



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

AUG 5 2008
Mr. Danny Shelton
Vice President, Business Development
HazMat Resources, Inc.
10104 Creedmoor Road
Raleigh, NC 27615

Ref. No. 08-0098

Dear Mr. Shelton:

This is in response to your letter dated April 17, 2008, requesting clarification of §§ 172.504 and 172.516 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the display of a placard in a placard holder mounted clear of obstructions on the fender of a cargo tank motor vehicle facing the front or rear of the transport vehicle satisfies the requirements of §§ 172.504 and 172.516. You reference previous letters of clarification dated August 6, 2004 from John Gale to Charles Phillips (Ref. No. 04-0164) and May 6, 1999 from Delmer Billings to Bruce Bugg (Ref. No. 99-0048) and provide several photos. You indicate that the letters conflict with one another.

When placarding is required by § 172.504(a) of the HMR, a transport vehicle must be placarded on each side and each end. The HMR require a placard to be clearly visible from the direction it faces, except from the direction of another transport vehicle to which it is coupled (see § 172.516(a)). For purposes of the HMR, a "transport vehicle" is a cargo-carrying vehicle, such as a van, tractor, trailer, semi-trailer, tank car, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body is a separate transport vehicle. In accordance with § 171.8, a transport vehicle with no intermediate form of containment meets the definition of a bulk packaging.

We have reviewed the letters and the photos you submitted. The photos you provided are of placards mounted on the front or rear end of semi-trailers used in a truck-tractor/trailer configuration. The letters you reference were provided by this office in response to very specific placarding questions. Letter 04-0164 addresses the display of placards on a single transport vehicle (e.g., straight truck) as follows:

"Each placard on a motor vehicle must be visible from the direction it faces, except from the direction of "another transport vehicle" to which the motor vehicle is coupled (172.516). In this case, the truck-tractor is not "another transport vehicle," because it is part of a single transport

vehicle. Therefore, the obscured placard does not meet the visibility requirement in § 172.516. A placard placed on the front of the truck-tractor in accordance with § 172.516(b) would satisfy the visibility requirement of § 172.516(a)."

Letter 99-0048 addresses two or more transport vehicles used in combination (e.g., truck-tractor/semi trailer) as follows:

"Section 172.504 states that a transport vehicle must be placarded on each side and each end. A placard located on the tank fender that "faces" the front of the tank is not "on" the front end, and therefore, the placard does not comply with 172.504. Additionally, the location of the placard does not satisfy the visibility requirements of 172.516(a)."

The letters do not conflict, as you suggest. However, though the intent of letter 99-0048 was to prohibit front and rear placards that are not actually on the end of the transport vehicle, the language in the letter actually implies that the front and rear placards cannot be on the fenders even if they are on the end of the transport vehicle. Placards that are on the end of the bulk package, which includes a transport vehicle that has no intermediate form of containment, may be used to meet the requirements in §§ 172.504(a) and 172.516(a).

Therefore, this letter clarifies that in the truck-tractor/trailer configuration that you describe, a forward or rear facing placard, mounted so that its plane is substantially perpendicular to the longitudinal axis of the vehicle, may be on the fender as long as it is visibly mounted on the end of the transport vehicle. You should also note, when the front of a transport vehicle is blocked by another transport vehicle (e.g., the truck tractor blocks the front of the semi-trailer) it is our opinion that mounting a placard on the front of the truck-tractor in accordance with § 172.516(b) is the most effective means of satisfying the visibility requirements in § 172.516(a).

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,



Edward T. Mazzullo

Director

Office of Hazardous Materials Standards

Supko
 \$ 172.504
 \$ 172.516.

Drakeford, Carolyn <PHMSA>

From: Mazzullo, Ed <PHMSA>
Sent: Thursday, April 17, 2008 3:24 PM
To: Drakeford, Carolyn <PHMSA>
Cc: Gale, John <PHMSA>; Billings, Delmer <PHMSA>; Gorsky, Susan <PHMSA>
Subject: FW: Display of Placards on the Fenders of Cargo Tanks
Attachments: Texas DPS placard visibility.doc; 172.516 Visibility.pdf; Incoming and outgoing inter May 6, 1999.pdf

Placarding
 08-0098

Carolyn

Please assign for response and let me know who gets this. Thanks.

Ed

From: Danny Shelton [mailto:dgshelton@nc.rr.com]
Sent: Thursday, April 17, 2008 3:02 PM
To: Fritz Mead
Cc: John Conley; Mazzullo, Ed <PHMSA>; Simmons, James <FMCSA>
Subject: Display of Placards on the Fenders of Cargo Tanks

Please find attached the information that was transmitted on October 26, 2004 regarding the requirement that the placard must be attached to the cargo tank. The regulations do not support this requirement only that the placard be attached to the transport vehicle and the fender is certainly part of the transport vehicle.

Here is what needs to happen. Both Highway Transport and Usher Transport need to challenge the violation in Data Ques. At the same time I need copies of the roadside inspection reports and I will communicate this information to Mr. Tom Marlow, Division Administrator for the Georgia Division and provide them the opportunity to update Georgia's training curriculum regarding the transportation of hazardous materials in bulk packages.

Ed, I have attached a copy of the 1999 interpretation and an August 2004 interpretation for your reference. It appears these interpretations conflict with one another. Ed, I was not able to find an interpretation that rescinded the 1999 interpretation so please

4/28/2008

consider this e-mail as my official request for an interpretation regarding the visibility and display of placards on cargo tank motor vehicles and specifically if the display of a placard in a placard holder clear of all obstructions mounted on the fender of the cargo tank motor vehicle facing in the required direction full fills the requirements of the regulation.

From: Shelton, Danny
Sent: Tuesday, October 26, 2004 12:18 PM
To: 'John Conley'; 'Clifford Harvison'
Cc: Delorenzo, Joseph; Evans, Joseph; Simmons, James; 'Steve Keppler'; Gorsky, Susan <RSPA>; 'Jeff '
Subject: FW: Display of Placards on the Fenders of Cargo Tanks

FYI

From: Rogers, Mark [mailto:Mark.Rogers@txdps.state.tx.us]
Sent: Tuesday, October 26, 2004 11:50 AM
To: Sullivan, Steven; Albus, Gary; Cantu, Lambert; Cummings, Tom; Doyle, David; Ladd, Billy; Palmer, David; Rodriguez III, Jose; Salinas, Mario; Spencer, James; St. John, Dale; Stafford, Glen; Larocque, John; Longfellow, Charles; Moore, Dana; Sellers, Ken
Cc: Baumgartner, Rodney; Shelton, Danny
Subject: Display of Placards on the Fenders of Cargo Tanks

Gentlemen:

During the recent series of in-service classes that all CVE Service personnel have attended, the topic of how to properly display a placard on a cargo tank was discussed during hazardous materials re-certification. Several interpretations from RSPA were distributed that specifically indicated that the display of a placard on the fender of a cargo tank was not in compliance with 49 CFR 172.504 and 172.516(a).

Attached is a request from the FMCSA asking that the DPS discontinue enforcement of the above described interpretations. FMCSA is working with RSPA to revise and clarify the above interpretations.

In the interim time, while these interpretations are being reviewed by RSPA, please discontinue enforcement, both arrest citations and warnings, for placards that are simply mounted on the fenders of a cargo tank, but remain visible. Enforcement of the provisions of 49 CFR 172.516(a) - Visibility of Placards - may continue, but only if the placard is mounted on the fender in such a position that it is truly not visible from the direction it is facing at **all** angles of visibility. Photographs that depict what is acceptable for the display of placards on the fenders of a cargo tank are forthcoming.

Please advise all DPS, city, and county personnel involved in our hazardous materials enforcement program of this policy change.

Mark Rogers, Major
Texas Highway Patrol Division - Chief's Staff
Commercial Vehicle Enforcement Service

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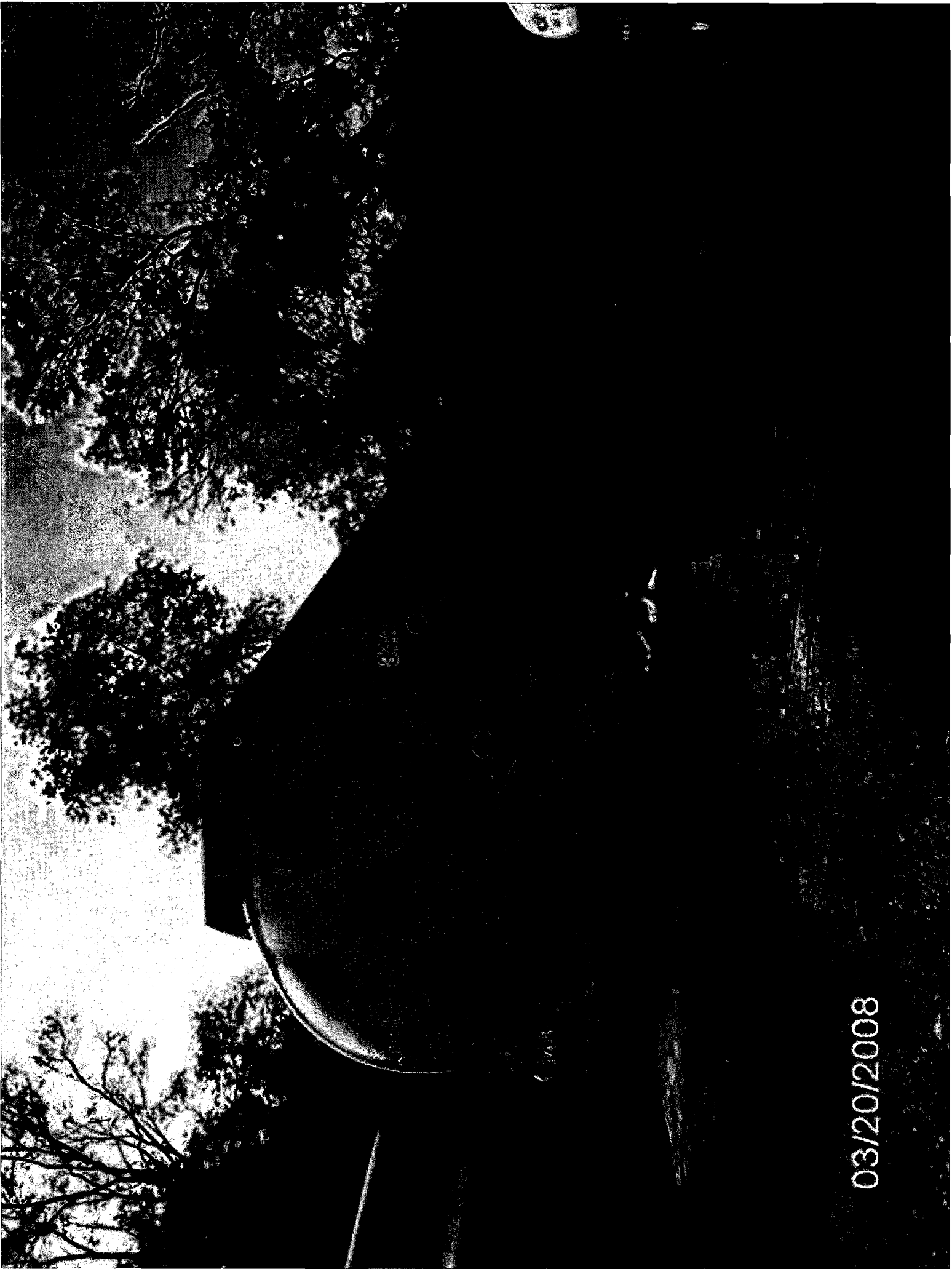
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03/20/2008



03/20/2008

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ConocoPhillips



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This will confirm our conversation on Tuesday, October 26, 2004 regarding the display of placards on a motor vehicle. The requirement for the visibility and display of placards is located in 49 CFR §172.516 and paragraph (a) states as follows: Each placard on a motor vehicle and each placard on a rail car must be clearly visible from the direction it faces, except from the direction of another transport vehicle or rail car to which the motor vehicle or rail car is coupled. This requirement may be met by the placards displayed on the freight containers or portable tanks loaded on a motor vehicle or rail car. Also § 172.504(a) states that each bulk packaging, freight container, unit load device, transport vehicle or rail car containing any quantity of a hazardous material must be placarded on each side and each end with the type of placards specified in Table 1 and 2 of this section and in accordance with other placarding requirements of this subpart, including the specifications for the placards named in the tables and described in detail in §172.519 through §172.558.

Additionally § 171.8 defines a motor vehicle as a vehicle, machine, tractor, trailer or semi trailer, or any combination thereof, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. Also § 171.8 goes on to define a transport vehicle as a cargo-carrying vehicle such as an automobile, van, tractor, truck, semi trailer, tank car or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, rail car, etc.) is a separate transport vehicle.

It is the position of the Federal Motor Carrier Safety Administration (FMCSA) that a motor vehicle and a transport vehicle are one and the same and simply because a placard is placed on the fender of a motor vehicle but is visible from the direction it faces, is not in violation of either 172.516 or 172.504. We are requesting that Federal and State commercial motor vehicle inspectors not cite this violation when the circumstances described in this document are present. We are working with the Research and Special Programs Administration (RSPA) to rescind the interpretation dated May 6, 1999 which states in part that a placard located on the tank fender that "faces" the front of the tanks is not "on" the front end, and therefore, the placard does not comply with 172.504 and that the location of the placard does not satisfy the visibility requirements of 172.516(a).

Our position is that RSPA's interpretation needs revisited and we will be working with RSPA to revise and clarify that interpretation.

I hope this information provides



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

MAY 6 1999

Captain Bruce Bugg
Hazardous Materials Specialist
Georgia Public Service Commission
47 Trinity Avenue, SW
Atlanta, GA 30354-5701

Reference No. 99-0048

Dear Captain Bugg:

This is in response to your letter of February 17, 1999, regarding clarification of §§ 172.504 and 172.516 under the Hazardous Materials Regulations (HMR: 49 CFR Parts 171-180). Specifically, you ask whether mounting the front or rear placard on the fenders of cargo tanks, anywhere from even with the front of the cargo tank to as much as 24 inches from the end of the tank satisfies the requirements of §§ 172.504 and/or 172.516.

The answer is no. Section 172.504 states that a transport vehicle must be placarded on each side and each end. A placard located on the tank fender that "faces" the front of the tank is not "on" the front end, and therefore, the placard does not comply with § 172.504. Additionally, the location of the placard does not satisfy the visibility requirements of § 172.516(a).

I hope this answers your inquiry. If we can be of further assistance, please contact us.

Sincerely,

Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



990048

172.504

COMMISSIONERS:

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BOB DURQEN
LAUREN "BUBBA" MCDONALD, JR.
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Georgia Public Service Commission

47 TRINITY AVENUE, SW
ATLANTA, GEORGIA 30354-5701
(404)656-4501 or 1-800-282-5813
<http://www.psc.state.ga.us>
February 17, 1999

George
§172.516
99-0048

Mr. Edward Mazzullo
Office of Hazardous Materials Standards
US DOT - RSPA - DHM-10
400 Seventh Street, SW
Washington, DC 20590-0001

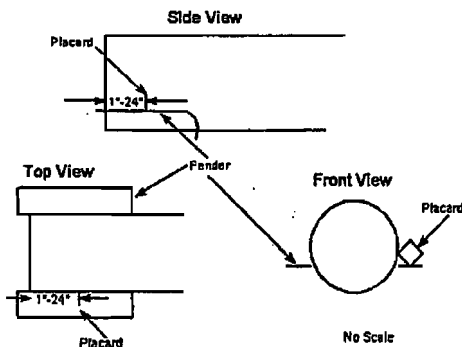
Dear Sir:

This letter is to request a clarification of the visibility and display requirements for placards, especially on cargo tank motor vehicles. As you know, 49 CFR §172.504(a) requires placards be displayed "on each side and each end" of the vehicle. In addition, 49 CFR §172.516 sets down certain other visibility requirements.

Our officers frequently encounter cargo tanks with placards mounted as depicted in the drawings below. The front (and sometimes rear) placards are mounted on the fenders of the tanks, anywhere from even with the front of the cargo tank, to as much as 24 inches from the end of the tank.

We have treated this type of placement as a violation of §172.504, and, depending upon how far back the placard sits, §172.516(c)(2). We feel this is particularly acute in case the cargo tank should roll over onto the side where the placard is mounted, since three of the four placards would then not be readily visible to an approaching person at ground level.

However, we have had numerous carriers question whether this mounting is indeed a violation. Therefore, we request your clarification as to whether these front and/or rear facing placards mounted back from the front edge of the tank surface violate the regulations.



Sincerely,

GEORGIA PUBLIC SERVICE COMMISSION

[Signature]
Capt. Bruce Bugg
Hazardous Materials Specialist