



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

FEB 17 2005

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

Mr. Robert Johnson
Manager Environmental Affairs
Menlo Worldwide Forwarding
2625 SW 161st
Seattle, WA 98158

Ref. No. 04-0287

Dear Mr. Johnson:

This is in response to your December 13, 2004, letter regarding incident reporting requirements under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask if the exception provided under § 171.16(d) applies to materials offered for transportation or transported by highway.

The answer is yes. Effective January 1, 2005, incidents involving hazardous materials offered for transportation or transported by rail, highway, or vessel that otherwise meet the exception in § 171.16(d)(2) are excepted from the detailed hazardous materials incident reporting requirements (§ 171.16(a)-(c)).

I hope this satisfies your request.

Sincerely,

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



040287

171.16(d)(2)(vi)



BAAH
§ 171.16(d)(2)(vi)
Incident Report
Exceptions
04-0287

December 13, 2004

USDOT/RSPA (DHM 10)
400 7th Street SW
Washington, D.C. 205090-0001

ATTN: Mr. Edward Mazullo, Director for Office of Hazardous Materials Standards

Re: HMR-229: 49 CFR 171.16 (d) Exceptions (2) (iv) (A) offered for transportation or transported by aircraft

Dear Mr. Mazullo,

I am writing to request a written confirmation regarding an answer I received from the Hazmat Hotline on 12-09-04. According to the Hotline, the following scenario would meet the Hazmat Incident Reporting exception criteria:

- Company policy requires all Hazmat (DG) shipments received from shippers to comply with International Air Transport Association (IATA) regulations.
- The shipment is offered, accepted, and moved by ground transport.
- An unintentional release occurs at some time during transportation of the shipment.
- All criteria listed in 171.16(d) *Exceptions* are met.

According to the Hotline, the intent of 171.16(d)(2)(iv)(A) "offered for transportation or transported by aircraft" was not to require an incident report to be submitted for the scenario described above ... assuming all other exception criteria were met.

Would you please confirm this interpretation? Although I agree with the Hotline's response, I feel a written interpretation would be beneficial due to the specific wording of 171.16(d)(2)(iv)(A) as it relates to the scenario I've described.

Your assistance is greatly appreciated.

Regards,

A handwritten signature in black ink that reads "Robert G. Johnson".

Robert G. Johnson
Manager Environmental Affairs