



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

MAY 14 2002

Mr. Michael J. Riley
President
Motor Transport Association
of Connecticut, Inc.
60 Forest Street
Hartford, CT 06105-3200

Ref. No. 02-0102

Dear Mr. Riley:

Thank you for your letter to Mr. Joseph M. Clapp, Administrator, Federal Motor Carrier Safety Administration (FMCSA), concerning display of signs or slogans, such as the "Drive Safely" slogan, on hazard warning placards and in placard holders. Your letter was forwarded to the Research and Special Programs Administration for response.

You are concerned that in the State of Connecticut motor carriers are being cited by State law enforcement officers for displaying the "Drive Safely" slogan in the diamond shaped placard holders displayed on trucks. You do not believe that the FMCSA intended law enforcement to use the authority found in 49 CFR 172.502 to cite every truck displaying a safety slogan in a placard holder, and stated that a strong argument can be made that in order to fall subject to this regulation, a carrier must meet the applicability standard.

Concerns about Connecticut enforcement policy should be addressed to the Connecticut Department of Motor Vehicles, Commercial Vehicle Safety Division, 60 State Street, Wethersfield, CT 06161. Under the statutory authority of the Federal Hazardous Materials Transportation Law, the Hazardous Materials Regulations apply to the use of terms and symbols prescribed for the marking, labeling and placarding, and description of hazardous material, regardless of whether a carrier is engaged in the transport of the hazardous material [see 49 U.S.C. 5103 and 49 CFR 171.1(a)(4)]. The Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) establish requirements for transporting hazardous materials in commerce. They prescribe a uniform system of hazard communication requirements for hazardous materials shipments, including shipping papers, package marking and labeling, vehicle placarding, and emergency response information and training requirements. These requirements are designed to provide transport workers and fire and emergency response personnel with information on the hazards associated with a given shipment and on appropriate responses to an accident involving the shipment.



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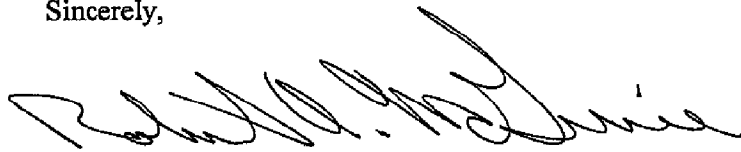
172,502

A prohibited placarding provision was first added to the HMR in 1976. It specified that no person may affix or display any sign or other device on a transport vehicle, portable tank, or freight container, that by its color, design, shape or content could be confused with any placard prescribed in the HMR. In January 1997, a final rule was published in the Federal Register (62 FR 1217) to clarify the prohibited placarding provision as it applies to extraneous information, such as the "Drive Safely" slogan, on a placard or in a placard holder. A transition period of over four years, until October 1, 2001, was provided to come into compliance with the prohibition.

Although we understand your concerns, other venues exist on a transport vehicle or freight container to more appropriately place messages unrelated to the hazard communication for hazardous materials. Placards and placard-shaped backgrounds are reserved for hazard communication. We believe that extraneous information, displayed on placards and in placard holders, detracts from the basic function of placards and reduces the ability of emergency responders to readily recognize vital hazard alerting information (including determining whether a placard holder contains a placard). Therefore, we have prohibited those displays.

I appreciate your interest in promoting hazardous materials transportation safety. If you have further concerns, please contact Mr. Edward T. Mazzullo, Director, Office of Hazardous Materials Standards, at 202-366-8553.

Sincerely,



Robert A. McGuire
Associate Administrator for
Hazardous Materials Safety

cc: Bill Quade, FMCSA

MTAC MOTOR TRANSPORT ASSOCIATION OF CONNECTICUT, INC.

MICHAEL J. RILEY
PRESIDENT

Engram
\$172.502
Placarding
02-0102

March 21, 2002

Mr. Joseph M. Clapp
Administrator
Federal Motor Carrier Safety Administration
400 7th Street S.W.
Washington, D.C. 20590

Dear Mr. Clapp:

Congratulations on your appointment as Administrator of the Federal Motor Carrier Safety Administration. The insight and experience you bring to the position will be of great benefit to your agency and to the transportation industry. I wish you many years of accomplishment and success.

I was taken by some of your recent remarks because they go right to the heart of what both industry and government strive for. You said: "We are not here to issue citations or even issue rules and regulations. We are here so that sons and daughters, mothers and fathers, grandparents and friends get home for dinner tonight. Over 100 times a week they do not." I interpret this as a call for enforcement that actually saves lives.

I recently forwarded a letter to *Transport Topics* that is critical of an enforcement practice occurring here in Connecticut, and I presume, throughout the United States. Carriers are being cited for displaying "Drive Safely" slogans in the diamond shaped placard holders seen on the side of trucks. Connecticut levies a \$500 fine for each violation of the Federal



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MTAC MOTOR TRANSPORT ASSOCIATION OF CONNECTICUT, INC.

MICHAEL J. RILEY
PRESIDENT

hazardous material regulations. In one instance, a carrier was given a \$1500.00 summons for having three "Drive Safely" signs.


I do not think the FMCSA intended law enforcement to use the authority found in CFR 172.502 to cite every truck displaying a safety slogan in a placard holder. A strong argument can be made that in order to fall subject to this regulation, a carrier must meet the applicability standard. This requires an active role in transporting hazardous materials. Anyone using a placard holder when not subject to the hazmat regulations is merely exercising free speech.

Responsible carriers are willing to take whatever steps necessary to protect life and property. During times hazardous materials are onboard, the industry will mark a vehicle in any way prescribed to insure safe transportation. What my members, and I presume much of the industry, cannot accept is enforcement that does little to save lives while raising questions about whether a carrier meets the applicability standard.

The fines in Connecticut are crippling at a time when many companies are struggling just to meet payroll. I think law enforcement officials need a precise interpretation of what constitutes an offense under CFR 172.502. Your guidance in this matter will go a long way towards meeting our ultimate goal: saving lives.

With best wishes, I am

Sincerely,


Michael J. Riley
President



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