



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

AUG 18 2008

1200 New Jersey Ave., S E
Washington, DC 20590

Mr. Mike Becker
Jacksonville Port Authority (Jaxport)
5945 Williams Mills Road
Jacksonville, FL 32256

Reference No. 08-0057

Dear Mr. Becker:

This responds to your e-mail requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as they pertain to exceptions from the HMR when restricting public access during hazardous material movements. Specifically, you request clarification and intent of § 171.1(d)(4) and a definition for the word “public” as used in this paragraph.

Section 171.1(d)(4) excepts hazardous material shipments from the HMR by rail and motor vehicle when the transportation of the hazardous materials occurs entirely within a facility’s boundary provided public access is restricted during transportation. If any portion of the hazardous materials movement is on or crosses a public road or track, access to that area must be restricted by signals, lights, gates, or similar controls during that portion of the movement.

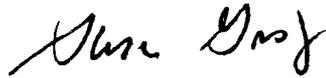
You also ask whether the definition of “public” includes delivery drivers, mailpersons and family members. For purposes of the exception in § 171.1(d)(4) and your scenario, “public” means anyone who does not have a business-related reason to be on the facility. Thus, delivery personnel, including mail delivery personnel, are not considered members of the public for purposes of the exception nor are vendors or other persons who may be on the facility for a legitimate business purpose. However, access to family members or other individuals who may visit or traverse the facility must be restricted.

The HMR apply to the commercial transportation of hazardous materials. Section 171.1(d)(4) is intended to clarify that movement of a hazardous material that takes place entirely within a contiguous facility boundary where public access is restricted is not considered commercial transportation for purposes of the HMR and, therefore, is not subject to regulation under the HMR. This section is also intended to establish conditions under which the facility may transport hazardous materials along or across a public road or on track that is part of the

general railroad system in order to move the hazardous material from one location in the facility to another location in the facility without invoking a panoply of regulatory requirements.

I hope this information is helpful. Please contact this office if you have additional questions.

Sincerely,



6 Edward T. Mazzullo
Director
Office of Hazardous Materials Standards

§ 171.1(d)(4)

McIntyre Page 1 of 1
§171.1(d)(1)
Applicability
08-0057

Drakeford, Carolyn <PHMSA>

From: INFOCNTR <PHMSA>
Sent: Thursday, March 06, 2008 11:27 AM
To: Drakeford, Carolyn <PHMSA>
Cc: 'Mike.Becker@jaxport.com'
Subject: FW: public access

From: PHMSA Web Initiative
Sent: Thursday, March 06, 2008 11:11 AM
To: INFOCNTR <PHMSA>
Cc: Vines, T'Mia <PHMSA>
Subject: FW: public access

From: Mike Becker (Crane Tech III) [mailto:Mike.Becker@jaxport.com]
Sent: Thursday, March 06, 2008 10:43 AM
To: PHMSA Web Initiative
Subject: public access

To whom it may concern,
I need a formal interpretation on 49 CFR 171.1d4 on Functions not subject to the requirements of the HMR Restricted public access. Who is considered "public". Is it Delivery drivers, mailpersons, family member, sales personnel, office personnel etc. This can be viewed in a lot of different ways. I really need a more information in writing on who to restrict than just public. I assume it is to keep all personnel not directly involved with the movement of the hazardous material away to ensure there safety? Or is it ok to let them through? I also need to know the intent of 49 CFR 171.1d4.
Thank you
Mike Becker
9043334902