U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

JUL 29 2005

Mr. William R. Mason
Vice President of Operations
ABC Coke
P.O. Box 10246
Birmingham, Alabama 35202

Ref No.: 05-0130

Dear Mr. Mason:

This responds to your May 16, 2005 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask for relief from the requirements in § 174.67(i) in effect at the time you submitted your request.

On October 30, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket HM-223 (68 FR 61906) entitled "Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage." The HM-223 final rule clarifies the applicability of the HMR to specific functions and activities, including hazardous materials loading and unloading operations and storage of hazardous materials during transportation. The final rule codifies in the HMR long-standing policies and interpretations concerning the applicability of the regulations to specific functions and operations. The provisions of the HM-223 final rule became effective on June 1, 2005.

Under the HM-223 final rule, tank car unloading operations conducted by consignee personnel after the rail carrier has departed the consignee's premises generally are not subject to regulation under the HMR (see § 171.1(c)(3)). As adopted in the HM-223 final rule, however, the requirements in § 173.31(g) apply to all tank car unloading operations as of June 1, 2005, even when those operations are conducted by consignee personnel. Thus, as stated in the October 30 final rule, "requirements related to the protection of train and engine crews operating within a shipper or consignee facility, such as posting warning signs, setting hand brakes, and blocking the wheels of hazardous materials tank cars placed for unloading would continue to apply" (68 FR 61918). As well, Occupational Safety and Health Administration (OSHA) standards may apply to such unloading operations.

I hope this information is helpful. Please contact us if you require additional assistance.

Sincerely,

John A. Gale
Chief, Regulations Development
Office of Hazardous Materials Standards

050130

174.67(i)

Supko
§174.67(i)
Rail / Tank Car
Unloading
05-0130

P.O. Box 10246
Birmingham, Alabama 35202

Telephone: 205-849-1300
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ABC COKE

May 16, 2005

Mr. Ed Mazzullo
Office of Hazardous Materials Standards
US Department of Transportation
400 Seventh Street
Washington, D.C. 20590

Dear Mr. Mazzullo:

We are requesting a variance to the DOT standard for unloading tank cars, 49 CFR 174.67(i). At present, one of the raw materials that is received at the Tarrant, AL coke manufacturing plant is Sulfuric acid, 8,UN1830, PG II RQ. The Material Safety Data Sheet is located in Appendix A. It is received in a railcar.

The railcar unloading process occurs in a primary and secondary phase. The unloading lines are attached to the railcar for the unloading process to begin, see standard operating procedure for the unloading process in Appendix B. The sulfuric acid is transferred to two holding tanks and is used to produce ammonia sulfate approximately every 16 hours. As the holding tanks are emptied, additional sulfuric acid is unloaded from the railcar until it is emptied. There is continuous monitoring with camera surveillance, see Appendix C. The rail line where the sulfuric acid is received is located in the secured interior of the facility and a derailer is in use. See the site plan in Appendix D.

Since we have the camera and personnel that monitors the location of the railcar continuously, we are requesting that the requirements of 174.67(i) be waived and to allow the tank car to remain attached to the unloading lines to keep employees' potential exposure to the sulfuric acid to a minimum.

In summary, there is no hazardous materials transportation risk of leaving the unloading lines attached to the railcar:

- The railcar is monitored continuously by remote cameras and personnel; and
- The location for unloading is in the secured interior of the facility.

Allowing the unloading lines to remain connected to the railcar will protect employees' health and safety by minimizing any unnecessary exposure to the corrosive material, sulfuric acid.

Please contact Steve Brakefield regarding the status of this request. He may be reached at 205-849-1338.

Sincerely,

William R. Mason

William R. Mason
Vice President of Operations

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