

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, DOT.**ACTION:** Final rule.

SUMMARY: RSPA is revising the incident reporting requirements of the Hazardous Materials Regulations and the hazardous materials incident report form, DOT Form F 5800.1. The major changes adopted in this final rule 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; and reporting non-release incidents involving cargo tanks. These revisions will assure an increase in the usefulness of data collected for risk analysis and management by government and industry and, where possible, provide relief from regulatory requirements.

DATES: *Effective Date:* This final rule is effective July 1, 2004.

Compliance Date: Only the revised DOT Form F 5800.1 (01-2004) specified in this final rule will be accepted for incidents occurring on, or after July 1, 2004. Filers must use the previous DOT Form F 5800.1 (Rev 6/89) form for all incidents up to, and including June 30, 2004.

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I. Background

Quality data that supports 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 Department-wide initiative (ONE DOT Flagship Initiative on Hazardous Materials Handling/Incidents; "HazMat Flagship") which began in 1999 and a Department-wide Hazardous Materials Program Evaluation (HMPE) completed in 2000. The HazMat Flagship Initiative identified a set of new and ongoing actions relating to hazardous materials transportation that have the greatest potential impact on safety and program operation and that benefit from a cooperative approach. 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>.

Both the HazMat Flagship initiative and the HMPE emphasized the need to obtain more accurate and complete data on incidents. 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 in § 171.16 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). The Research and Special Programs Administration (RSPA, we) last revised this form in 1989. In 2001, we received approximately 17,500 incident reports. RSPA uses the data and information reported by carriers to:

- Evaluate the effectiveness of the existing regulations;
- 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 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, there is room for improvement. We believe the opportunity exists to obtain better, more detailed information on events, such as more descriptive information to help determine root causes of events; to offer better linkages so that data can be coupled; 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 Docket HM-225A, "Revision to Regulations Governing Transportation and Unloading of Liquefied Compressed Gases," and Docket HM-213B, "Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids," have demonstrated the difficulties involved with using DOT Form F 5800.1 data to determine precise failure modes and causes. These rulemakings also underscore the unreliability of reported incident cost information and the need to update this and other data as better information becomes available after initial submission of the form.

A study performed by the Argonne National Laboratory and the University of Illinois (National Risk Assessment for Selected Hazardous Materials Transportation) for RSPA used incident data as a basic input into the study, and recommended changes in a number of areas of incident data collection. Also, 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.

The National Transportation Safety Board (NTSB) has issued several recommendations related to data collection and processing identified during the course of their investigations:

(1) 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, with or without a release of hazardous materials.

(2) NTSB recommendation R-89-52 suggests implementing regulations to ensure that there is formal feedback