



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

February 2, 2023

David Fletcher  
317 Ironwood Circle  
Gallatin, TN 37066

Reference No. 22-0122

Dear Mr. Fletcher:

This letter is in response to your July 31, 2022, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the Hazardous Materials Registration Program as specified in 49 CFR Part 107, Subpart G. In your letter, you state that your company is a “licensed property broker” that facilitates transportation between shippers and motor carriers and relays basic shipping information to carriers—but never takes physical possession of shipments. Specifically, you ask whether a “licensed property broker” is subject to the HMR and the hazardous materials registration requirements in 49 CFR Part 107, Subpart G.

A licensed property broker does not need to register, provided no function of an offeror or carrier is performed. Functions of an offeror include—but are not limited to—the following:

(1) selection of the packaging for a hazardous material; (2) physical transfer of a hazardous materials to a carrier; (3) classifying the hazardous materials; (4) preparing a shipping paper; (5) reviewing shipping papers to verify compliance with the HMR or international equivalents; (6) signing hazardous materials certifications on shipping papers; (7) placing hazardous materials markings or placards on vehicles or packages; and (8) providing placards to a carrier. In addition, a carrier is defined in § 171.8 to mean a person who transports passengers or property in commerce by rail car, aircraft, motor vehicle, or vessel.

I hope this information is helpful. Please contact us if we can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dirk Der Kinderen".

Dirk Der Kinderen  
Chief, Standards Development Branch  
Standards and Rulemaking Division



07/31/2022

Mr. William S "Bill" Schoonover, Associate Administrator  
Hazardous Materials Safety & Special Program Administration  
400 7th Street S.W  
Washington, D.C 20590-0001

Dear Mr. Schoonover,

I am writing to request an opinion clarifying the role of ICC Licensed Property Brokers in relations to the Hazardous Material Transportation Uniform Safety Act of 1990. However, I understand that new laws have been implemented since 1990. Specifically, in 2022, are ICC Licensed Property Brokers required to register in compliance with the Act?

I am not sure which Motor Carrier Acts of 2004 and 2022 or 2 defined Property Brokers in such a way as to limit their liability for and in transportation, whether surface air or other "mode." Requiring ICC Property Brokers to register for your Act enabling legislation will require Property Brokers to become "liable" when they are specifically limited in their transportation liability under ICC rules. Property Brokers perform the same role for freight that a travel agent fills for passengers in air transportation.

We were informed that we are required to register as "one who causes and offers for shipment" hazardous materials are defined primarily in portion E of your circular regarding registration.

Freight Professor Brokers Group is a licensed **"PROPERTY BROKER" MC 920325**, defined by **USC 10292 & 1045.2**. In the enabling legislation, Property Brokers are not considered modes of transportation and "do not take possession of freight" like freight forwarders or truck brokers. Property Brokers are facilitators (travel agents for freight) and are not considered "shippers" for purposes of the Motor Carrier Acts. Property Brokers are prohibited from executing a Bill of Lading, publishing a Tariff, or quoting a rate. Most brokers never see the freight they caused to be hauled, the drivers, or the delivery of a load. They are not liable for the safety inspection, logbooks, or any form of State compliance with the same. This does not mean that some who handle Hazardous Materials are licensed Property Brokers but that the relationship is incidental to other transportation goals that shippers may have. Our brokerage causes properly authorized and insured ICC carriers to haul shipper's freight. Requiring Property Brokers to Haz Mat register is a duplicate activity of the actual players. They are involved in giving and taking possession of cargo by the trustworthy Carrier Company (mode of transportation) and the shipper. If Property Brokers must register, a significant insurance burden will fall on them suddenly, as most brokers do not have cargo or liability insurance.



Please clarify specifically, are Property Brokers required to register under the Hazardous Material Act?

Are Property Brokers liable for transporting Hazardous Materials when Brokers are specifically "not liable for loss or claims" in transporting other "freight of all kinds"? Property Brokers are not required to ensure the load, the public, or the cargo. There is insurance for errors and omissions for Brokers, but it is not an ICC requirement.

Your specific clarification should include if we are required to put out DOT Haz Mat # and "carrier" on each bill of lading that our "shippers" prepare for freight. We have caused to move. Even though, like a travel agent, we are not liable either from public liability, personal liability, or a cargo damage claim.

One of the main reasons for requesting this clarification is that FPBG is the Property Broker for the CARRIER INFORMATION EXCHANGE School of Brokering. This school instructs beginning brokers in ICC and DOT compliance, among other topics. Obtaining a Haz Mat # would be a significant element of any observation.

If you render an opinion, may I have your permission to make your idea part of my book "FREIGHT BROKERS TRANSPORTATION MANUAL" as well? Thank you for resolving what is a significant issue for Property Brokers.

Sincerely,

David Fletcher,  
(615) 218-6837  
david@freightbrokersuniv.com