



U.S. Department
of Transportation
**Research and
Special Programs
Administration**
MAY 26 2004

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

Ms. Christina M. Kurtz
Supervisor-Regulations and Packaging
ATOFINA Chemicals, Inc.
200 Market Street
Philadelphia, PA 19103-3222

Ref No.: 04-0087

Dear Ms. Kurtz:

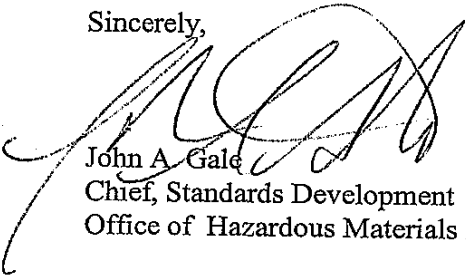
This is in response to your letter regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you request clarification on whether employees unloading hazardous materials after the departure of the carrier from the consignee's facility require training under the HMR.

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.

Generally, consignee unloading operations performed after the carrier's departure from the consignee's facility are not subject to regulation under the HMR. Thus, consignee employees engaged in such unloading operations need not be trained in accordance with HMR requirements. However, until October 1, 2004, rail tank car unloading operations are subject to requirements in § 174.67 of the HMR whether or not the unloading operation is performed by consignee personnel after the carrier's departure from the facility. Furthermore, until October 1, 2004, consignee employees who unload rail tank cars in accordance with § 174.67 must be trained.

I hope this information is helpful. Please contact us if you require additional assistance

Sincerely,


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



040087

172.700
174.67



ATOFINA Chemicals, Inc.

Bellevue
§ 172.700
§ 174.67

Training / Loading / Unloading
04-0087

U.S. Department of Transportation
RSPA
400 Seventh Street, S.W.
Washington, D.C. 20590-0001
Attn: Standards {DHM-10}

Re: HM-223 and Hazmat Training

Dear Mr. Mazzullo:

It is our understanding that since the implementation of HM-223 any unloading that occurs after the departure of the carrier from the consignee's facility is no longer under DOT's jurisdiction. Thus, if an employee of the consignee unloads material after the departure of the carrier it would not be under DOT's jurisdiction and said employee would not be required to have the Hazmat training under Part 172 Subpart H. But, if the carrier has not departed the premises while a package is being unloaded this would be considered "unloading incidental to movement" and this same individual would be required to have the Hazmat training under Part 172 Subpart H.

Can you please tell us if this interpretation is correct.

Sincerely,

Christina M. Kurtz
Supervisor - Regulations and Packaging