



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

MAR 23 1999

Mr. Robert Monteith
Compliance Manager
Great Lakes Chemical Corporation
P.O. Box 7020
El Dorado, AR 71730

Ref. No: 99-0058

Dear Mr. Monteith:

This responds to your letter of March 4, 1999, concerning requirements for attending the unloading of cargo tank motor vehicles under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether the attendance requirements apply when a private motor carrier delivers a cargo tank to its destination and the motive power is removed.

"Transportation," as defined in § 5102 of the federal hazardous materials transportation law (49 U.S.C. 5101-5127), means the movement of property and any loading, unloading, or storage incidental to the movement. Attendance requirements in § 177.834(i)(2) of the HMR clearly do not apply to a person acting as a private motor carrier when: (1) the cargo tank has been placed on the consignee's premises; and (2) the motive power has been removed from the trailer and removed from the premises.

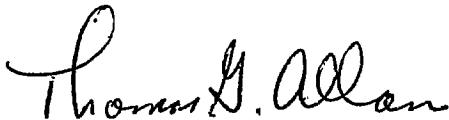
At this time, however, RSPA does not concur in your determination that such a cargo tank loaded with a hazardous material is no longer "in transportation." Currently, under Docket Number RSPA-98-4952, we are reconsidering the general rule that transportation in commerce is complete when a hazardous material is delivered to a consignee's location and the delivering carrier has physically tendered the material to the consignee by unloading a trailer or disconnecting a trailer for unloading by the consignee. A notable exception to this general rule is that consignee unloading of rail tank cars is subject to regulation under the HMR even though there is usually no carrier involvement in the process other than positioning the tank car at the unloading site. Thus, while

177.834

the HMR currently do not apply to a cargo tank that has been disconnected from its motive power at a consignee's location, we do not now agree that the shipment is no longer "in transportation." We hope to resolve this issue in Docket RSPA-98-4952. We invite your participation in a supplemental advance notice of proposed rulemaking that should be published in the Federal Register in the near future.

I hope this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Thomas G. Allan".

Thomas G. Allan
Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



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March 4, 1999

Director, Office of Standards
Hazardous Materials Safety Office
U.S. Department of Transportation
400 Seventh Street, SW
Washington, D.C. 20590-0001

Dear Mr. Mazzullo:

Please accept this letter as a request for interpretation of 177.834 (i)(2) and 177.834(i)(3).

Great Lakes Chemical Corporation
Attn: Robert Monteith, Compliance Manager
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El Dorado, AR 71730

Together, these paragraphs require attendance during unloading of cargo tanks. 177.834 (i)(2) states that the carrier's obligation for transporting the materials is fulfilled, the cargo tank has been placed on the consignee's premises and the motive power has been removed from the cargo tank and removed from the premises. The cargo tank is then no longer considered to be in transportation and therefore, the unloading and attendance requirements in the Dot Hazardous Materials Regulations no longer apply.

Great Lakes operates its private fleet and appears to be the carrier, the shipper and also the consignee when transporting its hazardous material from company location to company location. As a result of operating the way we do, can it be assumed, even in the case of private carriage, upon placing the cargo tank on the company's premises and removing the motive power from the cargo tank, the cargo tank is no longer "in transportation"?

I appreciate your timely consideration to this question for interpretation.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Monteith", is written over the word "Sincerely,".

Robert Monteith
Great Lakes, Compliance Manager