



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

FEB 10 1998

Mr. John Foglio
Degussa Corporation
65 Challenger Road
Ridgefield Park, NJ 07660

Dear Mr. Foglio:

This is in response to your letter regarding the requirements for marking "Inhalation Hazard" on a package, and use of the new labels and placards required for materials poisonous by inhalation (PIH), promulgated in Docket HM-206 published in the **Federal Register** on January 8, 1997 [62 FR 1217]. I apologize for the delay in responding and hope it has not caused any inconvenience.

A Final rule was published in the **Federal Register** on July 22, 1997 [62 FR 39398] which made corrections and responded to petitions for reconsideration of certain aspects of the January 8, 1997 final rule. The requirements in § 172.313 were changed to specify when the words "Inhalation "Hazard" appear on the new PIH label or placard, the "Inhalation Hazard" marking is not required on the package. This change applies to international shipments of PIH materials made in accordance with §§ 171.11, 171.12, and 171.12a. The effective date of the rule was also changed from October 1, 1997 to October 1, 1998. In addition, under the transitional provisions in § 171.14, use of the new PIH label and placard is not required until October 1, 1999, and October 1, 2001, respectively.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

Delmer F. Billings
Chief, Regulations Development
Office of Hazardous Materials Standards

Degussa 

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Corporation

Engrum
File: 172.313
SC: 165,250

January 23, 1997

Mr. Edward T. Mazzullo, DHM-10
U.S. Department of Transportation
Office of Hazardous Materials Standards
400 - 7th Street SW
Washington, DC 20590-0001

RE: Docket HM-206
Improvements to Hazardous Materials
Identification Systems

It is clear that the intention in the preamble is to allow either the marking required in 172.313 "Inhalation Hazard" or labels required in this final rule for PIH materials transported under the provisions of 171.11, 171.12 or 127.12a. However, the working is not consistent with the intent. For example this final rule amends 171.11(d)(9)(iii) by replacing the words "Poison" with "Poison Inhalation Hazard". When this is done it reads the package must be marked in accordance with 172.313 of this subchapter and labeled with Poison Inhalation Hazard...". It does not say "or" but "and" which means both are required. The conditions are similar in 172.12 and 172.12a, although I can't find any reference in 172.12a to the subject of PIH materials. 172.12a(b)(5) in my book refers to IBC's. This error creates an unreasonable burden on international commerce in that imports and exports will have to have a special USA label in addition to any labels required by other regulations. This is significant.

Again, the preamble on page 1219, center column, offers a choice of either but the changes to the sections require both.

Can you assist us with this or is it necessary for us to petition for rulemaking or reconsideration. Note the effective date is 10/1/97.

Sincerely,

Degussa Corporation



John Foglio
Manager Hazardous Materials
Transportation Safety

JF:kk