



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

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Mr. Ken M. Ikeda
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University of Hawaii at Manoa
2040 East-West Road
Honolulu, HI 96822

Ref. No. 00-0276

Dear Mr. Ikeda:

This is in response to your October 2, 2000, letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification on whether employees receiving hazardous materials require DOT training and when the applicability of the HMR ceases.

A person who receives hazardous materials (a consignee) that does not perform duties that are regulated under the HMR (e.g., unload a transport vehicle) is not subject to the HMR (including training). A hazmat employee is a person employed by a hazmat employer and who in the course of employment directly affects hazardous materials transportation safety (see § 171.8). In other words, a person who performs duties that are regulated under the HMR is considered to be a hazmat employee. The term hazmat employee includes an individual employed by a hazmat employer who, during the course of employment loads, unloads, or handles hazardous materials. Section 172.704 requires a hazmat employee to receive general awareness, function specific, and safety training.

As specified in § 171.1, the HMR govern the safe transportation of hazardous materials in intrastate, interstate and foreign commerce. "Transportation" is defined as "the movement of property and loading, unloading, or storage incidental to the movement" (49 U.S.C. 5102(12)). "Commerce" is defined as "trade or transportation in the jurisdiction of the United States between a place in a state or a place outside of the state; or that affects trade or transportation between a place in a state and a place outside of the state" (49 U.S.C. 5102(1)).



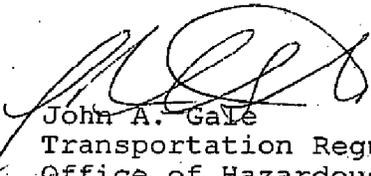
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171.1,
172.704

On April 29, 1999, the Research and Special Programs Administration published a supplemental advance notice of proposed rulemaking inviting comment on the applicability of the HMR to loading, unloading, and storage of hazardous materials (64 FR 22718; HM-223). We are continuing to evaluate comments from the public regarding the meaning of "transportation in commerce" and whether particular activities are covered by that term, and therefore, subject to regulation under the HMR.

I hope this satisfies your request.

Sincerely,



John A. Gale
Transportation Regulations Specialist
Office of Hazardous Materials Standards