



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

MAY 17 2004

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

Mr. Ali Baziari  
Acting Team Leader - Materials and Environmental Team  
Department of the Army - TARDEC  
6501 East 11 Mile Road  
Warren, Michigan 48397-5000

Reference No.: 04-0118

Dear Mr. Baziari:

This is in response to your letter dated April 13, 2004, regarding the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to government agencies transporting hazardous materials. Specifically, you ask whether fuel tankers owned and operated by the U. S. Army used to transport various types of Class 3, flammable liquids would be regulated under the HMR.

The answer is no. The statutory authority granted to the Department of Transportation under the Federal hazardous materials transportation law (49 U.S.C. 5101 et. seq.) is limited to transportation in commerce. Shipments of hazardous materials transported by a government entity in vehicles operated by government personnel for noncommercial purposes are not subject to the HMR. However, if the purpose is commercial or if the government entity offers hazardous material for transportation to commercial carriers, then the HMR apply.

I trust this satisfies your request.

Sincerely,

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



040118

171.1



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY TANK - AUTOMOTIVE AND ARMAMENTS COMMAND  
6501 East 11 Mile Road  
WARREN, MICHIGAN 48397-5000

REPLY TO  
ATTENTION OF  
AMSRD-TAR-E/ME/267

April 13, 2004

BeHts  
§171.1  
Applicability  
04-0118

United States Department of Transportation  
Research and Special Programs Administration  
Attn: Mr. Edward T. Mazzullo  
Office of Hazardous Materials Standards (DHM-10)  
400 7<sup>th</sup> St., S.W.  
Washington, D.C. 20590

Dear Mr. Mazzullo,

This letter addresses the applicability of 49 CFR parts 171-185, the Hazardous Materials Regulations (HMR), to DOD-owned and operated fuel tankers. The fuel tankers owned and operated by the US Army are used to transport various types of fuels including UN 1203 (Gasoline), UN 1223 (Kerosene), UN 1863 (Fuel Aviation Turbine Engine (JP4/JP5/JP8)), UN 1202 (Diesel Fuel), and UN 1993 (Flammable liquids, n.o.s.) and are routinely used in training and field activities. The fuel tankers are not limited to transportation on DOD installations; they also travel over public roads/highways in the accomplishment of their mission.

It is my interpretation, that 49 CFR parts 171-185 are only applicable to transportation in "commerce." Therefore, the transport of hazardous materials in military vehicles operated by US DOD personnel solely for noncommercial military purposes is not subject to the HMR. However, if the government owned fuel tankers are operated by a contractor or if a contract-carrier is being used for the transportation of hazardous materials, the HMR apply. Your expeditious review and consideration of our interpretation would be greatly appreciated.

If you need additional information on this issue, please contact Michelle Mitoraj, Tank Automotive Research Development and Engineering Center (TARDEC), Materials and Environmental Team at 586-574-5954. You may fax a response to (586) 574-5666.

Sincerely,

Mr. Ali Baziari  
TARDEC  
Acting Team Leader  
Materials and Environmental Team