



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

MAR 23 2000

Mr. Eugene J. Secor
Transportation Specialist
H.B. Fuller Company
25200 Malvina Avenue
Warren, Michigan 48089

Ref. No. 99-0153

Dear Mr. Secor:

This responds to your letter of June 3, 1999, requesting clarification of the attendance requirements for unloading tank cars under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask for clarification as to when the attendance requirements apply and whether the attendance requirements can be met with a remote monitoring system. Please accept my apology for our delay in answering your inquiry.

The tank car unloading attendance requirements are in § 174.67(i) of the HMR. These requirements apply to all tank car unloading operations, including both bottom and top off-loading operations. Section 174.67(i) requires a tank car to be continuously attended throughout the entire period of unloading and while the tank car is connected to an unloading device. This requirement can be met by human attendance or by use of signaling systems, such as sensors, alarms, and electronic surveillance equipment.

Human monitoring must be performed by the person responsible for the unloading operation. The attendant may monitor unloading from on-site or from a remote location within the plant by utilizing television cameras and monitors. In either location, the attendant must have an unobstructed view of the tank car and unloading components. Further, the attendant must be knowledgeable about the product, have the ability to identify conditions requiring action, and have the capability and authority to halt the flow of product immediately.

If a signaling system is used to meet the attendance requirement, the system must provide a surveillance capability at least equal to that of a human observer. The system should be designed to provide immediate notification of a malfunction to a person responsible for unloading; if not, the system must be checked at least once every hour to assure proper functioning. In the event of a system malfunction, human observation of the unloading operation, as described above, must be instituted immediately.



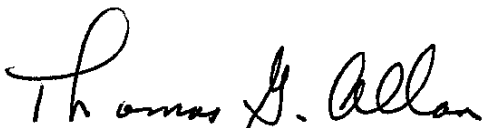
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"Transportation," as defined in § 5102 of federal hazardous materials transportation law (49 U.S.C. 5101-5127), means the movement of property and any loading, unloading, or storage incidental to the movement. Neither the statute nor the HMR define the terms "loading incidental to movement," "unloading incidental to movement," or "storage incidental to movement." You are correct that there is confusion concerning the meaning of "transportation in commerce" and whether particular activities are covered by that term and, therefore, subject to regulation under the HMR. We are currently engaged in a rulemaking, under Docket No. RSPA-98-4952, to clarify the applicability of the HMR to specific transportation functions, including hazardous materials loading and unloading operations and storage of hazardous materials during transportation. We expect to issue a notice of proposed rulemaking later this year.

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". The signature is written in dark ink and is positioned above the printed name.

Thomas G. Allan

Senior Transportation Regulations Specialist
Office of Hazardous Materials Standards



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June 3, 1999

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US DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
STANDARDS DEVELOPMENT
400 SEVENTH STREET, SW, DHM-11
WASHINGTON, DC 20590-0001

Re: IS AN ATTENDANT REQUIRED DURING THE ENTIRE TIME A TANKCAR IS BEING OFF-LOADED?

Gentlemen:

Our company currently buys Vinyl Acetate, Inhibited, UN 1301, in tank car quantities. The tank car is switched onto our private siding by the delivering railroad. Unloading is done by our own employees who currently function as an attendant throughout the entire unloading process, similar to a truck driver remaining with his vehicle while it is being off-loaded.

We are currently looking at switching from a bottom off-loading operation to a top off-loading mode in our efforts to avoid minor spills. A question has arisen as to whether an employee must remain with the tank car while off-loading using the proposed top off-loading technique for the entire duration of the off-loading process. Alternatively, can some type of remote monitoring be used (after the hookup for unloading has taken place) to observe the bulk of the unloading process until the time arrives to unhook because the TC is empty?

Is the full tank car still in transportation once we have it on our siding? If no, then do the regulations for transporting bulk hazmats still apply to us meaning the necessity to have an attendant at the tank car at all times while unloading is taking place? We do have sufficient secondary containment to handle a tank car spill. When, if ever, is a tank car not belonging to our Company NOT in transportation (we do not clean TC's ourselves so they go out placarded as full on the return trip)?

Your help in interpretation on these issues is appreciated.

Best Regards,

EUGENE J SECOR
EHS/TRANSPORTATION SPECIALIST

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