



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

FEB - 2 2009

Ms. Tammy L. Blakeslee
President
Environet LLC.
P.O. Box 386 M.O.
Shrewsbury, MA 01545

Ref. No. 09-0003

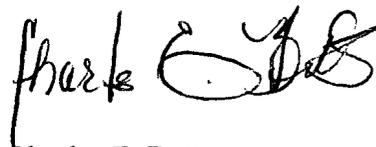
Dear Ms. Blakeslee:

This responds to your December 19, 2008 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask on behalf of your client Quabaug Corporation if its products may be reclassified as "Consumer commodity, ORM-D." The products are initially classed and described as "UN1133, Adhesive, 3, II" and "UN1263, Paint Related Material, 3, II." The products are sold to retail outlets and industrial customers. The inner packagings range from ½ ounce to 1 gallon each. The larger packages shipped to industrial customers contain either 6 or 12 inner packagings.

The answer is yes. A Consumer commodity is defined in § 171.8 as a material that is packaged and distributed in a form intended or suitable for sale through retail sales agencies or instrumentalities. Section 173.150(c) authorizes a material to be reclassified as "ORM-D" provided it meets the definition of "Consumer commodity" and is packaged in accordance with the limited quantity provisions of § 173.150(b). Note that the limited quantity provisions of § 173.150(b) limit the gross weight of each package to 30 kg (66 pounds). Based on the information in your letter and assuming the gross weight of each package does not exceed 30 kg (66 pounds), the materials described above may be reclassified and described as "Consumer commodity, ORM-D."

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,



Charles E. Betts
Chief, Standards Development
Office of Hazardous Materials Standards

Eichenlaub
§171.8
§173.150
Definitions
09-0003

December 19, 2008

Mr. Edward T. Mazzullo
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

RE: Letter of Interpretation under the Consumer Commodity Definition

Dear Mr. Mazzullo,

I am writing on behalf of my client, Quabaug Corporation of East Brookfield, MA to request a letter of interpretation regarding the applicability of the definition of a Consumer Commodity as stated in 49 CFR §171.8 for certain flammable contact adhesives and ancillary products. These products are sold primarily to shoe repair shops and related businesses. They have two package sizes ($\frac{1}{2}$ ounce and $\frac{3}{4}$ ounce) that are sold to retail outlets as permitted under the Consumer Product Safety Regulations. The other package sizes, quarts and gallons are sold to industrial customers in 12 and 6 container case lots, respectively. The shipping descriptions for these products are either:

- 1) Adhesive, 3, UN1133, II
- 2) Paint Related Material, 3, UN1263, II

While these products are manufactured and intended primarily for industrial use, we believe the packaging utilized for these products complies with §173.150 Exceptions for Flammable Liquids and special provision 149 which allows for increasing the regulated packaging size to 1.3 gallons for these two shipping descriptions and is therefore suitable for transport as a consumer commodity. It is also our understanding that the transportation definition of consumer commodity allows for products that are not actually sold to consumers to be reclassified as a consumer commodity as long as the packaging meets the applicable regulatory provisions. We are requesting a letter of interpretation verifying that these products can be shipped as Consumer Commodity, ORM-D materials.

If you have any questions related to the products, please do not hesitate to contact me at (508) 842-0578 or directly on (508) 335-0527.

Sincerely,
ENVIRONET LLC.


Tammy E. Blakeslee, CIH
President