



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

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

JUL 17 2002

Mr. Steve E. Hawks  
President  
Hawks Logistics  
1120 Bankside Circle  
Edmond, OK 73003

RefNo. 02-0112

Dear Mr. Hawks:

This is in response to your April 5, 2002 letter, requesting clarification of registration requirements for brokers of hazardous materials and the training guidelines for broker personnel. Specifically, you requested a cite be provided for hazardous material registration to be utilized for presentation to the membership of the Transportation Intermediaries Association (TIA), and whether a broker that offers hazardous material freight is responsible for hazardous material training.

Please reference § 107.601 found in the Hazardous Material Regulations (HMR; 49 CFR Parts 171-180) regarding the applicability of the registration of persons who offer or transport Hazardous Materials. A broker must register under the U.S. DOT's Hazardous Materials Registration Program provided they perform a function of an offeror or carrier and otherwise meet criteria requiring registration. Functions of an offeror include, but are not limited to: selection of the packaging for a hazardous material, physical transfer of the hazardous materials to a carrier, classifying hazardous materials, preparing shipping papers, reviewing shipping papers to verify compliance with the HMR or international equivalents, signing hazardous materials certifications on shipping papers, placing hazardous materials markings or placards on vehicles or packages, and providing placards to a carrier. In addition, a carrier is defined in § 171.8 to mean a person engaged in the transportation of passengers or property by: land or water; as a common, contract or private carrier; or civil aircraft.

Employees of a broker are required to receive the hazardous materials training found in § 172.704 if they perform a function of a hazmat employee. A hazmat employee, as defined in § 171.8, means a person who is employed by a hazmat employer and who in the course of employment directly affects hazardous materials transportation safety. This term includes an owner-operator of a motor vehicle which transports hazardous materials in commerce. This term includes an individual, including a self-employed individual, employed by a hazmat employer, who during the course of employment: loads, unloads, or handles hazardous materials; manufactures, tests, reconditions, repairs, modifies, marks, or otherwise represents containers, drums, or packagings as qualified for use in the transportation of hazardous materials; prepares hazardous materials for transportation; is responsible for safety of transporting hazardous materials; or operates a vehicle used to transport hazardous materials.



02-0112

107.601

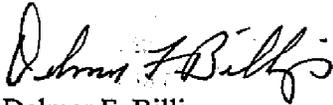
otherwise represents containers, drums, or packagings as qualified for use in the transportation of hazardous materials; prepares hazardous materials for transportation; is responsible for safety of transporting hazardous materials; or operates a vehicle used to transport hazardous materials.

It is the opinion of this Office that provided none of the aforementioned functions of an offeror or carrier are performed by the broker, and provided the broker performs only specific duties not included among those functions of an offeror or carrier (e.g., making a phone call to a carrier), the broker is not required to register or to train his employees.

Please find, enclosed for your information, an advisory guidance notice published in the Federal Register on May 13, 2002, addressing hazardous materials packaging and shipper responsibilities.

I hope this satisfies your request. If we can be of further assistance, do not hesitate to contact us.

Sincerely,



Delmer F. Billings  
Chief, Standards Development  
Office of Hazardous Materials Standards

Enclosure



# HAWKS LOGISTICS

1120 Bankside Circle  
Edmond, OK 73003  
405/340-3395  
405-203-5689

Foster  
§ 107.601  
§ 172.704

Registration/Training

02-0112

April 5, 2002

Office of Hazardous Materials Standards  
ATTN: Ed Mazzulo  
Research and Special Programs Administration  
Department of Transportation  
400 Seventh Street, SW  
Washington, D.C. 20590-0001

Subject: Clarification of Registration Requirements

Dear Mr. Mazzulo:

Recently, I contacted the office of Hazardous Materials Registration about the registration requirements for a broker. My first inquiry received the information, "...if your name appears on a shipping document - including the 'Bill to' box, you should register". This information was given to the general membership of the Transportation Intermediaries Association (TIA) at their annual convention in Dallas, Texas. Many members questioned this information and wanted a cite as reference.

My inquiry for the cite obtained a lot of information on registration including the Feb 14, 2000, Federal register discussion. In that discussion, it was determined that the act of ordering hazardous materials is not included in the meaning of "caused to be transported" and, in and of itself, does not require registration. Inquiring again on the specific issue of registration requirements for brokers of hazardous materials, I was told that, "making a phone call to a carrier to have them haul the hazardous material is not listed as a function of the offeror, and therefore, the broker, if he performs none of the listed functions, does not need to be registered".

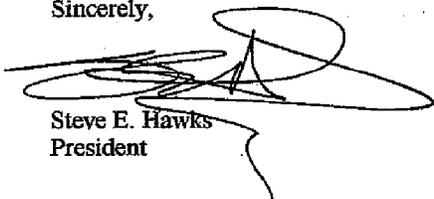
The other opinion is, however, that the broker does select the carrier that moves the hazardous load, and therefore, "offers" the load to the carrier and acts as an agent of the shipper/offeror.

I would like something more definitive than a phone call to present the Department of Transportation's position on the registration requirements of brokers to the membership of TIA. While you are contemplating this, I would also like training guidelines for the broker personnel. Does a broker that is offering hazardous material freight have to have any hazardous materials training? I guess the question is, "Are they responsible for safety of transporting hazardous materials by selecting a carrier?"

Your letter of clarification will be greatly appreciated and would receive wide dissemination throughout the transportation broker community.

Thank you for the services that your Department provides to the country. It is a much safer America because of your efforts.

Sincerely,

  
Steve E. Hawks  
President