E 7447

7447

Mr. Kent A. Denton
Transportation Safety Specialist
E.I. Corporation
2000 Market Street
Philadelphia, Pennsylvania 19103

Dear Mr. Denton:

This is in reference to your petition of December 11, 1973, for an exemption from portions of the Department's Hazardous Materials Regulations. You request that the DOT four-inch diamond poison label be deleted from packages which contain Class B poisons when such poisons are registered with the Environmental Protection Agency and the packages bear the required EPA labels. This proposal is unacceptable to this Office and is hereby denied for the following reasons:

1. There are no minimum size requirements for the EPA label itself except for the requirement in 40 CFR 162.10(a)(2) that information contained on the label be "...clearly legible to a person with normal vision." This could result in a label which does not provide adequate warning to those who must handle containers of highly toxic materials on a day-to-day basis while they are in transit. The four-inch diamond label presently required by the Department is an easily identifiable label, recognizable at some distance, and understood throughout the transportation industry as a warning that the commodity in the container is hazardous. Shippers and carriers have learned over the years to recognize DOT labels and it would be a near impossible task to re-educate the shipping industry that in the case of one class of commodities that a DOT label may be replaced by another agency's label.

(2) 49 CFR 172.19(i)(a) requires that the word "Poison" be in red on a center line black round. DOT poison labels require black on a white background. This color difference would merely add further confusion to the recognition problem discussed above.

(3) There may be many occasions where the EPA label is not required on the outside shipping container itself. Section 162.10(a)(4)(i) requires a label on the "...outside wrapper or container, if it is part of the package as customarily distributed or sold." It was the stated intent of the EPA, as expressed in the Preamble to the amendment to that section on July 3, 1975 (Federal Register, Vol. 40, No. 129, P. 28251), that a label is only required "...on the outside wrapper or container of a retail package." However, when the DOT poison label is required, it must be on all outside packages containing Class B poisons, whether the package is to be used for retail purposes or if it is to be used for protection during shipment only.

For the reasons stated above, this Office does not feel that your petition of December 11, 1975 will result in a level of safety equal to, or greater than, that provided for by the regulations currently in effect.

Sincerely,

Alan I. Roberts
Director
Office of Hazardous Materials
Operations

cc:Official File: 1205

MRH-22:JCALLEN:vs:54962:6/3/76