U.S. Department
of Transportation
**Research and
Special Programs
Administration**

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

DEC 1 2004

Mr. Philip Stewart
The Dow Chemical Company
566 Building
Midland, MI 48674

Dear Mr. Stewart:

This is in response to Dow Chemical Company's application (13559-N) dated April 26, 2004 requesting the use of an alternative periodic inspection and test procedure at each filling, instead of the 5-year periodic inspection and test requirement in 49 CFR § 180.605(c)(2), for DOT 51 portable tanks.

In accordance with 49 CFR § 107.113(e) and (g), your application is denied for the following reasons:

> You justify your application by stating that each tank is inspected and pressure tested for quality control purposes prior to each filling. However, the test pressure applied at each filling is only 120 psig, compared to a 5-year test pressure of 375 psig. In addition, you contend that the increased frequency of inspection and testing provides you with greater confidence in the integrity of the tank, than would the 5-year pressure test at the higher pressure. You also state that the tanks were all manufactured to the ASME Code, despite the fact that not all of the tanks meet the definition of a DOT 51 portable tank.
>
> It is our opinion that more frequent inspection and testing does not provide an equivalent level of safety as that intended by the 5-year inspection and pressure test requirement in § 180.605(c).

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If you have any questions concerning this denial, please feel free to contact Mr. Phil Olson at (202) 366-4545.

Sincerely,

Robert A. McGuire
Associate Administrator for
Hazardous Materials Safety