



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

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

MAR - 7 2001

Ref. No. 00-0244

Mr. Jason Kob
Infotrac, Inc.
200 N. Palmetto Street
Leesburg, Florida 34748

Dear Mr. Kob:

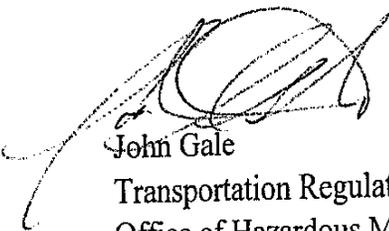
This responds to your September 7, 2000 letter concerning requirements for shipping a consumer commodity under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask about requirements for repackaging consumer commodities.

Your company is a distribution center for retail stores and distributes hazardous materials, "Consumer commodity, ORM-D," and non-hazardous materials. You want to break down the strong outer packaging in which the ORM-D materials were originally transported from the manufacturer and repack the ORM-D materials in strong plastic bins with lids. The bins would then be shrink-wrapped together on a pallet and transported by private, contract, or common carrier from your distribution center to the retail outlets. You ask about the HMR requirements that would apply to such shipments.

As specified in § 173.156(b), packages of materials described as "Consumer commodity, ORM-D" are not subject to the marking requirements in Subpart D of Part 172, and to the 30 kg (66 pounds) gross weight limitation, when unitized in cages, carts, boxes or similar overpacks, and when offered for transportation or transported by a private or contract motor carrier or a common carrier vehicle under exclusive use for such service, from a manufacturer to a distribution center, from a manufacturer or distribution center to a retail outlet, or return. The plastic, shrink-wrapped bins containing the consumer commodities conform to the provisions in § 173.156(b) and, thus, need not be marked in accordance with § 172.312 or § 172.316. Further, the bins need not conform to the overpack requirements in § 173.25.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,



John Gale

Transportation Regulations Specialist
Office of Hazardous Materials Specialist



000244

173.156

Edward Mazzullo
Director of Office of Hazardous Material Standards
US DOT/RSPA/DHM10
400 7th St. SW.
Washington, DC 20590
Fax: 202-366-3012

Engram
§173.156
173.24
Packaging
ORM-D
00-D 249

To Edward Mazzullo:

I'm requesting a written interpretation for the following scenario:

My company is a distribution center for retail stores. We distribute ORM-Ds, hazardous materials, and non-hazardous materials. We want to "break down" the ORM-D materials from our Vendor's (original manufacturer's) strong outer packaging into green plastic strong outer receptacles (bins) with lids. We want to "break down" the original ORM-D packaging because our retail outlets may order from us one or two ORM-D materials from a case of 8 or 12. The retail outlets do not need a full case, only one or two consumer commodities from this case, from that case, etc. There will be several different ORM-Ds materials and non-hazardous materials packed together in one green bin. The green bin will be acting as a strong outer packaging (overpack) for the ORM-Ds and the non-hazardous materials. The green bins will then be shrink-wrapped together on a pallet. They will be transported on private or contract or common carrier from our distribution center to our retail outlets.

In this situation, can we break down the ORM-D materials from our Vendor's (original manufacturer) strong outer packaging into green plastic strong outer receptacles (bins) with lids? Do the materials still have to meet the general packaging requirements in 49CFR §§173.24 173.24a? Does absorbent or cushioning material need to be added to each green bin? Is there a weight limit on each green bin, such as 66 lbs. gross weight or are we excepted from the 66 lbs. under §173.156(b)(1)? Is there a weight limit for the palletized unit? Do the green bins have to be marked with the ORM-D marking as required in §172.316? Do we need orientation arrows on the green bins as required in §172.312? Do any of the overpack requirements in §173.25 apply or are we excepted from that as well? ~~Would this apply to the lighters?~~

If you need additional information, please contact me at 352-323-3500.

Thank you,

Jason Kob

Jason Kob
Environmental Regulatory Manager



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

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

MAR 23 2001

Ref. No. 00-0250

Mr. Lane Arbittier
13533 Caminito Carmel
Del Mar, CA 92014

Dear Mr. Arbittier:

This is in response to your letter of August 30, 2000, requesting clarification of the capacity requirements for jerricans under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a plastic jerrican may be certified to a 3H2 UN specification standard if the capacity exceeds 16 gallons.

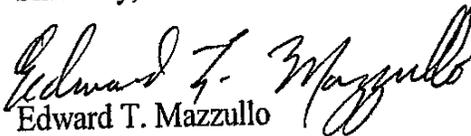
For purposes of distinguishing between bulk packagings and non-bulk packagings, definitions for these terms in § 171.8 limit the maximum capacity of a non-bulk packaging to 450 liters, regardless of whether it is intended for liquids or solids. A non-bulk packaging for solids is further limited to a maximum net mass of 400 kilograms.

With regard to § 178.509, a UN 1H1 or 1H2 plastic drum as a receptacle for solids is limited to both a maximum net capacity of 450 liters and a maximum net mass of 400 kilograms through application of the definitions in § 171.8 and the criteria in paragraphs (b)(7) and (b)(8) of § 178.509. However, the § 171.8 criteria are not relevant to capacity and mass limitations for a UN 3H1 or 3H2 jerrican because the jerrican is limited to sizes which do not approach the bulk/non-bulk thresholds. Therefore, it is our determination that a jerrican as a receptacle for liquids is limited only to a maximum capacity of 60 liters as specified in § 178.509(b)(7) and a jerrican as a receptacle for solids is limited only to a maximum net mass of 120 kilograms as specified in § 178.509(b)(8). It is our understanding that this determination is consistent with application of size limitations in international regulations based on the United Nations Recommendations. We intend to clarify these provisions in future rulemaking action.

In response to your specific inquiry and based on the foregoing, you may manufacture a UN 3H2 jerrican which is intended to contain no more than 75 pounds (approximately 34 kilograms) of solids only and has an internal volume of 17 gallons (approximately 64 liters). Since the maximum capacity of the package exceeds 60 liters, it may not be used for liquids.

I trust this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,


Edward T. Mazzullo

Director, Office of Hazardous

Materials Standards



000250

178.509

Lane Arbittier
13533 Caminito Carmel
Del Mar, CA 92014

Nelson
8 178.509(b)(8)
Non-bulk Packagings
Via Facsimile
202-366-3012

August 30, 2000

Mr. Edward Mazullo
Director, Office of Hazardous Materials Standards
400 7th Street SW, Suite 8422
Washington, D.C. 20590

00-0250

Dear Mr. Mazullo:

Our company recently developed a medical sharps container. We would like to certify it as a shipping container that complies with UN 3291, *solid* regulated medical waste requirements, and we would like to label the container with a UN package specification marking. The shape of our sharps container meets the definition of a 3H2 plastic removable head jerrican. It will have a maximum internal volume of 17 gallons and it will contain less than 75 pounds of solids (medical sharps).

According to §178.509(b)(7), the maximum capacity for a 3H2 jerrican is 16 gallons. According to §178.509(b)(8), the maximum net mass for a 3H2 jerrican is 265 pounds. Fritz Wybengea told me that that the maximum capacity in §178.509(b)(7) was intended for liquid containers and the maximum net mass in §178.509(b)(8) was intended for solids containers. I asked Mr. Wybengea if I could get his interpretation in writing and he suggested that I call the DOT Help Line.

I called the Help Line and I spoke with Jeff Furr. Mr. Furr found some letters dated August 8, 1997, written by you to David Core and Lawrence W. Bierlein and he faxed them to me. The letters seemed to be related, but not exactly appropriate. (They referenced non-bulk packagings in §§178.504-178.508, but they did not discuss the restrictions in §178.509.) I called back to get more clarification and Mike Johnson answered my call. After Mr. Johnson researched my question and discussed it with his coworkers, he was unsure about the interpretation and he suggested that I write this letter.

My hope is that Mr. Wybengea's interpretation is correct (that is, our solids container is not limited to 16 gallons, it is just limited to 265 pounds).

If Mr. Wybengea's interpretation is not correct, we will need to quickly submit a request for an exemption to allow 17 gallons for our 3H2 jerrican. I believe that it would be appropriate for the regulations to allow the 3H2 jerrican to have the same 119 gallon capacity as the other non-bulk packages providing the jerrican is capable of passing the solid regulated medical waste tests as required in Part 178, Subpart M.

It is our company goal to certify our 17 gallon container within two months. I would greatly appreciate a prompt response. Please call me at 760-631-6520 if you have any questions. Thank you in advance for your help.

Sincerely,



Lane Arbittier