



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

DEC - 7 2005

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

Ms. Maureen Haller  
SHE Manager  
Cognis Corporation  
2525 S. Kensington  
Kankakee, IL 60901

Ref No.: 05-0249

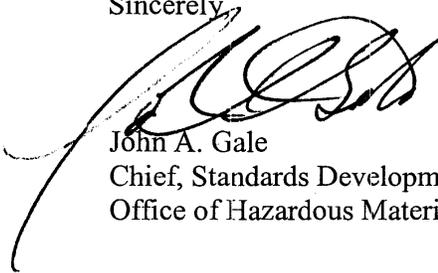
Dear Ms. Haller:

This responds to your September 28, 2005 letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the cargo tank attendance requirements in § 177.834(i) apply to a shipper who loads a cargo tank prior to the arrival of the carrier and attachment to the motive power.

The answer is no. The filling of a cargo tank or other bulk packaging by a shipper is regulated as a pre-transportation function under the HMR. A pre-transportation function is a function specified in the HMR that is required to assure the safe transportation of a hazardous material in commerce. Thus, a shipper must comply with applicable HMR requirements concerning compatibility of lading with the packaging, outage and filling limits, securing of valves and closures, venting, and similar provisions. The attendance requirements in § 177.834(i) apply to loading and unloading operations conducted by carrier personnel. Shipper personnel filling a cargo tank prior to the onset of transportation in commerce (i.e., the arrival of the carrier and the attachment of motive power) need not comply with the attendance requirements in § 177.834(i).

I hope this information is helpful.

Sincerely,



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



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177.834(i)

*Ei Chenlawp  
§ 177.834(i)  
Loading/Unloading  
05-0249*

**Betts, Charles <PHMSA>**

**From:** Quillinan, Robert <PHMSA>  
**Sent:** Tuesday, October 04, 2005 10:09 AM  
**To:** PHH12 <PHMSA>  
**Subject:** FW: HM-223, Applicability of the Hazardous Materials Regulations to Loading, Unloading

Please respond to Ms. Haller with a copy to me. Thanks.

-----Original Message-----

**From:** Maureen Haller [mailto:maureen.haller@cognis.com]  
**Sent:** Wednesday, September 28, 2005 1:39 PM  
**To:** Quillinan, Robert <PHMSA>  
**Subject:** HM-223, Applicability of the Hazardous Materials Regulations to Loading, Unloading

Dear Mr. Quillinan,

To refresh your memory... I am the SHE Manager for the Cognis Corporation plant in Kankakee, IL. We met during your last visit here on April 15, 2005. I have a question regarding HM-223 that I was hoping to get your insight on as a DOT Enforcement Specialist....

This question is specific to cargo tank loading. Prior to HM-223, when the carrier's motive power was not present at the loading (filling) of a cargo tank, the cargo tank was not considered to be "in transportation". Therefore, attendance requirements in Part 177 did not apply.

However, in summaries I've read of HM-223 it seems it does not make a difference who loads (fills) a bulk package, such as a cargo tank. The loading/filling function is regulated when performed by any person, be it the shipper or carrier. If a shipper performs a loading (filling) function prior to the carrier's arrival, it is a pre-transportation function and is subject to all applicable regulatory requirements. Section 173.30 states that a person who is subject to the loading/unloading regulations must load or unload hazardous materials into or from a transport vehicle in conformance with applicable loading and unloading requirements of parts 174, 175, 176, and 177. I would appreciate your insight on whether this means the attendance requirements of 177.834(i) apply when the carrier's motive power is not present.

If the attendance requirements do apply when the carrier's motive power is not present, then can remote cameras be used to monitor these filling operations?

I look forward to your reply.

Sincerely,  
Maureen Haller  
SHE Manager  
Cognis Corporation  
Kankakee, IL  
815-939-6083

*2525 S. Kensington  
Kankakee, IL 60901*