

Decal Days



When I was a kid, living in Philadelphia, we used to collect racing decals, STP, HURST, THRUSH, HOOKER and any others that would return in our pre-stamped envelopes. Peter, Tim, Matt and I were constantly trying to get our hands on old discarded Hot Rod magazines so we could scour the advertisements for addresses of racing equipment companies that we thought were “cool”. Each of us would then send them a dollar bill, stamped envelope and a short request for as many stickers as they could send. The best part was plastering these “boss” stickers on everything we owned. The worst parts were working for the dollar bills, waiting for the stickers’ eventual arrival and then leaving stickers’ affixed to my bikes, notebooks and lockers as they were eventually handed down, filled up or reassigned respectively.

If you have not figured out why I have brought yet another childhood memory to the pages of my blog, it is only to remind you that OSHA requires all DOT hazardous material transportation marks, placards and labels remain affixed to containers in your facility long after they are out of transportation. Under 1910.1201 Retention of DOT marks, placards and labels, OSHA requires that all containers of hazardous material received into facilities maintain their DOT transportation marks and labels as long as they are stored in the plant.

This came about after a construction trailer, delivered and then parked at a highway work site, was liberated of its placards, which seemed to make sense at the time, as the vehicle was no longer in transportation or under DOT’s authority. This would have gone unnoticed, if not for the fact that an arsonist set the trailer on fire. With no placards on the trailer, the emergency responders did not hesitate in their resolve to mitigate the danger to the surrounding life and property. This was a fatal mistake, which in the end cost the lives of 6 Kansas City firemen.

So OSHA requires *“Any employer who receives a package of hazardous material which is required to be marked, labeled or placarded in accordance with the U.S. Department of Transportation’s Hazardous Materials Regulations (49 CFR Parts 171 through 180) shall retain those markings, labels and placards on the package until the packaging is sufficiently cleaned of residue and purged of vapors to remove any potential hazards”*.

Also, *“Any employer who receives a freight container, rail freight car, motor vehicle, or transport vehicle that is required to be marked or placarded in accordance with the Hazardous Materials Regulations shall retain those markings and placards on the freight container, rail freight car, motor vehicle or transport vehicle until the hazardous materials which require the marking or placarding are sufficiently removed to prevent any potential hazards”*.

Even though the DOT Hazardous Materials Regulations in 49 CFR end when the driver relinquishes control of the material at its destination, that does not mean the DOT marks, placards and labels can be detached. At least not since July 19, 1994, when OSHA promulgated the requirements under 29 CFR 1910.1201 Retention of DOT markings, placards and labels. Now every container received into your facility must maintain its DOT marks, placards and labels, which include: Shipping Name, UN number, Constituents, RQ's, Marine Pollutant marks, Hazard Class labels and Placards. This makes perfect sense to me, as an instructor of the OSHA HAZWOPER Requirements under 1910.120 for Uncontrolled Hazardous Waste Site, Treatment, Storage & Disposal Facility and Emergency Response Hazmat Team Worker Protection Regulations.

The Section 1910.1201 retention of DOT information is an important part of the 1910.120 Worker Protection Requirements since all DOT hazardous materials, once off the truck, become 1910.120 hazardous substances when they come into contact with workers at Superfund sites, TSDFs or anywhere that a cleanup of hazardous substance spills occurs.

Many people confuse 1910.1201 with 1910.1200 GHS Hazard Communication or with the 1910.120 HAZWOPER Requirements. First, **Section 1910.120** protects workers from **hazardous substances** at treatment, storage & disposal facilities, uncontrolled hazardous waste sites and hazmat teams at emergency response cleanups. **Section 1910.1200** requires responsible parties to compile GHS Safety Data Sheets and 6-part container labels for **hazardous chemicals**. Then **Section 1910.1201** requires retention of DOT **hazardous material** marks, placards and labels in-plant, after delivery.

Only “those in the know” realize that 1910.1201 Retention of DOT marks, placards and labels is based on the pictograms and marks under GHS in 1910.1200 Appendix B and two of the hazard classifications in Appendix A. But only a few of those, who have reached “true OSHA consciousness”, understand that GHS hazardous chemicals classification is determined by using OSHA’s own internal 1910.1200 Appendix A Health Hazards and Appendix B Physical Hazards, whereas Section 1910.1201 and the 1910.120 HAZWOPER regulations rarely use OSHA hazard classifications, but seem more interested in regulating the hazard classifications of other federal agencies, not their own.

If you were to reference the definition of a hazardous substance in 1910.120, you would find that a hazardous substance includes any of the following: 1) an EPA hazardous substance under 103(14) of CERCLA (the 302.4 and 355 Reportable Quantity Lists); 2) a biological or disease-causing material; 3) all DOT hazardous materials under 49 CFR; and 4) all EPA hazardous waste under 40 CFR. This is the reason that when training the lowest level, the First Responder Awareness Level employees that don’t ship DOT hazardous materials or EPA hazardous wastes, instructors must insure that their students are still able to identify them, as they are all 1910.120 OSHA hazardous substances. So leaving DOT marks, placards and labels on containers in-plant would allow even First Responder Awareness Level workers to make good use of the DOT container information in the event of a release.

As with any rule, there are always exceptions. For example, non-bulk containers that are never to be reshipped again, if marked under the GHS Hazard Communication Rule. But most facilities that receive hazardous materials, reuse the non-bulk drums or containers, when they are reshipping the same materials for disposal as hazardous waste under EPA. DOT has container exceptions for shipments of hazardous waste in 173.12(c) Reuse of packagings, that allow shippers of hazardous waste to reuse a packagings one more time, for one-time shipments for disposal.

DOT maintains that the reused containers must be the correct DOT containers; they can only be shipped by highway; and the containers, after closure, must remain on-site for at least 24 hours to ensure they do not leak or fail. Then containers must be inspected before they are offered for transportation. No special marks are required because if the containers do fail in transportation, the shipper will

either be cited for not waiting the 24 hours or for not re-closing, re-torque wrenching and re-capping them properly.

Bulk containers do not get this exception. As long as they have trapped, unremovable residue or if they have not been sufficiently cleaned of residue and purged of vapors to remove any potential hazards, they must retain the DOT marks, labels and placards. Bulk containers, which are authorized for reuse and receive periodic tests to ensure container integrity, should always maintain DOT marks, placards and labels, when they contain any residue. You should also note under OSHA, GHS requires bulk containers to have the GHS 6-part labels affixed before they are offered for transportation, unless the tank car's, cargo tank's, portable tank's or other bulk container's GHS label information is attached to the shipping paper.

OSHA believes it would make little sense to maintain this information on containers at work-sites or plant property if the information were not visible. Does this mean every single container must be in a certain orientation? No, it seems as long as some of each of the containers' representative marks, placards and labels are visible, this requirement could be met. OSHA states:

“This does not mean that non-bulk packages with DOT labels that are stored in a warehouse (e.g. cartons containing 4-gallon cans of a hazardous material) have to be arranged in a manner which allows every label to be in view at all times. Rather it requires that where DOT hazard warnings are required to be retained, such warnings are maintained in a manner that ensures that the message which the hazard warning is intended to convey is not compromised. In other words, at least some labeling should be visible for each type of hazardous material”.

To be clear, if these marks have been removed prior to or since this final rule, they must be replaced. This was addressed by OSHA when they stated: *“The rule requires no changes in the content of the label. However, OSHA is providing what it believes is sufficient time for employers to replace labels, markings or placards that may have been removed, or to empty containers of hazardous materials. Once the effective date of the rule has passed, employers will be subject to OSHA citations if packages, transport vehicles, freight containers, etc. of hazardous materials covered by DOT's HMR are present in the workplace, do not have the appropriate DOT hazard warning and violate the standard. It is not possible for OSHA compliance officers to readily know the date transport vehicles or packages were received and DOT warnings were removed.”*

Then OSHA, to insure that this rule is comprehensively heeded, regardless of where these DOT containers are located once delivered (meaning a fixed facility or not) has incorporated identical standards in General Industry (1910.1201), in Construction (1926.60), Shipyards (1915.100), Marine Terminals (1917.29) and Long shoring (1918.100) regulations as well.

If you're not sure when, where or which marks, placards or labels are required, don't get stuck without the right stickers. Before you become unglued, call Traci or Lisa. Or better yet, sign up for my next seminar in your town, before you find yourself in a sticky situation. Thank you for your readership and support.

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