



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

JUL 22 2004

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

Mr. Philip I. Anderson  
Chief, Technical Department  
National Cargo Bureau, Inc.  
17 Battery Place, Suite 1232  
New York, NY 10004-1110

Ref. No. 04-0153

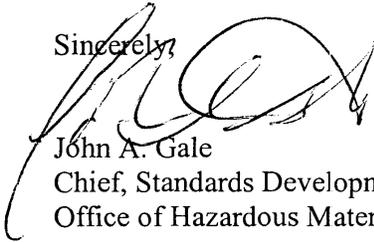
Dear Mr. Anderson:

This is in response to your June 18, 2004 letter requesting clarification of the Hazardous Materials Incident Reporting requirements, effective January 1, 2005, under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether a carrier is required to file a Hazardous Materials Incident Report (DOT Form F5800.1) if the shipper declares a shipment to be a hazardous material after the shipment is in the possession of the carrier. You also ask whether the reporting requirement applies only if the carrier discovers an undeclared shipment.

The carrier is required to submit a Hazardous Materials Incident Report because the carrier is in physical possession of the hazardous material at the time the undeclared hazardous material is discovered. The reporting requirement applies whenever any of the conditions in § 171.16 are met. As specified in § 171.16, each person in physical possession of a hazardous material must submit a Hazardous Materials Incident Report on DOT Form F5800.1 within 30 days of discovery of the incident when any of the following incidents occurs in transportation: any of the circumstances set forth in § 171.15(b); an unintentional release of a hazardous material or the discharge of any quantity of hazardous waste; a cargo tank with a capacity of 1,000 gallons or greater containing any hazardous material suffers structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system, even if there is no release of hazardous material; or an undeclared hazardous material is discovered.

I hope this information is helpful.

Sincerely,

  
John A. Gale  
Chief, Standards Development  
Office of Hazardous Materials Standards



040153

171.16

**National Cargo Bureau, Inc.**

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Foster  
§171.16  
Incident Report  
04-0153

**Facsimile Transmission**

**To:** Office of Hazardous Materials Standards  
**Fax No.:** (202) 366 3012  
**From:** Philip Anderson **At:** NCB, New York  
**Date:** 18 June 2004  
**Re:** Interpretation of 49CFR 171.16

Dear Sir:

One of our surveyors has recently been asked a question that I do not, at present, feel confident providing an answer to.

It relates to the new Detailed Hazardous Materials Incident Report requirements due to take effect on 1 January 2005, specifically 171.16(a)(4).

The question follows:

Would the Carrier still need to file a Hazardous Materials Incident Report on DOT Form F 5800.1 if it is the Shipper that notifies the Carrier that he has the material in his (the Carrier's) possession; i.e. the Shipper discovers his own mistake and declares a previously undeclared hazardous material; or would the reporting requirement only apply if the Carrier, himself, discovers an undeclared hazardous material?

Your interpretation would be much appreciated.

Sincerely,



Philip I. Anderson  
Chief, Technical Department

There is 1 page (including this cover)

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