



Reply to the attention of:

DEC 20 2012

Mr. Gary Valasek
Intercontinental Chemical Corporation
4660 Spring Grove Ave.
Cincinnati, OH 45232

Dear Mr. Valasek:

Thank you for your two August 22, 2012, letters to the Occupational Safety and Health Administration (OSHA). Your letters to OSHA's Directorate of Training and Education were referred to the Directorate of Enforcement Programs for a response to your specific questions regarding the revised Hazard Communication standard (HCS 2012), 29 CFR 1910.1200. This letter constitutes OSHA's interpretation only of the requirements herein, and may not be applicable to any questions not delineated within your original correspondence. Your paraphrased questions and our responses are below.

Question 1: We purchase preprinted labels that have three empty frames with red borders so that we may place appropriate pictograms on them when making our product labels. We understand that OSHA does not allow a blank red frame on the final product label. If our product requires only one or two pictograms, may we simply black-out the unused frame(s)? Also, is it acceptable to add "See Adjacent Pictograms" within the blacked-out area of the label?

Response: While OSHA is not opposed to the use of preprinted stock, the HCS 2012 does not allow the use of blank red frames on labels. In 29 CFR 1910.1200, Appendix C, *Allocation of Label Elements (Mandatory)*, C.2.3.1 states, "A square red frame set at a point without a hazard symbol is not a pictogram and is not permitted on the label." The black-out option you suggested, however, is compliant with the requirements of the HCS 2012 because it is not a "square red frame set at a point without a hazard symbol."

Be advised that if a blank red frame is not fully covered and filled in, the label would not be in compliance. Also, please note that downstream customers may inquire whether the blacking-out was done deliberately by the manufacturer or whether the label has been defaced (see 29 CFR 1910.1200(b)(3)(i), (b)(4)(i) and (f)(9)). However, adding the words, "See Adjacent Pictogram(s)" within the blacked-out area may help to reduce any potential concerns about whether a blackened frame is a defaced label.

Question 2: Are pictogram "stickers" or sets of two or more pictograms printed on strips of paper with adhesive backing adequate to meet the requirements of Appendix C to 29 CFR 1910.1200?

Response: Yes. Appendix C to the HCS 2012 requires pictograms to be on the label. Section

C.2.3.1 requires the pictogram to be “sufficiently wide to be clearly visible.” Thus, as long as the pictogram stickers are on the label and sufficiently wide to be clearly visible, they are acceptable.

Question 3: Since the U.S. Department of Transportation (DOT) has no pictogram requirement under 49 CFR 172.402, how should we interpret the statement from section C.2.3.3, “Where a pictogram required by the Department of Transportation under Title 49 of the Code of Federal Regulations appears on a shipped container, the pictogram specified in C.4 for the same hazard shall not appear?”

Response: The HCS 2012 defines pictogram under section 1910.1200(c) as “a composition that may include a symbol plus other graphic elements, such as a border, background pattern, or color, that is intended to convey specific information about the hazards of a chemical.” The DOT requires diamond-shaped labels containing hazard symbols for the transport of chemicals. Therefore, because DOT labels contain symbols, they are considered pictograms under HCS 2012.

Accordingly, under Appendix C.2.3.3, in cases where a shipped container already has a DOT label, the HCS pictogram for the same hazard need not appear on the label. For example, to indicate that a shipped container contains an oxidizer, a DOT label must have a pictogram, graphic or symbol of a flame over a circle, per 49 CFR 172, Subpart E. The HCS 2012 label would not need to contain the HCS hazard symbol for oxidizers, since the DOT label already provides the symbol.

Question 4: What is the meaning of the term “shipped container” within the context of Appendix C.2.3.3? All containers destined for transport in commerce will eventually be shipped. Does OSHA require both the inside container and the outside box or overpack to be labeled when a chemical is classified as corrosive and/or flammable?

Response: Any container leaving the workplace is a “shipped container.” Under paragraph (f)(1), each container of hazardous chemicals leaving the workplace must be labeled, tagged, or marked with the information specified in section 1910.1200(f)(1)(i)-(vi). The requirement to label a shipped container has not changed under the Hazard Communication Standard (HCS). The information required on the label has changed. Under the HCS, an employer is required to label a hazardous chemical’s immediate container, but the standards do not require labels on the outside shipping containers. Please see [OSHA's letter to Mr. John W. Boyan dated November 9, 1990](#), stating that labels are not required for outside shipping containers. When a hazardous chemical leaves the workplace, its immediate container must be labeled in accordance with paragraph (f)(1).

Accordingly, OSHA does not require an outside box or an overpack to have an HCS label, because they are not immediate containers. If, however, an overpack is being used because a hazardous chemical’s immediate container has ruptured or is leaking, the overpack must be labeled in accordance with the HCS. Similarly, if a shipping container is also the immediate container holding the hazardous chemical, the shipping container must be labeled in accordance

with the HCS.

The DOT requires diamond-shaped labels for the transport of chemicals, including chemical drums, chemical totes, tanks or other containers. In many cases, these containers will also be the hazardous chemical's immediate container, and therefore, both a DOT and an HCS label are required. In those situations, paragraph (f)(5) provides that each container of hazardous chemicals leaving the workplace must be labeled in a way that does not conflict with the requirements of the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq.

As noted above, Appendix C.2.3.3 of HCS 2012 states that "[w]here a pictogram required by the Department of Transportation under Title 49 of the Code of Federal Regulations appears on a shipped container, the pictogram specified in C.4 for the same hazard shall not appear." However, DOT does not view the HCS 2012 pictogram as a conflict with the requirements of the Hazardous Materials Transportation Act, and for some international trade, both the DOT and the HCS 2012 pictograms may need to be present on the label. Therefore, OSHA intends to revise C.2.3.3. In the meantime, OSHA will allow both DOT and HCS 2012 pictograms for the same hazard to appear on the label.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA's requirements are set by statute, standards, and regulations. Our letters of interpretation do not create new or additional requirements but rather explain these requirements and how they apply to particular circumstances. This letter constitutes OSHA's interpretation of the requirements discussed. From time to time, letters are affected when the Agency updates a standard, a legal decision impacts a standard, or changes in technology affect the interpretation. To assure that you are using the correct information and guidance, please consult OSHA's website at <http://www.osha.gov>. If you have further questions, please feel free to contact the Directorate of Enforcement Programs at (202) 693-2100.

Sincerely,



Thomas Galassi, Director
Directorate of Enforcement Programs