



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

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

FEB 11 2005

Ms. Amy Dean
1161 Alter Way
Broomfield, CO 80020

Reference No. 04-0275

Dear Ms. Dean:

This is in response to your December 3, 2004 letter asking who is responsible for reporting a hazardous materials release before and after January 1, 2005, under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if a farmer or your company is responsible for reporting a hazardous materials release to this agency when a farmer leases a tank wagon loaded with "Ammonia, anhydrous, 2.2, UN 1005" from your company, tows it away from your facility attached to the back of his truck, and has a traffic accident on a highway that causes the release of the anhydrous ammonia.

In the scenario you describe, the farmer is responsible for reporting the incident. The HMR's incident reporting requirements in §§ 171.15 and 171.16, and the incident reporting form were revised in two rulemakings issued under Docket No. RSPA-99-5013 (HM-229; 69 FR 30114, 5/26/04, and 68 FR 67746, 12/3/03) that went into effect on January 1, 2005. Before this date, the carrier, which in this instance is the farmer, transporting the material was responsible for filling out and filing the Hazardous Materials Incident Report, Form DOT F 5800.1, with this agency. After January 1, 2005, the person or entity in physical control of the hazardous material when it is released is responsible for filling out and filing the form. In your scenario, the person in physical control of the material is the farmer.

I hope this information is helpful.

Sincerely,

Hattie L. Mitchell, Chief
Regulatory Review and Reinvention
Office of Hazardous Materials Standards



040275

171.15
171.14

December 3, 2004

Edmonson
S 171.15
Incident Report
04-0275

By fax 202-366-3012

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

Re: Letter of Interpretation (HM-229)

Dear Mr. Mazzullo:

I have contacted the hazardous material information center and have not been able to get clarification on which party is responsible for spill reporting in the following scenario:

A company sells anhydrous ammonia to a farmer and leases a tank wagon to the farmer to haul the product. The farmer will return the tank wagon to the company after application of the anhydrous ammonia. The farmer leaves the company premises driving his truck pulling the tank wagon with the anhydrous ammonia and wrecks the tank wagon on the highway spilling the product, who is responsible for reporting the spill, the company or the farmer? In addition, will the party responsible for reporting the spill be the same before and after January 1, 2005?

Please provide me with a letter of interpretation using the address below. Thank you.

Sincerely,
Amy Dean
1161 Alter Way
Broomfield, CO 80020