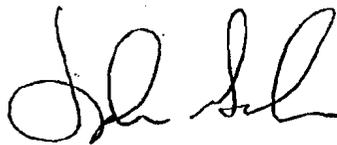
1G/Z75/S/YR

The tested drums also meet NMFC/UFC standards for a fibre drum up to 225 Lbs. Net Weight Limit and 30 Gallon Capacity.

Thank you and best regards.

JG:ch

FLR5904



Joseph Grebe