



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

JUN 15 2004

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

Mr. William Reinike
DOT Focal Point
Kraton Polymers
2982 Washington Boulevard
Belpre, OH 45714-0235

Ref. No. 04-0111

Dear Mr. Reinike:

This is in response to your April 30, 2004 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the reuse of stainless steel drums. You state you have five stainless steel drums designed and fabricated with a wall thickness of 0.104 inches. The drum capacities are 15 and 30 gallons. The drums are equipped with valves and a pressure gauge, and any applied pressure is low. The drums are to be used in dedicated service to contain and transport polymer cement by truck between your plant in Ohio and your research facility in Texas. You have a contract with carrier, but the transport vehicle may contain freight from other customers.

You ask whether drums used in dedicated service are subject to the leakproofness test in accordance with § 173.28(b)(2) each time they are refilled or whether periodic testing is an allowed alternative and whether your contractual agreement meets the intent of "exclusive use" as stated in the HMR. You ask whether anyone has asked for and received relief from this specific requirement when using LTL carriers.

The transportation movement as described does not conform to the requirements in § 173.28. The reuse provisions in § 173.28 require all packagings and receptacles used more than once to conform in all respects to the HMR. The exception from leakproofness testing in § 173.28(b)(7) is intended to apply only to a drum that is in dedicated service and transported in a transport vehicle under the exclusive use of the refiller. "Exclusive use" means that the transport vehicle does not contain any material offered by anyone other than the filler of the drums. Your contractual agreement as described does not meet the intent of "exclusive use" as stated in the HMR. Therefore, your drums are subject to a leakproofness test prior to reuse.




040111

173.28
178.604

Inquiries concerning exemptions should be addressed to the Office of Hazardous Materials Exemptions and Approvals, 202-366-4511. The Office of Hazardous Materials Exemptions and Approvals has not issued any exemptions that relieve the requirement for "exclusive use" regarding reuse of packagings.

I hope this information is helpful.

Sincerely,



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



BELPRE PLANT

Foster
§ 173.28
§ 178.604
Testing / Reuse
04-0111

April 30, 2004

Mr. Edward Mazzullo
Office of Interpretations
Research and Special Programs Administration
U.S. Department of Transportation
Washington, D.C. 20590

Dear Mr. Mazzullo:

Reference 173.28(b)(2)(i) and 17.28(b)(7)(iii)

We respectively ask for your help in clarifying two specific regulations affecting the reuse of open-top stainless steel drums. The following background information may help explain the questions.

We have 5 stainless steel UN1A2 drums. The drums were custom designed and fabricated with a wall thickness of 0.104 inches, which exceeds the minimum thickness requirements found in 173.28(b)(4)(i). Drum capacities are 15 gallons (~57 liters) and 30 gallons (~114 liters). The drums are equipped with valves and a pressure gauge. Any applied pressure is very low. (Please see attached photos.)

We plan to use the drums in dedicated service to contain and transport polymer cement by truck between our plant in Ohio and our research facility in Texas. The cement meets the definition of a flammable liquid, PGII. Sometimes the cement may contain a corrosive material as a secondary hazard.

Here are my questions:

- 173.28(b)(2)(i): Since the drums are used in a dedicated service, must we apply the leak-proof test each and every time they are refilled? Or may we apply periodic testing instead. If periodic testing is permitted, what is the correct interval for a stainless steel drum with a design like ours?
- 173.28(b)(7)(iii): We ship the loaded drums individually via an LTL carrier. (Given the distance between our plant and the research facility, the cost of using a dedicated truckload carrier would be prohibitive.) We have a contract with the carrier, but the transport vehicle may contain freight from other customers.

Does the contractual agreement with the carrier meet the intent of "exclusive use" as stated in the regulation? Has anyone asked for and been granted relief from this specific requirement when using LTL carriers?

If you need clarification of further information, please contact me direct at (740) 423-2261 or bill.reinike@kraton.com. As always, I thank you and your staff for their assistance.

Sincerely,

William (Bill) Reinike
DOT Focal Point

173.28(b)(2)(i) and