



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

SEP 24 1998

J.B. Roberts  
Lieutenant, U. S. Coast Guard  
Chief, Port Services Department  
1519 Alaskan Way South  
Seattle, WA 98134-1192

Dear Lieutenant Roberts:

This is in reference to your letter requesting clarification of the requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) concerning hazardous materials in personal vehicles when carried on board passenger ferry vessels. You state that you believe the HMR is not applicable to this method of transportation because of the materials of trade definition in § 171.8. Specifically, you would like to know if shipments of these vehicles are considered "in commerce." I apologize for the delay in responding.

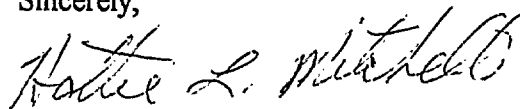
Your understanding that the HMR do not apply to private (non-commercial) vehicles carrying hazardous materials onboard passenger ferry vessels and that propane cylinders used for camping equipment fall under the materials of trade definition in 49 CFR 171.8 is not correct. Materials of trade, subject to certain quantity limitations, are limited to hazardous materials carried on a motor vehicle: (1) for use in protecting the health and safety of the operator or passengers of the motor vehicle, (2) for use in supporting the operation or maintenance of a motor vehicle (including its auxiliary equipment), or (3) for use by a private motor carrier (including vehicles operated by a rail carrier) in direct support of a principal business that is other than transportation by motor vehicle, such as lawn care, plumbing, etc. The materials of trade exceptions in § 173.6 are limited to materials being transported by private motor carriers.

As stated in § 171.1(a)(1), the HMR apply to the transportation in commerce of hazardous materials by vessel (except, as delegated at 49 CFR 1.46(t)). The carriage of a motor vehicle (including a personal motor vehicle) containing a hazardous material on board a passenger ferry vessel is transportation in commerce and, therefore, is subject to the HMR. However, the HMR

provides certain limited exceptions for vessels transporting a motor vehicle containing hazardous materials if those materials are necessary for the operation of the vehicle or equipment, or for the safety of its operator or passengers. See §§ 173.220(c)(1) and (g)(2), 176.90, 176.92, 176.93, and 176.905(j)

I hope this satisfies your request.

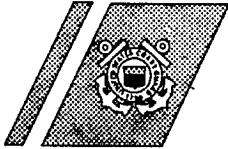
Sincerely,

A handwritten signature in cursive script that reads "Hattie L. Mitchell".

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards

U. S. Department  
of Transportation

United States  
Coast Guard



Commanding Officer  
U.S. Coast Guard  
Marine Safety Office  
Puget Sound (COP)

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File: 176,88  
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Mr. Edward Mazzullo  
Office of Hazardous Materials Standards  
Research and Special Programs Administration  
400 Seventh Street SW  
Washington, D.C. 20590-0001

Dear Mr. Mazzullo,

I am writing this letter requesting written clarification of the Hazardous Materials Regulations (HMR) in Title 49, Code of Federal Regulations (CFR) as they pertain to the transportation of hazardous materials in personal vehicles while carried onboard passenger ferries.

My interpretation of the regulations is that the HMR does not apply to private (non-commercial) vehicles carrying hazardous materials onboard passenger ferry vessels (i.e. 5 gallon jerrican of gasoline, propane cylinders for camping equipment, and other materials that fall under the materials of trade exception in 49 CFR 171.8). Also, 49 CFR 176.91 makes an allowance for the carriage of gasoline (Class 3 Flammable Liquid) in excess of the limited quantity (0.3 gallons per 49 CFR 173.150) onboard a motor vessel transported on a ferry.

It is apparent that the regulations' intent is to restrict hazardous materials in commerce while being transported as cargo, but not to restrict the transportation of hazardous materials for private non-commercial use. The private vehicles are not carrying the materials in support of a business or furtherance of a commercial enterprise and therefore are not transporting hazardous materials in "commerce" as "cargo" even though the vehicle operators are paying for the transportation of their vehicles.

Please provide clarification of the applicable regulations and guidance so my office may properly enforce the HMR. If you have any questions, or require additional information, please contact me or Petty Officer Davis at the above phone number or address.

Sincerely,

J. B. ROBERTS  
Lieutenant, U. S. Coast Guard  
Chief, Port Services Department  
By Direction of the Captain of the Port