



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

JUL 29 1999

Mr. Marlyn Boyce
National Distribution Warehouse
5404 S. 122nd E. Ave.
Tulsa, OK 74146

Ref. No. 99-0107

Dear Mr. Boyce:

This is in response to your letter of April 19, 1999, requesting clarification on the requirements for cartridges, power devices which are used to project fastening devices (HMR; 49 CFR Parts 171-180). In your letter you ask whether, and under what conditions, cartridges, power devices which are classed as Division 1.4S may be reclassified as ORM-D material. Specifically, you reference Special Provision 112 which was previously referenced by the "Cartridges, power devices" proper shipping name entry in the Hazardous Materials Table (HMT).

Special Provision 112 was removed from the HMR by Docket HM-222B (May 30, 1996; 61 FR 27166). Special Provision 112 allowed shippers to reclass cartridges, power devices and cartridges, small arms, which had been classed as Division 1.4S materials, as ORM-D material under certain conditions. Though Special Provision 112 was removed, it is effectively still in place at § 173.63(b).

The HMT entries for "Cartridges, small arms" and "Cartridges, power devices" both reference § 173.63 in column 8A for exceptions. Cartridges, power devices (which are used to project fastening devices) which have been classed as Division 1.4S explosives may be reclassified, offered for transportation, and transported as "Consumer commodity," ORM-D when packaged in accordance with § 173.63(b) (2).

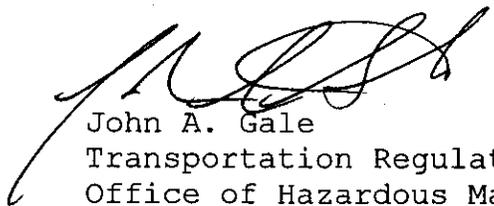


990107

173.63

I hope this satisfies your request.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. A. Gale', with a long, sweeping underline that extends to the left.

John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards

Hilti, Inc.
5400 South 122nd East Avenue
Tulsa, OK 74121
(918) 252-6000



99-0107

BAA

§ 173.63

VIA FAX & MAIL

**HATTIE L. MITCHELL, CHIEF
REGULATORY REVIEW AND REINVENTION
OFFICE OF HAZARDOUS MATERIALS STANDARDS
400 SEVENTH ST., S. W.
WASHINGTON, D. C. 20590**

DATE 04/19/99

REF: NO. 98-0378

DEAR MS. MITCHELL:

I HAVE A FURTHER QUESTION TO OUR PREVIOUS COMMUNICATIONS, WE REQUEST A REVIEW AND RESPONSE TO THE FOLLOWING SITUATION.

WE DISTRIBUTE A BLANK CARTRIDGE IN 22, 25 AND 27 CALIBER IN LONG AND SHORT LENGTHS TO THE CONSTRUCTION INDUSTRY AS A PORTABLE ENERGY SOURCE FOR USE WITH HILTI, INC. POWDER ACTUATED HAND HELD TOOLS TO INSERT NAILS AND THREADED STUDS INTO CONCRETE AND STEEL WORK SURFACES.

IN THE RECENT PAST, THE 49 CFR HAD A SPECIAL PROVISION # 112 TO SPECIFICALLY COVER OUR PRODUCT USED AS "FASTENING DEVICES" AND TREAT OUR PRODUCT WITH A LESSER DEGREE OF RESTRICTION EARNED THROUGH AN EXCELLENT SAFETY RECORD BASED ON MILLIONS OF SHIPMENTS OVER MANY YEARS WITHOUT SERIOUS INCIDENTS IN OUR INDUSTRY.

THE PRESENT 49 CFR CLASSIFIES CARTRIDGES, SMALL ARMS AS HAZARD CLASS ORM-D WHILE CLASSIFYING CARTRIDGES, POWER DEVICES AS 1.4s, UN-0323.

Hilti, Inc.
5400 South 122nd East Avenue
Tulsa, OK 74121
(918) 252-6000



AIR CARRIERS WILL PERMIT THE USE OF 49 CFR FOR ORM-D CLASSIFIED ITEMS ONLY, SO THIS "DIFFERENCE" BETWEEN CARTRIDGES, SMALL ARMS AND CARTRIDGES, POWER DEVICE DOES NOT PERMIT OUR USE OF 49 CFR FOR DOMESTIC AIR SHIPMENTS. IF OUR CARTRIDGES, POWER DEVICE WERE CLASSIFIED AS ORM-D THAT WOULD ALLOW US TO USE 49 CFR FOR NEARLY ALL OUR PRODUCTS, REDUCING DOCUMENTATION AND TRAINING PROCEDURES AND POTENTIAL ERROR THROUGH STANDARDIZATION, REDUCE SOME SHIPPER H/M FEES FOR AIR AND REDUCE SPECIFICATION PACKAGING COSTS.

THE PROPER SHIPPING NAME, "CARTRIDGES, SMALL ARMS" INCLUDES A PRODUCT WHICH CONTAINS A PROJECTILE WHILE OUR PRODUCT (CARTRIDGES, POWER DEVICE) IS A BLANK POWDER ENERGY SOURCE ONLY AND DOES NOT CONTAIN A PROJECTILE WHICH PRESENTS A MUCH LESSER DANGER IN THE TRANSPORTATION ENVIRONMENT. WE MEET THE 49 CFR EXCEPTIONS FOUND AT 173.63 (b)(1) (v) AND (b) (2).

WE ASK YOUR REVIEW AND RESPONSE TO OUR REQUEST TO PERMIT CARTRIDGES, POWER DEVICE TO BE RECLASSIFIED UNDER 49 CFR AS ORM-D HAZARD CLASS AS CARTRIDGES, SMALL ARMS IS NOW CLASSIFIED.

SHOULD YOU REQUIRE FURTHER DATA TO CONSIDER THIS REQUEST, CONTACT ME DIRECTLY.

Hilti, Inc.
5400 South 122nd East Avenue
Tulsa, OK 74121
(918) 252-6000



**I MAY BE REACHED AT: PHONE 918-252-6397, FAX 918-252-6814
OR MAIL: MR. MARLYN BOYCE
NATIONAL DISTRIBUTION WAREHOUSE
5404 S. 122ND E. AVE.
TULSA, OK 74146**

**SINCERELY,
MARLYN BOYCE
NATIONAL DISTRIBUTION WAREHOUSE
HILTI, INC**

BOOSTER AIR.DOC