



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

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

JUN 6 2000

Mr. Scott D. Hubbard
Warner Norcross & Judd LLP
900 Old Kent Building
111 Lyon Street, N.W.
Grand Rapids, MI 49503-2487

Ref. No. 00-0115

Dear Mr. Hubbard:

This is in response to your April 12, 2000, letter concerning the incident reporting requirements in the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you requested clarification of incident reporting when your client, when receiving a hazardous material delivery, participates in the unloading activities which result in a release requiring an incident report.

Section 171.16 states that each carrier that transports hazardous materials is responsible for reporting hazardous materials incidents. While your client may be performing the function of a carrier, if the carrier is present during the time of unloading and the motive power is still attached to the transport vehicle when the incident occurs, the carrier is responsible for submitting the incident report form as required in § 171.16. If the carrier has dropped the transport vehicle and the motive power is removed from the premises, the carrier obligation is fulfilled and transportation has ended; thus, the incident reporting regulations would not apply.

You may be interested in two rulemakings which address these issues: Docket HM-223 "Hazardous Materials: Applicability of the Hazardous Materials Regulations" and Docket HM-229 "Hazardous Materials Incident Reporting Requirements, and the Detailed Hazardous Materials Incident Report DOT Form F 5800.1." These are available through our website (<http://hazmat.dot.gov>).

I hope this satisfies your request.

Sincerely,

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



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171.16

WARNER NORCROSS & JUDD LLP

ATTORNEYS AT LAW
900 OLD KENT BUILDING
111 LYON STREET, N.W.
GRAND RAPIDS, MICHIGAN 49503-2487
TELEPHONE (616) 752-2000
FAX (616) 752-2500

Johnson
§ 171.16
00-0115

SCOTT D. HUBBARD

(616) 752-2157
hubbarsd@wnj.com

April 12, 2000

Mr. Edward T. Mazzullo
Director
Office of Hazardous Materials Standards
U.S. DOT/RSPA (DHM-10)
400 - 7th Street, S.W.
Washington, D.C. 20590-0001

Re: **Reporting Requirements Under 49 CFR 171.15 and 171.16**

Dear Mr. Mazzullo:

I am writing to inquire as to the Department of Transportation's position on the scope and applicability of the reporting requirements of 49 CFR 171.15 and 171.16 under the circumstances described below.

Our client, a manufacturer, receives hazardous materials delivered by truck (including tanker trucks) to its manufacturing facility - a large complex with multiple production buildings. The trucking firms that deliver the hazardous materials are "carriers" as defined in 49 CFR 171.8. Our client is not engaged in the transportation of passengers or property in any respect, and consequently does not fall within the regulatory definition of a "carrier."

From time to time, our client's employees may participate in unloading hazardous materials from a carrier's vehicle that has stopped at our client's receiving facility (for example, pumping liquid hazardous materials from the carrier's tanker truck to a storage tank owned by our client). In some cases, the unloading is carried out solely by our client's employees.

If a spill or other incident covered by the reporting requirements of 49 CFR 171.15 and/or 171.16 were to occur in the course of unloading hazardous materials from a carrier's vehicle under the circumstances described above, with our client's employees participating in or actually conducting the unloading, would the reporting requirements of the referenced regulations apply to our client in addition to the carrier?

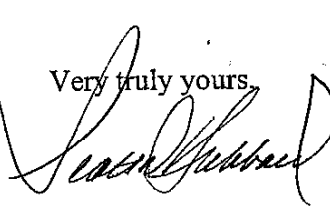
Mr. Edward Mazzullo
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Our client is aware of, and strictly complies with, its reporting obligations under applicable federal and state environmental protection laws. Our analysis indicates that our client is not a "carrier," and accordingly is not obligated to report incidents covered by 49 CFR 171.15 and 171.16 that occur on our client's property -- even if the carrier itself fails to report.

We would appreciate receiving an explanation of the Department's position on this issue at your earliest convenience.

Thank you for your assistance. If you have any questions or need any further information, please give me a call.

Very truly yours,



Scott D. Hubbard

SDH:lmb