



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

DEC 27 2000

Mr. Michael D. Alston
Aristech Chemical Corporation
210 Sixth Avenue
Pittsburgh, PA 15222-2611

Ref. No. 00-0259

Dear Mr. Alston:

This responds to your letter and telephone conversation with Mr. Michael Stevens of my staff regarding the attendance requirements during the loading of cargo tank motor vehicles (CTMV) in § 177.834 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you inquire whether a terminal operator would be considered "qualified" when in radio contact with a CTMV driver who can respond within 2-3 minutes to an emergency situation. It is your understanding that this would satisfy the intent of "authorized to move the cargo tank and has the means to do so" under the qualification requirements specified in § 177.834(i)(4).

The answer is no. A CTMV must be attended by a qualified person at all times during a loading operation. The purpose of the attendance requirements is to ensure that cargo tanks are safely loaded and unloaded and, in the event of an emergency, the operation can be rapidly halted and the CTMV can be removed from the scene in an immediate and expeditious manner. In the scenario you describe, the terminal operator would not be considered "qualified" because he is unable to move the CTMV off the rack and, therefore, lacks "the means to do so" as specified in § 177.834(i)(4). In addition, the CTMV driver is not considered "qualified" because, as you informed Mr. Stevens, he is not within 7.62 meters (25 feet) of the loading operation with an unobstructed view of the cargo tank and delivery hose.

I trust this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

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



00-0259

177.834

ARISTECH

Stevens
§ 177.834(i)(4)
Loading & Unloading
00-0259

September 18, 2000

Mr. Edward T. Mazzullo
Director-Hazardous Materials Office
US DOT
RSPA
DHM-10
400 7th Street Southwest
Washington, DC. 20590-0001

Dear Mr. Mazzullo:

I would like to receive a written interpretation and clarification of § 177.834 (i) (4) contained in 49 CFR of the hazardous materials regulations. I interpret the regulations in §177.834(i)(4) that state a qualified individual is "authorized to move the cargo tank and has the means to do so", as being, that a qualified individual has the authority to direct the movement of the cargo tank and can instruct someone to move the cargo tank within a reasonable amount of time.

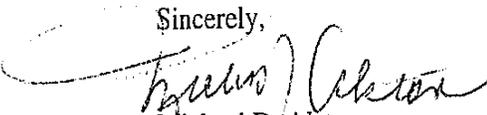
In our plant operations, we utilize qualified individuals to load and unload cargo tanks of hazardous materials. The qualified individual is in attendance of the cargo wagon at all times during the loading process and is in radio contact with the driver of the cargo tank. If the cargo tank would need to be moved, in an emergency situation, the qualified individual would contact the driver by radio and authorize the driver to move the cargo wagon. The driver can move the cargo wagon within 2-3 minutes. We do not instruct our employees on how to operate the motive power for a cargo wagon.

Please forward the interpretation to:

Michael D. Alston
Mgr-Regulatory Compliance/Logistics Operations
Aristech Chemical Corporation
210 Sixth Avenue 10th Floor
Pittsburgh, PA 15222

If you have any questions, please contact me at 412-316-1269.

Sincerely,


Michael D. Alston

cc: M.A. Bucklad
P.C. Rine