



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

ADD 1 2005

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

Mr. Randy Johnson
President
Pace International Union
P.O. Box 405
Calvert City, KY 42029

Reference No.: 05-0129

Dear Mr. Johnson:

This responds to your letter requesting clarification of the tank car unloading attendance requirements in § 173.64(i) of the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180).

On October 30, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket HM-223 (68 FR 61906) titled "Applicability of the Hazardous Materials Regulations to Loading, Unloading and Storage" (copy enclosed). 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 trust this satisfies your inquiry.

Sincerely,

Hattie L. Mitchell, Chief
Regulator Review and Reinvention
Office of Hazardous Materials Standards

Enclosures (2)



050129

174.67(i)

Webb
174.67(i)
Tank Car Unloading
05-0129

**Paper,
Allied-Industrial,
Chemical &
Energy Workers
International
Union**

AFL-CIO, CLC

LOCAL 5-727

May 16, 2005

Mr. Edward Mazzullo
Office of Hazardous Materials Standards
USDOT/RSPA (DHM-10)
400 7th Street SW
Washington, DC 20590

Dear Sir:

I am writing to request clarification of 49 CFR 174.67(i) "Tank Car Unloading". Specifically, remote rail car unloading/ unattended monitoring.

- Reference No. 02-0027 from Mr. Joe Campbell at Air Products and Chemicals, 246 Johnson-Riley Road, Calvert City, Ky. 42029
- Reference No. 99-0217 from Mr. Carlton W. Hendrix, DOT Compliance Manager, LaRoche Industries Inc., 1100 Johnson Ferry Road N.E., Atlanta Ga. 30342

Air Products & Chemicals Inc. (*Reference No. 02-0027*) has completed the camera equipped remote unloading system for unloading ethylene rail cars at their Calvert City, Ky. facility prompting concerns regarding the "continuous monitoring" requirement.

Under Air Products' plan, the attendant duties will be assigned to a fully utilized individual as an additional - and potentially, secondary task. This same individual is simultaneously required to operate/monitor, and troubleshoot a chemical process that includes many other high pressure reactor systems and related equipment, in addition to monitoring the ethylene unloading activity making it virtually impossible to "continuously" monitor anything.

Could you please define continuous monitoring? Is it the unloading attendant's job to solely monitor the unloading process or, in this case, will it be an ancillary task to be performed by the process operator along

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with many other responsibilities? Does this satisfy the continuous monitoring regulation requirement?

Further, the lone control room operator who will be assigned these attendant duties of monitoring the video display will not be the person responding to any problems in the field. If a problem occurs he/she will be notifying a field operator who is normally occupied with other tasks. Does this satisfy the regulation for attendant?

During human unloading, the attendant will be on location with the rail car. Human intervention and response time when a problem occurs is almost immediate. As you may have guessed, response time will be severely diminished under the Air Products plan. Are there any criteria on response time?

In Mr. Campbell's letter, he stated that the software for the video image, will measure the amount of white space to detect a leak and shutdown the unloading program. Is there a requirement on how to calibrate this video system?

Thanks in advance for your timely attention to this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Randy Johnson".

Randy Johnson
Pres.