



U.S. Department  
of Transportation  
**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

JUN 25 2008

Mr. Darren Lenox  
Customs Compliance Manager  
ACCO Brands Corporation  
300 Tower Parkway  
Lincolnshire, IL 60069

Ref. No. 08-0163

Dear Mr. Lenox:

This responds to your May 30, 2008 letter requesting a determination on the applicability of Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to a divided chamber dry-erase board marker, which you refer to as "Enduraglide". Specifically, you ask if markers that contain 5 ml of a Packing Group II flammable liquid ink are subject to the HMR.

Under the small quantity exception prescribed in § 173.4, high-integrity packagings containing small amounts of hazardous materials that are packaged as specified are not subject to regulation under the HMR. Class 3 materials that qualify for this exception meet Packing Group II or III; contain no more than 30 milliliters (1 ounce) of flammable liquid; and are placed in a strong outside packaging. The inner packagings must not be liquid full at 55 °C (131 °F) and must have removable closures held securely in place with wire, tape, or other positive means. Cushioning and absorbent material that will not react chemically with the hazardous material and is capable of absorbing the entire contents must surround either each inner packaging or the inside of the outer packaging. The completed package must be capable of completing without leakage or a substantial reduction in effectiveness the drop tests prescribed in § 173.4(a)(6) from a height of 1.8 meters (5.9 feet). The gross mass of the completed package must not exceed 29 kg (64 pounds). A shipper certifies the package complies with the small quantity exception by marking the outside of the package with the statement "This package conforms to 49 CFR 173.4."

It is the opinion of this Office that the Enduraglide marker described in your letter, is eligible for the exceptions provided in § 173.4.

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

Sincerely,

Susan Gorsky,  
Acting Chief, Standards Development  
Office of Hazardous Materials Standards



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Supko  
§ 173.120 (d)  
Definitions  
08-0163

May 30, 2008

Office of Hazardous Materials Standards  
Pipeline and Hazardous Materials Safety Administration  
Attn: PHH-10  
U.S. Department of Transportation  
East Building  
1200 New Jersey Ave. SE  
Washington, D.C. 20590-0001

**RE: 49 CFR 173.120(d) -Dry Erase Board Markers with free liquid**

Ladies and Gentlemen:

ACCO Brands is an international supplier of a variety of office products such as staplers, dry-erase boards, computer accessories and other office supplies. Included in our product lines is a patented divided chamber dry-erase board marker that is marketed under the trademarked name "Enduraglide". These markers contain 5 ml of free liquid ink solution composed of at least 55-75% ethanol, 10-30% isopropanol and approximately 10-20% other non-hazardous pigments and surfactants (by weight). An example MSDS from the liquid ink supplier is attached. *We have requested the supplier update the MSDS for the pertinent hazardous materials transport information (i.e., UN number, proper shipping name, etc.).*

Enduraglide markers provide a distinct advantage over the more traditional alcohol absorbed nib markers in that the Enduraglide markers deliver much more consistent ink flow over the life of the marker and last up to twice as long. We have attached both cutaway and complete color illustrations and design drawings of the marker that portray the fluid mechanics and leak protection built in to the marker.

The patented free liquid ink system of divided chambers limits the air in the ink tank, thus reducing the possibility of ink leaking. Leaking generally occurs due to changes of air pressure and temperature. When there is a lot of air in an ink tank, it has nowhere to go except for pressing the ink to the tip, causing leakage. In a chambered system, when the ink in the first chamber closest to the tip is consumed, it draws from the next chamber. This minimizes air in the chamber that may cause leakage. In case ink leaks out of the chamber, there is also a buffer reservoir between the ink tank and the tip.

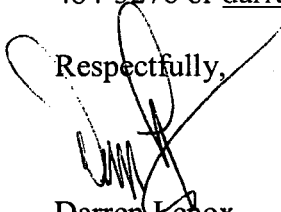
These markers are packaged in a variety of display plastic bubble - over cardboard- clamshell packagings. The most common is a four-pack of markers in different colors. Attached is a sample of the four-pack, including color design drawings of the clamshell packaging and updated cardboard artwork.

The display packages are consolidated in varying numbers in an outer strong fibreboard box. The completed package is overpacked in a strong fibreboard box. The packages and overpacks are marked with "ORM-D" and are offered for transportation described as "Consumer Commodity, ORM-D"; however, we believe that the markers themselves do not rise to the definition of a hazardous material in Section 171.8 in that they do not pose "...an unreasonable risk to health, safety and property when transported in commerce..."

We are requesting an interpretation under 49 CFR 173.120(d) that the Enduraglide markers described above are not subject to regulation under the HMR. If you agree with our assessment, we would appreciate your affirmation that your interpretation represents a Competent Authority ruling so that we may pursue similar treatment from other States when and as required.

If you should have any questions or require additional information, please contact me at (847) 484-3278 or [darren.lenox@acco.com](mailto:darren.lenox@acco.com).

Respectfully,



Darren Lenox  
Customs Compliance Manager

cc: Chuck McHugh, Haz-Mat Compliance & Verification