

from carriers to shippers when an incident has occurred.

(3) NTSB recommendation H-99-58 asks RSPA to establish a specific time period for reporting incidents meeting criteria in § 171.15 (telephonic notification).

Undeclared hazardous materials shipments, particularly in the air mode, are a serious safety 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 discoveries of such shipments, whether or not the material is released, can help in defining the extent of the problem and in developing programs to mitigate the risk involved. DOT Form F 5800.1 is an efficient way to collect 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 developed changes to the incident reporting requirements, we attempted to minimize any additional burden associated with the revised requirements. For instance, we are adding exceptions to reporting requirements for small releases of materials that pose the least hazard where sufficient data already exists to manage risk. Further, we have deleted certain data fields that ask for information that is obtainable from other sources, for example, land use at the incident site. In addition, we are allowing electronic submission of the form, such as through an internet-based form or through a bulk data transfer, in order to facilitate the process. An internet-based form will ask only the questions the reporter is required to complete, based on previous answers. Accepting the data through a bulk file transfer allows larger companies to configure reporting software for their particular operations, maintain the information electronically, and eliminate paper and postage.

As a result of a meeting between DOT and members of several trade associations concerning hazardous materials incident reporting, the Association of American Railroads (AAR) sponsored a workgroup with segments of the transportation community to discuss the DOT Form F 5800.1 and the reporting requirements

of §§ 171.15 and 171.16. The workgroup meetings were held during the winter of 1997-98. Participants included representatives from all four transportation modes, RSPA, shippers, container manufacturers, and labor. The workgroup submitted recommendations to RSPA. We developed questions based on input from these meetings, the DOT modal agencies, 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 current reporting requirements or the incident report form. We received approximately 40 comments from industry associations, State and local governments, non-profit associations, and carriers. Based on these comments, we developed proposed regulatory language and published a notice of proposed rulemaking (NPRM; 66 FR 35155) on July 3, 2001. We identified ten general issues in the NPRM, which are reviewed in Section III of this document. RSPA received over 30 comments on the NPRM. RSPA's decisions on the proposals of the NPRM and review of these comments are discussed in Section III, below.

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 his or her hospitalization;
- (3) Estimated carrier or other property damage exceeds \$50,000;
- (4) An evacuation of the general public occurs lasting one or more hours;
- (5) One or more major transportation arteries or facilities are closed or shut down for one hour or more;
- (6) The operational flight pattern or routine of an aircraft is altered;
- (7) Fire, breakage, spillage, or suspected contamination occurs involving shipments of radioactive material or infectious substances (etiologic agents);
- (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 National Response Center 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) Security Field Office. In addition, certain incidents involving infectious substances must be reported to the Centers for Disease Control and Prevention (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;
- (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 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 improve the incident report form, our primary objective was to ensure that useful information is collected 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. 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. 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 an area of significant safety concern to DOT, and the ability to identify the frequency and source of such shipments is an important factor in reducing 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 Changes

In the NPRM, RSPA proposed changes on the following ten issues. In this final rule, we discuss comments submitted to the docket, concerns raised by