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Labeling of Hazardous Chemicals for Bulk Shipments

Joint Guidance Memorandum

Prepared by PHMSA's Office of Hazardous Materials Safety and OSHA

Introduction

The U.S. Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) and the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) are responsible for enforcing distinct and separate safety standards that address appropriate labeling of chemical hazards in transportation (PHMSA) and in the workplace¹ (OSHA). PHMSA's labeling requirements are contained in the U.S. Hazardous Materials Regulations (HMR; 49 CFR Parts 100-180) and apply to transportation² of hazardous materials in commerce. OSHA's labeling requirements are specific to the workplace and are found in the Hazard Communication Standard (HCS 2012), 29 CFR § 1910.1200. For the purposes of this memorandum, labeling also includes DOT placarding, signs, and other markings.

PHMSA and OSHA are aware of a number of questions from stakeholders concerning the labeling required by each agency. The purpose of this memorandum is to provide clarity on the general applicability of, and overall relationship between, DOT's labeling requirements under the HMR and OSHA's labeling requirements for bulk shipments under the HCS 2012.

DOT HMR Labeling Requirements

DOT's HMR requires labeling to be displayed or provided with a shipment during transportation in commerce. The HMR provides a comprehensive labeling system to communicate to personnel involved in the transportation of hazardous materials, including emergency responders and the general public, the potential dangers of handling packages containing hazardous materials or a sudden uncontrolled release of hazardous materials during transportation. During transportation, DOT's HMR governs hazard communication labeling requirements. OSHA's

¹ Workplace means an establishment, jobsite, or project, at one geographical location containing one or more work areas. A work area means a room or defined space in a workplace where hazardous chemicals are produced or used, and where employees are present.

² Transportation means the movement of property and loading, unloading, or storage incidental to the movement (see 49 CFR § 107.1). Loading, unloading, and storage incidental to movement are defined in 49 CFR § 171.8.

HCS 2012 labeling is not required on shipping containers in transport, even when DOT's HMR does not require labeling in transportation.

OSHA HCS 2012 Labeling Requirements for Bulk Shipments in DOT Containers (e.g., tanker trucks, rail cars)

OSHA's HCS 2012 requires labeling of hazardous chemicals in the workplace, both before and after transportation in commerce. OSHA requires labeling on the immediate container of hazardous chemicals. Regarding bulk shipments of hazardous chemicals, the HCS 2012 requires either labeling the immediate container with hazard information or transmitting the required label with shipping papers, bills of lading, or by other technological or electronic means so that it is immediately available to workers in printed form on the receiving end of a shipment. The OSHA HCS 2012 requirements for shipped material apply independently of whether the same material is subject to HMR labeling requirements during transportation.

Note on Bulk Shipments Bearing Both DOT and OSHA HCS 2012 Labels

The HMR prohibits the display on a package of any marking or label that could be confused or conflict with a label required by the HMR. Specifically, 49 CFR § 172.401(b) states:

“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.”

However, the prohibition in 49 CFR § 172.401(b) does not apply to packages labeled in conformance with certain international standards, including the UN Globally Harmonized System of Classification and Labelling of Chemicals (GHS) (see 49 CFR § 172.401(c)). 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). The GHS labeling provisions, including as implemented by OSHA, require all hazard communication elements to be located on the label and these hazard communication elements must only appear as part of a complete GHS label. As such, the display of a marking or label not required by DOT's HMR, but conforming to OSHA's HCS 2012 and consistent with the GHS is not a violation of the HMR. This includes packages meeting the definition of a “bulk package” as defined by the HMR. In other words, an HCS 2012-compliant OSHA label and a DOT HMR label or marking may both appear on the same package.

Note: The DOT and OSHA are aware of some examples of pictograms/symbols displayed on bulk packages that are not consistent with the HCS (29 CFR § 1910.1200) and that are not compliant with hazard communication required by the HMR (49 CFR Parts 100-180). Such labeling is prohibited by the HMR.