

and then, when necessary, transmit it to the airport of arrival very quickly. Therefore, a flight would not have to be held on the ground to wait for a NOPC to be faxed to its airport of arrival. In addition, we are not mandating that airlines retain staff at both airports of arrival and destination while an aircraft is in flight. However, the airport of departure and arrival must be able to receive and transmit the information to appropriate government personnel in such a timely manner that emergency responders can make response mitigation decisions. It is our belief that the act of filing and maintaining this information in a manner that is readily available should impose a marginal cost on each flight since (1) the NOPC is already being created at the airport of departure; and (2) the airport of arrival only requires the information be readily available, which should permit the faxing of the information when requested by appropriate authorities, not after each flight.

In response to commenters who concluded that a computerized tracking system is the only opportunity to comply with this NPRM, we agree that a computer tracking system would enhance the transmission of the hazmat information on the NOPC and believe that it is an acceptable method for complying with the amendments. However, we disagree with the conclusion that it is the only method for compliance. We believe that the hazmat information contained on the NOPC can be managed without a computerized tracking system. Mandating all aircraft operators to install such a system would greatly disadvantage smaller air carriers. Air carriers who already have a computerized tracking system or are in the process of developing such a system, may use or modify their existing system to have the capability to transmit the hazmat information to other locations as required by this final rule.

We agree with the commenter that stated that an air carrier should have the capability to provide emergency responders with a consolidated list of hazardous materials aboard their aircraft, however, we did not propose such a requirement and, therefore, is beyond the scope of this rulemaking. We note that in order to provide emergency responders the required information without any undue delay it may be necessary for some carriers to use a consolidated list.

We are also revising the HMR to clarify that the NOPC must identify all hazardous materials carried on the plane, even those loaded at earlier departure points. These changes to the HMR will provide emergency

responders with timely and consolidated information about the identity (including proper shipping name, hazard class, quantity, and number of packages), and location of all hazardous material on an airplane.

C. Retention of NOPC After Completion of the Flight

Most commenters objected to the proposal to retain a copy of the NOPC or an electronic image thereof for one year after completion of the flight. Two commenters (UPS and ATA) suggested that "the information contained in" the NOPC is important, not the form itself. The commenters stated an aircraft operator should be allowed to retain the "information contained in" the NOPC rather than the actual NOPC and went on to say that for emergency responders, the essential information consists of the hazardous materials shipping description for each material loaded on the aircraft, the amount of hazardous material in the shipment, and its location on the aircraft. These elements should be available away from the aircraft and presented to emergency responders. The commenters stated that the other information on the NOPC will not provide an emergency responder with information necessary to respond to an incident and could in fact easily distract from the emergency response. The ATA commented that if RSPA requires the retention and provision of copies of the NOPC itself, emergency responders will criticize the results as distracting. RSPA should not require an operator to retain and transmit superfluous information. The less complicated the information, the easier the retrieval in an emergency.

UPS stated that RSPA lacks justification for permitting an operator to make the information contained in an NOPC accessible at the airports of departure and arrival, but require the actual written NOPC for all other purposes specified in the proposed § 175.33(c). UPS went on to request that RSPA should specify what information contained in the NOPC must be retained.

FedEx stated that the information currently required is redundant, confusing and in some cases encumbers the very process it was intended to support and improve. FedEx urged RSPA to consider using a summary of the total hazardous materials by hazard class on board the aircraft in lieu of the current and proposed NOPC. British Airways stated that we should not require NOPCs to be stored at the principal place of business. The commenter went on to say that they retain their NOPCs at each of its stations

and that no safety benefit would result from requiring that notification be transferred to a central repository.

The majority of commenters objected to the proposed one year retention period. Three commenters (UPS, ALPA and IPA) supported a 90-day retention period, two commenters (FedEx and ATA) a 30-day period, while another (Emery) favored a retention period in the 30–90 day range. ATA conceded that in the event of an incident the NOPC should be retained for 90 days. Two commenters (IPA and ALPA) who favor a 90-day period pointed out that this is consistent with the current requirements to retain shipping papers for 90 days in 49 CFR 175 as well as in the ICAO Technical Instructions. Other commenters (ATA, Emery) stated that requiring an aircraft operator to retain the NOPC for one year has no bearing on the ability of first responders to react to an accident.

Several commenters objected to the proposal to require retention of the NOPC at the operators' principal place of business. Three commenters (ATA, UPS and FedEx) commented that RSPA should allow the aircraft operator to designate the location. ALPA expressed concern over the requirement to retain a copy of the NOPC (not just the information contained in it) at the operator's principal place of business for one year and stated that the only apparent benefit of retaining a copy of the NOPC at the principal place of business appears to be for enforcement opportunities, and as such, has no place within the context of this rulemaking.

Several commenters (UPS, FedEx, ATA) objected to the proposal to require aircraft operators to make the NOPC available, upon request, to any representative of a Federal, State, or local government agency. The commenters stated RSPA should limit the scope of § 175.33 to a government representative who is either responding to a hazardous material incident or is conducting an investigation which involves a hazardous material, consistent with the requirements in § 172.600(c)(2). Without such limitation, an agency at any level of government could request sensitive information concerning an operator's business, customer base or transportation of hazardous materials. ATA stated that the proposal empowers such a variety of authorities to demand and receive NOPC information that unmanageable circumstances might arise. The ATA urged RSPA to restrict access of this information, in an emergency, to an incident commander or other duly empowered representative of an agency.