



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

NOV -7 2008

Mr. Lawrence Bierlein
1101 30th Street, NW, Suite 500
Washington, DC 20007

Ref. No. 08-0232

Dear Mr. Bierlein:

This responds to your September 24, 2008 email requesting clarification of the applicability of § 174.304 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether this provision rules out the operation of a transloading facility on the property of a rail carrier where lading is transloaded to other packaging (e.g., a cargo tank motor vehicle) for further transportation to its final destination.

The answer is no. It is the opinion of this Office that § 174.304 does not apply to the operation of a transloading facility as you describe. Section 174.304 prohibits the transportation of a rail tank car containing a Class 3 (flammable liquid) material unless it is originally consigned or subsequently consigned to a party meeting the conditions established in the section. This section is intended to apply to unloading operations at the facility that is the final destination for the material. The conditions established in § 174.304 are not applicable to operations of a transloading facility on the property of a rail carrier where the material is transferred to other packaging for further transportation to the final destination.

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

Sincerely,

Susan Gorsky,
Acting Chief, Standards Development
Office of Hazardous Materials Standards

Der Kinderen
§ 174.304
Rail

08-0232

Drakeford, Carolyn <PHMSA>

From: Gorsky, Susan <PHMSA>
Sent: Wednesday, September 24, 2008 3:42 PM
To: Drakeford, Carolyn <PHMSA>
Subject: FW: 174.304

From: Lawrence W. Bierlein [mailto:larry@hazmat-lawyer.com]
Sent: Wednesday, September 24, 2008 3:42 PM
To: Gorsky, Susan <PHMSA>
Subject: 174.304

Sec. 174.304 in the rail carrier hazmat regulations indicates that a Class 3 tank car may not be transported unless consigned or subsequently reconsigned to a party having a private track on which it is to be unloaded or delivered. I believe this regulation does not preclude the operation of a transloading facility on the property of a rail carrier, where lading from Class 3 tank cars is off-loaded into other packaging for further transportation, including cargo tank motor vehicles destined to another location. Could you please confirm whether my understanding is correct? Thank you.