



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

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

MAR 26 2004

Mr. Benoit Ramet
Elemental Container, Inc.
860 Springfield Road South
Union, New Jersey 07083

Reference No.: 03-0067

Dear Mr. Ramet:

This is in response to your February 26, 2003 letter requesting clarification of the requirements in § 173.27(e) in the Hazardous Material Regulations (HMR; 49 CFR Parts 171-180) and the exception in that section which states:

"Absorbent material is not required if the inner packagings are so protected that breakage of them and leakage of their contents from the outer packaging is not likely to occur during normal conditions of transportation."

In general terms, absorbent materials are not required when a material specified in the first sentence of § 173.27(e) is offered for transportation in a UN standard package which meets the applicable performance tests in the HMR. One exception would be if absorbent material is specifically required by the packaging instructions applicable to the hazardous material contained in the packaging. See for example, the ICAO Technical Instructions, Packing Instruction 304, particular packing requirements 6 and 13 which require the use of absorbent material without exception. A second exception is where the actual "normal conditions of transport" which the package may experience are not adequately addressed by the performance tests associated with a particular UN standard. As stated in 49 CFR 178.601(a), the performance test procedures "are considered minimum requirements" and "each packaging must be manufactured and assembled so as to be capable of successfully passing the prescribed tests and of conforming to the requirements of § 173.24 . . . at all times while in transportation." If packages experience particularly harsh treatment in a distribution system which may result in breakage or leakage, even though the packages have passed UN performance tests, absorbent material may be necessary to ensure that the effectiveness of the packaging is not substantially reduced and there is no release of the hazardous material from the outer packaging.

On July 31, 2003, we published a final rulemaking under Docket HM-215E (68 FR 45032). In the final rule, we revised § 173.27(e) to require packagings with plastic and metal inner packagings to be packed using absorbent material when Packing Group I or II liquids of Class 3, 4, or 8 or Division 5.1, 5.2 or 6.1 are offered for transportation by passenger or cargo aircraft.



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173.27

Currently, the requirement to use absorbent material applies to Packing Group I and II materials when offered for transportation by passenger aircraft. Further clarification on the use of absorbent material will be addressed in a future rulemaking.

I hope this satisfies your request.

Sincerely,



Edward T. Mazzullo
Director, Office of Hazardous Materials
Standards

ELEMENTAL
CONTAINER
ALUMINUM PACKAGING

Belts
§173.27 (e)
Packaging
03-0067

February 26, 2003

Ed Mazzullo
OFFICE OF HAZARDOUS MATERIALS STANDARDS
DHM-10
OFFICE OF HAZARDOUS MATERIALS SAFETY
WASHINGTON, DC 20590

Subject: Request For interpretation

Dear Mr Mazzullo,

In the ICAO regulation section 1.1.10.1 a), b). We can read that absorbents are now an obligation for liquids of Group I and II shipped on passenger and cargo aircraft.

The 2003 IATA regulation follows the ICAO in section 5.0.2.12.2 Absorbent Material and the corresponding Table 5.0.B the 2002 provision have been expanded to include plastic and metal inner packagings. Table 5.0.2B Packing group II liquids that are offered using cargo aircraft only regulation in combination packaging are now required to have sufficient absorbent to absorb the contents of the inner packaging with the greatest amount of liquid. In the 43rd edition no absorbent was required.

In the section 5.0.2.12.2 of the IATA and 1.1.10.2 of the ICAO after telling that you have to use absorbent they add: "Absorbent material is not required if the inner packagings are so protected that breakage of them and leakage of their contents from the outer packaging will not occur during normal conditions of transportation".

Is it a judgment call for every shipper to decide what "so protected" means to him or her and choose to use or not absorbent and means to contain a leak?

My understandings of the purpose of passing the UN tests and have a packaging UN certified was to assure that the inners packagings will not break and leak during normal conditions of transportation.

In the 49CFR section 173.27 General requirements for transportation by aircraft (e) Absorbents they only refer to glass and earthenware inner packagings, is there a reason for not mentioning plastic and metal. Should I follow the ICAO or the 49CFR? But still they have the sentence "Absorbent material is not required if the inner packagings are so protected that breakage of them and leakage of their contents from the outer packaging will not occur during normal conditions of transportation".

My company develops and sells combination packaging made of a 4G and seamless aluminum cylinders as an inner packaging. My customers ask me what I intend to do to comply with the new regulation. My question is: do I have to redesign all my cartons and add absorbents and means of containing a leak? Or can I say that we

consider that the packagings are so protected that breakage of them and leakage will not occur during normal transportation?

I look forward to hear from you,

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Ramet", is written over a horizontal line.

Benoit Ramet