



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

April 6, 2020

Ms. Carolyn J. Griffith
Training Manager
Environmental Services
Tyson Foods
2200 Don Tyson Parkway
Springdale, AR 72762

Reference No. 19-0128

Dear Ms. Griffith:

This letter is in response to your November 12, 2019, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to nine images that Tyson's Foods, Inc., developed to indicate which chemicals in its possession can and cannot be stored together. Specifically, you ask whether these images conflict with the HMR.

You enclosed a black-and-white copy of the nine circular images, which contain a variety of graphics, letters, and colors designed to represent classes of chemical substances and compounds or to denote basic health and compatibility risks. These images are titled "acid," "base," "flammable," "not reactive," "health hazard," "oxidizer," "oxidizer acid," "oxidizer base," and "incompatible with all." You state the images may be visible on packages when they are transported in commerce, and note that the use of the flammable image would be limited to products that meet the HMR definitions of a flammable material (liquid, solid, or gas). You also note that the images are not intended to replace any DOT required hazard communication or hazard communication required by other agencies, but are rather intended to provide additional information to enhance safety beyond what is required by the HMR or other safety standards.

The HMR prohibit a person from offering or transporting a package bearing a marking, label, or placard that can by its color, design, or shape be confused with or conflict with a label or placard prescribed in the HMR (see §§ 172.401(b) and 172.502(a)(2)). Based on the information you provided, it is the opinion of this Office that the only image with the potential to be confused with hazard communication required by the HMR is the “flammable” image. As such, we agree that limiting use of the “flammable” image to packages containing materials that meet the HMR definition of a flammable liquid, solid, or gas is necessary and appropriate.

Sincerely,

Shane C. Kelley

Shane Kelley
Director,
Standards and Rulemaking Division
Office of Hazardous Material Standard

Edmonson
19-0128

January, Ikeya CTR (PHMSA)

From: INFOCNR (PHMSA)
Sent: Wednesday, November 13, 2019 12:01 PM
To: Hazmat Interps
Subject: FW: DOT Letter of Interpretation request on Tyson Foods chemical storage codes
Attachments: Horizontal-9-2rows-111119.bmp; Griffiths_IG.docx

Hello Alice and Ikeya,






Please see below for letter of interpretation request and attached notes. The requester spoke me in the HMIC.

Contact our office with any questions.

Thanks,
Kathryn, HMIC

From: Griffith, Carolyn [mailto:Carolyn.Griffith@tyson.com]
Sent: Tuesday, November 12, 2019 4:49 PM
To: Kelley, Shane (PHMSA) <shane.kelley@dot.gov>; INFOCNR (PHMSA) <INFOCNR.INFOCNR@dot.gov>
Cc: Mika, Matt <Matt.Mika@tyson.com>; Burr, Jamie (EHS) <jamie.burr@tyson.com>; Jones, Kendra <Kendra.Jones@tyson.com>
Subject: DOT Letter of Interpretation request on Tyson Foods chemical storage codes

Shane, Tyson Foods Inc. requests a formal letter of interpretation regarding Tyson Foods' chemical storage code images shown below (and attached) do not conflict with the Hazardous Materials Regulations and can be placed on in-transit chemical containers.

Acid 	Base 	Flammable 	Not Reactive 	Health Hazard 
Oxidizer 	Oxidizer Acid 	Oxidizer Base 	Incompatible With All 	

The nine chemical storage codes are used by Tyson Foods to indicate storage compatibility only. These chemical storage codes provide a consistent message via color and graphic across Tyson Foods so that chemical products with the same chemical storage code can be stored together. Likewise, different storage codes indicate incompatibility and require appropriate separation. There is a single storage code per chemical

product. The flammable storage code is only used for chemical products that meet the DOT definition of flammable.

These chemical storage codes are not meant to communicate or replace the required hazard communication or GHS information.

Tyson Foods suppliers have been requested to pre-label their chemical products with the applicable Tyson Foods chemical storage code. The DOT formal letter of interpretation that these nine chemical storage codes do not conflict with the Hazardous Materials Regulations will facilitate this pre-labeling request.

Please contact me with any questions regarding this request.

Sincerely,



Carolyn J Griffith, Training Manager
Environmental Services

Tyson Foods
2200 Don Tyson Parkway, Springdale, AR 72762
(desk) 479-290-5179
carolyn.griffith@tyson.com

This email and any files transmitted with it are confidential and intended solely for the use of the addressee. If you are not the intended addressee, then you have received this email in error and any use, dissemination, forwarding, printing, or copying of this email is strictly prohibited. Please notify us immediately of your unintended receipt by reply and then delete this email and your reply. Tyson Foods, Inc. and its subsidiaries and affiliates will not be held liable to any person resulting from the unintended or unauthorized use of any information contained in this email or as a result of any additions or deletions of information originally contained in this email.






Hello Alice and Ikeya,

Please see email for letter of interpretation request. The requester spoke with me in the HMIC. Looking at section 172.401(b) and letters 02-0088, 04-0224 and others, I communicated that if the labels are similar to the DOT labels, they are prohibitive. I spoke with Candace who agreed with my citations and letter recommendations. When I called the requestor to communicate this she stated that Shane Kelley sent her an email notifying her that her labels were usable and to write in for an LOI and asked that her request be submitted.

Please contact our office with any questions.

Thank you,

Kathryn, HMIC

Acid	Base	Flammable	Not Reactive	Health Hazard
				

Oxidizer	Oxidizer Acid	Oxidizer Base	Incompatible With All
