



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

DEC 30 2008

Mike Jennings  
Manager, Regulatory Affairs  
Leslie's Poolmart, Inc.  
3925 E. Broadway Road  
Suite 100  
Phoenix, AZ 85040

Ref No. 08-0297

Dear Mr. Jennings:

This responds to your November 12, 2008 letter requesting clarification of the provisions in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to packaging, overpacking, and marking materials that are properly classified as an ORM-D. Specifically, you indicate that you package your consumer commodities in a UN approved combination packaging that fully complies with the consumer commodity exception in § 173.152. You then mark and label the package in accordance with the Division 5.1 (oxidizer) requirements. The completed package is overpacked and the outside of the overpack displays the shipping name "Consumer commodity," and the ORM-D designation.

The provisions in § 173.25(a)(2) require the overpack to be marked in the same manner as the authorized packaging. As indicated by your letter, the completed package is marked and labeled as an oxidizer and the overpack is marked as an ORM-D. This inconsistency is not acceptable. The markings on the package and the markings on the overpack must be consistent.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Betts".

Charles E. Betts  
Chief, Standards Development  
Office of Hazardous Materials Standards



Supko  
\$ 172.316

Marking  
08-0297

November 12, 2008

**CERTIFIED MAIL**

U.S. DOT  
PHMSA Office of Hazardous Materials Standards  
Attn.: PHH-10, East Building  
1200 New Jersey Avenue, SE.  
Washington, DC 20590-0001

To Whom It May Concern:

I am seeking written confirmation of a verbal interpretation given by a representative of the Hazardous Materials Information Center on November 12, 2008 for the scenario described below.

Individually wrapped 8 Oz. tablets of a 5.1 Oxidizer are placed in a UN approved plastic container (bucket) constituting a combination packaging. The weight of the combination packaging (plastic container with individually wrapped 8 Oz. tablets) as described is less than 66 pounds. Given the product involved and combination packaging as described, the plastic container can be shipped as an ORM-D Consumer Commodity. The plastic container is labeled in accordance with DOT regulations for transportation of a Class 5.1 Oxidizer (5.1 Oxidizer label, shipping name, and UN number). The plastic container (combination packaging) is placed in a sturdy fiberboard box (overpacked) for ease of handling during the transportation process from a shipping facility (distribution center) to end use consumer via FedEx ground. The sturdy fiberboard box (overpack) is marked 'ORM-D Consumer Commodity' and offered for shipment as such.

Based on my conversation with a representative of the Hazardous Materials Information Center, it is my understanding that the above described scenario is compliant with DOT hazardous materials shipping regulations because the oxidizer label on the plastic container is not visible and the plastic container with individually wrapped tablets meets the criterion for the ORM-D Consumer Commodity exception for packaging, labeling, etc. I further understand from the conversation that marking of the fiberboard box 'OVERPACK' is not necessary nor advised since to do so would imply that the contents of the box meet DOT specification packaging requirements which, under the described scenario, is irrelevant and could thus be confusing.

Thank you for your review and consideration of this letter. I look forward to receiving your response.

Sincerely,

Mike Jennings  
Manager, Regulatory Affairs  
Leslie's Poolmart, Inc.  
(602) 366-3946