



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

173-22

MAR 3 1999

Mr. Marlyn Boyce  
Distribution Specialist  
Hilti, Inc.  
5400 South 122<sup>nd</sup> 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". The signature is written in black ink and is positioned above the typed name.

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

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Betts  
\$ 173.22  
98-0378

Via Fax 202-366-3012

Date 12-17-98

Mr. Edward Mazzulo  
Director RSPA

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We request a review and reply via FAX (918) 252-6221 as soon as possible regarding our inquiry to RSPA hot line to determine qualification of the following materials to be reclassified as Consumer Commodity proper shipping name, with a classification of ORM-D. Would the Consumer Commodity ORM-D also apply to shipments to/from Alaska, Puerto Rico and Hawaii?

**Class 1 material:**

Safety boosters - proper shipping name is Cartridges, Power Device (refer to enclosed documents and 173.56 (h) ). Typical net contents weights are .243 KG per 100 piece sales unit. Blank cartridges are used for power to insert nails into concrete.

**Class 2 material:**

7 Cleaner - proper shipping name is Aerosols, Flammable (each not exceeding 1L capacity). Refer to 173.306 (a) (3) and 173.306 (h). Volume is .6 KG per can. This is a cleaner for removing hardened foam residue from the dispenser unit for liquid foam.

Filler foam - proper shipping name is Aerosols, Flammable ( each not exceeding 1L capacity). Refer to 173.306 (a) (3) and 173.306 (h). Volume is .8 KG per can. This is a liquid foam for insulation application in small or hard to reach areas.

**Class 3 material:**

CA 3200/3400 subfloor and general purpose adhesive - proper shipping name is Adhesives. Refer to 173.150 (b) (3) for PG III. Volume is .86 L each tube. This is a construction adhesive ( like liquid nails ) to bond building materials together.

HEA (Hilti Epoxy Anchor) - proper shipping name is Resin Solution. Refer to 173.150 (b) (3) for PG III. Volume is .551 L for the largest size anchor. This product is packaged in a glass ampule (like a test tube within a test tube-completely sealed) and used to adhere steel anchor rods to concrete work surfaces.

HIT ( Hilti Injection Technique) - proper shipping name is Resin Solution. Refer to 173.150 (b) (3) for PG III. Volume is .68 L per cartridge. This product is packaged in a plastic cartridge for dispensing similar to a caulking dispenser. Seismic tested adhesive for solid and hollow base materials.

**Class 8 material:**

HSE 2411 ( High Strength Epoxy) - proper shipping name is Caustic Alkali Liquid, n.o.s. . Refer to 173.154 (b) (1) for PG II. Volume is .3 L per cartridge and the product is dispensed similar to a caulking dispenser. This product is an extended temperature range superior bonding epoxy ( ie. bridges, concrete roadbeds ).

RM-700 (Repair Mortar) - proper shipping name is Caustic Alkali Liquids, n.o.s. . Refer to 173.154 (b) (2) for PG III. Volume is 1.2 L per plastic bucket. This is a mix in the bucket mortar repair kit used on driveways, roadways, warehouse floors and loading docks.

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kit capable of setting in temperatures as low as 25 F and is used on driveways, roadways, warehouse floors and loading docks.

CS 300 EP (Pavement Joint Sealant) - proper shipping name is Corrosive Liquids, n.o.s., refer to 173.154 (b) (2) for PG III. Volume is 3.8 L per metal can. This is a mix in the bucket pavement joint sealant and is used to fill joints made by saw cuts in concrete or cast in joints in surfaces such as roadways, garages and industrial floors.

CI 070 EP (Crack Sealing Compound) - proper shipping name is Caustic Alkali Liquids, n.o.s. Refer to 173,154 (b) (1) for PG II. Volume is .3 L per metal can. This is a kit to repair cracks in concrete work surfaces ( floors, walls and ceilings).

Your timely review and response is appreciated and crucial to our day to day business. Please allow your response as quickly as possible and do not hesitate to contact me directly should you have any questions or need additional data to conclude your review.

Two conversations with the RSPA hot line people have resulted in a verbal approval to apply Consumer Commodity and ORM-D if these products are within the 171.3 description ( retail sales agencies or instrumentalities) interpreted to mean " can you find the material packaged similarly and sold at Walmart, K Mart, Ace Hardware, Sutherlands, Lowes, Builders Square or Home Depot?

Hilti, Inc. contact is Mr. Marlyn Boyce, Distribution Specialist, phone 918-252-6207 or FAX 918-252-6221.

Sincerely,  
Mr. Marlyn Boyce  
Distribution Specialist  
Hilti, Inc.

Enclosures:

RSPA.doc