



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

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

FEB 28 2005

Mr. Gene Secor
H.B. Fuller Company
31601 Research Park Drive
Madison Heights, MI 48071

Ref. No. 05-0011

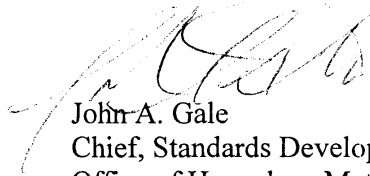
Dear Mr. Secor:

This is in response to your January 11, 2005, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you ask whether a person must report an undeclared hazardous material discovered after the material has been delivered to the consignee and the carrier has departed the consignee's facility. In addition, you indicate that the package may or may not be leaking.

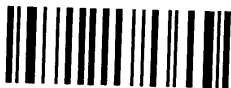
The answer is no. The requirement to file a Hazardous Materials Incident Report on DOT Form F 5800.1 applies to hazardous materials incidents that occur during transportation (§ 171.16(a)). Therefore, incidents that occur after the hazardous material has been delivered to the consignee and the carrier has departed the premises are not subject to the incident reporting requirements. For incidents that occur during transportation it is the responsibility of the person in physical possession of the leaking or undeclared package to file an incident report.

I hope this information is helpful.

Sincerely,



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



050011

171.16



H.B. Fuller Company

31601 Research Park Drive
Madison Heights, MI 48071

January 11, 2005

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: Interpretation Question on 49 CFR 171.16

Gentlemen:

Our various facilities receive hazardous materials on a frequent basis; sometimes, we find when opening the package that the contents are undeclared dangerous goods. This is most prevalent for air shipments. These packages are opened after the carrier has departed the facility. Presumably at this point, the packaged material is "Out of Transportation" and no longer covered by the HMR. Generally speaking, there is no release involved when these packages are opened.

Is there any legal obligation under the HMR to make a report? If we are obligated to report, since the material was shipped by Air but is out of transportation when the package is opened, do any of the exceptions provided at 171.16 apply?

If the package was soiled (indicating a potential release) when received, are we required to report if the shipment was made by air?

Sincerely,

Gene Secor
EHS/Transportation Specialist

File: DOT/Interpretations/171.16

BAH
§ 171.16
Incident Reports
05-0011