



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, D.C. 20590

AUG 08 2014

Nathan Walden, CHMM
Vice President, Operations
Responsible Care Coordinator
6001 Cochran Road, Suite 300
Solon, OH 44139

Reference No. 14-0056

Dear Mr. Walden:

This is in response to your March 20, 2014 e-mail concerning hazardous materials incident reporting under §§ 171.15 and 171.16 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). Specifically, you provided several examples in your letter and asked how the incident reporting requirements would apply in each instance. We have paraphrased your questions and answered them in the order you provided.

- Q1. Section 171.15(b)(1)(iv) requires that “as a direct result of a hazardous material—a major transportation artery or facility is closed or shut down for one hour or more,” each person in possession of the hazardous material must provide notice by telephone to the National Response Center (NRC) or online at “<http://www.nrc.uscg.mil>” as soon as practical but no later than 12 hours after the occurrence. Does that mean any hazardous material incident involving a road closure must be reported in this manner?
- A1. If as a direct result of a hazardous material, regardless of whether a hazardous material is actually released, a major transportation artery or facility is closed for one hour or more, the answer is yes the incident must be reported in conformance with § 171.15. An incident reporting form must also be submitted to the Department of Transportation (DOT) within 30 days of the incident in conformance with § 171.16.
- Q2. If a carrier transports a load of cargo that includes DOT hazardous materials and is involved in a motor vehicle accident that results in a road closure, must the NRC be notified immediately about the accident by telephone in conformance with § 171.15(b)(1)? In my first example, a DOT specification 407 cargo tank that contains hazardous material is involved in a rollover incident alongside a highway in which no hazardous materials are released but it was reported that the road was closed for 3 hours as a result of the incident. In my second example, a placarded tractor trailer that contains hazardous materials is parked at a travel center when the truck’s engine catches fire. When the fire department arrives, it closes the

surrounding roads for the next 2 ½ hours as it responds to the incident. I understand no hazardous materials were released during this incident.

- A2. The answer for both scenarios is the same as in Answer A1. The fact that the first incident involved a DOT specification cargo tank packaging or that the second involved a transportation facility, and that no hazardous materials were released during either incident do not alter how to comply with this requirement. If the highway where the cargo rollover occurred, the transportation facility where the truck caught fire, or any of the roads that were closed alongside the transportation facility is a major transportation artery, these incidents must be reported in conformance with § 171.15(b)(1). If none of these roads is a major transportation artery, then those incidents are not required to be reported in conformance with § 171.15(b)(1), but must be reported in conformance with § 171.16 within 30 days of their occurrence.
- Q3. Would immediate notification be required under § 171.15 if a DOT specification 412 cargo tank carrying a Class 8 (corrosive) material is involved in a rollover accident in which no hazardous material is released? The roadway was closed for 2 hours during which the cargo tank's load was transferred to another authorized packaging and the cargo tank was righted.
- A3. See Answer A1.
- Q4. Does the HMR penalize or are any issues encountered when non-required information is entered on DOT 5800.1 form?
- A4. Provided the information that is required on DOT 5800.1 form has been submitted and in the correct location, the answer is no. We note that Parts VI and VII of the DOT 5800.1 form are provided for the purpose of entering additional information relevant to the incident. However, please be aware that entering additional information on the form that is not relevant to the incident may be confusing and result in a DOT or NRC employee seeking additional contact with the form's preparer for clarification.
- Q5. Is the information about the original shipper and/or manufacturer of a hazardous material, that is the person/organization listed on the hazard material's material safety data sheet (MSDS), supposed to be entered as the "Shipper/Offerer" information in the DOT 5800.1 form (in Item No. 11 of the online form) or is it supposed to be the information about the last shipper to place that material in transportation? For example, ABC Chemical manufactures, packages, and offers 275 gallon totes of "UN 1293, Paint" to the carrier DEF Transportation whose employees transport it to GHI Chemical Distribution. GHI Chemical Distribution sells the paint to JKL Painting and hires the carrier MNO Transport to transport it to that buyer. En route to the buyer, a tote is punctured that results in a release that is required to be reported under § 171.16. On the DOT 5800.1 form, which company is MNO Transport required to list as the original shipper, "ABC Chemical" or "GHI Chemical Distribution"?

A5. Item No. 11 on the DOT 5800.1 form refers to the shipper that offered that specific shipment of hazardous material involved in the incident. Therefore, in the example you provided, the shipper that must be entered in Item No. 11 on the incident form is GHI Chemical Distribution.

I hope this satisfies your request.

Sincerely,

A handwritten signature in cursive script that reads "T. Glenn Foster". The signature is written in black ink and is positioned below the word "Sincerely,".

T. Glenn Foster
Chief, Regulatory Review and Reinvention Branch
Standards and Rulemaking Division



Edmonson
§171.15
§171.16

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, March 20, 2014 2:40 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Regulation Interpretations
Importance: High

HM Incident Report
14-0056

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation.

Thanks,
Victoria

From: Nathan Walden [<mailto:nwalden@ertsonline.com>]
Sent: Thursday, March 20, 2014 8:55 AM
To: INFOCNTR (PHMSA)
Cc: Clay Richter; George Sabo
Subject: Regulation Interpretations
Importance: High

To Whom it May Concern:

I am looking for additional interpretation regarding 49 CFR 171.15 immediate reporting requirements as well as information required under 171.16 (DOT5800.1 form)

49 CFR 171.15

While the regulation indicates that the reporting requirement is that "as a direct result of a hazardous material", would that immediately include any incident road closure involving DOT hazardous materials?

If a carrier is carrying a load of cargo including DOT hazardous materials, and involved in a motor vehicle accident resulting in a road closure would immediate notification to the NRC be required?

Examples:

1. Hazardous materials are contained within a DOT 407 cargo tank which is involved in a rollover incident alongside the highway. It has been reported that the road has been closed for 3 hours as a result of the incident. There was no release of hazardous material resulting from this incident

Would immediate notification be required under 171.15?

2. A tractor/trailer is parked at a travel center when the tractor catches fire resulting from the engine bay. The trailer is placarded and carrying DOT hazardous materials. Once the FD arrives on site, they close the surrounding roads down for the next 2.5 hours. The FD puts the fire out and it was found that there was no release of hazardous material resulting from this incident

Would immediate notification be required under 171.15?

3. A DOT 412 carrying Class 8 Corrosive is involved in a rollover resulting in 2 hour road closure during cargo transfer and up righting. No release of material occurred however there is potential of a release during recovery and transfer activities.

Would immediate notification be required under 171.15?

49 CFR 171.16

1. When completing a DOT 5800.1 form, is there any penalty or issues encountered by not entering "non required" information on the DOT 5800.1 form?
2. When entering information for the "Shipper/Offeror" (section 11 in online format), is this supposed to be the original packaging shipper/manufacturer listed on the MSDS? Or is this supposed to be where the material was last shipped from?

For Example:

ABC Chemical manufactures, packages, and ships out 275 gallon totes of UN1293 paint. DEF Transportation (Carrier) ships the material to GHI Chemical Distribution. GHI Chemical Distribution sells the material to JKL Painting and hires MNO Transport to ship the material. While MNO Transport is transporting the material from GHI Chemical Distribution, a tote is punctured and results in a release reportable under 171.16. On the DOT 5800 form, would we list ABC Chemical (original packager/shipper) as the shipper or would we list GHI Chemical Distribution as the shipper in section 11?

Thank you for your time and attention to the above. Your assistance is greatly appreciated.

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"Doing good does not excuse us from doing better."

— Howard Buffett



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