



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

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

MAR 04 2015

Mr. Wm. Scott Burson
Denton Police Department
601 E. Hickory St. Ste. E
Denton, TX 76205

Ref. No. 14-0198

Dear Mr. Burson:

This responds to your October 14, 2014 e-mail requesting clarification of the placarding requirements of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, your questions relate to a flatbed trailer carrying mixed cargo of hazardous and non-hazardous material (i.e., pipeline servicing equipment and supplies, including one intermediate bulk container with hazardous material). Your questions have been paraphrased and answered as follows:

Q1. If there are packages containing the communicated hazard on the transport vehicle, may placards be affixed to pieces of cargo on the transport vehicle when the pieces of cargo do not contain hazardous material?

A1. No. Under § 171.2(k), “[no] person may, by marking or otherwise, represent that a hazardous material is present in a package, container, motor vehicle, rail car, aircraft, or vessel if the hazardous material is not present.” Even though there may be obstructed views due to the manner of loading the transport vehicle, the package(s) and transport vehicle must still be placarded in accordance with the HMR.

Q2. Can placards be attached to pieces of cargo that are clearly not hazardous materials, such as bundles of dressed lumber?

A2. No. Section 171.2(k) still applies even though it may be obvious that a piece of cargo does not contain hazardous material. The placards cannot be affixed to the non-hazardous cargo. Under § 172.504(a), placards must be affixed to each side and each end of the transport vehicle itself, except as otherwise provided by the HMR.

I hope this answers your inquiry. If you need additional assistance, please contact this office again.

Sincerely,

Dirk Der Kinderen
Acting Chief, Standards Development Branch
Standards and Rulemaking Division

Goodall, Shante CTR (PHMSA)

*Kestko
172.504
Placarding requirement
14-0198*

From: Ciccarone, Michael CTR (PHMSA)
Sent: Wednesday, October 15, 2014 10:11 AM
To: Hazmat Interps
Subject: FW: Interpretation Request - Prohibited Placarding, or not?
Attachments: 2014-10-14_152636.JPG; 2014-10-14_152723.JPG; 2014-10-14_152752.JPG; 2014-10-14_152815.JPG; 2014-10-14_152835.JPG; 2014-10-14_152958.JPG

Shante and Alice,

Please submit this for a formal letter of interpretation.

Thanks,

Mike

From: Burson, William S [mailto:Scott.Burson@cityofdenton.com]
Sent: Tuesday, October 14, 2014 4:40 PM
To: PHMSA HM InfoCenter
Subject: Interpretation Request - Prohibited Placarding, or not?

PHMSA,

I am requesting an interpretation of the HMRs pertaining to hazardous materials in highway transport. The HMR in question relates to placard requirements.

Scenario [Please refer to the six photos attached.]:

A company truck-tractor/semi-trailer is operated in interstate commerce. The flatbed trailer contains a mixed load of pipeline servicing equipment and supplies. Aboard are five IBCs of which only one is a hazardous material, the other four being non-regulated materials. The IBC containing the hazardous material [UN1993] is displaying flammable liquid placards with the proper UN identification number displayed on the placard. The placards on the IBC are on two opposing sides and are visible to observers standing to the left side and right side of the flatbed semi-trailer. Per 172.504, the transport vehicle must also display flammable liquid placards to the front and rear of the transport vehicle. [In this case the truck-tractor is not displaying placards and does not factor into this interpretation request.]

The semi-trailer itself is not equipped with placard hangers or placard posts. The company decides to attach a front facing flammable liquid placard upon an IBC that does not contain a hazardous material. The company also attaches a rear facing flammable liquid placard on the end of a specialty toolbox that does not contain any hazardous materials.

Question: May placards be affixed to pieces of cargo on a transport vehicle when the pieces of cargo do not contain hazardous materials, even if the intent of the carrier is to enhance the visibility of the placards on the ends of a transport vehicle? And, what if the end placards are attached to pieces of cargo that clearly are not hazardous materials such as bundles of dressed lumber or coils of steel?

The pertinent regulations in this matter appear to be the following three:

171.2 General requirements

(k), No person may, by marking or otherwise, represent that a hazardous material is present in a package, container, motor vehicle, rail car, aircraft, or vessel if the hazardous material is not present.

172.502 Prohibited and permissive placarding

(a) Except as provided in paragraph (b) of this section, no person may affix or display on a packaging, freight container, unit load device, motor vehicle or rail car—

(1) Any placard described in this subpart unless—

(i) The material being offered or transported is a hazardous material;

(ii) The placard represents a hazard of the hazardous material being offered or transported; and

(iii) Any placarding conforms to the requirements of this subpart.

172.516 Visibility and display of placards

(a), Each placard on a motor vehicle and each placard on a rail car must be clearly visible from the direction it faces, except from the direction of another transport vehicle or rail car to which the motor vehicle or rail car is coupled. This requirement may be met by the placards displayed on the freight containers or portable tanks loaded on a motor vehicle or rail car.

The company interpretation I heard employed was that a higher placard is a more visible placard. There was a claim that a placard placed high on a piece of non-regulated cargo is permissible because of the last sentence of 172.516(a). [See the paragraph above.]

There was a further claim that since a hazardous material *is* being transported on the vehicle, *and* the placard does represent the hazardous material being transport on the vehicle, *and* the placards are to specification, *then* the placarding of non-regulated cargo is compliant with 171.2(k) and 172.502(a)(1) and not prohibited by 172.516.

Finally, on this side of the issue, there was a position that no specific placarding prohibition exists worded in the same specific manner as 172.401 when prohibited labeling is considered.

172.401 Prohibited labeling.

(a) Except as otherwise provided in this section, no person may offer for transportation and no carrier may transport a package bearing a label specified in this subpart unless:

(1) The package contains a material that is a hazardous material, and

(2) The label represents a hazard of the hazardous material in the package.

(b) No person may offer for transportation and no carrier may transport a package bearing any marking or label which by its color, design, or shape could be confused with or conflict with a label prescribed by this part.

On the other hand, there is a concern that the placarding as depicted in the photos can be deemed as a confusing hazardous materials communication. The concern is that *all* of the packages bearing placards on the semi-trailer may be presumed to contain hazardous materials and that such a presumption could adversely affect or delay a course of response in a crisis. To avoid such confusion, the placards on the ends of the transport vehicle should be affixed to the transport vehicle itself, not to pieces of cargo on the transport vehicle containing unregulated materials.

Can you please clarify?

Thank you for your consideration in this matter.

Respectfully,

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