



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

SEP - 6 2006

Mr. Doug Lumry
Manager of Rail Logistics
Musket Corporation
P.O. Box 26210
Oklahoma City, OK 73126

Ref. No. 06-0184

Dear Mr. Lumry:

This is in response to your July 25, 2006 letter requesting clarification of the requirements for unloading hazardous materials from rail tank cars under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask about the requirements for opening manhole covers in accordance with § 174.67 of the HMR. In your letter you cite examples of transloading processes that require the manhole cover to remain closed during unloading.

The intent of § 174.67(b), and (c) is to provide procedures for removing and adjusting the manhole cover during transloading operations. These requirements apply when the manhole cover is required to be opened or adjusted as part of the transloading operation. Therefore, pneumatic unloading, vapor control systems, and other unloading methods that require the manhole cover to remain closed during unloading are not subject to these requirements.

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

Sincerely,



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



060184

174.67

Leary
§ 174.67
Tank Car Unloading
06-0184

MUSKET CORPORATION

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Doug Lumry

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July 25, 2006

Mr. John Gale, Chief, Standards Development
Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
PHH-10
400 7th St., S.W.
Washington, DC 20590-0001

Re: Interpretation of 49 CFR 174.67

Dear Mr. Gale,

Thank you for your response to our request for an interpretation of 49 CFR 174.67. While your response did explain the applicability of 49 CFR 174.67 in certain situations, I do not believe that it addressed the exact situation that poses a concern to us. I will attempt to clarify our concerns in this letter.

Musket Corporation actually does conduct transloading operations that are subject to 49 CFR 174.67 under the HMR. These operations involve transloading from rail tank cars to tank trucks for the purpose of continuing the movement of the hazardous material in commerce. Accordingly, we request your help in clarifying the requirement for removing the manhole cover, as stated in 49 CFR 174.67, for unloading hazardous materials from tank cars.

The language in paragraphs (b) and (c) of 49 CFR 174.67 appears to require manhole covers to be opened for the unloading process. This requirement conflicts with many unloading processes conducted by transloaders of tank cars. For example, pneumatic unloading of tank cars cannot be accomplished with the manhole cover open. Additionally, operations which are required to contain or control vapors cannot be conducted properly with the manhole cover open. There are also operations that vent through vapor valves instead of through the manhole opening. The language requiring manhole covers to be opened during this process also conflicts with regulations from other regulatory bodies, such as the EPA National Emission Standards for Hazardous Air Pollutants for Source Categories, Subpart PP (National Emission Standards for Containers), 40 CFR 63.920 through 63.924, and Subpart R (National Emission Standards for Gasoline Distribution Facilities), 40 CFR 63.420 through 63.429, as well as various state statutes. Finally, this requirement conflicts with a number of air quality control permits which restrict the amount of emissions companies can vent into the atmosphere.

As you can imagine, the regulation's requirement for removing the manhole cover in these situations has an impact on a large number of transloaders which unload tank cars. In light of the apparent conflicts this

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portion of the regulation poses to us and others in the industry, we therefore seek clarification of the regulation's intent and applicability. In this regard, we would like you to answer the following questions:

- 1) **Does 49 CFR 174.67 require the manhole cover to be opened or removed when the operations require the vapors to be contained or controlled?**
- 2) **Does 49 CFR 174.67 require the manhole cover to be opened or removed when the operations require venting through vapor valves instead of through the manhole opening?**
- 3) **Does 49 CFR 174.67 require the manhole cover to be opened or removed when the tank cars are being pneumatically unloaded?**

We appreciate your assistance in this matter and eagerly await your response.

Please feel free to contact me should you have any questions.

Best regards,



Doug Lumry
Manager of Rail Logistics