



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

MAR 17 2015

Ms. Christina M. Kurtz
Manager, Regulations and Packaging
Arkema Inc.
900 First Avenue
King of Prussia, PA 19406

Reference No. 15-0026

Dear Ms. Kurtz:

This is in response to your January 20, 2015 letter proposing a revision to § 172.303(b) of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You believe that the current language of the exception in § 172.303(b) relating to prohibited marking, where each of the sub-paragraphs (1), (2) and (3) are independent conditions is not correct. You suggest the language should be changed to require that all conditions must be met for the exception to apply, consistent with the requirements of § 172.401(d) relating to prohibited labeling.

It is the position of this Office that the current language of § 172.303(b) is correct. Unlike § 172.401(d) where all three conditions must be met for the exception to apply, the intent of § 172.303(b) is for the exception to apply if any of the three conditions is met.

I trust this information is helpful and thank you for bringing this concern to my attention. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division



Babich
172.303 (b)
Prohibited Markings
15-0024

Telephone: 610-205-7417
Fax: 610-205-7096
Email: Christina.Kurtz@arkema.com

January 20, 2015

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

Re: §172.303(b)

Dear Sir/Madam:

Per 49CFR §106.95, Arkema Inc. is proposing new wording be incorporated into section 49CFR §172.303(b). We propose that the change mimics 49CFR §172.401(d). Since this is a clarification, it could be part of the next Miscellaneous Docket (HM-218H).

Currently, 49CFR §172.303(b) pertaining to Prohibited marking is written so that (1), (2), and (3) are independent. Each statement ends with a period. We believe this was not the intent.

49CFR §172.401(d) pertaining to Prohibited labeling is written so that (1), (2), and (3) are dependent. Statements (1) and (2) end with semicolons. Also, (2) ends with "and".

Thus, we propose 49CFR §172.303(b) be changed so sections (1) and (2) end with semicolons plus the word "and" is at the end of (2).

See below the changes in red:

§172.303 Prohibited marking.

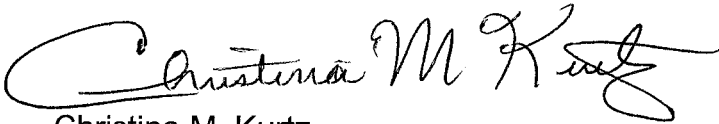
(a) No person may offer for transportation or transport a package which is marked with the proper shipping name, the identification number of a hazardous material or any other markings indicating that the material is hazardous (*e.g.*, RQ, INHALATION HAZARD) unless the package contains the identified hazardous material or its residue.

(b) This section does not apply to—

(1) Transportation of a package in a transport vehicle or freight container if the package is not visible during transportation and is loaded by the shipper and unloaded by the shipper or consignee;

- (2) Markings on a package which are securely covered in transportation; **and**
- (3) The marking of a shipping name on a package when the name describes a material not regulated under this subchapter.

Sincerely,

A handwritten signature in black ink that reads "Christina M. Kurtz". The signature is written in a cursive style with a large, looping initial "C".

Christina M. Kurtz
Manager, Regulations and Packaging
Arkema, Inc.