



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

JUL 29 2005

Mr. Adam Cuevas
Chief, Enforcement Services Division
Department of California Highway Patrol
PO Box 942898
Sacramento, CA 94298-0001

Ref. No. 05-0153

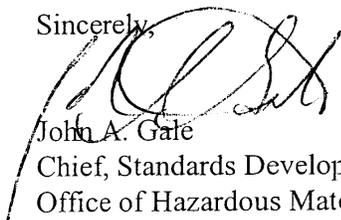
Dear Mr. Cuevas:

This is in response to your June 17, 2005 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 100-185). Specifically, you ask for clarification on prohibited and permissive labeling and placarding and whether examples of company logos provided conflict with the HMR.

Displaying or affixing a sign, advertisement, slogan, or device on a transport vehicle or freight container that, by its color, design, shape, or content, could be confused with or mistaken for a hazard warning label or placard is prohibited under §§ 172.401(b) and 172.502(a)(2). This prohibition is intended to limit the potential dilution of hazard warning communication provided by the appropriate hazardous materials labels and placards. It is our opinion that the "NationsRent, Inc." logos depicted in Figures 1 through 4 can be confused with a placard or label prescribed in the HMR and therefore are prohibited. As previously stated in the May 5, 2000, letter, the logo depicted in Figure 5 is sufficiently distinct from a label or placard referenced by the HMR and is therefore not prohibited under §§ 172.401(b) and 172.502(a)(2).

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

Sincerely,


John A. Galt
Chief, Standards Development
Office of Hazardous Materials Standards



050153

172.401 (b)
172.502 (a)(2)

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P. O. Box 942898
Sacramento, CA 94298-0001
(916) 445-3253
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)



June 17, 2005

File No.: 60.A06945.062.05-1-0343

BATH
§ 172.401(b)
§ 172.502(a)(2)
Labeling/Placarding
05-0153

Mr. Edward T. Mazzullo, Director
Office of Hazardous Materials Standards
U.S. DOT/PHMSA (DHM-10)
400 7th Street S.W.
Washington, DC 20590-0001

Dear Mr. Mazzullo:

This letter is to confirm a recent telephone call between Mr. Paul Horgan of my staff and Ms. Jessica Parson of your staff on June 3, 2005, regarding the Nations Rent Incorporated Inc., logo used on their vehicles and rental equipment transported on highway. Although Nations Rent Inc. is primarily in the equipment rental business they are clearly subject to the hazardous materials regulations (HMR) as they offer for shipment and transport propane cylinders ranging in size from 5 gallons to 20 gallons each, internal combustion engines and mechanical equipment, and diesel fuel to refuel rental equipment.

In 1999, the California Highway Patrol (CHP) first cited Nations Rent Inc. for displaying company logos on the sides of Nations Rent Inc. trucks and rental equipment that resembled hazardous materials placards and/or labels (see Figures 1 through 4). As a result of the citation and at Nations Rent Inc. request, CHP granted Nations Rent Inc. a six month withhold of enforcement in 1999 to allow them sufficient time to remove the logos from their construction rental equipment, but required immediate removal of logos from their transport vehicles. This period would allow the equipment to return to their various rental yards where the prohibited logos could be removed and replaced with a new design that was not in conflict with Title 49, Code of Federal Regulations, Sections 172.401(b) and 172.502(a)(2).

The design of the old logo was an approximately 10 inch yellow square on point configuration with black lettering across the horizontal centerline and a black border line approximately ½ inch from the edge of the logo. Figure 1 is a photograph directly comparing it to a class 5.1 placard mounted on a forklift, but was also found on the doors of their black colored delivery trucks, and other large equipment. Figure 2 is a photograph that depicts the display on an aerial lift with a contrasting background.



Figure 1. Logo compared with placard



Figure 2. Contrasting background

In addition to the 10 inch yellow square on point logos, Nations Rent Inc. displayed several smaller versions in a square on point configuration ranging in size from 1¼ inch to over 4 inches on a side, resembling either a Compressed Gas Association or DOT hazardous materials labels respectively. The following photographs (Figures 3 and 4) of smaller logos were displayed on smaller rental equipment.

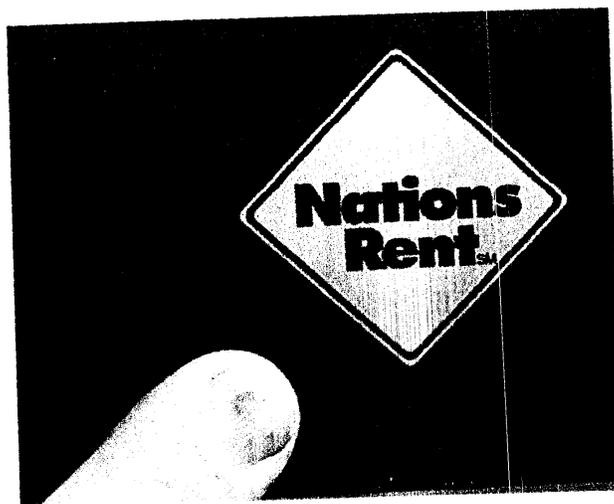


Figure 3. CGA label sized logo

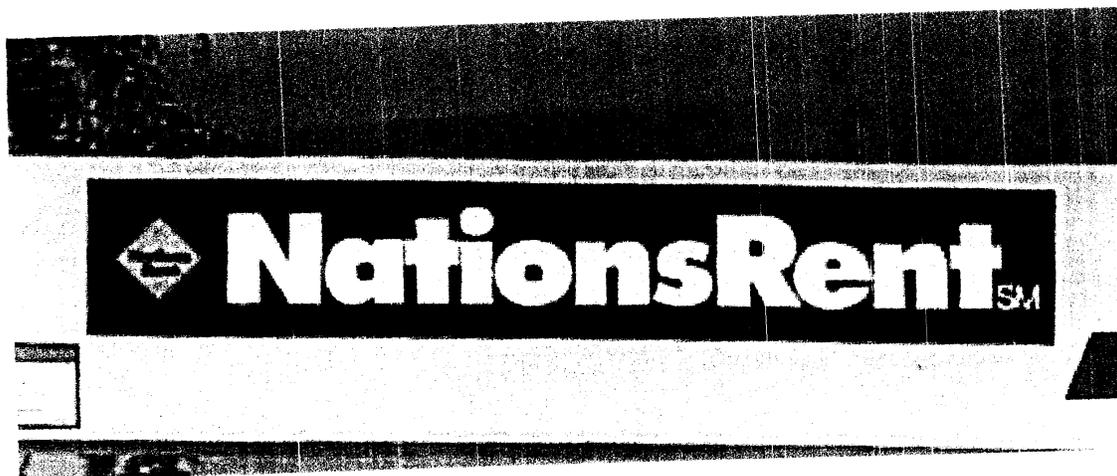


Figure 4. DOT label sized square on point logo

After being assured by Nations Rent Inc. corporate headquarters in 1999 that all of the logos would be converted to a design that was not in conflict with 49 CFR we believed the problem

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was resolved. Recently we received a complaint from another carrier who had to also change their logo from a red square on point configuration. In conversations with other states' law enforcement personnel; it appears the old logos are still being used throughout the nation. As a result of this complaint Mr. Horgan and Mr. Chris Braun of my staff visited one of the Nations Rent Inc. facilities here in Sacramento and discovered there were over 50 such logos still being displayed on their equipment. Additionally, if you visit Nations Rent Inc.'s website at <http://www.nationsrent.com/rent/EquipmentRentals.htm> you can still see the use of the old square on point logo displayed on the equipment in their rental yard.

In a discussion between Mr. Horgan and Captain Bruce Bugg from the Georgia Department of Motor Vehicle Safety we discovered the May 5, 2000, letter regarding Nations Rent Inc. logo addressed to Mr. Philip R. Recht, Ref. No. 00-0101. The body of that letter indicated the Nations Rent Inc. logo your staff examined was deemed to be distinctly different from a label or placard and thus not in conflict with the HMR. Unfortunately, neither your response, nor Mr. Recht's letter contained in your document retrieval system contained any photographs or sketches of the revised logo submitted for your evaluation. After discussions with Ms. Parson, she was able to send a fax copy of the photographs of what was submitted for evaluation which resembled Figure 5.



Figure 5. Recreated Nations Rent Inc. revised logo

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Our questions to you are:

1. Are we and Ms. Parson correct in our belief that the display of the old logos depicted in Figures 1 through 4 on vehicles or equipment transported on highway is prohibited under the HMR under Sections 172.401(b) and 172.504(a)(2)?
2. Is the new Nations Rent Inc. logo referenced in the May 5, 2000, letter regarding Nations Rent Inc. logo addressed to Mr. Philip R. Recht, Ref. No. 00-0101, the one depicted in Figure 5 only?
3. Is this new logo no longer in conflict with HMRs?

If you concur, would you please forward a copy of the response and this letter to Nations Rent Inc's. home office located at 450 E. Las Olas Boulevard, 14th Floor, Ft. Lauderdale, FL 33301, Telephone: (954) 760-6550, Fax: (954) 760-6565 so they may take corrective action.

Should you have any questions regarding this request, please contact Mr. Paul Horgan of my staff at (916) 445-1865.

Sincerely,



A. S. CUEVAS, Chief
Enforcement Services Division