



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

JUL 27 2006

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

Mr. Jay Jensen
RBC Dain Rauscher
299 South Main
Suite 2000
Salt Lake City, UT 84111

Ref. No. 06-0113

Dear Mr. Jensen:

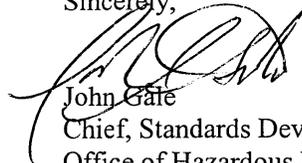
This is in response to your May 12, 2006 letter and subsequent telephone conversation with a member of my staff requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the HMR apply to the transportation of jet fuel by motor vehicle within the boundaries of a privately owned industrial park. You provide the following scenario:

The fuel truck and the jet fuel are owned by Gas Busters Social Club, LLC. Gas Busters Social Club, LLC consists of individual members who use the fuel truck to fuel private aircraft for recreational purposes. The aircraft are located in hangars in the industrial park. The fuel truck is operated on private roads, strictly within the boundaries of the industrial park.

The movement of hazardous material that occurs on private roads entirely within a contiguous facility boundary where public access is restricted is not commercial transportation and therefore is not subject to the requirements of the HMR. The HMR do not apply to motor vehicle movements of a hazardous material exclusively within a contiguous facility boundary where public access is restricted, except to the extent that the movement is on or crosses a public road. If it is, access to the public road must be restricted by signals, lights, gates, or similar controls.

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

Sincerely,



John Gate
Chief, Standards Development
Office of Hazardous Materials Standards



060113

171.1 (d)

Eichenlaub
§171.1(d)
Applicability
06-0113

Mr. Ed Mazzullo
Director of Hazmat Material Standards
PHMSA
400 Seventh Street SW
Washington, DC 20590

May 11, 2006

Re: Hazmat regulations of a non commercial fuel truck operating on private property with public access

Dear Mr. Manzullo:

I need your help regarding a letter of advice (not a formal letter) regarding the application of hazmat regulations on private property. A month ago I spoke with Mr. Dave Donaldson in your department, 202-366-5869, who consulted with a staff attorney regarding this issue and they determined that we are not covered by the regulations since we are not in commerce, and we are operating on private property. 49CFR171.1 (d) (4) is what they cited.

The issue at hand is the use of a fuel truck located in a privately owned industrial park that is used to fuel airplanes located in hangars in the park. The park has an access easement to a privately owned airport runway. The truck is owned by a club called Gas Busters Social Club LLC, we have twelve members. We only use the truck to fuel our own private aircraft, we do not sell fuel. None of our members use their aircraft for commercial operations, as the name implies this is a fun hog operation. We own the park entirely, including the roads.

Yesterday we were approached by an investigator from UDOT (Utah) Gary Holfeltz who stated that we had to comply with the Federal Hazmat regulations. He stated that even though we owned the roads since we let the public enter the park we had to comply with all of the same regulations as if we were acting as a common carrier of aviation gasoline on public roads, (Hazmat # is 1203).

When asked which sections of code either State or Federal required this of private parties not in commerce on their own land he was unable to answer. The complainant is the adjacent airport that has a monopoly on avgas sales on the airport property. We believe they are improperly interpreting the hazmat regulations, which could force us to abandon our truck and buy from them, hence this request.

We understand there may be State regulations that are stricter than the Federal guidelines, and accordingly only seek advice regarding this situation at the Federal level. Mr. Holfeltz admitted he had never encountered this situation before, and is not adverse to your input. He did determine that we are not in commerce, and can confirm that the park is privately held. The local police in Woods Cross, Utah where this park is located do not enforce any laws regarding roads in this park because it is private. You can confirm that by contacting Chief Paul Howard at 801-292-4422. We all need your help regarding how to interpret these regulations at the Federal level.

If you need additional information please call me at 800-820-9114. My fax # is 801-656-2926. e-mail is jay.a.jensen@rbcadain.com Gary Holfeltz can be reached at 801-957-8581, his fax # is 801-965-4847. E-mail to his department goes to tamyscott@utah.gov
Sincerely

Jay Jensen