



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAR 17 2000

Mr. Paul Bomgardner
Director, Hazardous Materials Policy
American Trucking Associations
2200 Mill Road
Alexandria, VA 22314-4677

Ref. No. 99-0216

Dear Mr. Bomgardner:

This is in response to your letter concerning a 1985 letter from the Federal Highway Administration (FHWA) and a 1994 letter from this Office regarding the visibility and display of a placard under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). We apologize for the delay in responding and hope it has not caused any inconvenience.

As you are aware, the Research and Special Programs Administration's Office of Hazardous Materials Safety is the agency responsible for issuance and interpretation of the HMR, and it is also our responsibility to provide clarifications or interpretations, when necessary. The March 19, 1985 letter was not coordinated with this Office and represents the opinion of the specialist who wrote it. We disagree with the opinion expressed in that letter. As indicated in our June 16, 1994, and April 14, 1999 letters, locating a placard below the bed of a trailer and behind the rear-under-ride protection device significantly reduces the visibility of the placard and allows water, dirt and other debris to be directed onto the placard. The display of a placard in such a location does not comply with the provisions in § 172.516. This response has been coordinated with the Federal Motor Carrier Safety Administration's Hazardous Materials Unit.

I regret any confusion or inconvenience that may have been caused by the 1985 letter. If we can be of further assistance, please contact us.

Sincerely,

Robert A. McGuire
Acting Associate Administrator for
Hazardous Materials Safety



990216

172-516



AMERICAN TRUCKING ASSOCIATIONS

2200 Mill Road * Alexandria, VA * 22314-4677

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Safety Policy

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§ 172.516
99-0216

August 3, 1999

Mr. Alan I. Roberts
Associate Administrator for Hazardous Materials Safety
Research and Special Programs Administration
U. S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590

DOV/RSPA /OHS
EXEMPTIONS & APPROVALS
99 AUG -6 PM 2:21

Re: Request for reconsideration of opinion regarding Title 49 Part 172 Subpart F Section 172.516

Dear Mr. Roberts:

It has recently been brought to my attention that the State of Michigan is citing motor carriers for violations of section 172.516(c). This practice is taking place when placards are mounted and displayed on the rear of a trailer, semi-trailer, or truck below the floor level and to either the right or left of the rear underride guard. While this places placards to the rear of the wheels and mudflaps, under normal conditions the placards remain free of dirt and other materials that could obscure their display.

The practice of placing placards in this location is longstanding and based on an opinion that was rendered in 1985 by Mr. Norris J. Freeman, who was at that time the Regional Hazardous Materials Specialist of the U. S. Department of Transportation's Federal Highway Administration. A copy of this letter is attached. Since that time, the motor carrier that originally requested the opinion, and a number of others, have made it a standard practice to mount their placards in this location for a number of reasons, including protection from normal wear and tear associated with mounting placards on rear doors. Moreover, until now, these carriers have had no reason to believe that the practice is in violation of section 172.516(c) as long as the placard was maintained in a clean and visible manner.

Even in Michigan, the practice has gone virtually unnoticed until now. Upon request from the carrier, state officials produced an opinion rendered on this subject in 1994 by Mr. Edward T. Mazzullo, Director of Hazardous Materials Standards, U. S. Department of Transportation, Research and Special Programs Administration (RSPA), that completely

reverses the original 1985 opinion. We question the wisdom or necessity of taking enforcement actions against carriers for this practice 14 years after it was first approved and more than five years after reversal?

If the 1994 opinion is to hold, and states begin to enforce the requirement in earnest, hundreds of thousands of trailers, semi-trailers, and trucks will be in violation. Three motor carriers alone will account for nearly 80,000 possible violations because all of their semi-trailers are equipped with the placard mounted on the rear of the trailer behind the mudflap. The costs to the industry for retrofitting of these trailers would far outweigh any improvements in the safe transportation of hazardous materials. Most of the vehicles in question are equipped with multi-paneled, roll-up doors that do not allow proper mounting of standard flip-style placards which will force carriers to invest in unnecessarily expensive split-panel units. At a cost of approximately \$20.00 per placard as compared to \$16.00 for the standard style, the cost of purchasing placards for only the 3 carriers mentioned will be approximately \$1.6 million, not including the cost of installation.

We submit that there is virtually no area of the rear of a trailer, semi-trailer, or truck, due to the aerodynamic design of these types of vehicles, that places a placard away from dirt or spray. Because of the shape of these vehicles, when in motion, air slips along the sides and creates a vacuum at the rear. Turbulent air is then drawn into the rear of the trailer, bringing with it dirt, spray, or any other loose matter that is in the air. Placards mounted behind the mudflap do not get dirty from what is kicked up from the tires because the flap stops the dirt or water before reaching the placard. Instead, water and dirt (splash and spray) are drawn into the air and eventually into the rear of the vehicle. This effect is so violent that in many cases carriers must seal the doors in some fashion to keep moisture and dirt from entering the cargo area.

This effect is not unusual. In fact, imagine a station wagon or SUV travelling a dusty road with the rear window opened. Before long, the entire inside of the vehicle is covered in dust, drawn in by the vacuum created as the vehicle rides along. The entire back end of the vehicle is covered in dust, and in many cases, the taillights, turn signals, and rear license plates are obscured. So is the case of placards mounted anywhere on the rear of a vehicle.

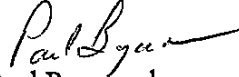
Therefore, ATA submits that violations of section 172.516 should be considered on a case-by-case basis. If the placard is dirty or otherwise obscured at the time the vehicle is inspected, then a violation should be noted and the carrier should be fined. If, on the other hand, the placard is clean and clearly visible, no violation should be recorded, regardless of its position on the rear of the vehicle.

We believe that Mr. Mazzulo did not consider the dynamics of the vehicle, nor the earlier opinion when he rendered his decision in 1994. We request that RSPA revisit this issue and that a new opinion be issued that stresses the need to assess proper display on a case-by-case basis. Carriers should not be cited merely on the basis that placards are mounted in a position on the rear of the trailer, beneath the level of the floor and behind the mudflap. As long as the

placard is clean and clearly visible, there should be no violation of section 172.516.

Thank you for your consideration in this matter. Should you have any questions regarding this request please contact the underside at: 703-838-1848 (phone); 703-683-1934 (fax); or pbomgard@trucking.org (E-mail).

Sincerely,



Paul Bomgardner

Director, Hazardous Materials Policy

CC: Sgt. David Ford, Michigan State Police
Chairman, CVSA Hazardous Materials Committee

Attachments: Michigan DVIR #MIFD000115
March 19, 1985 letter by Norris J. Freeman
June 16, 1994 letter by Edward T. Mazzullo