



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

APR 14 2006

Denese A. Deeds, CIH
Senior Consultant
Industrial Health and Safety Consultants, Inc.
6 Lunar Drive
Woodbridge, CT 06525

Reference No. 05-0191

Dear Ms. Deeds:

This is in response to your letter, e-mails, and telephone conversation with a member of my staff asking for clarification on the meaning of "sealed packet" under Special Provision 47 of § 172.102 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You also asked whether a felt-tip cleaning pen with a closing cap, described in the documents you provided as "TechMark Pen Tick Plus™ Swiper" and "Drimark 8700 Style Marker," meets the definition of a sealed packet under this special provision. We apologize for the delay in responding and any inconvenience this may have caused.

You provided the pen's material safety data sheet (MSDS), schematic drawings, and photograph. The documents state the proper shipping description is "Solids containing flammable liquid, n.o.s. (Isopropanol solution), 4.1, UN 3175, PG II," and its flash point is 12 °C (54 °F). The pen is composed of 3 milliliters of an isopropanol and oxalic acid solution that is absorbed, with no free liquid, onto a felt substrate and adjacent polyethylene nib placed within a molded polyethylene pen barrel fitted with a molded polyethylene cap.

The HMR do not currently define "sealed packet." One example of a "sealed packet" is a small inner packaging that is closed to prevent the release of the hazardous material within the packaging during normal transportation conditions, such as a towelette. Special Provision 47 excepts from the HMR sealed packets that contain less than 10 milliliters of a flammable liquid in Packing Group II or III when the liquid is completely



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172.102
173.120

absorbed onto a solid material. Based on the information you provided, it is the opinion of this Office that your pens and markers are not subject to the requirements of the HMR.

I hope this information is helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Hattie L. Mitchell". The signature is fluid and cursive, with a large, stylized initial "H" and "M".

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

Edmonson
\$173,120.
Definition
05-0191

Industrial Health & Safety Consultants, Inc.

6 Lunar Drive, Woodbridge, CT 06525 203-929-3473

August 17, 2005

Office of Hazardous Materials Standards
Research and Special Programs Administration
Attn: DHM-10
US Department of Transportation
400 7th Street SW
Washington, DC 20590-0001

Dear Sir or Madam,

I would like to request an interpretation of the meaning of the term "sealed packet" as it is used in Special Provision 47 of 40CFR 172.102. A letter of interpretation was issued to Enefco International, LTD on December 7, 2001 in which it was stated that cleaning pens are not subject to the HMR based on that special provision. In the original request letter the pens were described as having a felt within the barrel that was saturated with isopropanol "like you would a marker". It was further stated that there was no free flowing liquid.

I represent a company that manufactures a pen also containing 3 mL of an isopropanol solution which is absorbed onto a felt substrate inside the pen barrel. There is no free liquid present. While the letter referred to above would seem to apply to our product, we are uncertain as to how we can demonstrate that the pen represents a "sealed packet". The pen lid closes securely so the solution does not dry out. Is that adequate?

I thank you in advance for your assistance in this matter. If you need any additional information to make this determination, please contact me at 203-929-3473 or via email at d.deeds@ih-sc.com.

Sincerely,

Denese A. Deeds

Denese A. Deeds, CIH
Senior Consultant