



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

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

MAR 29 2011

Mr. Daniel A. Maham
Department of the Army
Military Surface Deployment and Distribution Command
1 Soldier Way
Scott AFB, IL 62225-5006

Reference No.: 11-0029

Dear Mr. Maham:

This responds to your letter requesting clarification of the hazardous material regulations (HMR; 49 CFR Parts 171-180) applicable to definitions. Specifically, you ask if a person who acts as a "broker of transportation services" meets the definition of a "hazmat employee."

As specified in § 171.1, the HMR govern the safe transportation of hazardous materials in intrastate, interstate and foreign commerce. Generally, a "hazmat employee" is any person who is employed on a full-time, part-time, or temporary basis and who in the course of such employment directly affects hazardous materials safety. (See § 171.8 for the complete definitions of "hazmat employee" and "hazmat employer.") In other words, a person who performs duties that are regulated under the HMR is considered to be a hazmat employee. A broker is considered a "hazmat employee" under § 171.8 if he or she performs a function of an offeror or carrier. 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. If what you describe in your letter as a "broker of transportation services" performs any of these functions, this person would be considered a "hazmat employee" under the HMR.

I hope this satisfies your inquiry. Please contact us if we can be of further assistance.

Sincerely,

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division



DEPARTMENT OF THE ARMY
MILITARY SURFACE DEPLOYMENT AND DISTRIBUTION COMMAND
1 SOLDIER WAY
SCOTT AFB, IL 62225-5006

Andrews
§ 171.8
Definitions
11-0029

Directorate of Safety (AMSSD-SA)

February 11, 2011

U.S. Department of Transportation
Pipeline Hazardous Materials Safety Administration
Office of Hazardous Materials Safety
Office of Hazardous Materials Special Permits and Approvals
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, DC 20590

ATTN: Office of Hazardous Materials Standards (PHH-10)

Dear Sir:

In accordance with the provisions of Title 49, Code of Federal Regulations (CFR), Part 105, Section 105.20, the Department of Defense (DOD) hereby requests an Interpretation of the Hazardous Materials Regulations as outlined below. DOD petitions for a clarification of 49 CFR 171.8 Definitions and abbreviations, in particular "Hazmat employee". The following file number is assigned:

File Number: 13-11 (0211)

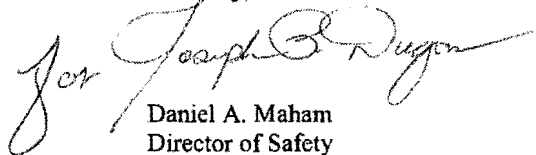
Re: Request Interpretation of 49 CFR 171.8 Definitions and abbreviations, "Hazmat employee"

Proponent: Department of Defense

The Military Surface Deployment and Distribution Command (SDDC) arranges for transportation of DOD hazardous cargo using commercial carriers; there are many avenues available to DOD in the offering this type of business. The Directorate for Strategic Business, Quality Assurance Branch implements policy affecting the movement of DOD hazardous cargo. A question concerning the definition of a "Hazmat employee" is at issue. Primarily does a person who acts as a "Broker of transportation services" meet the definition of a "Hazmat employee"? 49 CFR 171.8 Hazmat Employee (2) ... or is self-employed, who during the course of employment: (iv) Is responsible for safety of transportation of hazardous materials.

My point of contact for this matter is Mr. Joseph P. Dugan, (618) 220-5040, e-mail sddc.safb.safety@us.army.mil or joseph.dugan@us.army.mil Safety Team, Military Surface Deployment and Distribution Command, ATTN: AMSSD-SA, One Soldier Way, Scott AFB, IL 62225.

Sincerely,


Daniel A. Maham
Director of Safety