



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

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

JAN 26 2001

Mr. Steven G. LaPoint
CECOM Directorate for Safety
AMSEL-SF-RE
Department of the Army
US Army Communications-Electronics Command
Fort Monmouth, NJ 07703-5000

Ref. No. 00-0366

Dear Mr. LaPoint:

This is in response to your December 23, 2000, letter requesting clarification on the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to the Department of Defense (DOD). Specifically, you ask if the HMR apply to the DOD when it is transporting radioactive materials in DOD conveyances operated by DOD personnel.

The federal government is not subject to the HMR unless it offers for transportation or transports a hazardous material in commerce or in furtherance of a commercial enterprise. Transportation is not in furtherance of a commercial enterprise if it is carried out by governmental personnel for a governmental purpose. Therefore, DOD is not subject to the requirements of the HMR when it ships hazardous materials on vehicles which are operated by a government employee (military or civilian) provided the shipment does not further a commercial enterprise. However, contractors are not governmental personnel. Thus, DOD is subject to the requirements of the HMR when it ships hazardous materials on conveyances operated by contractor personnel (see § 171.1(b)).

I hope this satisfies your request.

Sincerely,



John A. Gale

Transportation Regulations Specialist
Office of Hazardous Materials Standards



000366

171.1



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS, US ARMY COMMUNICATIONS-ELECTRONICS COMMAND
AND FORT MONMOUTH
FORT MONMOUTH, NEW JERSEY 07703-5000

December 23, 2000

BAH
§ 171.8

Applicability

00-0366

CECOM Directorate for Safety
AMSEL-SF-RE

U.S. Department of Transportation
Office of Research and Special Programs
Hazardous Materials Administration
Washington, DC 20590-0001

SUBJECT: Transportation of Radioactive Material by U.S.
Department of Defense (DoD) Personnel

Dear Sir:

This letter addresses the movement of hazardous materials (i.e., radioactive material (RAM)) for non-commercial transportation by U.S. DoD military, civilian, and contract personnel, in U.S. DoD owned conveyances. We are requesting your office provide concurrence and/or comments on our interpretation of the Hazardous Materials Regulations.

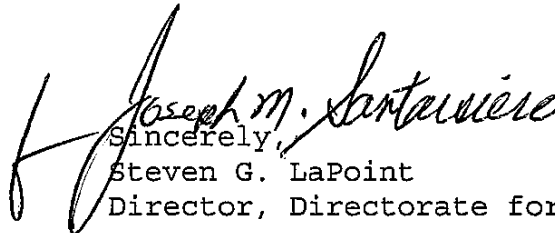
The U.S. DoD routinely transports equipment containing radioactive material or radioactive components in conveyances operated by U.S. DoD personnel. Transportation of these radioactive equipments may include movements to and from a warehouse to a unit's base of operations; to and from a calibration facility; turn-in of equipment to an excess storage/collection point; or movement to and from a field training exercise. The radioactive equipment may include items such as radios, compasses, fire control devices, and chemical agent detectors. Transportation of radioactive equipment by DoD personnel may include conveyance by trains, aircraft, and ships; however, at no time is the material offered for transportation to a commercial carrier.

Therefore, it is our interpretation that 49 CFR, Subchapter C, Hazardous Materials Regulations, does not apply to the U.S. DoD when transporting radioactive equipment in U.S. DoD conveyances operated by U.S. DoD personnel.



Your expeditious review and consideration of our interpretation would be appreciated.

If you need additional information on this issue contact Mr. Hugo Bianchi, CECOM Directorate for Safety, (732) 427-3112 ext. 6444.


Sincerely,
Steven G. LaPoint
Director, Directorate for Safety

cf: U.S. Department of Transportation, Division of the Office Hazardous Materials Standards, DHM-10 (Mr. Edward Mazzullo), 400 7th Street SW, Washington, DC 20590-0001