



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JUL 12 2006

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

Mr. Gary Kertz
Materials Manager
Marquis Spas
596 Hoffman Road
Independence, Oregon 97351

Ref. No.: 06-0040

Dear Mr. Kertz:

This responds to your letter dated February 10, 2006 regarding the requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they apply to a water-treatment chemical kit shipped as a consumer commodity. Specifically, you ask if the spa containing the chemical kit may be shipped as a "Consumer commodity, ORM-D" without marking or labeling the shrink-wrapped fiberboard box.

Your company manufactures equipment such as portable hot tubs/spas. During the manufacturing process a water-treatment chemical kit is included to start the spa the first time it is used by a consumer. The chemical kit contains two (2) 200 g bromine cartridges described as "Oxidizing solid, n.o.s., 5.1, UN 1479, PG II", and one (1) 10 oz. bottle of shock described as "Corrosive solid, acidic, inorganic, n.o.s. (Monopersulfate compound) 8, UN 3260, II." You plan to package the above items, along with several non-hazardous chemicals, measuring cup and test strips in a fiberboard box and place the kit in the foot well of the spa. The entire spa is fitted into a spa bag and then placed in a heavy-duty fiberboard box and shrink-wrapped. The kit weighs approximately seven (7) pounds and the average boxed spa weighs 800 pounds. You offer your product for transportation to private and contract carriers to be transported to a dealer network.

In general terms, a consumer commodity is 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. This definition includes materials that are suitable for retail sale even if not specifically so intended and which may, in fact, be used in some other fashion. Certain hazardous materials that are packaged as limited quantities and also meet the definition of a consumer commodity may be reclassified as an ORM-D.

Limited quantities of oxidizers (Division 5.1) and corrosives (Class 8) in Packing Group II, in inner packagings not over 1.0 kg (2.2 pounds) net capacity each for solids packed in strong outer packagings, may be reclassified and renamed as a Consumer commodity, ORM-D. (See §§ 173.152(c) and 173.154(c)). The gross weight of the package may not



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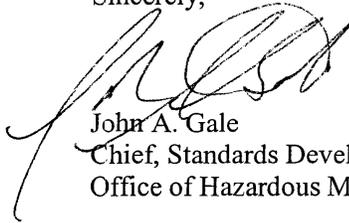
172.101

exceed 66 pounds. Packages containing ORM-D material must be marked in accordance with § 172.316.

In the scenario you describe, the fiberboard box containing the chemical kit must be marked on at least one side or end with the proper shipping name – “Consumer Commodity” – and with the ORM-D designation immediately following or below the proper shipping name. The box containing the spa and the chemical kit must be marked in the same manner.

I hope this information is helpful. If we can be of further assistance, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Gale", written over a circular stamp or seal.

John A. Gale
Chief, Standards Development
Office of Hazardous Materials Standards

Engram
\$172.101
Proper Shipping Name
06-0040

Marquis Spas
596 Hoffman Road
Salem, Oregon 97351

To: Office of Hazardous Materials Standards
Director: Mr. Edward Mazzulla

From: Gary Kertz Date: 2/10/2006

Re: Request for certification/recommendation for shipping ORM-D in portable spas
Pages: One page

Urgent For Review Please Comment Please Reply Please Recycle

Dear Mr. Mazzulla:

I am requesting certification/recommendation on the proper procedures necessary to ship consumer commodity items with portable spas.

We are an original equipment manufacturer of portable hot tubs/spas. During the manufacturing process of a spa we add a water-treatment chemical kit that the end consumer can use for first time spa start-up.

Our new kit will include Consumer Commodity ORM-D items:

- Two 200-gram bromine cartridges: OXIDIZING SOLID, N.O.S. 5.1 UN1479 II 5.1
- One 10 oz bottle of shock: CORROSIVE SOLID, ACIDIC, INORGANIC, N.O.S. (Monopersulfate Compound) 8 UN3260 II 8

We plan to package the above items, along with several non-hazardous chemicals, measuring cup and test strips, in a fiberboard kit box and place the kit in the foot well of the spa. It is at this point in production that the entire spa is placed in a heavy-duty fiberboard box, fitted into a spa bag and then the box is shrink-wrapped.

The kit weighs about 7 pounds and the average boxed spa weighs 800 lbs. We use private and contract carriers to ship our spas to a dealer network. We do not ship direct to consumers.

Can we ship the spa and chemical kit without marking/labeling the spa box under the following consumer commodity reference paragraphs? 49CFR Parts 173.152, (4)(c) and 173.154, (2)(c) and 173.156 (a)(1)(i), (b)(1)(ii) and (c)(iii)(2); regarding (2)(i) - (vi)

If we cannot ship under the above references, can we ship under the following reference paragraph? 173.25 Authorized packaging and overpacks.

Written response, please.

Thank you,

Gary Kertz CPIM
Materials Manager
Marquis Spas
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