



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

August 22, 2024

Jed Hudson
Safety Manager
Usher Transport Inc.
3801 Shanks Lane
Louisville, KY 40216

Reference No. 24-0043

Dear Mr. Hudson:

This letter is in response to your May 29, 2024, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the “emergency shutoff” marking on cargo tanks. You provided photographs of a cargo tank motor vehicle (CTMV) that has two markings in separate locations. The primary marking is located directly beside the manually-activated remote shutoff device on the rear-end tank protection device, but the marking is damaged. The secondary marking is located on the right rear side of the cargo tank, pointing vertically downward in a manner you believe is in an area immediately adjacent to the manually-activated remote shutoff device. You also note a previous letter of interpretation (Reference No. 17-0029), which you believe represents your current situation regarding the placement of the secondary “emergency shutoff” marking on the cargo tank. Acknowledging that the primary marking is weathered and damaged such that it does not satisfy the marking requirement, you ask whether the secondary marking satisfies the requirement of § 172.328(d) to have an “emergency shutoff” marking “located in an area immediately adjacent to the means of closure.”

The HMR do not define the term “adjacent,” but a common dictionary definition of the term “adjacent” means to be nearby or immediately preceding or following. Based on the photographs you provided, it is the opinion of this Office that the secondary “emergency shutoff” marking located on the right rear side of the cargo tank does not meet the intent of § 172.328(d) because the marking is not in “an area immediately *adjacent (emphasis added)* to the means of closure.” Moreover, the secondary marking has an arrow pointing vertically downward towards a section of the CTMV on the back side of the framing on which the rear placard is displayed that does

not accurately point towards the means of closure of the shutoff device, which is located at the rear of the CTMV below the placard. Please note that the position where the damaged primary marking is located would meet the intent of § 172.328(d).

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen". The signature is fluid and cursive, with a prominent initial "D".

Dirk Der Kinderen
Chief, Standards Development Branch
Standards and Rulemaking Division

Jones, Jessie Jane CTR (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Friday, June 7, 2024 1:41 PM
To: Dodd, Alice (PHMSA)
Cc: Hazmat Interps
Subject: FW: Letter for Interpretation
Attachments: 170029 (2).pdf; PHMSA Letter Emergency Shut-Off Marking.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Alice,

Please see the attached interpretation request.

Let us know if you need anything.

Regards,

-Breanna

From: Jed Hudson <jhudson@ushertransport.com>
Sent: Wednesday, May 29, 2024 1:24 PM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: Letter for Interpretation

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern,

Please see attached letters and photos for interpretation.

Respectfully,

Jed Hudson

Safety Manager | Safety & Risk Management | CDS



T: (502)449-4000
M: (859)661-2034
jhudson@ushertransport.com - www.ushertransport.com
3801 Shanks Lane, Louisville, KY 40216 USA



"In valor there is hope." - Publius Cornelius Tacitus





U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

MAY 22 2017

Mr. Brent Olsen
Safety Manager
Thatcher Transportation, Inc.
1905 Fortune Road
Salt Lake City, UT 84104

Reference No. 17-0029

Dear Mr. Olsen:

This letter is in response to your March 21, 2017, email requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to the emergency shutoff marking on cargo tanks. You note that § 172.328(d) specifies the emergency shutoff marking must be immediately adjacent to the emergency closure device. You state that you received a violation for the emergency shutoff marking not being close enough to the emergency closure device and include in your email a photo showing the marking approximately 4 inches right of and 12 inches above the device. Specifically, you ask how close the emergency shutoff marking must be to the emergency closure device in order to meet the requirements of § 172.328(d).

Section 172.328(d) does not specify the distance the emergency shutoff marking must be in order to be immediately adjacent to the emergency closure device. However, based on the description you provided in your email and the attached photo, it is the opinion of this Office that the emergency shutoff marking, as pictured, would be considered adjacent to the emergency closure device.

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

Sincerely,

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

Andrews
172.328(d)
Cargo Marking
17-0029

Goodall, Shante CTR (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Tuesday, March 21, 2017 2:41 PM
To: Hazmat Interps
Subject: FW: Interpretation of 172.328(d)
Attachments: Emergency Shutoff Decal - T-279.jpeg

Hi Shante/Alice,

Please submit this as a letter of interpretation. I spoke with Mr. Olsen.

Mailing Address:
Thatcher Transportation, Inc.
1905 Fortune Road
Salt Lake City, Utah 84104

Please let me know if you have any questions.

Thanks,
Jordan

From: Brent Olsen [mailto:Brent.Olsen@tchem.com]
Sent: Tuesday, March 21, 2017 12:28 PM
To: PHMSA HM InfoCenter <PHMSAHMInfoCenter@dot.gov>
Subject: Interpretation of 172.328(d)

One of our drivers received a violation in Colorado today because the inspector thought the Emergency Shutoff decal on the left front of the cargo tank should be closer to the actual emergency closure device (a break bolt). Looking at the picture, the decal appears to be about 4 inches to the right of the device and approximately 12 inches above it (see picture in attachment).

172.328(d) does not list any specific distance the decal has to be within, but only states that it must be immediately adjacent to the means of closure. The existing decal was placed there by the cargo tank manufacturer, and they state they've been putting it there for as many years as they can remember.

I couldn't find any interpretation specifying the distance, but that's my question. How close does the Emergency Shutoff decal have to be to the "means of closure" to be immediately adjacent to it? Thank you.

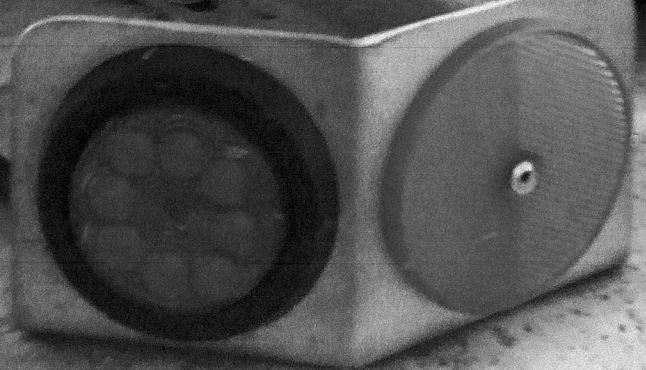
Brent L. Olsen, CDS
Safety Manager
Thatcher Transportation, Inc.
Direct: (801) 924-1413 | **M:** (801) 833-5148

The information contained in this e-mail message, and any attachments to it, contain confidential, proprietary, privileged, or otherwise secret information. If you are not the intended recipient, or believe that you may have received this email or attachments in error, any dissemination, use, review, distribution, printing or copying of the information contained in this e-mail message and any attachments to it are strictly prohibited. If you have

received this communication in error, please notify us by reply e-mail or telephone and immediately and permanently delete the message and any attachments. Please include in your notice that the message and any attachments have been deleted. Thank you.

T279

EMERGENCY SHUTOFF





OUR ONLY PRODUCT IS SERVICE

To Whom It May Concern,

Usher Transport Inc. is seeking guidance on 172.328(d). We recently received a violation for failing to mark a manual remote shut-off device as required. The remote shut-off device was marked in two separate locations. One of the markings was located directly beside the shut-off. That marking was damaged therefore we received a violation. The secondary marking was in perfect condition and was located immediately adjacent to the means of closure. I have attached photographs for your review. I have also attached a PHMSA letter of interpretation that is an exact representation of our situation. The only difference is the location of our placard holder, which we feel solidifies the location of our emergency shut-off marking. If we elected to put the shut-off marking on the bulkhead it would have been located more towards the center line of the tank and therefore the distance would have been greater. Therefore, we placed the marking in the best location which we believe meets the interpretation. The state is claiming that our secondary marking does not meet regulation due to the arrow not pointing at the direct means of closure. Does our secondary marking meet regulations?

See Photo's below:



OUR ONLY PRODUCT IS SERVICE





OUR ONLY PRODUCT IS SERVICE





OUR ONLY PRODUCT IS SERVICE





OUR ONLY PRODUCT IS SERVICE





OUR ONLY PRODUCT IS SERVICE

Respectfully,

Jed Hudson

Safety Manager | Safety & Risk Management



T: (502)449-4000

M: (859)661-2034

jhudson@ushertransport.com - www.ushertransport.com