



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

MAY 2 2001

Ref. No. 01-0066

Mr. Michael E. Paynter
Degesch America, Inc.
P.O. Box 116
Weyers Cave, VA 24486

Dear Mr. Paynter:

This is in response to your letter and subsequent telephone conversation with a member of my staff asking whether your fumigation marking is in accordance with 49 CFR 173.9.

The answer is no. Section 173.9(c) states that except for the size and color, the FUMIGANT marking must be as set forth in the illustration. The text in your marking varies considerably from the illustration and, therefore, does not meet the requirements of paragraph (c). As provided in paragraph (b), if your FUMIGANT marking is authorized by the Environmental Protection Agency (EPA) under 40 CFR, Part 156, it may be used as an alternative to the 49 CFR FUMIGANT marking; however, as you stated on the telephone, your marking has not yet been approved.

I hope this information is helpful. Please contact us if you need further assistance.

Sincerely,

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



010066

173.9



McIntyre
817.3.9
Fumigant Marking
DEGESCH
AMERICA, INC.

275 Triangle Drive
P. O. Box 116
Weyers Cave, Virginia 24486
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01-0066

28 February 2001

Mr. Ed T. Mazzullo
Director of OHMS
U.S. DOT/RSPA (DHM-10)
400 Seventh Street, S.W.
Washington, DC 20590-0001

Re: 49 CFR 173.9 – Fumigation Placarding

Dear Mr. Mazzullo:

Degesch America, Inc. manufactures the restricted use pesticide/fumigant, Phostoxin®. One of the primary uses of this EPA approved product is to fumigate commodities loaded in transport vehicles or freight containers for domestic and international shipment.

The provisions of 49 CFR 173.9 requires a fumigation placard to be affixed to all fumigated transport vehicles/containers. The enclosed placard, DAI Form #11075, has been in use for many years and is considered an industry standard. It has been brought to our attention that this placard may not be acceptable under the provisions of 49 CFR 173.9. The text of our placard is quite extensive when compared to that required in 49 CFR 173.9.

Under the labeling provisions of 40 CFR 156, the EPA requires very specific text with regards to placarding fumigated areas. If you refer to the enclosed EPA approved applicator's manual, page 14, section 6, the specific information required by the EPA is identified.

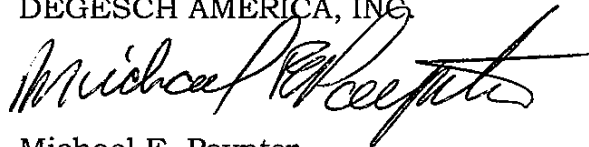
Degesch America, Inc. is requesting, under 49 CFR section 107.14(2)(b), a written determination of acceptability of Degesch's fumigation placard, Form #11075, with regards to compliance with 49 CFR 173.9 provisions for international and domestic use. Your prompt attention and positive response will be greatly appreciated.

Mr. Ed T. Mazzullo
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Should you require additional information, please do not hesitate to contact my office.

Sincerely,

DEGESCH AMERICA, INC.

A handwritten signature in cursive script, appearing to read "Michael E. Paynter".

Michael E. Paynter
Manager of Regulatory
Affairs & Traffic

MEP/shn