



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

171.8
173.22

MAR 3 1999

Mr. Marlyn Boyce
Distribution Specialist
Hilti, Inc.
5400 South 122nd East Avenue
Tulsa, OK 74121

Ref. No. 98-0378

Dear Mr. Boyce:

This is in response to your December 17, 1998 letter and telephone conversation with a member of my staff concerning the definition of consumer commodity in 49 CFR 171.8. Also you provided information on ten materials and requested our assistance on determining whether they qualify for reclassification as ORM-D.

A consumer commodity is defined as a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities for consumption by individuals for purposes of personal care or household use. Even though a material may not be intended for retail consumption, it may be suitable for such usage and, therefore, may meet the definition of consumer commodity. Such products may include detergents, adhesives, and paint related materials. However, products that are not normally sold for purposes of personal care or household use, such as certain dental supplies and some products found in a chemical specialty store, are not consumer commodities.

In order for your products to be renamed "Consumer commodity" and reclassified as ORM-D, each product must meet the following requirements: (1) the definition for consumer commodity; (2) the material is authorized packaging exceptions in Column (8A) of the 49 CFR 172.101 Hazardous Materials Table; (3) in the referenced packaging exception section, the regulations allow an exception for shipment as an ORM-D; and (4) the material is properly prepared for shipment in accordance with the consumer commodity provisions.

Based upon the information you provided, it is our opinion that most of your materials would probably qualify for reclassification as ORM-D if the above criteria are satisfied. Shipments by air must meet the requirements in § 173.6.

With regard to ORM-D shipments to or from Alaska, Puerto Rico or Hawaii, the materials may be prepared for transportation in accordance with the HMR or, alternatively, in accordance with § 171.11 or § 171.12 as applicable, with certain exceptions. Section 171.11 provides that a hazardous material may be transported by aircraft, and by motor vehicle either before or after being transported by aircraft, in accordance with the International Civil Aviation Organization's

ICAO. In the ICAO regulations, the entry "Consumer Commodity, UN8000," Class 9, references Special Provision A112. This special provision states: "Consumer Commodities may only include substances of Class 2 (non-toxic aerosols only), Class 3, Packing Group II or III, Division 6.1 (Packing Group III only) and UN 3175, provided such substances do not have a subsidiary risk." They must also meet the requirements of Packing Instruction 910. Section 171.12 provides that a hazardous material may be prepared for transportation in accordance with the International Maritime Dangerous Good (IMDG) Code if all or part of the transportation is by vessel. The IMDG Code contains no entry for Consumer Commodity, Class 9, but provides relief for consumer commodities in Chapter 18 and specifically in paragraph 18.9.1.

I hope this information is helpful. Should you have further questions, do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell".

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards



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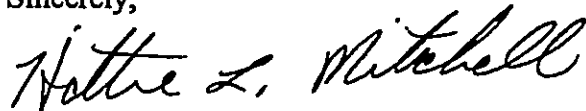
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