



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.

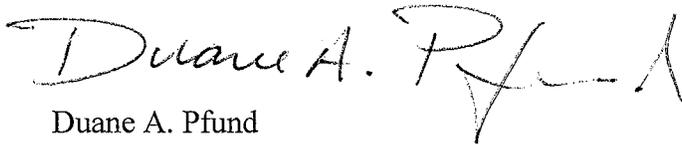
Subsequent to the issuance of interpretation letter 13-0038 the provisions of the GHS were amended to specify that "in transport, a GHS pictogram not required by the UN Model Regulations on the Transport of Dangerous Goods Model Regulations should only appear as part of a complete GHS label (see 1.4.10.5.4.1) 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

Wiener  
172.407  
Label Specifications  
16-0122

**Goodall, Shante CTR (PHMSA)**

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**From:** Wiener, Aaron (PHMSA)  
**Sent:** Wednesday, July 13, 2016 12:01 PM  
**To:** Dodd, Alice (PHMSA); Goodall, Shante CTR (PHMSA)  
**Cc:** Kelley, Shane (PHMSA)  
**Subject:** FW: ACTION: Question from The Journal of HazMat Transportation - Response Due July 25  
**Attachments:** QuestionforPHMSA\_HazCom.docx  
**Importance:** High

Alice, Shante,

Can you please add this request as a formal interp and assign to me.

Thanks

Aaron

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**From:** Kelley, Shane (PHMSA)  
**Sent:** Wednesday, July 13, 2016 10:23 AM  
**To:** Wiener, Aaron (PHMSA)  
**Cc:** Pfund, Duane (PHMSA); Webb, Steven (PHMSA)  
**Subject:** FW: ACTION: Question from The Journal of HazMat Transportation - Response Due July 25  
**Importance:** High

Hi Aaron,

I've drafted a response (see attached), can you help me identify the 29 CFR reference Duane mentions? I left placeholders in the attached.

While Duane reviews and we finalize this response, can you please help us obtain a reference number today for this incoming and format as an interp? We are trying to move this back out ASAP at the request of our execs as the IPs are pinging them daily on this overall issue.

Thanks!

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**From:** Pfund, Duane (PHMSA)  
**Sent:** Tuesday, July 12, 2016 9:25 AM  
**To:** Kelley, Shane (PHMSA); Webb, Steven (PHMSA); Leary, Kevin (PHMSA)  
**Subject:** FW: ACTION: Question from The Journal of HazMat Transportation - Response Due July 25  
**Importance:** High

I'd like to draft an interp letter on this asap. Basically, that the HMR allows for OSHA/GHS labeling as not being a prohibited labeling, but that it has to be in accordance with 29 CFR and GHS. Specifically, that the elements should be in

proportion to the label as a whole. We can mention our updated interp is a result of clarifications incorporated into the latest version of GHS and it's consistent with the Appendix in 29 CFR (I forget the exact reference) – I believe this point is not specifically mentioned in 29 CFR, but it's still relevant.

Who can draft this in the next couple of days??? Happy to meet to discuss.

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**From:** Delcambre, Gordon (PHMSA)  
**Sent:** Monday, July 11, 2016 12:19 PM  
**To:** Betts, Charles (PHMSA); Pfund, Duane (PHMSA); Antonielli, Jennifer (PHMSA); Kelley, Shane (PHMSA)  
**Cc:** Schoonover, William (PHMSA); Meidl, Rachel (PHMSA); Gilliard, Artealia (PHMSA); Klinger, Patricia (PHMSA)  
**Subject:** ACTION: Question from The Journal of HazMat Transportation - Response Due July 25  
**Importance:** High

Charles & International Team,

Editor Vince Vitollo passed along the attached question about GHS hazard communication. I need your help with providing a draft response that addresses his specific question about a recent HM interpretation letter.

Vince identified a Monday, July 25 deadline.

Looking forward to your input.

Joe

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**From:** Delcambre, Gordon (PHMSA)  
**Sent:** Monday, July 11, 2016 12:13 PM  
**To:** Vincent Vitollo  
**Cc:** PHMSA Public Affairs  
**Subject:** RE: Question from The Journal of HazMat Transportation  
**Importance:** High

Vince,

Thanks for passing me your question and identifying your deadline. We will work with our Hazmat Safety Office and get you a response soonest.

Regards,

Joe

Gordon "Joe" Delcambre Jr  
Public Affairs Specialist  
Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Avenue, SE, E27-324  
Washington, DC 20590  
(202) 493-0730 wk  
(202) 579-1364 cell

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**From:** Vincent Vitollo [<mailto:vvitollo@hazmatship.com>]  
**Sent:** Friday, July 08, 2016 4:56 PM  
**To:** Delcambre, Gordon (PHMSA)

**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 possible 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  
*The Journal of HazMat Transportation*  
President & Publisher  
PRI International, Inc.  
(877) 429-7447  
[www.hazmatship.com](http://www.hazmatship.com)

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## *The Journal of HazMat Transportation™*

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?