



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

MAY 27 2014

Mr. Scott Turner
President
Scott L. Turner Consulting, LLC
P.O. Box 185
Blairstown, NJ 07825

Ref. No.: 14-0044

Dear Mr. Turner:

This is in response to your letter dated March 3, 2014, requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) relating to the definition of "offeror" and how it applies to a specific carrier's operation you describe in your letter. You present a scenario where a motor carrier transports a load of pressurized hazardous materials in an MC-331 or MC-338 to an interim destination and upon arrival at the interim destination the motor carrier driver transfers the hazardous materials from their cargo tank to an ISO type cargo tank. You ask if the motor carrier in your scenario is considered an "offeror" as defined by § 171.8, at least to the point the carrier completes the fill of the ISO type cargo tank.

Based on the scenario you present in your letter, the answer is no. Under the HMR, any person who performs an offeror function is an offeror of the hazardous materials. Offeror functions are functions performed to prepare a shipment for transportation, including assigning a hazard class to a material, selecting a packaging for the material, filling and closing the packaging, marking and labeling the packaging, and preparing shipping documentation and emergency response information to accompany the shipment. From your incoming letter it does not appear the carrier in your scenario performs any pre-transportation functions and would not be considered an offeror as defined by § 171.8. It appears the driver performs the role of a carrier as defined in § 171.8, and then performs either unloading incidental to movement (if performed by carrier personnel or in the presence of carrier personnel as included in the definition in § 171.8), or a transloading function as defined by § 171.8. If the carrier performs a pre-transportation function, the carrier is an offeror for purposes of the HMR and must perform the function in accordance with applicable regulatory requirements (see interpretation 08-0022 issued by this office).

I trust this information is helpful. If you have further questions, please do not hesitate to contact this office.

Sincerely,

Duane A. Pfund
International Standards Coordinator
Standards and Rulemaking Division

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March 3, 20014

Mr. Charles Betts
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U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
Mail Stop: E24-314
1200 New Jersey Ave., SE
Washington, DC 20590

Webb
§ 171.8
Definitions
14-0044

Via. FedEx

Re: Letter of Interpretation Request

Dear Sir,

I respectfully request a letter of interpretation regarding the following scenario as it pertains to the definition of "offeror" in PHMSA § 171.8:

A Motor Carrier permitted in the transport of HM in bulk packaging transports a load of pressurized HM in an MC-331 or MC-338 to an interim destination in interstate commerce. Upon arrival at the interim destination, the Motor Carrier driver/employee transfers the HM from his/her cargo-tank to an ISO type cargo-tank. The Motor Carrier has completed their transport and transfer of the HM to the ISO tank.

Would you be so kind as to confirm that the Motor Carrier in this scenario is considered an "offeror" as defined by §171.8 "Offeror" (1)(i) and (ii), at least to the point the Carrier completes the fill of the ISO type cargo-tank?

Should you have any questions with respect to the above request, please do not hesitate to contact me. I thank you for your kind consideration in this matter.

Sincerely,


Scott L. Turner, President

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