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September 10, 2018

Safety Data Sheet (SDS) Inquiry

This letter is in response to your request for a Safety Data Sheet (SDS) of products manufactured and/or distributed by Pentel of America. Pentel products are evaluated in accordance with guidelines set up by CPSC (Consumer Product Safety Commission) in accordance with LHAMA (Labeling of Hazardous Art Materials Act) as stipulated in ASTM D4236. Accordingly they are evaluated for Safety by the Chief Toxicologist at Duke University in the WIMA and ACMI programs. Third party lab evaluations are conducted by CPSC approved lab, Kirby Memorial Health Center. Our products are determined nontoxic to humans unless designated on product and packaging provided at point of purchase.

SDSs (Formerly known as MSDSs) are required under the Occupational Safety and Health Administration (OSHA) Hazard Communication Requirements 29 CFR 1910.1200. Products manufactured and distributed by Pentel of America, LTD. are considered "articles" and are not considered hazardous materials as defined under either the OSHA Hazard Communication Standard 29CFR Section 1910.1200 or the Toxic Chemical Release Reporting; Community Right-to-Know (40 CFR, Part 372) commonly referred to as SARA Section 313 rule.

Requirement 29CFR 1910.1200 (b)(6)(iv) exempts "articles" from SDS requirements and other communication requirements of OSHA Law.

The term "article" is defined in 29 CFR 1910.1200 (c)(i), Federal Register citation 52 FR 31852 (August 24, 1987) and SARA Section 313.
"Article" Means a manufactured item: (i) which is formed to a specific shape or design during manufacture; (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (iii) which does not release, or otherwise result in exposure to, a hazardous chemical under normal conditions of use.

In February of 1994, OSHA amended the Hazard Communication Standard and Modified part 3 to read:
Does not release more than very small quantities of a hazardous chemical under normal conditions of use.

Thus the current definition of an Article is:
"Articles" by definition of the standard, "means a manufactured item other than a fluid or particle (i) which is formed to a specific shape or design during manufacture; (ii) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and (iii) which under normal conditions of use does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical (as determined under paragraph (d) of this section), and does not pose a physical hazard or health risk to employees.

OSHA has indicated that Office Products, Pens and Pencils are considered Articles which are exempt from SDS requirements.

Canadian Law
Canada has been refining the exemptions, but it appears that consumer products and articles remain exempt from Hazcom in Canada also.

H-3 - Hazardous Products Act History ❖

2009 version:
12. This Part does not apply in respect of the sale or importation of any
(*f*) Product, material or substance included in Part II of Schedule I and packaged as a consumer product;
Part II Schedule I→ 1. Chemical products as defined in the Consumer Chemicals and Containers Regulations, 2001.
(*i*) Manufactured article

❖ 2013 version:
12. This Part does not apply in respect of the sale or importation of any
(*f*) Consumer product as defined in section 2 of the Canada Consumer Product Safety Act; (*i*) Manufactured article

❖ 2015 (Current version)
12 This Part does not apply in respect of the sale or importation of any
(*f*) and (g) [Repealed, 2014, c. 20, s. 113]
(i) Manufactured article; or
(j) Anything listed in Schedule 1

- Schedule 1 - Non-Application of Part II → 5) Any consumer product as defined in section 2 of the Canada Consumer Product Safety Act
- CCPSA section 2 →consumer products - means a product, including its components, parts or accessories, that may reasonably be expected to be obtained by an individual to be used for non-commercial purposes, including for domestic, recreational and sports purposes, and includes its packaging.

Thus Canadian Law as in the US does not require an SDS for Articles, Office Materials, Pens or Pencils where there is minimal exposure regardless of whether used in the workplace or for personal use unless the workplace exposure would be greater than anticipated in normal consumer use.

Sincerely,

Phyllis Wang
Manager, Total Quality Control & Consumer Quality Assurance

Pentel of America, LTD