



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

JAN 22 2013

Mr. Eric A. Hulme
Director of Compliance & Training
AWP, Inc.
826 Overholt Rd.
Kent, OH 44240

Ref. No. 12-0246

Dear Mr. Hulme:

This is in response to your October 23, 2012 e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to prohibited and permissive placarding. Specifically, you ask whether the logos as shown in the illustrations you supplied are prohibited under the HMR.

The answer is yes. As provided in § 172.502(a), no person may affix or display on a packaging, freight container, unit load device, motor vehicle or rail car any sign, advertisement, slogan, or device that, by its color, design, shape or content, could be confused with any placard prescribed by the HMR. This prohibition is intended to limit the potential dilution of hazard warning communication provided by the appropriate hazardous materials placards. The illustrations you provide depict the same shape (i.e., square-on-point configuration), size (i.e., 10 inches by 10 inches), and color (i.e., orange with black legend) as that of hazard warning placards. These logos, in the aggregate, can be confused with a Class 1 (explosive) placard prescribed in the HMR and are therefore prohibited under § 172.502.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Drakeford, Carolyn (PHMSA)

Stevens
§ 172.502(a)
Placarding
12-0246

From: INFOCNTR (PHMSA)
Sent: Thursday, October 25, 2012 1:56 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Interpretations of 49 CFR 172.502(a)
Attachments: How to UNZIP.html; SecureZIP Attachments.zip

Hi Carolyn,
We received the following request for a formal letter of interpretation.
Thanks,
Victoria

From: Eric Hulme [<mailto:ehulme@awptraffic.com>]
Sent: Tuesday, October 23, 2012 11:09 PM
To: INFOCNTR (PHMSA)
Subject: Interpretations of 49 CFR 172.502(a)

Hazardous Materials Information Center,

I am seeking an interpretation of 49 CFR 127.502(a) in regards to the vinyl displayed on our company vehicles. AWP, Inc. is a temporary traffic control company that performs our work in accordance with the provisions of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD), specifically "Part 6-Temporary Traffic Control," as well as each state's temporary traffic control provisions as prescribed in 23 CFR 655.603(b). To that effect, we advertise our two primary services on our pickup trucks: (1) temporary traffic control for road work, and (2) providing flaggers for temporary traffic control. These are advertised on our vehicles through the use of FHWA designed signs: W20-1 "Road Work Ahead" and W20-7 "Flagger Symbol," respectively (reference http://mutcd.fhwa.dot.gov/ser-shs_millennium.htm for sign specifications). I have included the layout of our truck vinyl for your use as Attachment A.

It has been brought to our attention that these decals may be confused for Class 1 (explosives) placards and is in violation of 49 CFR 172.502(a)(2). It is my argument that while they share the same background and legend colors as the explosives placards, they are accepted by every State Department of Transportation (DOT) & the USDOT as standard warning signs, and have simple, highly recognizable legends that cannot be confused with any other sign or placard. The diamond shape is designated by FHWA as a standard warning sign. The orange background with black legend color scheme is designated by FHWA for temporary traffic control. The three (3) line message and symbol are designed by FHWA to be highly legible and recognizable.

Furthermore, if it is determined that these vinyl decals are in violation of 49 CFR 172.502(a), I would ask for interpretation 49 CFR 172.50(a) regarding the use of FHWA designed diamond signs being required to be mounted to vehicles used as part of mobile operations, as shown as required in Attachment B (reference <http://mutcd.fhwa.dot.gov/> for additional information). As these vehicle mounted warning signs share the same shape and color as the explosives placards and may be confused for them. If they are not in violation of 49 CFR 172.50(a), why would the decals on our pickup trucks be in violation? If they are in violation, please inform the Federal Highway Administration that they are so the entire series of vehicle mounted signs may be changed in the next revision of the MUTCD.

I look forward to your interpretations. Please let me know if you have any questions or need additional information.

Thank you,

Eric A. Hulme

Director of Compliance & Training

AWP, Inc.

P: (330) 644-0655

C: (330) 812-9346

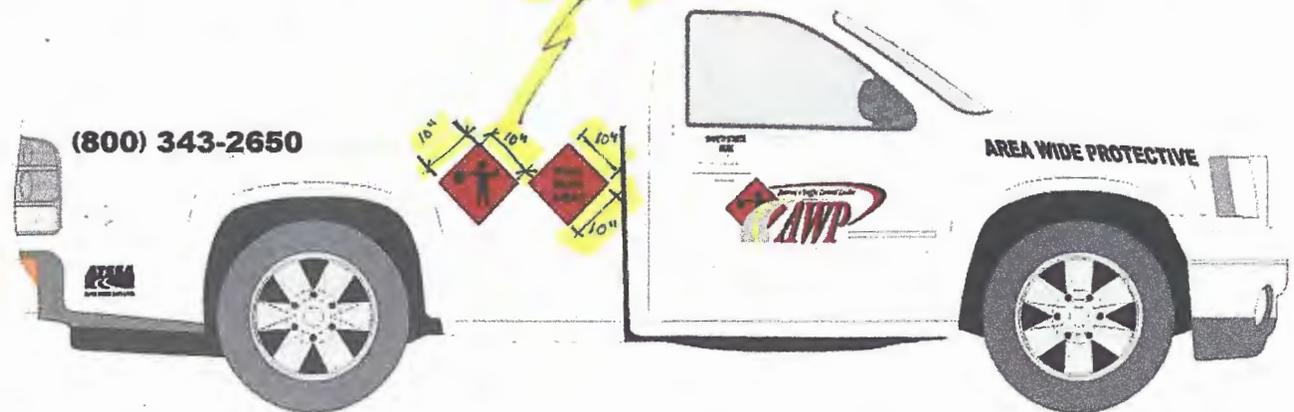
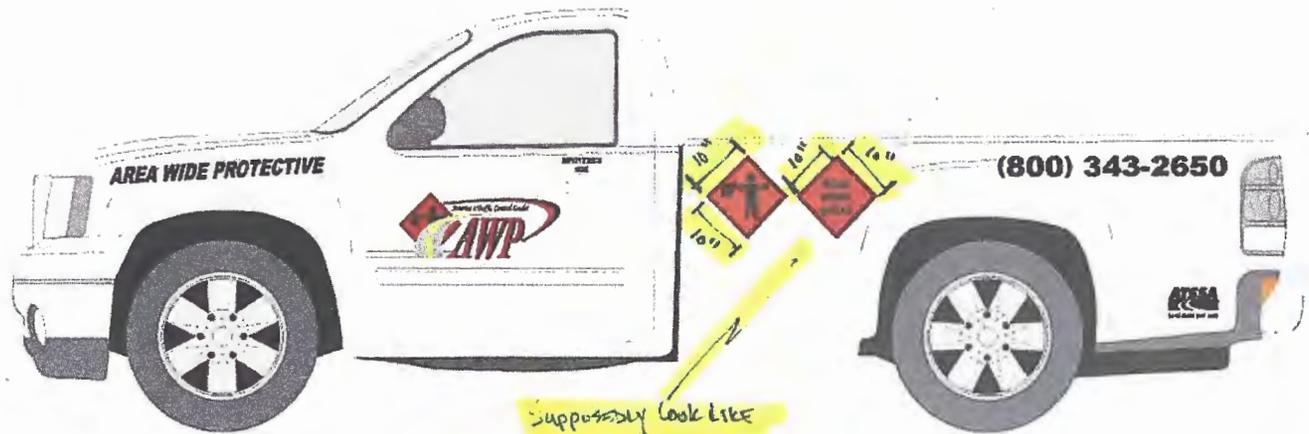
ehulme@awptraffic.com

www.awptrafficsafety.com

We're going **Google**

Please note my email address has changed. You can still contact me at the old email address for some time, but help us make this a smooth transition by saving and using this email address! Thank you.

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Client: Area Wide Protective

Size:

546 Grant Street, Akron, OH 44311 • 330.475.0500 • info@gopowermedia.com

Notes for Figure 6H-4—Typical Application 4
Short Duration or Mobile Operation on a Shoulder

Guidance:

1. *In those situations where multiple work locations within a limited distance make it practical to place stationary signs, the distance between the advance warning sign and the work should not exceed 5 miles.*
2. *In those situations where the distance between the advance signs and the work is 2 miles to 5 miles, a Supplemental Distance plaque should be used with the ROAD WORK AHEAD sign.*

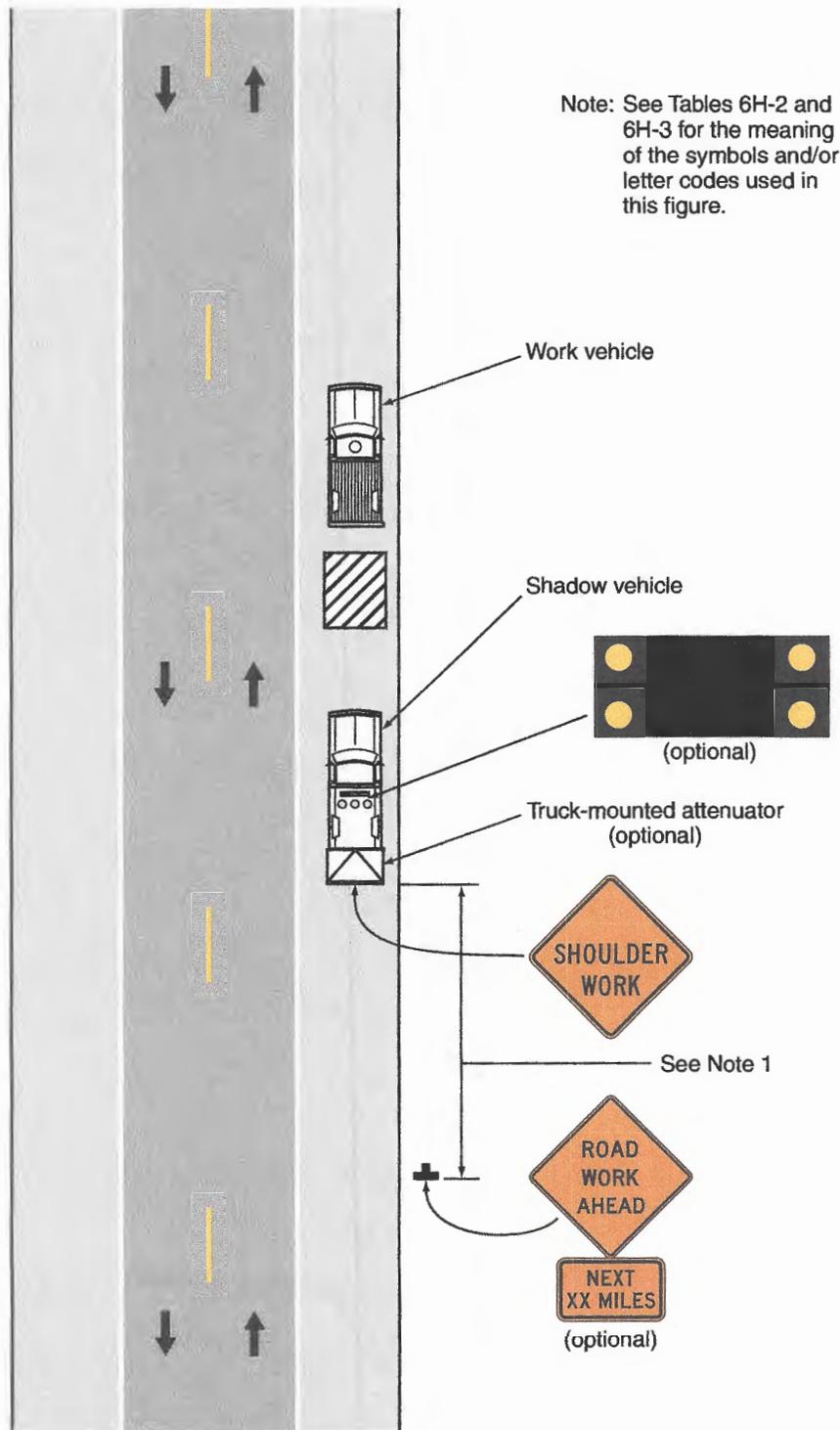
Option:

3. The ROAD WORK NEXT XX MILES sign may be used instead of the ROAD WORK AHEAD sign if the work locations occur over a distance of more than 2 miles.
4. Stationary warning signs may be omitted for short duration or mobile operations if the work vehicle displays high-intensity rotating, flashing, oscillating, or strobe lights.
5. Vehicle hazard warning signals may be used to supplement high-intensity rotating, flashing, oscillating, or strobe lights.

Standard:

6. **Vehicle hazard warning signals shall not be used instead of the vehicle's high-intensity rotating, flashing, oscillating, or strobe lights.**
7. **If an arrow board is used for an operation on the shoulder, the caution mode shall be used.**
8. **Vehicle-mounted signs shall be mounted in a manner such that they are not obscured by equipment or supplies. Sign legends on vehicle-mounted signs shall be covered or turned from view when work is not in progress.**

Figure 6H-4. Short-Duration or Mobile Operation on a Shoulder (TA-4)



Typical Application 4

Notes for Figure 6H-17—Typical Application 17
Mobile Operations on a Two-Lane Road

Standard:

1. **Vehicle-mounted signs shall be mounted in a manner such that they are not obscured by equipment or supplies. Sign legends on vehicle-mounted signs shall be covered or turned from view when work is not in progress.**
2. **Shadow and work vehicles shall display high-intensity rotating, flashing, oscillating, or strobe lights.**
3. **If an arrow board is used, it shall be used in the caution mode.**

Guidance:

4. *Where practical and when needed, the work and shadow vehicles should pull over periodically to allow vehicular traffic to pass.*
5. *Whenever adequate stopping sight distance exists to the rear, the shadow vehicle should maintain the minimum distance from the work vehicle and proceed at the same speed. The shadow vehicle should slow down in advance of vertical or horizontal curves that restrict sight distance.*
6. *The shadow vehicles should also be equipped with two high-intensity flashing lights mounted on the rear, adjacent to the sign.*

Option:

7. The distance between the work and shadow vehicles may vary according to terrain, paint drying time, and other factors.
8. Additional shadow vehicles to warn and reduce the speed of oncoming or opposing vehicular traffic may be used. Law enforcement vehicles may be used for this purpose.
9. A truck-mounted attenuator may be used on the shadow vehicle or on the work vehicle.
10. If the work and shadow vehicles cannot pull over to allow vehicular traffic to pass frequently, a DO NOT PASS sign may be placed on the rear of the vehicle blocking the lane.

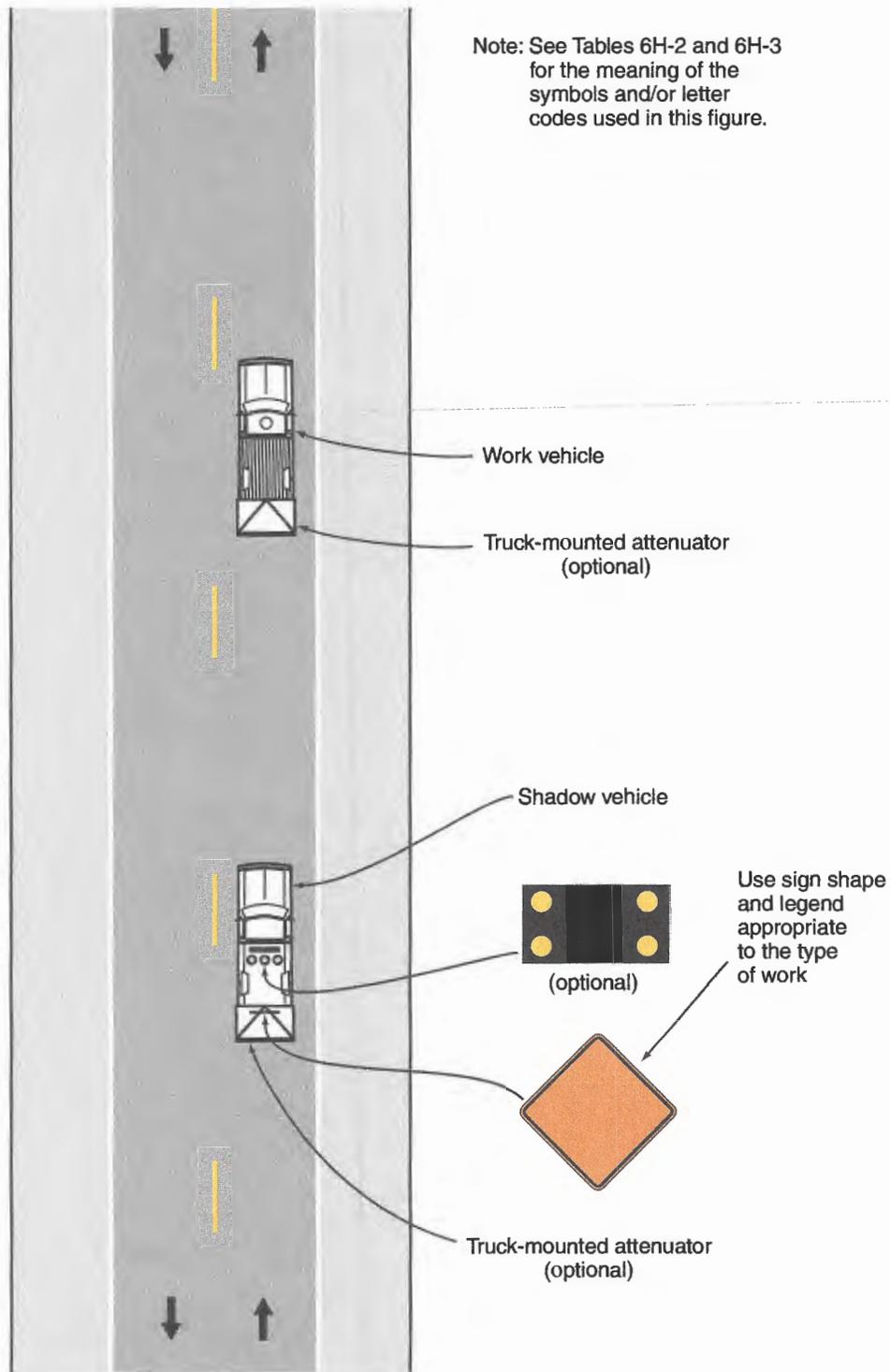
Support:

11. Shadow vehicles are used to warn motor vehicle traffic of the operation ahead.

Standard:

12. **Vehicle hazard warning signals shall not be used instead of the vehicle's high-intensity rotating, flashing, oscillating, or strobe lights.**

Figure 6H-17. Mobile Operations on a Two-Lane Road (TA-17)



Typical Application 17