



U.S. Department
of Transportation

1200 New Jersey Avenue SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety
Administration**

NOV 15 2011

Mr. Douglas R. Carothers
Manager EH&S Compliance
Action Resources
40 County Road 517
Hanceville, AL 35077

Ref. No.: 11-0190

Dear Mr. Carothers:

This responds to your August 5, 2011 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) applicable to cargo tank test and inspection markings.

In your letter, you state that your company, Action Resources, regularly transports hazardous materials in appropriately-filled DOT 407 cargo tank motor vehicles (CTMV's). You state that each of your cargo tanks is successfully tested and inspected in accordance with the HMR, and marked with the required markings as specified in §§ 180.407 and 180.415. You also state that recently, two of your CTMV's have been cited by state enforcement officers for violating § 180.415(b)(2), which requires that each cargo tank successfully complete the test and inspection requirements contained in § 180.407 and be marked "in letters and numbers at least 32 mm (1.25 inches) high, near the specification plate or anywhere on the front head." Further, you provide multiple photographs of a sampling of your DOT 407 cargo tanks, indicating the locations of their specification plates and the test and inspection markings. You ask whether the placement of the inspection date markings on the drivers' side of the foremost third portion of the cargo tank, is consistent with the HMR.

For the scenario described in your letter and supported by the photographs, the answer is yes. The term "near" has a subjective meaning and is not defined in the HMR; and in this specific instance, would be consistent with the intent of the HMR. The test and inspection date markings are located on the same side of the cargo tank as the specification plates, and located on the same half of that left side. The markings, in conjunction with the specification plates, are easily accessible and visible to someone standing at the foremost third portion of the left side of the tank, fulfilling the intent of § 180.415(b)(2).

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division

Office: 256-352-2689
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1-800-228-8845

ACTION

resources
Hazardous & Special Waste Transportation

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August 5, 2011

Nickels
§180.415(b)(2)
Cargo Tanks
11-0190

Mr. Charles E. Betts
Director, Office of Hazardous Materials Standards
U.S. DOT/PHMSA (PHH-10)
1200 New Jersey Avenue, SE East Building, 2nd Floor
Washington, DC 20590

Re: 40 CFR 180.415(b)(2) Location of Cargo Tank Test Dates

Dear Mr. Betts,

I would like an official interpretation of the Agencies' definition of the word "near" as it relates to required Inspection Date Markings for cargo tank trailers.

§ 180.415 Test and inspection markings.

(a) Each cargo tank successfully completing the test and inspection requirements contained in §180.407 must be marked as specified in this section.

(b) Each cargo tank must be durably and legibly marked, in English, with the date (month and year) and the type of test or inspection performed, subject to the following provisions:

(1) The date must be readily identifiable with the applicable test or inspection.

(2) The markings must be in letters and numbers at least 32 mm (1.25 inches) high, near the specification plate or anywhere on the front head.

Since the advent of CSA 2010 (now, simply CSA), two of my drivers have been cited for traveling with tank trailers in violation of the above illustrated regulation.

Enclosed, please find two photocopies of photographs illustrating the location of the tank trailer specification plate, and one showing the location that we use to place applicable inspection dates. There is no doubt that the location we have chosen to place the inspection date stickers is more readily visible than behind and below the front fender, which would be directly adjacent to the manufacturers inspection plate.

Additionally, "near" is a subjective term unless specifically defined (Earth's "near" Mars in the solar system). The term "near", in regulatory context, is not defined in 40CFR 180.203.

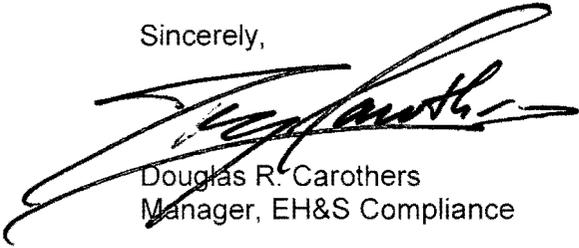
The alternative of placing these inspection markings on the front bulkhead subjects them to the ablative effects of rain, ice, sand, etc. inherent to highway travel and therefore more prone to fading or other forms of corruption.

Please see the two enclosed citations. Specifically note the violations listed for this issue and tell me if these are legitimate citations, or a misunderstanding attributable to a lack of understanding about the as yet, unquantified value of "near".

Is the placement of inspection date markings in a readily visible location near the front of the tank trailer bulkhead, on the drivers' side, consistent with the intent of this regulation?

Thank you in advance for your clarification of this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas R. Carothers". The signature is stylized with a large, sweeping initial "D" and a long horizontal stroke extending to the right.

Douglas R. Carothers
Manager, EH&S Compliance

cc: Marlowe Jett
Mark Sandlin
Gregory Calhoun
Mark Mudryk