



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

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

APR -8 2003

Mr. Keith Parker
CEO
Summit Environmental Corporation, Inc.
133 E Tyler Street
Longview, TX 75601

RefNo. 03-0001

Dear Mr. Parker:

This is in response to your letter dated December 17, 2002 regarding the proper shipping description for your material FirePower 911™ under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). In your letter you stated that your product is a fire extinguisher in an aerosol can, and meets the limited quantity provisions in section 173.306(a)(3) and conforms to the consumer commodity provision in section 173.306(h). Therefore, you believe that the most appropriate shipping description for your product is "Aerosols, non-flammable" and that it can be renamed and reclassified as "Consumer Commodity, ORM-D." You provided supporting test documentation and a sample package of the FirePower 911™ for our review.

As provided in 49 CFR 173.22, it is the shipper's responsibility to properly classify a hazardous material and assign a proper shipping name from the Hazardous Materials Table (HMT). Such determinations are not performed by this Office. However, based upon the information and the packaging you provided, it is the opinion of this Office that "Aerosols, 2.2 (non-flammable gas)" most appropriately describes your product FirePower 911™ and it also meets the consumer commodity provision in § 173.306(h). Thus, FirePower 911™ may be renamed "Consumer Commodity" and reclassified as an ORM-D.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Delmer F. Billings
Chief, Regulations Development
Office of Hazardous Materials Standards



030001

173.306

Summit Environmental Corporation, Inc.
OTC:BB SEVT

Webb
§173.306
Consumer Commodity
03-0001

December 17, 2002

Mr. Edward T. Mazzulo, Director
Office of Hazardous Materials Standards
US DOT/RSPA (DHM-10)
400 7th Street SW
Washington DC 20590

Dear Sir,

Re: Request for Formal Interpretation

Our company, Summit Environmental Corporation, owns the tradename to a most unique product and device. The name of this product is FirePower 911™.

The unique nature of this product is that it is a product which is the only one of its kind in the world. It is a fire extinguisher not housed in the traditional schematic, but in an aerosol can.

What makes it even more unique is its contents, FlameOut®. Our company owns the patent and intellectual property rights to the formulas and technology. FlameOut® was the first certified and listed replacement by the United States Environmental Protection Agency for the banned firefighting agent Halon 1211. This global banning action was taken at the 1992 Geneva Peace Conference due to the toxicity and ozone depleting characteristics of Halon. There have only been seven products permanently approved by this US-EPA Clean Air Act protocol called SNAP.

After the SNAP listing, FlameOut® was tested and certified by the United States Testing Service as non-toxic, non-corrosive and rapidly biodegradable. In 1997, FlameOut® was listed by Underwriters Laboratories for both Class A and B fires. Within the NFPA 18 standard, FlameOut® possesses UL162 approval which establishes the product as an encapsulation and emulsification agent for all types of fuels. In December 2001, certification for FlameOut® was listed in a publication from the US DOT/FAA certifying the product as a replacement agent for Halon on board commercial aircraft. On November 25, 2002, the final processing for FlameOut® began by the United States Forestry Service. This listing carries a similar mammalian toxicity certification as conducted by United States Testing Service Aquatic Listing in 1993.

All of this information is intended as support for our position that we and BioGenesis Enterprises have been under the assumption that the more appropriate classification for FirePower 911™ aerosol fire extinguisher is as an aerosol non-flammable.

Bio-Genesis Enterprises, Inc. is the company from which Summit purchased the patents, intellectual property rights, and trademarks. Dr. Mohsen Amiran, President/CEO of BioGenesis is the inventor and patent holder for that which is contained herein above.

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www.secl-us.com



Halon 1211:
Bromochlorodifluoromethane

It is the belief of BioGenesis and Summit that the classification most appropriate for FirePower 911™ is aerosol, non-flammable. After extensive meetings with United Parcel Service, they hold the same belief as is documented by the letters attached hereto.

Our classification understanding is based upon the following application of the requirements. The product meets all of the criteria for said description. Referring to section 173.306 as follows:

(3) When in a metal container for the sole purpose of expelling a non-poisonous liquid, paste or powder, provide all of the following conditions are met. Special exceptions, for shipment of aerosols in the ORM-D class are provided in paragraph (h) of this section.

(h) a limited quantity which conforms to the provisions of paragraph (a)(1), (a)(3), or (b) of this section and is a "consumer commodity" as defined in 171.8 of this subchapter, may be renamed "consumer commodity" and reclassified as ORM-D material. Each package may not exceed 30 kg (86 pounds) gross weight. In addition to the exceptions provided by paragraphs (a) and (b) of this section. We specifically reference the following: (to wit section (3)(a))

Reference above (3) FlameOut®, the contents of the FirePower 911™ can is a "non-poisonous liquid". (h) The FirePower 911™ container filled weighs 34 ounces.

Section (3)(i) Capacity must not exceed 50 cubic inches (1 Liter). FirePower 911™ is a 1 Liter can.

Section (3)(ii) Pressure in the container must not exceed 180 psig at 130°F. The pressure for FirePower 911™ can ranges between 71 psig and 78 psig. ... In any event, the metal container must be capable of withstanding without bursting a pressure of one and one-half times the equilibrium pressure of the content at 130°F. The FirePower 911™ can is of 2Q quality and possesses capability of 420 psig bursting specification.

Section (3)(iii) Liquid content of the material and gas must not completely fill the container to 130°F. FirePower 911™ contains 23.7 ounces of FlameOut® and 5 ounces of 134-A propellant.

Section (3)(iv) The package must be packed in strong outside packagings. Each can is packed in a cardboard container with the content wrapped in bubble wrap. (sample contained herein).

Section (3)(v) Each completed container filled for shipment must have been heated until the pressure in the container is equivalent to the equilibrium pressure of the content at 130°F (55°C) without evidence of leakage, distortion, or other defect. See October 13, 1999 certification letter.

Section (3)(vi) Each outside packaging must be marked "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS" (See sample contained herein.)

Consumer Commodity means a material that is packaged and distributed in a form intended or suitable for sale through retail agencies or instrumentalities for consumption by individuals for the purposes of personal care or household use. This term also includes drugs and medicines. FirePower 911™ is designed for both personal care and household use. It is designed as an immediate response tool for a skillet fire, a lawnmower, barbecue pit, pile of leaves, a curtain, Christmas tree or any other emergency spot fire. The proposed retail sale presentation for the purposes of the communication is via QVC, Inc.

66*
F9

2Q quality?
Low this material
is it not a 2Q can?

F9

awfully good
or a foam?

Due to the content of certifications, specifications and applications of the DOT statutes herein, we are seeking a confirmation from your organization of same, aerosol non-flammable. We offer support documentation for the above as attachment hereto and a sample package and can of FirePower 911™.

Additionally we are enclosing two letters previously received from United Parcel Service supporting our classification. These documents have been provided previously to QVC, Inc. and were prepared for this purpose at our request by United Parcel Service.

Should you have any questions or seek any additional support in order for support herein, please do not hesitate to give me a call.

Sincerely,



Keith Parker
CEO