



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

APR 02 2018

Mr. Danny Shelton
President
HazMat Resources, Inc.
124 Rainbow Drive, Suite 2471
Kingsport, TN 37663

Reference No. 17-0040

Dear Mr. Shelton:

This letter is in response to your April 25, 2017, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to marking cargo tank inlets and outlets to indicate whether they communicate with liquid or vapor when the cargo tank is filled to the maximum permitted filling density. You reference a previously-issued letter of interpretation, stating that the guidance therein is too limiting and does not account for the overall intent of the marking requirement. You believe that the intent of § 178.337-9(c) is fulfilled as long as the inlets and outlets are marked so that one can determine whether the inlet or outlet communicates with a liquid or vapor—whether that marking be on the cargo tank wall, accident protection frame, or the outlets themselves.

Your understanding is correct. Provided the marking is readily visible, legible, durable to withstand transport conditions, and clearly associated with the corresponding inlet or outlet, marking in the locations you describe would satisfy the requirements of the HMR.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

Shane Kelley
Director
Standards and Rulemaking Division

HazMat Resources, Inc.

Casey
8178-337-9 (c)
Packaging Specs
17-0040



April 25, 2017

Mr. Glenn Foster
Acting Director, Office of Hazardous Materials Standards
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
Mail Stop: E21-317
1200 New Jersey Ave., SE
Washington, DC 20590

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Re: Marking inlets and outlets on cargo tanks – PHMSA Interpretation 16-0001

Mr. Foster,

Please find attached a copy of the Pipeline and Hazardous Materials Safety Administration (PHMSA) Interpretation 16-0001 dated June 3, 2016. The regulation clearly states the following: 178.337-9 (c) Marking inlets and outlets. Except for gauging devices, thermometer wells, and pressure relief valves, each **CARGO TANK INLET AND OUTLET** must be marked "liquid" or "vapor" to designate whether it communicates with liquid or vapor when the cargo tank is filled to the maximum permitted filling density. A filling line that communicates with vapor may be marked "spray-fill" instead of "vapor."

We believe this means that the inlet or outlet on the cargo tank must be marked as follows; **EACH CARGO TANK INLET AND OUTLET**. The definition of cargo tank does not include piping but tank is clearly defined as **A CONTAINER, CONSISTING OF A SHELL AND HEADS, THAT FORMS A PRESSURE TIGHT VESSEL HAVING OPENINGS DESIGNED TO ACCEPT PRESSURE TIGHT FITTINGS OR CLOSURES, BUT EXCLUDES ANY APPURTENANCES, REINFORCEMENTS, FITTINGS, OR CLOSURES.**

Additionally, in the definition of cargo tank it specifically refers to the definition of "tank" in 178.320. Currently most cargo tank motor vehicle manufacturers use internal valves (versus a back flow check valve) to protect the product inlets and outlets in addition to the required accident damage protection devices to protect from damage that could be caused as a result of an accident.

This interpretation expands the marking requirements to include "cargo tank equipment" and "in close proximity" to its respective male/break point. I have not been able to find in the regulation where either one of these terms or phrases are defined and the regulations clearly do not require the marking to be "in close proximity to" the break point. What is defined by PHMSA is "cargo tank" and "tank" and we are of the opinion that as long as the inlets and outlets on cargo tanks are marked so that one can determine what is an inlet/outlet/spray fill, that certainly fulfills the intent of the marking requirement. There is no question that everyone, even the roadside inspectors knew the function of each inlet/outlet but because the piping was not marked it was determined to be a violation.

Most if not all MC331 cargo tanks, including bobtails and transports mark the inlets and outlets as close as practicable to the inlet and outlet. Specific to MC331 bobtail CTMVs the inlets and outlets are marked right on the cargo tank immediately adjacent to the fitting and the piping is protected by the rear end accident damage protection device. Inlets and outlets on transports are marked on the flange that is welded to the cargo tank that contains the internal valve and for convenience to the operator the piping is also marked on the piping protection guard where the delivery hose assembly attached to the cargo tank by means of the acme fitting. I have attached some pictures to illustrate how these outlets are marked to

HazMat Resources, Inc.



clearly communicate to the operator and emergency response personnel the function of each inlet and outlet.

We believe that PHMSA should reconsider this interpretation and considering the fact that this determination has expanded the marking requirement to include "cargo tank equipment" and "close proximity to" and neither term has been defined. One can certainly argue that the phrase "close proximity to" and "near" mean the same thing. PHMSA has already provided guidance on what near means regarding the marking of QT near the specification plate and has stated that near means on the same side of the cargo tank as the specification plate. So on the one hand 4 inches is not close enough for one marking yet up to 20 feet is acceptable for another marking. Neither determination makes any sense so the industry is just trying to comply and make sense out of a requirement that is, at best, ambiguous.

This incorrect interpretation has cause great harm and inconvenience to the trucking industry and State enforcement officers are writing this violation because the piping itself or the equipment is not marked. Another consideration would be in case there was an accident and the piping was marked and the piping got knocked off then there would be no way to know which inlet or outlet communicated with the liquid, vapor or spray fill of the cargo tank.

Thank you for your consideration in this matter.

Regards

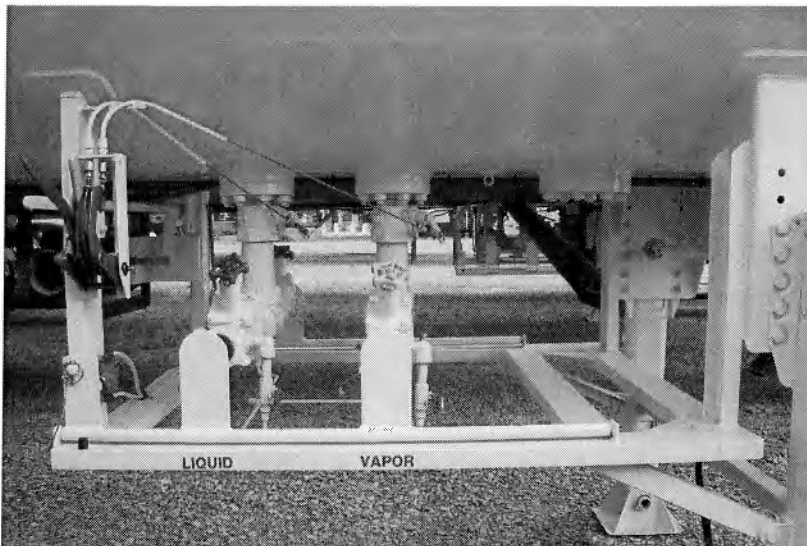
A handwritten signature in black ink that reads "Daniel G. Shelton". The signature is written in a cursive, flowing style.

Daniel G. Shelton
President, HazMat Resources, Inc.

Cc: Ms. Christina Tackett, Assistant Chief Counsel, Hazmat Safety
Mr. Mark Sanborn, Office of the Secretary
Mr. Brigham McCown, Office of the Secretary
Mr. Mike Pitts, VP Mississippi Tank Company
Mr. Charles Whittington, Grammer Industries
Mr. David Auxier, VP BT & T

Attachments: Photographs of markings that were in violation in Kentucky
Photographs of how tanks are really marked
Two Roadside inspections in Kentucky (1 for a transport and 1 for a bobtail)

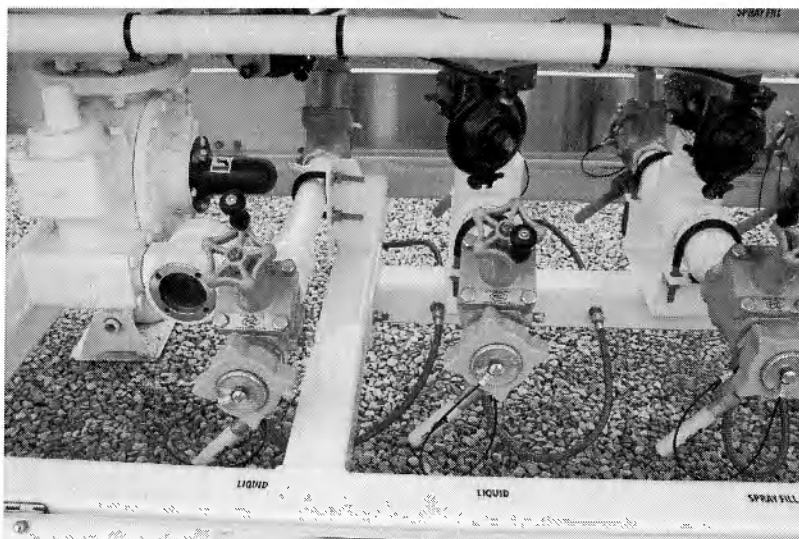
Photographs of typical markings of inlets and outlets on MC331 Cargo Tank Motor Vehicles



This is a picture of the actual markings on the cargo tank that was written up by the state of Kentucky.

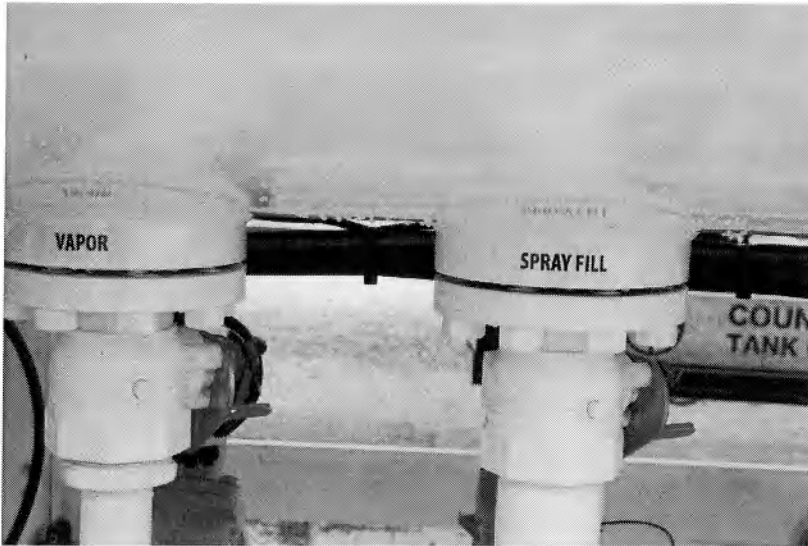


Typical marking on a transport. Note the cargo tank outlet by definition is marked.

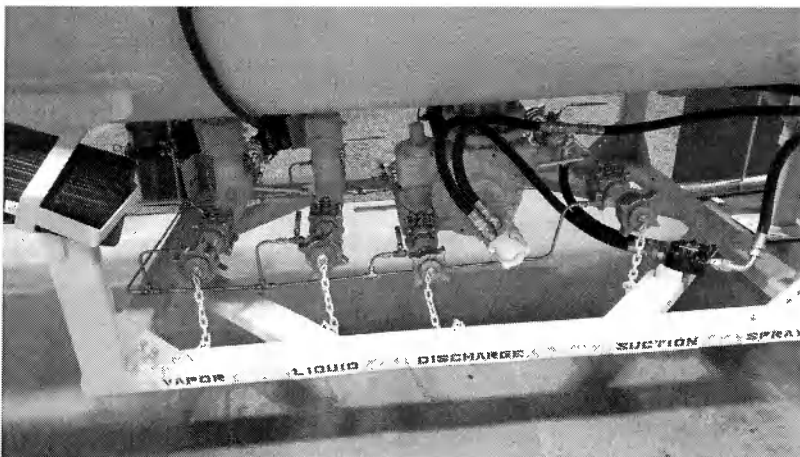


In addition there are markings on the piping protection but if the piping protection gets damage because the cargo tank outlet is marked one can still determine the function of the opening.

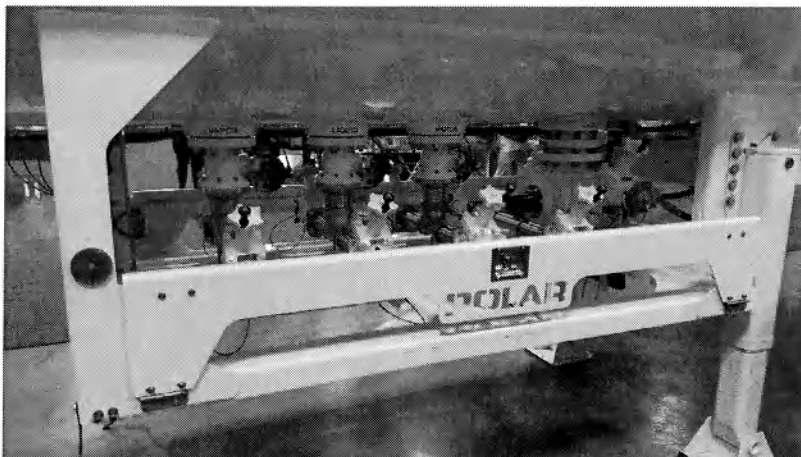
Photographs of typical markings of inlets and outlets on MC331 Cargo Tank Motor Vehicles



Closeup of marking on the cargo tank outlet.



Marking of inlets and outlets



Marking of inlet and outlets on the cargo tank.

Photographs of typical markings of inlets and outlets on MC331 Cargo Tank Motor Vehicles



Closeup of marking on the piping protection

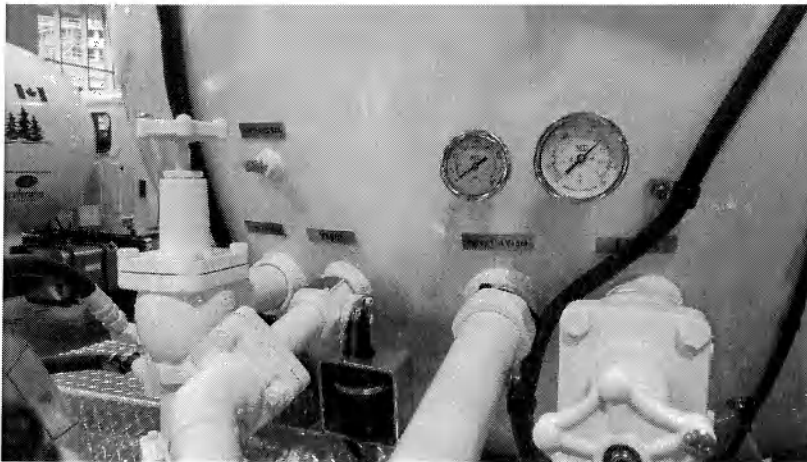


Closeup of marking on the piping protection

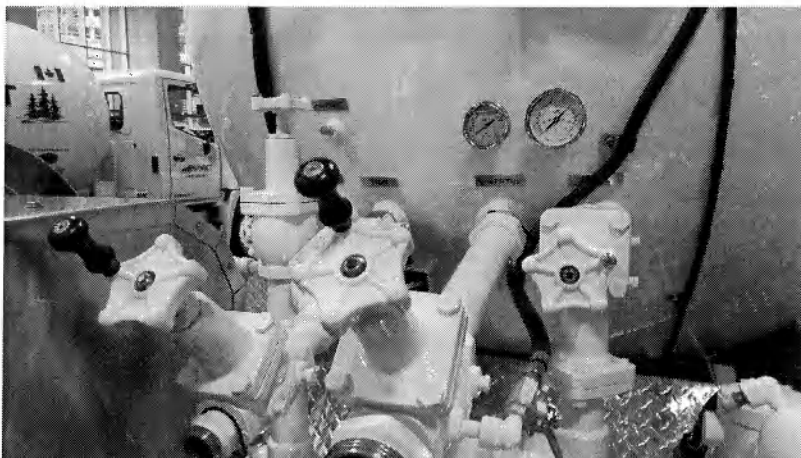


Marking of inlet and outlets on the cargo tank.

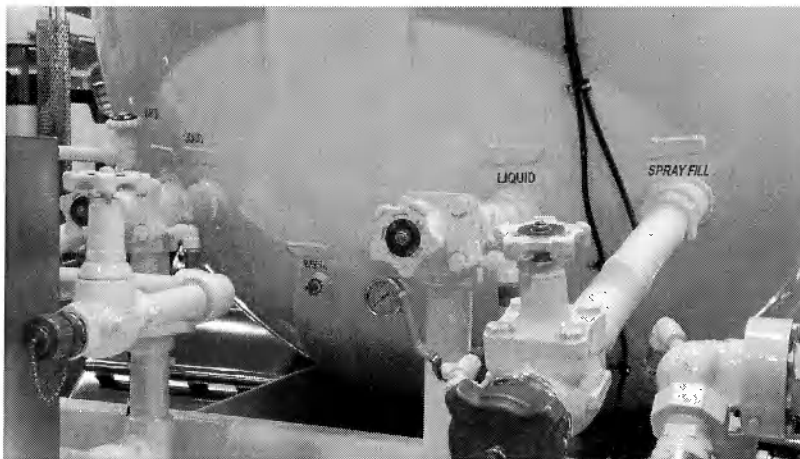
Photographs of typical markings of inlets and outlets on MC331 Cargo Tank Motor Vehicles



This is a picture of the actual markings a MC331 bobtail that was written up in Kentucky.



Same as above just a different angle.



Inlets and outlets marked on the cargo tank. This is another CTMV that was written up in Kentucky.

DRIVER/VEHICLE EXAMINATION REPORT

inSPECT 1.0.96



Kentucky State Police
Commercial Vehicle Enforcement Division
1919 Versailles Road
Frankfort, Kentucky 40601
Fax 502-573-0021

Report Number: KYCV44000579
Inspection Date: 04/04/2017
Start: 7:30 AM CT End: 8:28 AM CT
Inspection Level: I - Full
HM Inspection Type: Bulk

GRAMMER INDUSTRIES INCORPORATED
6320 E STATE ST
COLUMBUS, IN, 47201
USDOT: 184668
MC/MX#: 152256
State#:

Driver: WILLIAMS, LEE A
License#: 8907770809 State: IN
Date of Birth: 10/07/1963
CoDriver:
License#:
Date of Birth: State:

Location: HENDERSON WEIGH FACILITY
Highway: US 0041
County: HENDERSON

Milepost: 21 Shipper: GRAMMER INDUSTRIES
Origin: NEWBURGH, IN Bill of Lading: N/A
Destination: CALVERT CITY, KY Cargo: HAZARDOUS MATERIALS

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GVWR	CVSA #	Issued #	OOS Sticker
1	TT	KW	2005	IN	332499	867	1XKWDB9X35J099493	52000			
2	ST	MTCI	2010	IN	Z83666	702	1M9AT9B2XAV355934	68000			

BRAKE ADJUSTMENTS

Axle #	1	2	3	4	5
Right	1	3/4	3/4	1	1
Left	1	1/2	1/2	3/4	1
Chamber	C-24	C-30	C-30	C-30	C-30

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
178.337-9C	F	2	N		N	N	Marking inlets/outlets MC331: Inlet and Outlet piping is not marker as required. Required to be on piping.

HazMat: 2.1 LPG

Placard: Yes

Cargo Tank: 331

Special Checks:

Alcohol/Controlled Substance Check
Conducted by Local Jurisdiction
Size and Weight Enforcement
X eScreen Inspection

Traffic Enforcement
PASA Conducted Inspection
Drug Interdiction Search

Post Crash Inspection
PBST Inspection

State Information:

Driver's Lic. Check (Y or N): Y; Cargo Tank Inspection: Y; Bulk Packaging: N; Carrier Validation (Y or N): Y

Co-Inspector(s):

Goodman (4325)

Attention Motor Carrier: If the inspection indicates violations/defects on the driver and or vehicle a signed copy of the inspection shall be returned within 15 days to the address shown at the top left of the inspection. An inspection absent any type of violation/defect does not need to be returned.

Motor carriers are required to keep a copy of this inspection on file for 12 months from the date of inspection (49 CFR 396.9(d)(3)(ii)).

NOTE: Drivers or carriers may challenge the accuracy or validity of a commercial vehicle inspection, including the issuance of an Out of Service Order, by contacting the Federal Motor carrier Safety Administration (FMCSA) at: <https://dataqs.fmcsa.dot.gov>

If your citation for a fatigue and or illness violation is dismissed by a prosecutor or judge for lack of probable cause, or you are acquitted of the charge, you can make application through the DataQ system to have the related out of service order rescinded.

The undersigned certifies that all violations noted have been corrected and compliance achieved with the Federal Motor Carrier Safety and / or Federal Hazardous Materials Regulations as applicable to motor carriers and drivers.

Signature Of Motor Carrier X: *Kathy Mc Nicholas* Title: *Asst. Mgr.* Date: *04-07-2017*

Safety Dept.



DRIVER/VEHICLE EXAMINATION REPORT

inSPECT 1.0.96



Kentucky State Police
Commercial Vehicle Enforcement Division
919 Versailles Road
Frankfort, Kentucky 40601
Fax 502-573-0021

Report Number: KYCV44000579
Inspection Date: 04/04/2017
Start: 7:30 AM CT End: 8:28 AM CT
Inspection Level: I - Full
HM Inspection Type: Bulk

Report Prepared By:

Unit #: Badge #:

Copy Received By:

G. Pointer

4400 4400

LEE WILLIAMS

x G. Pointer *4400* *x* *[Signature]*



Highway: KY-0015
County: KNOTT

Origin: HAZARD, KY
Destination: WHITESBURG, KY

Bill of Lading: N/A
Cargo: HAZARDOUS
MATERIALS

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate	Equipment ID	VIN	GWWR	CVSA #	Issued #	OOS St
1	TR	FRHT	2014	KY	308600	5049	3ALACXC0EDFV4067	33000			

BRAKE ADJUSTMENTS: No brake measurements required for level II or level III

VIOLATIONS

Section	Type	Unit	OOS	Citation #	Verify	Crash	Violations	Discovered
178.337-9C	F	1	N		N	N	Marking inlets/outlets MC331: Inlets and outlets not marked only marked on tank wall	

HazMat: 2.1 LPG

Placard: Yes

Cargo Tank: 331

Special Checks: No data for special checks

State Information:

Driver's Lic. Check (Y or N): Y; Cargo Tank Inspection: Y; Bulk Packaging: Y; Carrier Validation (Y or N): Y

Co-Inspector(s):

Johnson (4232)

Notes: UN1075 Propane

Attention Motor Carrier If the inspection indicates violations/defects on the driver and or vehicle a signed copy of the inspection shall be returned with 15 days to the address shown at the top left of the inspection. An inspection absent any type of violation/defect does not need to be returned.

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The undersigned certifies that all violations noted have been corrected and compliance achieved with the Federal Motor Carrier Safety and / or Federal Hazardous Materials Regulations as applicable to motor carriers and drivers.

Signature Of Motor Carrier X _____ Title: _____ Date: _____

Report Prepared By:
D Issac

Unit #: 4398
Badge #: 4398

Copy Received By:
JOHN SPARKS