



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUL 25 2016

Mr. Vincent Vitollo
The Journal of HazMat Transportation
President & Publisher
PRI International, Inc.
404 Price Street
West Chester, PA 19382

Reference No. 16-0122

Dear Mr. Vitollo:

Thank you for your inquiry of July 8, 2016 regarding the appearance of Globally Harmonized System for the Classification and Labelling of Chemicals (GHS) pictograms on transport packagings, such as portable tanks. In your correspondence, you note that we indicated under a previous interpretation (13-0038) that the appearance of such pictograms did not constitute a violation of the U.S. Hazardous Materials Regulations (HMR; 49 CFR Parts 100-180), as labels conforming to the GHS (see 49 CFR § 172.401(c)) are specifically authorized. As such, the display of a label not required by DOT but consistent with the GHS, while not required in transportation or storage incidental thereto, is not a violation of the HMR. This includes packages meeting the definition of a "bulk package" as defined by the HMR.

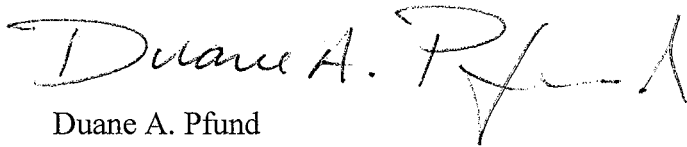
Subsequent to the issuance of interpretation letter 13-0038 the provisions of the GHS were amended to specify that "in transport, a GHS pictogram not required by the UN Model Regulations on the Transport of Dangerous Goods Model Regulations should only appear as part of a complete GHS label (see 1.4.10.5.4.1) and not independently." See GHS Rev. 6, 1.4.10.4.4. This amendment to the GHS is consistent with OSHA's Hazard Communication Standard (HCS), 29 CFR § 1910.1200. The provisions of 49 CFR § 172.401(c) apply only to labeling in accordance with the GHS, and subsequently in accordance with OSHA 29 CFR § 1910.1200(f).

Based on this recent clarification to the provisions of the GHS, we are updating our response in interpretation letter 13-0038. We note that the examples provided in the incoming letter included GHS pictograms visible in transportation and not displayed as a part of a complete

GHS label. Such display would not meet the provisions of § 172.401(c)(5) and would therefore be subject to § 172.401(b) which prohibits “any marking or label which by its color, design, or shape could be confused with or conflict with a label prescribed by” the HMR.

We appreciate you bringing this matter to our attention and hope this information is helpful.

Sincerely,

A handwritten signature in black ink that reads "Duane A. Pfund". The signature is written in a cursive style with a large, looped initial "D" and a long, sweeping underline.

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

Cc: Schoonover, William (PHMSA)

Subject: Question from The Journal of HazMat Transportation

Joe,

Attached is a question that we are requesting be addressed by PHMSA regarding its work and progress with OSHA in resolving certain hazcom issues. We also are making an inquiry regarding a specific letter of interpretation relative to this area. Our question is attached.

Would you kindly advise as to when you may be able to provide a response. We were hoping to possibly publish something on this topic in our next issue, although our deadline may be a little tight: July 25.

Thank you. I look forward to hear from you.

Regards,

Vincent Vitollo
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July 8, 2016

Question for the PHMSA

We understand that PHMSA is working with OSHA to resolve hazard communication concerns regarding the potential confusion that may result from the display of OSHA hazcom elements on a transportation package in a situation involving an emergency response to a transportation incident. Can you update us on where you are in terms of working with OSHA and what PHMSA's objectives for this effort are?

PHMSA issued an interpretation letter (see interpretation letter #13-0038) which allows the appearance of GHS pictograms the size of placards on transport packagings such as portable tanks. This interpretation letter appears contrary to a new GHS which states:

“In transport, a GHS pictogram not required by the UN Model Regulations on the Transport of Dangerous Goods Model Regulations should only appear as part of a complete GHS label (see 1.4.10.5.4.1) and not independently.”

Does PHMSA agree that the interpretation letter is contrary to the new GHS text or does PHMSA still maintain that its earlier interpretation is still valid, particularly considering that both PHMSA and OSHA supported the GHS clarification? Are there any plans to reconsider the interpretation letter?