



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

JUN 18 2008

Mr. Stephen P. Schulte
Ecolab, Inc.
370 Wabasha Street North
St. Paul, MN 55102

Ref. No.: 08-0127

Dear Mr. Schulte:

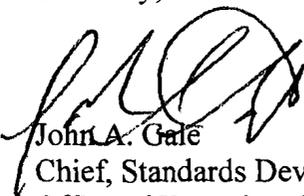
This is in response to your April 28, 2008 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically you ask whether an unlocked derailer meets the requirements in § 173.31(g)(1) to secure access to track to prevent entry by other rail equipment including motorized service vehicles.

In your letter, you describe a scenario in which a derailer is positioned between the railcar and a locked fence. Both Ecolab Inc. and the railroad can unlock the fence to enable the exchange of rail cars. Unauthorized individuals are unable to access the derailer by the locked fence. Ecolab Inc. retains the only key to the derailer to prevent its unauthorized removal.

Provided the derailer can perform its intended function in the unlocked position, the requirement in § 173.31(g)(1) to secure access to the track to prevent entry by other rail equipment including motorized service vehicles is satisfied.

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



DOT/RSPA/CHMS
UNIT

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Leary
§ 173.31(g)(1)
Tank Cars
08-0127

STEPHEN V. SCHULTE, DGSA
Director, Global
Transportation Compliance
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April 28, 2008

Via Certified Mail - Return Receipt Requested

U.S. Department of Transportation
Office of Hazardous Materials Safety
Office of Hazardous Materials Standard PHH-10
ATTN: Mr. Edward Mazzullo
1200 New Jersey Avenue, SE Building, 2nd Floor
Washington, DC 20590

**RE: Request for Letter of Interpretation
49 CFR 173.31(g)(1)**

Dear Mr. Mazzullo:

Ecolab Inc. is writing to inquire whether 49 CFR 173.31(g)(1) requires a derailer to be locked to the track.

49 CFR 173.31(g)(1) specifically states, "Each hazmat employee who is responsible for loading or unloading a tank car must secure access to the track to prevent entry by other rail equipment, including motorized service vehicles. Derails, lined and locked switches, portable bumper blocks, or other equipment that provides an equivalent level of security may be used to satisfy this requirement."

In the specific case in question, the derailer sits between the railcar and a locked fence. Both Ecolab and the railroad can unlock the fence to enable change-out of railcars. Unauthorized individuals are prevented from accessing the derailer up to the locked fence. Ecolab has the only key to the derailer, which prevents the railroad from unauthorized removal.

Ecolab believes that this meets the intent of 49 CFR 173.31(g)(1). Is that correct, or is the intent of 49 CFR 173.31(g)(1) to require that the derailer be locked? The regulation is very vague and does not clearly state the need for a locked derailer.

Please direct any questions regarding this request to my attention.

Sincerely,

Stephen V. Schulte, CHMM, CPP, DGSA