



U.S. Department
of Transportation

Research and
Special Programs
Administration

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

APR 18 1994

Mr. Steve Shire
Bechtel Petroleum Operations, Inc.
P.O. Box 127
Tupman, CA 93276

Dear Mr. Shire:

In two March 23, 1994 letters, you ask about the applicability of the Hazardous Materials Transportation Act (HMTA), 49 App. U.S.C. §§ 1801 et seq., and the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171-180, to activities of Bechtel Petroleum Operations, Inc., operator of the Naval Petroleum Reserves in California. This letter responds to your inquiries.

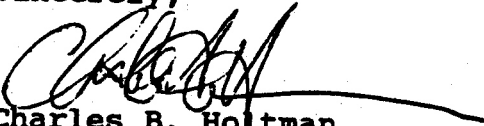
First, you ask about the application of HMR gas odorization requirements to Bechtel's liquefied petroleum gas operations. I have referred this letter to the Research and Special Programs Administration (RSPA) Office of Hazardous Materials Standards, the office responsible for interpreting the technical requirements of the HMR. I understand that you already have sent a nearly identical letter to Ms. Jackie Smith of that office; you should contact her (202-366-4488) with any future questions on that subject.

Second, you ask whether Bechtel's subcontractors are subject to various HMR requirements when crossing a State highway with hazardous materials used in well operations and maintenance. The jurisdiction of the HMTA encompasses hazardous materials transported "in commerce." 49 App. U.S.C. § 1804(a)(1). The definition of "in commerce" has two elements relevant to your situation. First, with respect to transportation by motor vehicle, the definition encompasses interstate and foreign carriers, and intrastate carriers transporting hazardous waste, hazardous substances, flammable cryogenic liquids in portable tanks or cargo tanks, and marine pollutants. 49 C.F.R. § 171.1. Second, it encompasses all transportation that follows or crosses a public way. Accordingly, the transportation you describe is subject to the HMR when it involves an interstate or foreign carrier, or an intrastate carrier transporting any of the hazardous materials indicated.

Some hazardous materials transportation to which you refer, such as transportation of non-bulk packages that qualify as limited quantity shipments or consumer commodities, may be excepted from certain HMR requirements. The extent to which this is so depends on the facts, and therefore I cannot provide more specific information. If in the future you would like guidance as to the requirements for transportation of a particular hazardous materials package, you should contact the RSPA Office of Hazardous Materials Standards at 202-366-4488.

I trust this response is useful to you. Please feel free to telephone (202-366-4400) if you have any further questions.

Sincerely,



Charles B. Holtman
Attorney

cc: Ms. Jacquelyn Smith