PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

11. The authority citation for part 266 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, 6905, 6906, 6912, 6922, 6925, and 6937.

12. Section 266.100 is amended by redesignating paragraph (b)(2) as paragraph (b)(3); revising the first sentence of paragraph (b)(1); and adding new paragraph (b)(2) to read as follows:

§ 266.100 Applicability.

* * * * *

(b) * * *

(1) Except as provided by paragraph (b)(3) of this section, the standards of this part no longer apply when an affected source demonstrates compliance with the maximum achievable control technology (MACT) requirements of part 63, subpart EEE, of this chapter by conducting a comprehensive performance test and submitting to the Administrator a Notification of Compliance under §§ 63.1207(j) and 63.1210(d) of this chapter documenting compliance with the requirements of subpart EEE. * * *

(2) Except as provided by paragraph (b)(3) of this section, the standards of this section do not apply to an owner or operator of a hazardous waste burning cement kiln, or hazardous waste lightweight aggregate kiln (as defined at § 63.1201 of this chapter) that begins construction, reconstruction, or becomes an affected source of part 63, subpart EEE of this chapter, after September 30, 1999.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

13. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

14. Section 270.19 is amended by revising paragraph (e) to read as follows:

§ 270.19 Specific part B information requirements for incinerators.

* * * * *

(e) When an owner or operator who submitted a permit application under this part before September 30, 1999, demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance documenting compliance with all applicable requirements of part 63, subpart EEE), the requirements of this section do not apply. When an owner or operator submits a permit application under this part on or after September 30, 1999, the requirements of this section do not apply. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

15. Section 270.22 is amended by revising the introductory text to read as follows:

§ 270.22 Specific part B information requirements for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance documenting compliance with all applicable requirements of part 63, subpart EEE), the requirements of this section do not apply. When an owner or operator of a cement or lightweight aggregate kiln submits a permit application under this part on or after September 30, 1999, the requirements of this section do not apply. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

16. Section 270.62 is amended by revising the introductory text to read as follows:

§ 270.62 Hazardous waste incinerator permits.

When an owner or operator who submitted a permit application under this part before September 30, 1999, demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE), the requirements of this section do not apply. When an owner or operator submits a permit application under this part on or after September 30, 1999, the requirements of this section do not apply. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

17. Section 270.66 is amended by revising the introductory text to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement or lightweight aggregate kiln who submitted a permit application under this part before September 30, 1999, demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance documenting compliance with all applicable requirements of 40 CFR part 63, subpart EEE), the requirements of this section do not apply. When an owner or operator of a cement or lightweight aggregate kiln submits a permit application under this part on or after September 30, 1999, the requirements of this section do not apply. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).

* * * * *

[FR Doc. 01–16426 Filed 7–2–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket No. RSPA–99–5013 (HM–229)]

RIN 2137–AD21

Hazardous Materials: Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report Form

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA is proposing revisions to the current incident reporting requirements of the Hazardous Materials Regulations and the hazardous materials incident report form, DOT Form F 5800.1. The major changes proposed by RSPA in this NPRM include: collecting more specific information on the incident reporting form; expanding reporting exceptions; expanding reporting requirements to persons other

than carriers; reporting undeclared shipments of hazardous materials; notifying shippers of incidents; and reporting non-release incidents involving bulk packages. The revisions are intended to increase the usefulness of data collected for risk analysis and management by government and industry and, where possible, provide relief from regulatory requirements.

DATES: Send your comments on or before October 1, 2001. To the extent possible, we will consider comments received after this date in making our decision on a final rule.

ADDRESSES: Address your comments to the Dockets Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW, Washington, DC 20590–0001. You must identify the docket number, RSPA–99–5013 (HM–229) at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that your comments have been received, include a self-addressed stamped postcard. You may also submit your comments and review all comments by accessing the Docket Management System website at *http://dms.dot.gov.* Click on ''Help and Information'' to obtain instructions for filing a document electronically.

The Dockets Unit is located on the Plaza Level of the Nassif Building at the U.S. DOT at the above address. You may view public dockets between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays. An electronic copy of this document may be downloaded from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register's** home page at: http://www.nara.gov/nara/fedreg, the Government Printing Office's database at http://www.access.gpo.gov/su_docs, or the Office of Hazardous Materials Safety at http://rspa.dot.gov/rulemake.htm. You may obtain copies of DOT Form F 5800.1 and the instruction booklet for completing DOT Form F 5800.1 at the Office of Hazardous Materials Safety's web site at http://hazmat.dot.gov/spills.htm or http://hazmat.dot.gov/ohmforms.htm#incidents.

FOR FURTHER INFORMATION CONTACT: Michael Johnsen or Diane LaValle, at the Office of Hazardous Materials Standards, telephone (202) 366–8553 or Kevin Coburn, at the Office of Hazardous Materials Planning & Analysis, telephone (202) 366–4555, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

I. Background

Quality data supporting causal, trend, and risk analysis is fundamental to an effective safety program. The importance of data to the hazardous materials transportation safety program was highlighted in both a ONE DOT Flagship Initiative on Hazardous Materials Handling/Incidents (HazMat Flagship) and a recently completed Department-wide Hazardous Materials Program Evaluation (HMPE). The HazMat Flagship identifies the set of new and ongoing actions relating to hazardous materials transportation that has the greatest potential impact on safety and program operation and that benefits from a cooperative ONE DOT approach. Information on DOT's Flagship Initiatives can be found at: *http://www.dot.gov/onedot/flagship.htm.* The HMPE used a multi-modal team to conduct a Department-wide program evaluation to document and assess the effectiveness of the Department's hazardous materials transportation safety program. The team's final report can be found at: *http://hazmat.dot.gov/hmpe.htm.*

The hazardous materials transportation safety program relies on DOT Form F 5800.1, Hazardous Materials Incident Report, to gather basic information on incidents that occur during transportation and that meet specified criteria as required in § 171.16 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180). RSPA last revised this form in 1989. In 1999, we received roughly 17,500 incident reports. The Research and Special Programs Administration (RSPA, we) use the data and information reported by carriers to:

- Evaluate the effectiveness of the existing regulations and industry operating procedures;
- Determine the need for regulatory changes to cover changing transportation safety problems; and
- Identify major problem areas that should receive priority attention.

In addition, both the government and industry use this information to chart trends, identify problems and training inadequacies, evaluate packagings, and assess ways to reduce releases.

Although the current incident report form provides useful information and is generally recognized as being fundamentally sound, room for improvement exists. Both the HazMat Flagship initiative and the HMPE emphasized the need to obtain more accurate and complete data on incidents. We believe the opportunity exists to obtain better, more detailed information on events with potentially greater consequences; to provide more descriptive information to help determine root causes of events; to offer better linkages so that data can be coupled (for example, registration numbers and fire and police report numbers); and to better structure the report form to facilitate complete and accurate responses.

Our experience using data generated by the current form has identified certain deficiencies. Rulemakings such as HM–225A, ''Revision to Regulations Governing Transportation and Unloading of Liquefied Compressed Gases,'' and HM–213B, ''Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids,'' have demonstrated the difficulties involved with using DOT Form 5800.1 data to determine precise failure modes and causes. These rulemakings also underscore the unreliability of cost information and the need to update this and other data as better information becomes available after initial submission of the form in the time period prescribed by regulation.

The National Transportation Safety Board (NTSB) has issued a number of recommendations related to data collection and processing developed during the course of their investigations. NTSB Recommendation H–92–6 suggests establishment of a program to collect information necessary to identify patterns of cargo tank equipment failures, including the reporting of all accidents involving a DOT specification cargo tank. Revising DOT Form 5800.1 offers a viable way to implement this recommendation by enabling us to obtain a more complete profile of accident scenarios, including ''success stories,'' through which packaging integrity issues can be more thoroughly evaluated. We believe gathering such information on all bulk packagings involved in incidents where the packaging, appurtenances, or damage protection devices receive structural damage is a logical extension of this philosophy.

Another example of an NTSB recommendation that can be implemented though revision to DOT Form 5800.1 is ensuring that there is formal feedback from carriers to shippers when an incident has occurred (recommendation R–89–52). The need for this latter recommendation is supported by FAA experience with shippers who have been unaware of packaging failures.

In addition, the National Risk Assessment for Selected Hazardous Materials performed for RSPA by the

Argonne National Laboratory and the University of Illinois relied on incident data as a basic input into the study and recommended changes in a number of areas. Risk practitioners in government and industry offered suggestions for improved reporting of incident data in a white paper produced under the auspices of the Transportation Research Board.

Undeclared hazardous materials shipments, particularly in the air mode, are a safety issue of high visibility and concern within the Department. This issue received significant attention in the HazMat Flagship and was recognized by the HMPE as an important area where better understanding of the frequency and impact of such shipments is essential. Data obtained through reporting of discoveries of such shipments, whether or not the material is released, can help in defining the extent of the problem and developing programs to mitigate the risk involved. DOT Form 5800.1 is an efficient way to capture this data. Such data, even though it represents only undeclared hazardous materials that are discovered rather than the full spectrum of undeclared hazardous material shipments, can play a significant role in monitoring trends and measuring the effects of efforts to reduce undeclared shipments.

We are cognizant of the burden often imposed by regulatory requirements. As we develop proposed changes to the incident reporting requirements, we are seeking to minimize any additional burden associated with the revised requirements. For instance, we are proposing to add exceptions to reporting requirements for small releases of materials that pose the least hazard where sufficient data already exists to manage risk. Further, we believe certain data fields that ask for information that is obtainable from other sources can be deleted. Land use at the incident site is an example of the latter case.

As part of early efforts to consider possible revisions and following a meeting between DOT and members of several trade associations concerning hazardous materials incident reporting, the Association of American Railroads sponsored a workgroup with segments of the transportation community to discuss the DOT Form F 5800.1 and reporting requirements of §§ 171.15 and 171.16. The workgroup meetings were held during the winter of 1997–98. Participants included representatives of all four transportation modes and RSPA, shippers, container manufacturers, and labor. The workgroup drafted suggestions and submitted them to RSPA. We developed questions based on input from these meetings, the DOT modal agencies, and other concerned individuals, and on our own initiative.

On March 23, 1999, we published an advance notice of proposed rulemaking (ANPRM; 64 FR 13943) that asked a series of questions regarding the need to change the current reporting requirements or the current incident report form. We received approximately 40 comments from industry associations, state and local governments, non-profit associations, and carriers. These comments are discussed in Section III of this preamble.

II. Current Requirements

Currently, § 171.15 requires carriers to immediately notify the National Response Center (NRC) after any incident that occurs during transportation in which, as a direct result of hazardous materials:

(1) A person is killed;

(2) A person receives injuries requiring hospitalization;

(3) Estimated carrier or other property damage exceeds $50,000;

(4) An evacuation of the general public occurs for one hour or more;

(5) One or more major transportation arteries or facilities are closed for one hour or more;

(6) The operational flight pattern or routine of an aircraft is altered;

(7) Fire, breakage, spillage, or suspected radioactive contamination occurs involving shipments of radioactive material or infectious substances;

(8) There has been a release of a marine pollutant in a quantity exceeding 450 L (119 gallons) for liquids or 400 kg (882 pounds) for solids; or

(9) A situation exists of such a nature (e.g., a continuing danger to life exists at the scene of the incident) that, in the judgment of the carrier, it should be reported to the Department even though it does not meet any other immediate notification criteria.

Carriers may report any of these incidents involving aircraft to the Federal Aviation Administration (FAA). In addition, certain incidents involving infectious substances must be reported to the Centers for Disease Control (CDC).

Each carrier required to make a report under § 171.15 is also required to complete DOT Form F 5800.1 in accordance with § 171.16. Additionally, unless excepted, a carrier is required to submit DOT Form F 5800.1 for any incident occurring during transportation that results in an unintentional release of a hazardous material from its package or the discharge of any quantity of hazardous waste.

We use the data and information reported by carriers to:

(1) Evaluate the effectiveness of the existing regulations and industry operating procedures;

(2) Determine the need for regulatory changes to cover changing transportation safety problems; and

(3) Identify major problem areas that should receive priority attention.

In addition, both the government and industry use this information to chart trends, identify problems and training inadequacies, evaluate packagings, and assess ways to reduce releases.

In considering how to update the incident report form, our primary objective is to ensure that useful information is captured in an efficient manner. We believe it is possible to improve the structure and format of the form to make it easier to understand and complete accurately. To reduce the reporting burden on persons responsible for completing the incident report, we believe certain existing fields that ask for information that is obtainable from other sources can be deleted. Land use at the incident site is an example. We also believe it is appropriate to add information in certain areas where it can help determine future program direction and support measures of program effectiveness. For example, a good description of packaging performance, documenting both failures and successes, helps us define future requirements. In addition, undeclared hazardous materials is a problem area of significant safety concern to DOT, and the ability to identify the frequency and source of such shipments is important in efforts to reduce their occurrence. A complete description of changes to the content of the form is provided in the following sections.

III. Summary of Issues, Comments and RSPA Proposals

The major changes proposed by RSPA in this NPRM include:

(1) collecting more specific information on the incident reporting form;

(2) expanding reporting exceptions;

(3) expanding reporting requirements to persons other than carriers;

(4) reporting undeclared shipments of hazardous materials;

(5) notifying shippers of incidents; and

(6) reporting non-release incidents involving bulk packages.

These and other proposals are discussed in detail in the following paragraphs.

In the ANPRM, we posed 35 questions concerning possible revisions to DOT

Form F 5800.1 and the associated sections of the HMR. These 35 questions are grouped into the following ten general issues:

(1) Electronic filing
(2) Revisions to the form
(3) One-call reporting
(4) Expansion of reporting requirements to persons other than carriers
(5) Exceptions to incident reporting
(6) Criteria for telephonic notification
(7) Updates to reports
(8) Reporting when no hazardous material is released during an incident
(9) Undeclared shipments of hazardous materials that do not result in a release
(10) Notifying shippers of incidents.

1. *Electronic filing.* The ANPRM noted that we are considering optional filing of incident reports by facsimile (fax), electronic mail (e-mail), and the Internet, and asked for recommendations concerning implementation of an electronic filing option. Electronic filing of incident reports is consistent with the requirements of the Government Paperwork Elimination Act (GPEA), which generally mandates that, by October 2003, agencies accept electronic documents and electronic signatures for the transactions that they conduct with the public and regulated parties.

All commenters support an electronic filing option. Commenters state that fax, e-mail, and Internet submissions should be available to facilitate reporting. However, commenters also state that electronic filing should be optional rather than mandatory.

We agree that electronic filing of incident reports would reduce the reporting burden on industry and increase reporting flexibility. However, because of logistical difficulties, all means of electronic filing will not be immediately available. In this NPRM, we are proposing to accept incident reports by fax and e-mail. Concurrent with the continued development of this rulemaking action, we intend to develop a capability to receive incident report forms through additional electronic means, such as a web-based form and electronic file transfers.

2. *Revisions to the form.* We received a number of comments concerning the format of the current DOT Form F 5800.1. Some commenters suggest that we develop a different form for each mode or packaging type. Commenters also state that an abbreviated form would be useful for reporting smaller incidents.

We agree that more detailed information concerning specific modes of transportation or specific packaging types would improve our incident database. However, we believe that having more than one incident report form would be confusing to the regulated industry. Therefore, in this NPRM, we are proposing a single multi-section form. Reporting incidents on a single form will avoid confusion as to which form to submit. The proposed form includes ''General Incident Information,'' ''Consequences,'' and ''Packaging Information'' sections that would be completed by everyone reporting an incident. In addition, the proposed form includes modal or special information sections that would be completed only if certain conditions were met.

In considering how to update the incident report form, our primary objective is to ensure that useful information is captured in an efficient manner. We believe it is possible to improve the structure and flow of the form to make it easier to understand and complete accurately. We are proposing to delete certain existing fields that ask for information that is obtainable from other sources or can be extrapolated from other fields. We believe the fields ''Is material a hazardous substance?,'' ''Was the RQ met?,'' and the ''Land Use and Community Type'' questions fall into this category. Similarly, the ''Highway Type'' and ''Number of Lanes at a Vehicle Accident/Derailment site'' can be determined from other sources. In addition, the consignee name and address information and the type of labeling or placarding fields have been found to offer limited benefit to safety improvements, and we propose to remove them.

Additional information in certain areas is needed to help determine future program direction and support measures of program effectiveness. Separate fields for information on packing group, hazardous wastes and toxic by inhalation materials would allow us to better identify the materials involved in incidents. Further, we believe the inclusion of cross-reference fields, such as the NRC report number and the Hazardous Materials registration number, will help broaden the ties the incident data has with other Federal hazardous materials data.

We also believe gathering additional information on the types of persons who respond to incidents, the types of persons who are killed, injured or need to be evacuated, as well as how long evacuations or closures last, will contribute to incident risk analysis. The more detailed questions concerning air transport incidents and questions directed to specific types of packagings will allow for more focused review of where and how packages fail. Additionally, the ability to identify the frequency and source of undeclared hazardous materials shipments, an area of significant safety concern to DOT, is important to reducing their occurrence.

We are also proposing to revise the packaging sections of the incident report form to eliminate duplicative and confusing formatting and to enable us to gather more specific packaging information. For example, we propose to replace check boxes to identify damage to packagings with failure codes specific to each packaging type. Use of failure codes was one of the recommendations coming from the Association of American Railroads workgroup discussed in Section I. Use of failure codes allows the preparer to select from a set of choices appropriate to the particular packaging type involved. Also, we believe use of terminology appropriate for the particular packaging type will help avoid confusion and ultimately make it easier for the preparer to complete the incident report.

The expansion will add about 15 data fields to the basic incident information. We believe the benefits to be gained by collecting more detailed information will require only minimal additional time to report these mostly short yes/no or fill-in-the-blank fields. Further, we have reformatted the proposed incident report form to facilitate completion (e.g., more white space and a more logical flow from item to item). While this reformatting has added more pages to the form, we believe that this design will improve accuracy and make the form easier to complete.

The draft of the form that appears in the appendix to this NPRM is for review of question format and content only and does not reflect the final layout of the actual form. We anticipate that the form layout will be similar to the most recent U.S. Census form, which included proper spacing for digital scanning and ease of use considerations.

The proposed revised form is included as Appendix A to this NPRM. The proposed instructions for completing the form appear as Appendix B. We ask that reviewers of the proposed incident report form focus on the following questions related to the contents of the form: (1) are critical data elements missing that should be added?; (2) what data elements currently included on the form are candidates for elimination?; (3) do the failure codes accurately represent modes of packaging failure?; and (4) what are your suggestions for additional or more descriptive failure codes?

3. *One-call reporting.* As provided by § 171.15, certain incidents require immediate telephonic notification. Currently, except for incidents involving transportation by aircraft or releases of infectious substances, carriers are required to call the NRC. Notice involving air shipments of hazardous materials must be given to the nearest FAA Civil Aviation Security Office. Notification of incidents involving infectious substances may be made to the CDC rather than the NRC.

In this NPRM, we are proposing to eliminate the separate telephonic notification requirement for air shipments and to require all air carriers to report incidents subject to § 171.15(a) to the NRC. NRC would then make any subsequent notifications. NRC personnel are trained specifically as to which notification requirements pertain to which entities; thus, this change should result in more accurate notification to parties with a need to know. It should be noted that CDC continues to require telephonic notification for releases of infectious substances (etiologic agents). In another rulemaking (Docket No. RSPA–98–3971, HM–226, 66 FR 6942, January 22, 2001), we are proposing to clarify that a written report of an incident involving an infectious substance that is reported by telephone to CDC must also be submitted to RSPA.

4. *Expansion of reporting requirements to persons other than carriers.* Currently, the requirements for telephonic and written reporting of transportation incidents apply to carriers only. Operators of transportation facilities, such as marine terminals, who do not perform carrier functions are not required to report transportation incidents involving hazardous materials. Most commenters to the NPRM agree that the person in physical control of a hazardous material when an incident occurs during transportation should be responsible for reporting that incident. One commenter states that the person in control of a hazardous material during transportation would most likely be the person most knowledgeable about the circumstances surrounding the incident. Other commenters disagree, stating that confusion and duplicative reporting would likely result if incident reporting is required by persons other than carriers.

We agree that the person in direct control of the hazardous material while it is being transported in commerce should report any incidents. Such a requirement would capture incidents that occur when a hazardous material is outside a carrier's direct possession, but while the material is still in transportation in commerce, such as while the material is being stored incident to movement at a transfer facility.

Therefore, in this NPRM we are proposing to require each person in physical control of a hazardous material while it is in transportation in commerce to report any incident that occurs while the material is in his or her possession. For example, a temporary storage facility owner would have to report any event that meets the provisions of §§ 171.15 or 171.16 and that occurs during the time that a hazardous material is stored incident to movement. Consistent with current HMR requirements, administrative determinations, and interpretations, storage incidental to movement is storage of a transport vehicle, freight container, or package containing a hazardous material between the time that a carrier takes possession of the hazardous material until it is delivered to its destination, as indicated on the shipping paper. We believe this proposal will provide more accurate and complete information regarding hazardous materials incidents. We estimate that extending reporting requirements to persons in physical control of a hazardous material during transportation would increase the number of incident reports by about 2,040 per year.

In addition, we are proposing to revise § 171.21 to require ''the person responsible for reporting the incident,'' rather than the ''carrier,'' to make available all records and information pertaining to the incident.

5. *Exceptions to incident reporting.* Currently, the HMR provide exceptions to incident reporting for the following:

(1) Consumer commodities;

(2) Batteries, electronic storage, wet, filled with acid or alkali; and

(3) Paint and paint-related materials when shipped in packagings of five gallons or less.

In addition, hazardous materials prepared and transported as limited quantities in accordance with the HMR are excepted from incident reporting requirements. However, these exceptions do not apply to:

(1) Incidents required to be reported under § 171.15(a);

(2) Incidents involving transportation aboard aircraft;

(3) Materials in Packing Group I (except for consumer commodities); or

(4) Incidents involving the transportation of hazardous waste.

Most commenters support expansion of the current exceptions to incident reporting. One commenter suggests that exceptions be expanded to include all incidents involving loading and unloading where a small release occurs as a result of connecting and disconnecting hoses or transfer lines. Other commenters suggest that hazardous materials in smaller packagings (e.g., 5 gallons or less) be excepted from incident reporting.

We agree that exceptions to incident reporting should be applicable to small amounts of most hazardous materials that fall into our lowest risk category of hazardous materials (PG III). We now have ample data from past incidents spanning over 20 years involving PG III hazardous materials in smaller packagings to warrant a reporting exception. Incident reporting should be focused on more substantial releases where the consequences of an incident may be significant.

In this NPRM, we are proposing to except from incident reporting requirements hazardous materials incidents meeting all of the following criteria:

(1) The shipment is not being offered for transportation or transported by air;

(2) None of the criteria in § 171.15(a) apply;

(3) The material is not a hazardous waste;

(4) The material is properly classed as—

(i) ORM–D; or

(ii) A packing Group III material in Class or Division 3, 4, 5, 6.1, 8, or 9;

(5) Each packaging has a capacity of less than 20 liters (5 gallons) for liquids or less than 30 kg (66 pounds) for solids; and

(6) The total aggregate release is less than 20 liters (5 gallons) for liquids or less than 30 kgs (66 pounds) for solids.

(7) The material does not meet the definition of an undeclared hazardous material in § 171.8.

We are proposing to except small spills from the reporting requirements. We wanted only to require that an aggregate spill of 20 liters (5 gallons) or over for liquids or 30 kg (66 pounds) or over for solids of otherwise excepted hazardous materials be reported. For example, if twelve 5-gallon containers of paint are spilled, no incident report would be required unless the aggregate amount of paint released from the twelve containers is over 5 gallons or one of the conditions in § 171.15(a) is met. Based on reports received over the past five years, we expect that the proposed exceptions would reduce the total number of incident reports filed each year by about 5,000.

In addition, we are proposing to clarify existing rules to except minimal amounts of hazardous materials

escaping: (1) due to disconnecting a loading or unloading line or from the operation of venting devices (for which venting is authorized); or (2) from the manual operation of seals in equipment such as pumps, compressors, and valves during the normal course of transportation if the release does not trigger any of the provisions for a telephonic notification described in § 171.15 of this subpart and does not result in property damage.

We are requesting comments regarding additional exceptions or alternative methods for excepting small spills from the reporting requirements. We may modify the proposed exception in response to such comments.

6. *Criteria for telephonic notification.* Under current § 171.15 requirements, one of the criteria that triggers the requirement for immediate notification is property damage that exceeds $50,000. Most commenters agree that a monetary limit should not be used as a criterion for telephonic notification; they state that such a limit is arbitrary and has not been adjusted to reflect inflation. We agree and are proposing to remove the monetary criterion.

We are also proposing to clarify the requirements for ''immediate notification'' by specifying that telephonic notification must be made as soon as practicable following the occurrence of an incident and in all instances within 12 hours after an event requiring notification. This eliminates confusion surrounding the term ''immediate notification.'' This proposed revision also responds to National Transportation Safety Board (NTSB) recommendation H–99–58 to provide a specific time period to report by telephone. We invite comments as to the appropriateness of this time period or a different time period (e.g., 2 hours, 4 hours, or 24 hours).

In addition to the above, we propose to expand the telephonic notification reporting requirements to the person who has physical control of the material at the time of the transportation incident. Most commenters agree that the person in physical control of a material at the time of an incident should call the NRC.

Commenters also suggest that incidents resulting in significant environmental damage and incidents involving certain high-hazard materials be added to the current criteria for telephonic notification. We believe that the current criteria requiring immediate telephonic notification are sufficient and are not proposing any additional criteria.

7. *Updates to reports.* Commenters disagree about whether we should require updates to incident reports. Some commenters suggest that we develop criteria to identify when an incident report requires updating. Other commenters state that updates should be required when there is any change to an incident result.

We believe that substantive changes to the outcome of an incident should be updated by submitting updates to the original DOT Form F 5800.1 report. Updated information ensures the accuracy and quality of data we collect. In this NPRM, we propose to require updated incident reports for up to one year after the date of an incident for the following: (1) death resulting from injuries caused by a hazardous material; (2) corrections to the identification of the hazardous material or packaging information; and (3) certain updated damage costs as additional information becomes available. Cost information would be updated when: (1) costs not known at the time the report was filed became known; or (2) original damage/cost estimates were revised by more than $25,000. In some cases, certain costs (such as decontamination and cleanup) may not be known within 30 days of the incident's occurrence, and would not be included in the initial incident report. In other cases, some costs (such as property damage) may be significantly higher than the original estimate. We estimate that about 800 incidents reported each year would require an update.

Under § 171.21, persons required to report an incident are required to cooperate with any further investigation of that incident. In particular, incidents that we categorize as significant may require further investigation, or reports that are incomplete may require a follow-up.

8. *Reporting when no hazardous material is released during an incident.* In the ANPRM, we asked whether the incident reporting requirements should be expanded to include certain incidents that do not result in release of a hazardous material. We suggested that such information could provide a broader base for risk management in more critical transportation situations and that additional information could be used to gauge the performance and integrity of certain packagings.

Most commenters oppose data collection for an incident that does not result in a release of hazardous materials because of the increased reporting burden. We do not agree. We believe that certain incidents should be reported whether or not there is a release of hazardous material. The potential burden on operators is offset by the safety information that will be provided. For example, such reporting can provide information concerning packaging integrity, particularly the circumstances under which a packaging is able to withstand a collision or accident without releasing its contents. Thus, we are proposing to require an incident report when a bulk packaging (other than a tank car tank) has received structural damage to the lading retention system or damage that requires repair to systems intended to protect the lading retention even if no hazardous material is released. This responds to NTSB recommendation H–92–6, which requests that we collect information on cargo tanks involved in accidents with no release of a hazardous material. There is no need to collect such data for a tank car tank because this information is already required to be reported to the Federal Railroad Administration. We also propose to include Type B packagings (for radioactive materials) that have received structural damage that may adversely affect the packaging's ability to retain lading, even if no hazardous material is released, to gather statistical information compatible with our criteria for a significant incident.

9. *Undeclared shipments of hazardous materials that do not result in a release.* Undeclared shipments, particularly when offered for transportation or transported by air, pose a significant safety problem because of the potential for improper packaging, handling, and failure to communicate the hazard. Emergency responders and transportation workers are unaware of the presence of undeclared hazardous materials. Certain hazardous materials that are forbidden for air transportation may make their way onto a passenger-carrying or cargo-only aircraft, and may inadvertently be handled in an unsafe manner by transportation workers. In a hazardous material release from an undeclared shipment, the crew does not know that a hazardous material is present or what response measures to take. Commenters support gathering information on undeclared shipments of hazardous materials that do not result in a release. However, the commenters are divided as to how we should gather this information. Some commenters state that a reporting requirement specific to undeclared hazardous materials would expose their companies to undue liability and possible enforcement actions for accepting an undeclared shipment. Other commenters state that this requirement would place carriers in an enforcement role.

We believe that information on undeclared shipments should be

collected and that the incident report form is the most accessible method for collecting such data. In this NPRM, we are proposing to require an incident report when an undeclared shipment of hazardous materials is discovered. This requirement would apply to parties who are likely to discover undeclared shipments and who would benefit greatly from a reduction in such shipments, which is a goal of this rulemaking. Based on information provided by FAA, we anticipate that an increase of about 1,500 incident reports per year would result from this proposal.

If persons filing these reports had no reason to believe that they were accepting hazardous materials, DOT would not hold them responsible. Parties filing these reports would be advising DOT of unsafe conditions; DOT would independently determine whether enforcement is appropriate.

10. *Notifying shippers of incidents.* We propose to require the person responsible for completing an incident report to provide a copy of the report to the shipper whose packages were the subject of the report. The report would have to be provided within 30 days of the incident and may be provided in an electronic or written form. The 30-day time period is consistent with the time required to submit the report to RSPA. This proposal responds to NTSB Recommendation R–89–52, which recommends requiring carriers reporting hazardous materials incidents under the provisions of § 171.16 to notify shippers whose hazardous materials shipments are involved. NTSB is concerned that shippers are not receiving information about packages that are prone to failure during transportation. Since we are proposing to expand reporting requirements to persons other than carriers who have possession of a hazardous material while in transportation, the person required to report would also be required to notify the shipper of the packages involved in the incident.

We believe that this shipper notification already often occurs; however, we request comments concerning the costs of, and need to create, a requirement to assure that shippers are notified when their packages are involved in incidents.

Miscellaneous Proposals

New Definitions

We are proposing new definitions in § 171.8 for ''unintentional release,'' and ''undeclared hazardous material shipment'' to assist in clarifying the regulations.

Hazardous Waste Manifest

We are proposing removal of the requirement in § 171.16 to attach a hazardous waste manifest to the incident report form when a release involves a hazardous waste. The proposed incident report form requires the hazardous waste manifest number to be reported and provides a field for entering the number. In addition, we are proposing to remove the requirements for: 1) an estimate of the quantity of waste removed from the scene; 2) the name and address of the facility to which it was taken; and 3) the manner of disposition of any removed waste. This information is already available as a result of EPA's hazardous waste manifest regulations; thus, continued reporting of this information to RSPA is unnecessary. Removing these requirements would eliminate reporting information that is obtainable through other sources.

Record Retention Location

In this NPRM, we are proposing to require that the report be retained at either the reporter's principal place of business or other record retention site provided the report is available at the reporter's principal place of business within 24 hours of request. Currently, there is a provision in § 171.16 that requires a person reporting an incident to retain a copy of the report for two years at the reporter's principal place of business or at another place that has been authorized under the terms of an approval. We are not aware of any approvals issued under this section. We believe this proposal would provide flexibility in maintaining records without the need for an approval from DOT.

Incidents at Registered Cargo Tank Facilities

The Federal Motor Carrier Safety Administration (FMCSA) has notified RSPA of several fatalities that have occurred in registered cargo tank facilities during inspection and repair of DOT specification cargo tanks. In most cases, the cause of the incident was a failure to comply with the HMR requirements applicable to such operations (inadequate training programs, failing to clean and purge a tank before repair, etc.) Over the course of the last several years, FMCSA has attempted to gather anecdotal evidence to determine the frequency of these events. It appears that up to 10 fatalities a year may occur due to work on DOT specification cargo tanks. Because of the apparent frequency and severity of these incidents, we are interested in collecting information on these occurrences.

We request comments regarding the following:

1. Should we require the reporting of incidents that occur at registered cargo tank facilities during the inspection, testing and repair process?

2. Is this information available from other sources, such as the Occupational Health and Safety Administration or state worker protection agencies?

3. What incidents should be reported—only consequential incidents, such as those requiring telephonic reporting under § 171.15, any release requiring reporting under § 171.16, or some other criteria?

4. Should we collect information on incidents that occur while work is performed on DOT specification cargo tanks, all specifications packages or all hazardous materials packages?

Any action based on these questions would be considered in a future rulemaking.

State Notification

In addition, we were contacted by a state official, who requested that we require incidents meeting the immediate notification criteria in § 171.15 to be reported to the state in which the incident occurred. We do not believe that this is necessary. A state may require immediate, oral accident/incident reports for emergency response purposes. Further, any state may request that NRC notify it of incidents occurring within the state.

IV. Summary and Conclusion

We are proposing, among others, the following changes to the current HMR reporting requirements and to DOT Form F 5800.1:

(1) Reporting of incidents involving bulk packagings (other than tank car tanks) that receive structural damage that may adversely affect the packaging's ability to retain lading even when no hazardous material is released. (This includes Type B RAM packagings.)

(2) Reporting discoveries of undeclared hazardous material shipments.

(3) Updating incident reports when significant new information becomes available.

(4) Requiring the person in physical control of a hazardous material during transportation to report an incident.

(5) Excepting small releases of specified materials that pose the least hazard from reporting requirements.

(6) Restructuring the form to utilize failure codes to obtain information on packaging failures.

In addition, we are requesting specific comments in the following areas:

(1) What changes should be made in report content (specific data elements) and in failure codes?

(2) Are additional exceptions or alternative methods for excepting small spills from the reporting requirements appropriate?

(3) Is a 12-hour maximum an appropriate standard for ''immediate'' telephonic reporting or is a different time period (*e.g.*, 2 hours, 4 hours, or 24 hours) warranted?

(4) What would be the impact if the proposal to create a requirement assuring that shippers are notified (including possible telephonic notification) when their packagings are involved in incidents is adopted?

(5) Should we require the reporting of incidents that occur at registered cargo tank facilities during the inspection, testing, and repair process? (Also see related questions in the previous section.)

V. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not a significant regulatory action under Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This proposed rule is not a significant regulatory action under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). A preliminary regulatory evaluation that considers various regulatory alternatives is available for review in the public docket.

The costs of these proposed regulations identified in the regulatory evaluation are attributed to: (1) Expansion of reporting requirements to persons other than a carrier in possession of a hazardous material during transportation; (2) implementation of a requirement to update incident reports under certain conditions; (3) expansion of reporting requirements to incidents involving certain bulk packagings where no hazardous material is released; and (4) implementation of a requirement to report to the shipper that an incident has occurred. Reductions in the total costs associated with incident reporting requirements are attributed to implementation of an electronic filing option and expansion of current exceptions to the reporting requirements. The expected reductions in total costs generally offset the anticipated cost increases; thus, the proposals should result in only minimal increased costs of compliance.

While it is difficult to estimate the net benefit resulting from this rulemaking, we believe that the proposed revisions to the incident reporting requirements will greatly enhance our ability to develop strategies to reduce the risks associated with the transportation of hazardous materials. The non-quantifiable benefits of the increase in data quality attributable to this rulemaking are expected to be far greater than the negligible cost increase to the regulated community.

B. Executive Order 13132

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This proposed rule would preempt State, local, and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subject item number 4 above and would preempt State, local, and Indian tribe written incident reporting requirements not meeting the ''substantively the same'' standard.

Federal hazardous materials transportation law provides at § 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. We propose that the effective date of Federal preemption be 180 days from publication of a final rule in this matter in the **Federal Register**.

C. Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications and does not impose substantial direct compliance costs, the funding and consultation requirements of the Executive Order do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. Based on the assessment in the final regulatory evaluation, I hereby certify that, while the final rule will affect a substantial number of small businesses, there will be no significant economic impact.

Potentially affected small entities. The proposals in this NPRM will apply to persons in physical control of a hazardous material during transportation in commerce. Such persons primarily include motor carriers, air carriers, vessel operators, rail carriers, temporary storage facilities, and intermodal transfer facilities. Unless alternative definitions have been established by the agency in consultation with the Small Business Administration, the definition of ''small business'' has the same meaning as under the Small Business Act (15 CFR Parts 631–657c). Therefore, since no such special definition has been established, RSPA employs the thresholds (published in 13 CFR 121.201) of 1,500 employees for air carriers (NAICS Subgroup 481), 500 employees for rail carriers (NAICS Subgroup 482), 500 employees for vessel operators (NAICS Subgroup 483), $18.5 million in revenues for motor carriers (NAICS Subgroup 484), and $18.5 million in revenues for warehousing and storage companies (NAICS Subgroup 493). Of the approximately 116,000 entities to which the proposals in this NPRM would

apply (104,000 of which are motor carriers), we estimate that about 90 percent are small entities.

Potential cost impacts. The NPRM proposal to expand reporting requirements to any person in physical possession of a hazardous material while it is being transported in commerce will primarily affect storage and intermodal transfer facilities. We estimate that expanding the reporting requirements will increase the number of incident reports submitted each year by about 2,040 reports, or about 12 percent. Thus, the approximately 6,500 warehousing and storage entities subject to this requirement will incur total increased compliance costs of about $84,000 (about $13/year/company).

The proposal to require updating of incident reports under certain conditions applies to all persons subject to the HMR incident reporting regulations. We estimate that this proposal will result in about 800 updates to reports each year for a total annual cost to the approximately 116,000 transportation companies subject to this requirement of $4,800 (about 4¢/year/company).

The proposal to require reporting of certain incidents involving bulk packagings that do not result in a release of hazardous materials will apply to about 104,000 motor carriers. We estimate that this proposal will result in about 2,800 additional incident reports each year. Motor carriers will incur increased compliance costs of about $109,000 (about $1.05/year/company).

The proposal to require reporting of undeclared shipments of hazardous materials discovered during transportation will apply to all persons subject to the HMR incident reporting regulations. We estimate that this proposal will result in an increase of 1,500 incident reports per year, with corresponding increased compliance costs of $57,600 (about 50¢/year/company).

The proposal to require persons who are subject to the HMR incident reporting requirements to also report incidents to the hazardous material shipper will apply to all persons subject to the HMR incident reporting regulations. We estimate that this proposal will result in an increase in compliance costs of about $17,000 (about $1.20/year/company).

Potential cost savings. The proposals in the NPRM that will permit electronic filing of incident reports and expand the current exceptions from incident reporting requirements will offset the increased compliance costs described above. Taken together, the potential cost savings attributable to the proposals in this NPRM total about $276,000 (about $2.40/year/company).

Alternate proposals for small businesses. The Regulatory Flexibility Act suggests that it may be possible to establish exceptions and differing compliance standards for small businesses and still meet the objectives of the applicable regulatory statutes. However, given the importance of small business, as defined for purposes of the Regulatory Flexibility Act, in hazardous materials transportation, we do not believe that it would be possible to establish such differing standards and still accomplish the objectives of federal hazardous materials transportation law. The information provided in hazardous materials incident reports serves as the basis for critical RSPA safety functions, including identification of safety problems, regulations development, training programs, outreach efforts, and enforcement strategies. The risks posed by a hazardous material offered for transportation or transported by a small entity are the same as the risks posed by the same hazardous material when offered for transportation or transported by a large entity. Thus, it is entirely reasonable and appropriate for the HMR incident reporting requirements to apply equally to any person who offers for transportation or transports hazardous materials in commerce.

Conclusion. Based on the above analysis, we certify that while the proposals in this NPRM will affect a significant number of small businesses or other small entities, there will be no substantial economic impact on the identified classes of small businesses. If your business or organization is a small entity and if adoption of some or all of the proposed provisions could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid Office of Management and Budget (OMB) control number. Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. RSPA has a current information collection approval under OMB No. 2137–0039, Hazardous Materials Incident Reports, with 33,811 burden hours, $811,221.66 in annual costs, and 22,500 submitted incident reports per year. This information collection estimate, drafted in 1998, accounted for a 40% increase in incident reporting due to inclusion of intrastate carriers required to report incidents under the HM–200 rulemaking docket. The actual rate of increase attributed to that rulemaking has not been fully realized.

The average number of incident reports RSPA received for the years 1997–2000 is about 17,300, and for the years 1995–2000 is about 16,000. Our regulatory evaluation for this proposed rule uses a base number of 17,000 annual incident reports.

The proposals in this NPRM would only change information collection requirements for the DOT Form F 5800.1 under § 171.16—and not for telephonic notification requirements under § 171.15.

RSPA believes that this proposed rule may result in a modest increase in annual burden and costs. Even so, the estimated increase of an additional 810 reports per year proposed in this NPRM would result in total reports numbering far less than the 22,500 approved through our current information collection approval under OMB No. 2137–0039. Total estimated costs of written reports, including the estimated costs of this proposed rule, are also lower than the approved amount. The following figures are based on receiving 17,000 incident reports per year and only include estimates for written incident reports:

Total Annual Respondents: 1,781.

Total Annual Responses: 17,810.

Total Annual Burden Hours: 23,746.

Total Annual Burden Cost: $569,904.

RSPA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule.

Requests for a copy of the information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

Written comments should be addressed to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. Comments should be received prior to the close of the comment period identified in the **DATES** section of this rulemaking. Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it displays a valid OMB control number.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This rulemaking would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

H. Environmental Assessment

RSPA believes that the proposed changes to the incident reporting system would have no significant impact on the environment. The changes proposed in this NPRM should increase the quality of data collected on hazardous materials spills, thus probably increasing our ability to evaluate potential packaging problems that result in releases to the environment. Thus, the proposed revisions should produce a small net benefit to the environment by improving the data sources used in regulatory development. Therefore, we find that there are no significant environmental impacts associated with this proposed rule.

List of Subjects in 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and record keeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR part 171 as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 171.8 the following definitions are added in alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Undeclared hazardous material means a hazardous material:

(1) That is required to be described on a shipping paper in the manner required by subpart C of part 172 of this subchapter, but is offered for transportation with no indication on the shipping paper or other documentation that it is hazardous; or

(2) That is excepted from the requirements of subpart C of part 172 of this subchapter (e.g., a small quantity or ORM–D material as defined in § 173.4 and 173.144, respectively) and is in a packaging that is not marked in the manner specified in this subchapter to indicate it contains a hazardous material.

* * * * *

Unintentional release means the escape of a hazardous material from a package. This includes releases resulting from collision, packaging failures, human error, vandalism, negligence, improper packaging, or unusual conditions such as the operation of pressure relief devices as a result of over-pressurization, overfill or fire exposure. It does not include intentional releases, such as venting of packages, where allowed, and the intentional discharge of contents from packagings.

3. Section 171.15 is revised to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) When a hazardous materials incident occurs during transportation in commerce, each person in physical possession of the hazardous material must provide notice by telephone, as described in paragraph (b) of this section, as soon as practicable but no later than 12 hours after the incident, to the DOT's National Response Center (NRC) on 800–424–8802 (toll free) or 202–267–2675 (toll call). Notice involving an infectious substance (etiologic agent) may be given to the Director, Center for Disease Control, U.S. Public Health Service, Atlanta, Ga., 800–232–0124 (toll free), in place of notice to the NRC. Each notice must include the following information:

(1) Name of reporter;

(2) Name and address of carrier represented by reporter;

(3) Phone number where reporter can be contacted;

(4) Date, time, and location of incident;

(5) The extent of injury, if any;

(6) Class or division, proper shipping name, and quantity of hazardous materials involved, if such information is available; and

(7) Type of incident and nature of hazardous material involvement and whether a continuing danger to life exists at the scene.

(b) A telephonic report is required when an incident occurs during the course of transportation in commerce (including loading, unloading, and temporary storage) and:

(1) As a direct result of a hazardous material—

(i) A person is killed;

(ii) A person receives an injury requiring admittance to a hospital;

(iii) The general public is evacuated for one hour or more;

(iv) A transportation artery or facility is closed or shut down for one hour or more;

(v) The operational flight pattern or routine of an aircraft is altered;

(2) Fire, breakage, spillage, or suspected radioactive contamination occurs involving a radioactive material (see also § 176.48 of this subchapter);

(3) Fire, breakage, spillage, or suspected contamination occurs involving an infectious substance other than a diagnostic specimen or regulated medical waste;

(4) There has been a release of a marine pollutant in a quantity exceeding 450 L (119 gallons) for a liquid or 400 kg (882 pounds) for a solid; or

(5) A situation exists of such a nature (e.g., a continuing danger to life exists at the scene of the incident) that, in the judgment of the person in possession of the hazardous material, it should be reported to the NRC even though it does not meet the criteria of paragraph (b) (1), (2), (3) or (4) of this section.

(c) Each person making a report under this section must also make the report required by § 171.16.

Note to § 171.15: Under 40 CFR 302.6, EPA requires persons in charge of facilities (including transport vehicles, vessels, and aircraft) to report any release of a hazardous substance in a quantity equal to or greater than its reportable quantity, as soon as that person has knowledge of the release, to DOT's National Response Center at (toll free) 800–424–8802 or (toll) 202–267–2675.

4. Section 171.16 is revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

(a) *General.* Each person in physical possession of a hazardous material during transportation at the time of a reportable incident must report the incident in writing on DOT Form F 5800.1 (Rev. XX/XX).

(b) *Reportable Incident.* A reportable incident is one that occurs during the course of transportation (including loading, unloading, and temporary storage) in which—

(1) Any of the circumstances set forth in § 171.15(a) occurs;

(2) There is an unintentional release of a hazardous material or any quantity of hazardous waste has been discharged during transportation;

(3) A bulk packaging (other than a tank car tank) containing any hazardous material or a Type B packaging containing a Class 7 hazardous material receives structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system, even if there is no release of hazardous material; or

(4) An undeclared hazardous material is discovered.

(c) *Updating the incident report.* An incident report must be updated within one year of the incident if—

(1) A death results from injury caused by a hazardous material;

(2) There was a misidentification of the hazardous material or packaging information on the incident report;

(3) Damage, loss or related cost that was not known when the initial report was filed becomes known; or

(4) Damage, loss, or related cost changes by $25,000 or more.

(d) *Sending and retaining copies of the report.* Each person reporting under this section must—

(1) Send the report within 30 days of the date of discovery of the incident to the Information Systems Manager, DHM–63, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590–0001; and, for incidents involving transportation by aircraft, also send a copy of the report to the FAA Civil Aviation Security Office nearest the location of the incident;

(2) Retain a copy of the report, including electronically generated reports, for a period of two years at the reporter's principal place of business, or other record retention site if available at the reporter's principal place of business within 24 hours of request; and

(3) Send a copy of the report to the person who offered the hazardous material for transportation within 30 days following discovery of the incident.

(e) *Exceptions.* The requirements of paragraphs (a), (b), (c) and (d) of this section do not apply to—

(1) Releases of minimal amounts of material released from manual operation of seals, pumps, compressors, valves, during connection or disconnection of loading or unloading lines or, for materials for which venting is authorized, from vents, provided the release does not require a telephone report under the provisions of § 171.15 or result in property damage; or

(2) Incidents involving the unintentional release of hazardous material when all of the following apply:

(i) The material is not being offered for transportation or transported by air;

(ii) None of the criteria in § 171.15(a) apply;

(iii) The material is not a hazardous waste;

(iv) The material is properly classed as—

(A) ORM–D; or

(B) Class or Division 3, 4, 5, 6.1, 8, or 9 in Packing Group III;

(v) Each packaging has a capacity of less than 20 liters (5 gallons) for liquids or less than 30 kg (66 pounds) for solids;

(vi) The total aggregate release is less than 20 liters (5 gallons) for liquids or less than 30 kgs (66 pounds) for solids; and

(vii) The material does not meet the definition of an undeclared hazardous material.

5. Section 171.21 is revised to read as follows:

§ 171.21 Assistance in investigations and special studies.

(a) A shipper, carrier, packaging owner, packaging manufacturer or certifier, repair facility, or person associated with an incident under the provisions of § 171.16 must—

(1) Make all records and information pertaining to the incident available to an authorized representative or special agent of the Department of Transportation upon request.

(2) Give an authorized representative or special agent of the Department of Transportation reasonable assistance in the investigation of the incident.

(b) If an authorized representative or special agent of the Department of Transportation makes an inquiry of a person required to complete an incident report in connection with a study of incidents, the person shall—

(1) Respond to the inquiry within 30 days after its receipt or within such other time as the inquiry may specify; and

(2) Provide true and complete answers to any questions included in the inquiry.

Issued in Washington, DC, on June 27, 2001 under the authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

BILLING CODE 4910–60–P

Appendix to Preamble—Hazardous Material Incident Report Form and Instructions

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

Hazardous Materials Incident Report

Form Approved OMB No.

INSTRUCTIONS: Submit this report to the Information Systems Manager, Office of Hazardous Materials Safety, DHM-63, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. If space provided for any item is inadequate, complete that item under Part 6, identifying the entry number being completed. Copies of this form, in limited quantities, may be obtained from the Information Systems Manager or from our Website at http://hazmat.dot.gov.

PART 1 - REPORT TYPE

1. **This form is submitted to report:**
   - ☐ A hazardous material incident
   - ☐ An undeclared shipment with no release
   - ☐ A bulk packaging (other than a tank car tank) containing any hazardous materials or a Type B packaging containing a Class 7 hazardous material that (1) received structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system and (2) did not have a release
2. **Indicate whether this is:** ☐ An Initial Report ☐ A Supplemental (Follow-up) Report

PART 2 - GENERAL INCIDENT INFORMATION

3. **Date of Incident:** _____ 4. **Time of Incident (use 24-hour time):** _____
5. **Enter National Response Center Report Number (if applicable):** _____
6. **If you submitted a report to another Federal DOT agency, enter the agency and report number:** _____
7. **Location of Incident:**
   City _____ County _____ State _____ Zip Code (if known) _____
   Street Address/Mile Marker/Yardname/ Airport/Body of Water/River Mile _____
8. **Mode of Transportation:** _____ 1 = Air 2 = Highway 3 = Rail 4 = Water
9. **Transportation Phase:** _____ 1 = In Transit 2 = Loading 3 = Unloading 4 = Temporary Storage
10. **Carrier/ Reporter:**
    Name _____
    Street _____
    City _____ State _____ Zip Code _____
    Federal DOT ID Number _____ Hazmat Registration Number _____
11. **Shipper/ Offeror:**
    Name _____
    Street _____
    City _____ State _____ Zip Code _____
    Hazmat Registration Number _____ Waybill/Shipping Paper Number _____
12. **Origin:** (If different from shipper address)
    Street _____
    City _____ State _____ Zip Code _____
13. **Destination:**
    Street _____
    City _____ State _____ Zip Code _____

FORM DOT 5800.1B (05-14-2001) ***Reproduction of this form is permitted***

14. Proper Shipping Name of Hazardous Material: _____

15. Technical/Trade Name: _____

16. Hazard Class/ Division: _____

17. Identification Number: _____ (E.g. UN 2764, NA 2020)

18. Packing Group: _____ (If Applicable)

19. Quantity Released: _____ (Include Measurement Units)

20. Was the material shipped as a hazardous waste? ☐ Yes ☐ No If yes, provide the EPA Manifest Number: _____

21. Is this a Toxic by Inhalation (TIH) material? ☐ Yes ☐ No If yes, provide the Hazard Zone: _____

22. Was the material shipped under an Exemption, Approval, or Competent Authority Certificate? ☐ Yes ☐ No

If yes, provide the Exemption, Approval, or CA number: _____

23. Was this an undeclared hazardous materials shipment? ☐ Yes ☐ No

If this is an undeclared shipment and no material was released, go to Part 4 for Air Incidents, go to Part 5 for all others.

PART 3 - CONSEQUENCES

24. Result of Incident (check all that apply): ☐ Spillage ☐ Fire ☐ Explosion ☐ Material Entered Waterway/Storm Sewer ☐ Vapor (Gas) Dispersion ☐ Environmental Damage ☐ No Release

25. Emergency Response: The following entities responded to and/or cleaned up the release: (Check all that apply.)

☐ Fire/EMS _____ (Fire/EMS Report #) ☐ Police _____ (Police Report #) ☐ In-house cleanup ☐ Other Cleanup

26. Damages:

Was the total damage cost more than $500? ☐ Yes ☐ No

If yes, enter the following information: If no, go to question 27.

Material Loss:	Carrier Damage:	Property Damage:	Response Cost:	Remediation/Cleanup Cost:
$ _____	$ _____	$ _____	$ _____	$ _____

(See damage definitions in the instructions.)

☐ Yes ☐ No 27a. Did the hazardous material cause or contribute to a human fatality?

If yes, enter the number of fatalities resulting from the hazardous material:

Fatalities: _____ Employees _____ Responders _____ General Public

☐ Yes ☐ No 27b. Were there human fatalities that did not result from the hazardous material? If yes, how many? _____

☐ Yes ☐ No 28. Did the hazardous material cause or contribute to a personal injury?

If yes, enter the number of injuries resulting from the hazardous material:

Hospitalized: (Admitted Only) _____ Employees _____ Responders _____ General Public

Non-Hospitalized: (On Site First Aid; Observation, Released) _____ Employees _____ Responders _____ General Public

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☐ Yes ☐ No **29. Did the hazardous material cause or contribute to an evacuation?**
If yes, provide the following information:

Number of persons evacuated: _____ Class of persons evacuated: _____ Employees _____ General Public

Duration of evacuation: _____ (hours)

☐ Yes ☐ No **30. Was a major transportation artery or facility closed?** If yes, how long? _____ (hours)

☐ Yes ☐ No **31. Was the material involved in a crash or derailment?**
If yes, provide the following information: Estimated speed (mph): _____ Weather conditions: _____

Vehicle overturn? ☐ Yes ☐ No Vehicle left roadway/track? ☐ Yes ☐ No

PART 4 - AIR INCIDENT INFORMATION

☐ Yes ☐ No **32. Was the shipment on a passenger aircraft?**
If so, was it tendered as cargo, or was the hazardous material in passenger baggage?

_____ Cargo _____ Passenger baggage

33. Where did the incident occur (if unknown, enter the location where the incident was discovered)?

_____ Air carrier cargo facility _____ Sort center _____ Baggage area

_____ By surface to/from airport _____ During flight _____ During loading/unloading of aircraft

34. What phase(s) had the shipment already undergone prior to the incident? (Check all that apply)

_____ Shipment had not been transported _____ Transport by air (subsequent flights)

_____ Initial transport by highway to cargo facility _____ Transfer at sort center/cargo facility

_____ Transport by air (first flight)

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PART 5 - PACKAGING INFORMATION

35. Check Packaging Type: ☐ Non-bulk ☐ IBC ☐ Cargo Tank Motor Vehicle (CTMV) ☐ Tank Car
☐ Cylinder ☐ RAM ☐ Portable Tank ☐ Other _____

36. Enter the appropriate failure codes (found at the end of this form or in the instructions). Be sure to enter the codes from the list corresponding to the particular packaging type checked above.

What Failed: _____ _____ _____ (Enter up to 3 Codes)
How Failed: _____ _____ _____ (Enter up to 3 Codes)
Cause(s) of Failure: _____ _____ _____ (Enter up to 3 Codes)

37. Provide the packaging identification markings, if available.

Identification Markings: _____
(Examples: 1A1/Y1.4/150/92 /USA/RB/93/RL, UN 31H1/Y0493/USA/M9399/10800/1200, DOT-105A100W (rail), DOT 406 (highway), DOT 51, DOT-3A)

For Non-bulk, IBC, or non-specification packaging, if identification markings are incomplete or unavailable, see instructions and complete the following:

Single or Outer Packaging:

Type: _____

Material of Construction: _____

Head Type (Drums only): ☐ Removable ☐ Non-Removable

Inner Packaging (if any):

Type: _____

Material of Construction: _____

38. Describe the packaging capacity and the quantity:

Single or Outer Packaging:

Packaging Capacity: _____

Amount in Package: _____

Number in Shipment: _____

Number Failed: _____

Inner Packaging (if any):

Packaging Capacity: _____

Amount in Package: _____

Number in Shipment: _____

Number Failed: _____

39. Provide packaging construction and test information, as appropriate:

Manufacturer: _____ Manufacture Date: _____

Serial Number: _____ Last Test Date: _____

Material of Construction: _____ (if Tank Car, CTMV, Portable Tank, or Cylinder)

Design Pressure: _____ (if Tank Car, CTMV, or Portable Tank)

Shell Thickness: _____ (if Tank Car, CTMV, or Portable Tank)

Head thickness: _____ (if Tank Car or CTMV)

Service Pressure: _____ (if Cylinder)

If valve or device failed:

Type: _____ Manufacturer: _____ Model: _____

40. If the packaging is for Radioactive Materials, complete the following:

Packaging Category: _____ A = Type A B = Type B C = Type C E = Excepted I = Industrial

Packaging Certification: ☐ Self Certified ☐ U.S. Certification Certification Number _____

Nuclide(s) Present: _____ Transport Index: _____

Activity: _____ Criticality Safety Index: _____

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PART 6 - DESCRIPTION OF EVENTS & PACKAGING FAILURE

Describe the sequence of events that led to the incident and the actions taken at the time it was discovered. Describe the package failure, including the size and location of holes, cracks, etc. Photographs and diagrams should be submitted if needed for clarification. Estimate the duration of the release, if possible. Describe what was done to mitigate the effects of the release. Continue on additional sheets if necessary.

PART 7 - RECOMMENDATIONS/ACTIONS TAKEN TO PREVENT FUTURE INCIDENTS

Describe changes (such as better training, use of superior packaging, or improved operating procedures) made to help prevent recurrences. Provide recommendations for improvements to hazardous materials transportation beyond the control of an individual company. Continue on additional sheets if necessary.

PART 8 - PREPARER

Preparer's Name (Type or Print): _____ Telephone Number: (___) _____

Preparer's Title: _____ Fax Number: _____

Business Name and Address: _____ Hazmat Registration Number (if not already provided):

_____ # _____

E-mail Address: _____ Date: _____

Preparer is: ☐ Carrier ☐ Shipper ☐ Facility ☐ Other _____
(Describe Other)

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BILLING CODE 4910–60–C

Instructions for Completing the Hazardous Materials Incident Report—Department of Transportation Form F 5800.1

General Overview

Who Must Complete the Report?

Any person in possession of a hazardous material during transportation, including loading, unloading and storage incidental to transportation, must report to the Department of Transportation (DOT) if there is:

- an unintentional release of a hazardous material from a packaging;
- any release of a hazardous waste from a packaging;
- a bulk packaging (other than a tank car tank) or Type B packaging (used for RAM) containing a hazardous material that (1) received structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system and (2) did not have a release;
- an undeclared shipment of a hazardous material; OR
- a condition that meets 49 CFR 171.15.

When Is a Release Not Required To Be Reported?

You are not required to report a release of a hazardous material if ALL of the following apply:

- The shipment is not being offered for transportation or being transported by air;
- None of the criteria in § 171.15(a) apply;
- The material is not a hazardous waste;
- The material is properly classed as an ORM–D or Class or Division 3, 4, 5, 6.1, 8, or 9 in Packing Group III;
- Each packaging has a capacity of less than 20 liters (5 gallons) for liquids or less than 30 kg (66 pounds) for solids; and
- The total aggregate release is less than 20 liters (5 gallons) for liquids or less than 30 kg (66 pounds) for solids.
- The material does not meet the definition of an undeclared hazardous material in § 171.8.

Also, you are not required to report releases of minimal amounts (*e.g.*, a pint or less) of material released from the manual operation of seals of pumps, compressors, and valves, during the connecting or disconnecting of loading and unloading lines or, for materials for venting is authorized, from vents provided these releases do not result in property damage or trigger any of the telephonic notification requirements found in § 171.15.

What Is the Purpose of the Report?

The information you are providing in this report is fundamental to hazardous material transportation risk analysis and risk management by government and industry. It allows us to better understand the causes and consequences of hazardous material transportation incidents. The data is used to identify trends and provide basic program performance measures. It helps to demonstrate the effectiveness of existing regulations and to identify areas where changes should be considered. It also assists all parties, including industry segments and individual companies, in understanding the types and frequencies of incidents, what can go wrong, and possible measures that would prevent their recurrence. Your accurate and complete description of incidents can make a significant contribution to continual safety improvement through better regulations, cooperative partnerships, and individual efforts.

What Federal Regulation Requires Me To Submit the Report?

The Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) require that certain types of incidents be reported to the Research and Special Programs Administration (RSPA). Section 171.15 requires an immediate telephonic report (within 12 hours) of certain types of hazardous materials incidents and a follow-up written report. Section 171.16 requires a written report for certain types of hazardous materials incidents within 30 days. Each type of report is explained below.

What Definitions Should I Know in Order To Complete the Report?

In order to accurately complete the report, you should be familiar with the following terms. These definitions and several others are contained in § 171.8.

Bulk packaging—a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which hazardous materials are loaded with no intermediate form of containment and which has:

(1) A maximum capacity greater than 450 liters (119 gallons) as a receptacle for a liquid;

(2) A maximum net mass greater than 400 kilograms (822 pounds) and a maximum capacity greater than 450 liters (119 gallons) as a receptacle for a solid; or

(3) A water capacity greater than 454 kilograms (1000 pounds) as a receptacle for a gas as defined in § 173.115.

Hazardous material—a substance or material, that has been determined to be capable of posing an unreasonable risk to health, safety and property when transported in commerce, and that has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials as defined in 49 CFR, materials designated as hazardous under the provisions of § 172.101, and materials that meet the criteria for hazard classes and divisions in Part 173.

Hazardous substance—for the purposes of the HMR, a material, including its mixtures and solutions, that—

(1) Is listed in Appendix A of § 172.101;

(2) Is in a quantity, in one package, that equals or exceeds the reportable quantity (RQ) listed in Appendix A to § 172.101; and

(3) When in a mixture or solution—

(i) For radionuclides, conforms to paragraph 7 of Appendix A to § 172.101.

(ii) For other than radionuclides, is in a concentration by weight that equals or exceeds the concentration corresponding to the RQ of the material, as shown in the following table:

RQ Pounds (Kilograms)	Concentration by weight—Percent	Concentration by weight—PPM
5000 (2270)	10	100,000
1000 (454)	2	20,000
100 (45.4)	0.2	2,000
10 (4.54)	0.02	200
1 (0.454)	0.002	20

The term *hazardous substance* does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance in Appendix A to § 172.101, and the term does not include natural gas, natural gas liquids, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Hazardous waste—any material that is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR Part 262.

Marine pollutant—a material that is listed in Appendix B to § 172.101 (the Hazardous Materials Table) (also see § 171.4) and, when in a solution or mixture of one or more marine pollutants, is packaged in a concentration which equals or exceeds:

(1) Ten percent by weight of the solution or mixture for materials listed in Appendix B; or

(2) One percent by weight of the solution or mixture for materials that are identified as severe marine pollutants in Appendix B.

Undeclared hazardous material—a hazardous material: (1) That is required to be described on a shipping paper in the manner required by subpart C of part 172 of this subchapter, but is offered for transportation with no indication on the shipping paper or other documentation that it is hazardous; or (2) for a hazardous material excepted from the requirements of subpart C of part 172 of this subchapter (*e.g.*, a small quantity or ORM–D material as defined in § 173.4 and 173.144, respectively) is not marked in the manner specified in this subchapter to indicate it contains a hazardous material.

Unintentional release—the escape of a hazardous material from a package. This includes releases resulting from collision, packaging failures, human error, vandalism, negligence, improper packaging, or unusual conditions such as the operation of pressure relief devices as a result of over-pressurization, overfill or fire exposure. It does not include intentional releases, such as venting of packages, where allowed, and the intentional discharge of contents from packagings.

When Must I Make a Telephonic Report?

Under § 171.15, you must provide telephone notice within 12 hours after the incident occurs when one of the following conditions occurs during the course of transportation and is a direct result of the hazardous material:

- a person is killed or hospitalized;
- the general public is evacuated for one hour or more;
- one or more major transportation arteries or facilities are closed for one hour or more;
- the operational flight plan or routine of an aircraft is altered;
- fire, breakage, spillage or suspected radioactive contamination occurs involving a radioactive material;
- fire, breakage, spillage or suspected contamination occurs involving an infectious substance (etiologic agent); or
- there is a release of a marine pollutant in a quantity exceeding 450 liters (119 gallons) for liquids or 400 kilograms (882 pounds) for solids.

You may decide that the situation should be reported even though it does not meet any of the above criteria.

What Telephone Number Do I Call To Report an Incident?

You must call 800–424–8802 (toll-free) or 202–267–2675 (toll-call) to make a telephonic incident report. This is the number to the National Response Center, which is operated by DOT. If the incident involves an infectious substance, you may notify the Director, Center for Disease Control (CDC), U.S. Public Health Service, Atlanta, Georgia, 800–232–0124 (toll-free). This call must be made within 12 hours of the events that trigger this requirement.

When Must I Submit a Written Report (DOT Form F 58001.)?

Under § 171.16, you must submit a written report within 30 days after any of the following:

- an incident that was reported by telephonic notice under § 171.15;
- an unintentional release (see definitions) of a hazardous material during transportation including loading, unloading and temporary storage related to transportation;
- a hazardous waste is released;
- an undeclared shipment with no release is discovered; OR
- a bulk packaging (other than a tank car tank) or Type B packaging (used for RAM) containing a hazardous material that (1) received structural damage that may adversely affect the packaging's ability to retain lading and (2) did not have a release.

You do not need to submit a written report for a release of a hazardous material from a package that meets ALL of the following:

- The shipment is not being offered for transportation or being transported by air;
- None of the criteria in § 171.15(a) apply;
- The material is not a hazardous waste;
- The material is properly classed as an ORM–D or Class or Division 3, 4, 5, 6.1, 8, or 9 in Packing Group III;
- Each packaging has a capacity of less than 20 liters (5 gallons) for liquids or less than 30 kg (66 pounds) for solids;
- The total aggregate release is less than 20 liters (5 gallons) for liquids or less than 30 kg (66 pounds) for solids; and
- The material does not meet the definition of an undeclared hazardous material.

Also, you are not required to report releases of minimal amounts of material released from the manual operation of seals of pumps, compressors, and valves, during the connecting or disconnecting of loading and unloading lines or, for materials for venting is authorized, from vents provided these releases do not result in property damage or trigger any of the telephonic notification requirements found in § 171.15.

A lading retention system consists of those items or equipment that provide containment of hazardous materials at some point during transportation, including loading and unloading. A cargo tank and associated piping and valves is an example of a lading retention system. Dents in a tank or damage requiring repair to an accident protection guarding the tank are examples of incidents that must be reported. Paint chips and scratches to either the tank or the accident protection are examples of incidents which do not require reporting.

How Long Do I Have To Complete the Written Report?

You must submit your written report within 30 days of discovery of the incident. You must notify the shipper of the packages that are the subject of the report within 30 days of discovery.

How and Where Do I Submit My Completed Report?

There are several ways to submit your report:

- You can mail paper copies of the report to: Information Systems Manager, DHM–63, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20509–0001.
- RSPA also provides a number of ways to submit the DOT Form F 5800.1 electronically.
- You may FAX your completed report to (202) XXX–XXXX
- You may complete the report over the internet through our secure website at:
- You may submit an electronic copy of your completed report to our e-mail address: spills@rspa.dot.gov
- You may also submit bulk batches of the report through bulk file transfers.

In addition, you must notify the shipper of the packages that were the subject of the incident report that an incident occurred involving their packages. This notification may be by phone, letter, e-mail,

Am I Required To Update The Information in the Report?

Yes. You must use DOT Form F 5800.1 and check ''Supplemental (Follow-up) Report'' on question #2 to provide additional information after the initial report. You are required to

provide updates for up to one year after the initial filing if more information is gained or new developments arise concerning the following:

- A death results from injuries caused by a hazardous material;
- The person responsible for preparing the original report learns that there is a misidentification of the hazardous material or packaging information;
- Damage, loss or related costs that were not known at the time the report was filed become known; or
- Revised estimates of damages, losses, and related costs result in a change of $25,000 or more to original cost estimates, even if the original estimate was under $500.

How Long Must I Keep a Copy of the Report?

You must keep a copy of each report or an electronic image of the report for two years after the date you submit it to RSPA.

Where Must I Keep a Copy of the Report?

The report must be accessible through your company's principal places of business. You must be able to make the report available upon request to authorized representatives or a special agent of the Department within 14 hours of such a request.

How Can I Get a Blank Copy of the Form F 5800.1?

There are a variety of sources for obtaining the Form F 5800.1. Please note that you are allowed to make unlimited photocopies of the form and distribute them.

- You may obtain limited copies of the form from the Information Systems Manager at the above address.
- You may download a copy of the form from our website at *http://hazmat.dot.gov/spills.htm*
- You may also fill out the Form F 5800.1 online through our secure web server at (location TBA)
- Our Fax on Demand service has copies of the instructions and the form. Call 1–800–467–4922 and choose the Fax on Demand option #2. You will want document #XXX

How Long Does it Take To Complete the Report?

RSPA anticipates that it will take you approximately 1.6 hours to complete this report. This estimate includes the time it will take you to review the instructions, search your existing data sources for information, gather the required data, and complete and review the report.

How Can I Comment on the Length of Time Needed To Complete the Report or on the Amount of Information Required in the Report?

You can send your comments on the report, and any suggestions you have for reducing the amount of time needed to complete the report, to the following address:

(1) Information Systems Manager, Office of Hazardous Materials Transportation, DHM–63, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20509.

Please verify that your information is accurate. Although the required information is generally available at the time of the incident, you may need to do some additional investigation in order to obtain all of the facts pertaining to deaths, injuries or damage amounts. If you submit complete and accurate information at the time you file the report, it will decrease the chance of your having to supply missing information to DOT at a later date. RSPA may follow-up on incomplete forms.

Instructions For 5800.1 Form

Please print. Fill in all applicable blanks accurately to the best of your ability.

Part 1: Report Type

Item

(1) *This form is submitted to report:* Check the box that describes why you are filling out this form. This will normally be ''a hazardous material incident.'' If you are reporting an undeclared shipment, check the corresponding box. If you are reporting a bulk packaging (other than a tank car tank) or a Type B packaging (used for RAM) containing a hazardous material that received structural damage to the lading retention system that may affect its ability to retain lading but does not release a hazardous material, check that appropriate box. You do not have to report tank car tanks receiving damage or de-railing where a release did not occur because the Federal Railroad Administration collects these incidents.

(2) *Indicate what type of report this is:* If this is an initial report, check the ''initial report'' box. If this is a follow-up to a previous report, check the ''Supplemental (follow-up) Report'' box.

Part 2: General Incident Information

(3), (4) *Date & Time of incident:* Enter the date and time the incident occurred. If you do not know the actual date and time, give the date and time you discovered the incident. Use 24-hour time for the incident time (e.g. ''2400'' for midnight, ''1200'' for noon, ''0747'' for 7:47 a.m., ''2115'' for 9:15 p.m.).

(5) *Enter National Response Center report number:* If this incident was reported to the National Response Center (NRC), fill in the report number NRC assigned to the incident.

(6) *If you were required to fill out a report for a Federal DOT modal administration, enter the modal report number:* If you were required to fill out a report for another federal DOT agency, such as the Federal Railway Administration or the Federal Motor Carrier Safety Administration, for this incident, please include the report number. This will facilitate our combination of information.

(7) *Location of Incident:* Enter the geographic location of the incident (city, county, state, street, etc.). If you do not know the actual location where the incident occurred, give the location where it was discovered. If the incident occurred at an airport or rail yard, include the name of the facility. If the incident occurred on a body of water, include the name or river mile. If you do not know the street address, or if the incident occurred on a highway, you may include a description such as ''On I–70, 15 miles west of Baltimore, MD.''

(8) *Mode of Transportation:* Enter the code that corresponds to the mode of transportation in which the incident occurred or was discovered. If the incident occurred or was discovered in a temporary storage area (e.g., a terminal or warehouse), check the box that corresponds to the mode by which the package was last transported.

(9) *Transportation Phase:* Enter the code that describes where the incident occurred in the transportation system. In transit means the incident occurred or was first discovered while the package was in the process of being transported. Temporary storage is storage incident to transportation, such as at a terminal waiting for the next leg of transportation.

(10) *Carrier/Reporter:* Provide the name, street address, Federal DOT number (if applicable), and hazmat registration number of the carrier or the person reporting the incident (if other than a carrier) in possession of the material when the incident occurred or was discovered.

(11) *Shipper/Offeror:* Enter the information about the person or entity that originally offered for transportation the material or package involved in the incident.

(12) *Origin:* Enter the origin of the shipment if the address is different than the shipper/offeror information entered in item #11.

(13) *Destination:* Enter the final destination of the shipment involved in the incident.

(14) through (19) *Hazardous Material Description:* Enter the shipping name, technical or trade name, hazard class or division, ID number, packing group and amount of material released. This information (except for the amount released) should be on the shipping paper as required in § 172.202. Include units of measurements (examples: 115 gallons, 69 tons)

(20) *Was the material shipped as a hazardous waste?* Check the box yes if the material meets the definition of a hazardous waste in § 171.8 (requires an EPA Uniform Hazardous Waste Manifest). Include the EPA Manifest number.

(21) *Is this a Toxic by Inhalation (TIH) material?* If the material involved in the incident meets the definition of a Toxic by Inhalation material in § 173.132, check the yes box and enter the Hazard Zone in the space provided.

(22) *Was the material shipped under an Exemption, Approval, or Competent Authority Certificate?* If the shipment was shipped under an exemption, an approval, or a Competent Authority Certificate, check this box and provide the assigned number.

(23) *Was this an undeclared hazardous materials shipment?* If this material was not indicated in any way to be a hazardous material even though it was required to be described as such on a shipping paper, or if the material would normally be excepted from the shipping paper requirements (such as a small quantity material) and does not have the required markings, it is considered an undeclared hazardous material shipment. If the material is an undeclared hazardous materials shipment intended or transported by air, and there was NOT a release, go to Part 4. For all other situations, skip Part 4 and proceed with Part 5.

Part 3: Consequences

(24) *Result of Release:* Check all boxes that describe what occurred during the incident or as a result of the incident. For example, in a situation where a truckload of 55 gallon drums of corrosive liquids overturns resulting in a release that contaminates a nearby wetlands and stream, the boxes ''Spillage'', ''Material Entered Waterway/Storm Sewer'' and ''Environmental Damage'' may apply.

(25) *Emergency Response:* Check all boxes that correspond with any emergency response and cleanup crews that participated in resolving the incident. If a fire crew, EMS, or police unit responded to the incident, include the report number.

(26) *Damages:* You are required to provide information on estimated damages if your damages exceed $500.00. This figure includes the cost of the material lost, property damage, vehicle damages, response costs, and clean-up costs. If you do not know these amounts at the time you complete the report, or the actual costs are revised by more than $25,000, you must submit a follow-up report after you determine the amounts. The following definitions explain each of the costs:

Material Loss: Enter the value of material released and unrecoverable. Base this entry on the amount of material released multiplied by the unit value (e.g., price per gallon or price per pound) as listed on the shipper's invoice. If the invoice is not available, estimate the cost per unit using the shipper's basis.

Carrier Damage: Enter the total value of damage incurred by the carrier. Major components include costs to repair the damaged vehicle and costs resulting from damage to cargo. If the vehicle is declared ''totaled,'' enter the insured value of the vehicle. This entry should not include damage to other property or to vehicles owned by other persons.

Property Damage: Enter the total value of costs resulting from damage to the property of others indirectly involved in the incident. These include: repair and replacement costs of other vehicles; repair and replacement costs to buildings and other fixed facilities; and restoration of open land beyond decontamination and cleanup.

Decontamination/Cleanup Cost: This value is the sum of response, disposal, and remediation costs. *Response* costs are those costs incurred immediately after the incident, and include local emergency response from police and fire departments and emergency response teams, as well as costs incurred by the responsible party. *Response* costs also include costs to contain the hazardous material released. *Disposal* costs are those costs incurred to collect, transport, and ultimately dispose of all material collected during the response phase. *Remediation* costs are those costs incurred to restore the incident scene to its pre-incident state, and could include excavation, disposal and replacement of contaminated soil, pumping, treatment and re-injection of contaminated groundwater, or absorption and disposal of hazardous material released into surface water.

(27) A: *Did the incident/accident cause or contribute to a human fatality?* If a person was fatally injured in the incident/accident, check yes and indicate the number of fatalities which resulted directly from the hazardous material.

B: *Were there fatalities that did not result from the hazardous material?* If the fatalities were not caused directly by the hazardous material, enter yes and the number of fatalities. An example: if a passenger car collided with a cargo tank carrying gasoline and the automobile driver was killed due to the collision, then the fatality was *not* caused by the hazardous material released. If, however, the accident resulted in the release of the gasoline and a resulting fire killed the driver, then the fatality *was* caused by the hazardous material

(28) *Did the hazardous material cause or contribute to a personal injury?* Enter the number of persons injured by the hazardous material. Hospitalized means *admitted* to a medical facility, not treated and released from a facility where the person was never admitted. Non-hospitalized individuals are those who may have received attention from medical personnel on-site or at a facility, but were not admitted to a medical facility. Indicate the number of employees, emergency responders (firefighters, police, medics, etc.) and members of the general public.

(29) *Did the hazardous material cause or contribute to an evacuation?* Indicate if the incident required the evacuation or removal of persons from a specific area because of possible or actual contact with the hazardous materials involved in the incident. Separately specify the numbers of employees and members of the general public. Indicate the length of the evacuation.

(30) *Was a transportation artery or facility closed?* If a road or transportation facility was closed due to the incident, indicate the duration (in hours) here.

(31) *Was the material involved in a crash or derailment?* Indicate if the hazardous material was involved in a crash or derailment. Provide the estimated speed and weather conditions at the time of the crash, such as rain, blowing snow, sleet, iced roadway, sun glare, fog, dry pavement, high winds, etc. Indicate if the vehicle overturned or left the roadway or track.

Part 4: Air Incident Information

This section is for incidents with packagings transported or intended for transportation by aircraft. If your package was not transported or intended to be transported by air, skip this section.

(32) *Was the shipment on a passenger aircraft?* Indicate whether the shipment in question was on a commercial

passenger aircraft. If so, indicate if the material was located in a passenger's baggage, either in the cabin or baggage compartment, or if the material was tendered as cargo.

(33) *Where did the incident occur or where was the discrepancy discovered?* Indicate where in the course of transportation the incident occurred or was discovered.

(34) *What phase(s) had the shipment already undergone prior to the incident?* Check all boxes which indicate the various modes the shipment had undergone before the incident occurred or was discovered.

Part 5: Packaging Information

(35) *Packaging Type:* Check the box that corresponds to the type of packaging involved in the incident. If there are multiple packaging types involved in an incident, reproduce Part 5 of the form and fill out this section for each of the packaging types. For example, if you have three different packaging types involved in the incident, you should fill out Part 5 three separate times (one for each packaging type). If the type of packaging it not represented, check the ''other'' box and enter a brief description such as ''non-specification bulk bin.''

(36) *Enter the appropriate failure codes (found at the end of this form or in the instructions). Be sure to enter the codes from the list corresponding to the particular packaging type checked above:* The failure codes that are to be entered describe what failed on the packaging, how the packaging failed, and the cause(s) of the failure. The failure codes are located on pages 16 and 17 of these instructions, as well as on the back of the actual incident reporting form. Be sure to enter the code from the list that corresponds to the particular packaging type checked above (#35). More than one code may be entered to describe the cause of failure.

(37) *Provide the complete packaging identification markings, if available:* Every specification packaging, UN or DOT, has a packaging identification printed or stamped on it or a plate attached to the packaging. Examples are provided on the form. Only fill out the second part if the marking is incomplete, destroyed, or unknown. Fill in the Outer and Inner packaging type and material of construction information, as appropriate. If the packaging is Non-bulk or Intermediate Bulk Container (IBC), use the codes below to enter the number or letter that applies for either Non-bulk or IBC packaging.

Non-bulk Packaging Identification Codes

Outer Packaging

Type

1 = Drum
2 = Wooden Barrel
3 = Jerrican
4 = Box
5 = Bag
6 = Composite Packaging

Material

A = Steel
B = Aluminum
C = Natural Wood
D = Plywood
E = Reconstituted Wood
F = Fiberboard
G = Plastic
H = Textile
I = Paper, multi-wall
J = Metal other than steel or aluminum
K = Glass, porcelain, or stoneware

Head Type

1 = Non-removable
2 = Removable

Inner Packaging

Type

1 = Bottle
2 = Can
3 = Box
4 = Bag
5 = Cylinder

Material

A = Metal (any type)
B = Glass, porcelain, or stoneware
C = Plastic
D = Fiberboard or cardboard
E = Wood (any type)

IBC Packaging Identification Codes

Material of Construction

1—Metal
2—Plastic
3—Composite
4—Fiberboard
5—Wooden
6—Flexible

(38) *Describe the packaging capacity and the quantity:* Indicate the total capacity of the inner and outer packaging. Include the actual amount in the packaging, the number of packages in the shipment, and the number of packagings that failed. Please include the units of measurements (liters, gallons, pounds, cubic feet, etc.).

(39) *Provide packaging construction and test information, as appropriate:* In the case of non-bulk packagings or IBCs enter the name of the packaging manufacturer or the symbol of the manufacturer *only if* complete identification markings were not provided in #37. Enter the date of manufacture and the serial number, if applicable. Enter the last test date if the packaging requires periodic testing. Also include the design pressure, shell thickness, head thickness, and service pressure if the failed packagings are of the type indicated in parenthesis after each question. If the packaging contained a valve, or other device that failed and resulted in a hazardous material release, enter the type, manufacturer, and model number.

(40) *If the packaging is for Radioactive Materials, complete the following:* Complete this question *only* if you had a release of a radioactive material. Indicate the package category, the packaging certification, certification number, and which nuclides were present, the transportation index (TI), activity of the nuclides, and the critical safety index.

Part 6: Description of Events and Packaging Failure

Please describe the events involved in the incident to allow us to get a better understanding of the incident. Include information that has not been collected elsewhere on this form, and include special scenarios, outstanding circumstances, or other information that provides a complete picture of the incident. Describe the sequence of events that led to the incident, the packaging failure (if any) and actions taken at the time of discovery. Submit photographs and diagrams when necessary for clarification. You may continue on additional sheets if necessary.

Part 7: Recommendations/Actions Taken to Prevent Future Incidents

Describe any recommendations you have to improve the packaging, handling, or transportation of hazardous materials. You may continue on additional sheets if necessary.

Part 8: Preparer

Provide the requested information. Make sure to check the box that describes the function you perform, either carrier, shipper, facility owner/operator, or other (and describe). Thank you for your time and effort in completing this form.

Failure Codes for Part 5 of Form DOT F 5800.1

Non-Bulk Packaging and Intermediate Bulk Containers (IBCs)

What Failed

101—Basic Material
102—Closure (e.g., cap or top)
103—Weld/Seam
104—Inner Packaging
105—Chime
106—Liner
107—Body (IBCs)
108—Inner Receptacle (IBCs)
109—Outer Frame (IBCs)
112—Pressure Relief Valve/Device
124—Hose (IBCs)

131—Gasket (IBCs)
133—Bolts (IBCs)
134—Cover (IBCs)
151—Lifting Features (IBCs)

How Failed

301—Punctured
302—Crushed
303—Cracked
304—Burst/Rupture
305—Torn Off/Damaged
306—Ripped/Torn
307—Abraded
308—Leaked
309—Vented
310—Gouged/Cut
312—Failed to Operate

Cause(s) of Failure

501—Dropped (less than 4 feet)
502—Dropped (over 4 feet)
503—Overfilled
504—Overpressurized
505—Fire, Temperature, or Heat
506—Freezing
507—Water
508—Vehicular Crash or Accident Damage
511—Inadequate Blocking and Bracing
513—Interior Corrosion
514—Exterior Corrosion
515—Abrasion
516—Too Much Weight on Package
517—Forklift Accident
518—Conveyer/Handling Equip. Mishap
519—Vandalizm
522—Defective Component/Device
524—Impact with Sharp or Protruding Object (e.g., nails)
527—Material Deterioration
528—Incompatible Product
534—Inadequate Training
535—Inadequate Procedures
537—Improper Preparation for Transportation
538—Human Error

Cylinders

What Failed

103—Weld/Seam
110—Cylinder Valve
112—Pressure Relief Valve/Device
135—Sidewall
136—Sidewall near Base
137—Neck/Shoulder

How Failed

301—Punctured
303—Cracked
304—Burst/Rupture
307—Abraded
308—Leaked
309—Vented
310—Cut/Gouged
312—Failed to Operate

Cause(s) of Failure

501—Dropped (less than 4 feet)
502—Dropped (over 4 feet)
504—Overpressurized
505—Fire, Temperature, or Heat
508—Vehicular Crash or Accident
511—Inadequate Blocking and Bracing
513—Interior Corrosion
514—Exterior Corrosion
515—Abrasion
517—Forklift Accident
518—Conveyer/Handling Equipment Mishap
519—Vandalism
520—Loose Closure/Component/Device
522—Defective Component/Device
524—Impact with Sharp or Protruding Object (e.g., nails)
528—Incompatible Product
534—Inadequate Training
535—Inadequate Procedures
538—Human Error

Portable Tanks

What Failed

103—Weld/Seam
106—Liner
109—Outer Frame
111—Safety Vent/Frangible Disc
112—Pressure Relief Valve/Device
113—Fusible Pressure Relief Device/Fusible Element
114—Vacuum Relief Valve
116—Check Valve
118—Inlet (Loading) Valve
119—Bottom Outlet Valve
124—Hose
125—Hose Adapter/Coupling
126—Loading/Unloading Line(s)
127—Pipings/Fittings
129—Flange
130—Threaded Connections
131—Gasket
133—Bolts
134—Cover
138—Tank Shell
139—Tank Head
140—Manway or Dome Cover
150—Lifting lug

How Failed

301—Punctured
302—Crushed
303—Cracked
304—Burst/Rupture
305—Torn Off/Damaged
306—Ripped/Torn
307—Abraded
308—Leaded
309—Vented
310—Cut/Gouged
311—Structural
312—Failed to Operate

Cause(s) of Failure

501—Dropped (less than 4 feet)
502—Dropped (over 4 feet)
503—Overfilled
505—Fire, Temperature, or Heat
508—Vehicular Crash or Accident
509—Rollover Accident
510—Derailment
511—Inadequate Blocking and Bracing
513—Interior Corrosion
514—Exterior Corrosion
515—Abrasion
519—Vandalism
520—Loose Closure/Component Device
521—Missing Component/Device
522—Defective Component/Device
528—Incompatible Product
529—Commodity Self-ignited, Initiating Event
530—Broken Component/Device
531—Misaligned Material/Component
534—Inadequate Training
535—Inadequate Procedures
536—Inadequate Maintenance
537—Improper Preparation for Transportation
538—Human Error

Bulk Tank Vehicles—Cargo Tank Motor Vehicles (CTMVs) and Tank Cars

What Failed

103—Weld/Seam
106—Liner
111—Safety Vent/Frangible Disc
112—Pressure Relief Valve/Device
113—Fusible Pressure Relief Device/Fusible Element
114—Vacuum Relief Valve
115—Excess Flow Valve
116—Check Valve
117—Remote Control Device
118—Inlet (Loading) Valve
119—Bottom Outlet Valve
120—Discharge Valve/Coupling
122—Vapor valve
124—Hose
125—Hose Adapter/Coupling
126—Loading/Unloading Line(s)
127—Piping/Fittings
128—Piping Shear Section (CTMVs)
129—Flange
130—Threaded Connections
131—Gasket
132—O-Rings/Seals
133—Bolts
134—Cover
138—Tank Shell
139—Tank Head
140—Manway or Dome Cover
141—Heater Coils
142—High Level Sensor
143—Fill Hole Cover
144—Gauging Device
145—Sample Line
146—Liquid Line
147—Thermometer Well
148—Washout
149—Sump

How Failed

301—Punctured
303—Cracked
304—Burst/Rupture
305—Torn Off/Damaged
307—Abraded
308—Leaked
309—Vented
310—Cut/Gouged
311—Structural
312—Failed to Operate

Cause(s) of Failure

503—Overfilled
505—Fire, Temperature, or Heat
508—Vehicular Crash or Accident
509—Rollover Accident
510—Derailment (Tank Cars)
513—Interior Corrosion
514—Exterior Corrosion
515—Abrasion
519—Vandalism
520—Loose Closure/Component/Device
521—Missing Component/Device
522—Defective Component/Device
527—Material Deterioration
528—Incompatible Product
529—Commodity Self-ignited, Initiating Event
530—Broken Component/Device
531—Misaligned Material/Component
532—Stub Sill Separation from Tank (Tank Cars)

533—Inadequate Accident Damage Protection
534—Inadequate Training
535—Inadequate Procedures
536—Inadequate Maintenance
537—Improper Preparation for Transportation
538—Human Error

Complete Listing—All Packaging Types

What Failed

101—Basic Material
102—Closure (e.g., cap or top)
103—Weld/Seam
104—Inner Packaging
105—Chime
106—Liner
107—Body
108—Inner Receptacle
109—Outer Frame
110—Cylinder Valve
111—Safety Vent/Frangible Disc
112—Pressure Relief Valve/Device
113—Fusible Pressure Relief Device/Fusible Element
114—Vacuum Relief Valve
115—Excess Flow Valve
116—Check Valve
117—Remote Control Device
118—Inlet (Loading) Valve
119—Bottom Outlet Valve
120—Discharge Valve/Coupling
122—Vapor valve
123—Liquid valve
124—Hose
125—Hose Adapter/Coupling
126—Loading/Unloading Line(s)
127—Piping/Fittings
128—Piping Shear Section
129—Flange
130—Threaded Connections
131—Gasket
132—O-Rings/Seals
133—Bolts
134—Cover
135—Sidewall
136—Sidewall near Base
137—Neck/Shoulder
138—Tank Shell
139—Tank Head
140—Manway or Dome Cover
141—Heater Coils
142—High Level Sensor
143—Fill Hole Cover
144—Gauging Device
145—Sample Line
146—Liquid Line
147—Thermometer Well
148—Washout
149—Sump
150—Lifting lug
151—Lifting Feaures

How Failed

301—Punctured
302—Crushed
303—Cracked
304—Burst/Rupture
305—Torn Off/Damaged
306—Ripped/Torn
307—Abraded
308—Leaked
309—Vented
310—Cut/Gouged
311—Structural
312—Failed to Operate

Cause(s) of Failure

501—Dropped (less than 4 feet)
502—Dropped (over 4 feet)
503—Overfilled
504—Overpressurized
505—Fire, Temperature, or Heat
506—Freezing
507—Water Damage
508—Vehicular Crash or Accident
509—Rollover Accident
510—Derailment
511—Inadequate Blocking and Bracing
513—Interior Corrosion
514—Exterior Corrosion
515—Abrasion
516—Too Much Weight on Package
517—Forklift Accident
518—Conveyer/Handling Equipment Mishap
519—Vandalism
520—Loose Closure/Component/Device
521—Missing Componet/Device
522—Defective Component/Device
524—Impact with Sharp or Protruding Object (e.g., nails)
527—Material Deterioration
528—Incompatible Product
529—Commodity Self-ignited, Initiating Event
530—Broken Component/Device
531—Misaligned Material/Component
532—Stub Sill Separation from Tank
533—Inadequate Accident Damage Protection
534—Inadequate Training
535—Inadequate Procedures
536—Inadequate Maintenance
537—Improper Preparation for Transportation
538—Human Error

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–01–9171]

Federal Motor Vehicle Safety Standards (FMVSS); Small Business Impacts of Motor Vehicle Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of regulatory review; request for comments.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) seeks comments on the economic impact of its regulations on small entities. As required by section 610 of the Regulatory Flexibility Act, we are attempting to identify rules that may have a significant economic impact on a substantial number of small entities. We also request comments on ways to make these regulations easier to read and understand. The focus of this notice is rules that specifically relate to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles.

DATES: Comments must be received on or before August 14, 2001.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC, 20590. You may call Docket Management at: (202) 366–9324. You may visit the Docket from 10 am to 5 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nita Kavalauskas, Office of Regulatory Analysis and Evaluation, Office of Plans and Policy, National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC, 20590. Telephone: (202) 366–2584. Facsimile (fax): (202) 366–2559.

SUPPLEMENTARY INFORMATION:

I. Section 610 of the Regulatory Flexibility Act

A. Background and Purpose

Section 610 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires agencies to conduct periodic reviews of final rules that have a significant economic impact on a substantial number of small business entities. The purpose of the reviews is to determine whether such rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes, to minimize any significant economic impact of the rules on a substantial number of such small entities.

B. Review Schedule

The Department of Transportation (DOT) published its Semiannual Regulatory Agenda on November 22, 1999, listing in Appendix D (64 FR 64684) those regulations that each operating administration will review under section 610 during the next 12 months. Appendix D also contains DOT's 10-year review plan for all of its existing regulations.

The National Highway Traffic Safety Administration (NHTSA, ''we'') has divided its rules into 10 groups by subject area. Each group will be reviewed once every 10 years, undergoing a two-stage process-an