

commenters, and our decisions on each issue below:

- (A) Electronic filing
- (B) Revisions to the form
- (C) One-call reporting
- (D) Expansion of reporting requirements to persons other than carriers
- (E) Exceptions to incident reporting
- (F) Criteria for telephonic notification
- (G) Updates to reports
- (H) Reporting when no hazardous material is released during an incident
- (I) Undeclared shippers of hazardous materials that do not result in a release
- (J) Notifying shippers of incidents.

A. Electronic Filing

In the NPRM, we proposed to adopt a variety of electronic filing methods, including facsimile (fax), electronic mail (e-mail), and internet-based forms. 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, some 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 obstacles, all means of electronic filing will not be immediately available. We are in the process of developing the capability to allow electronic submission of the form and bulk transfer, and will issue an advisory notification upon completion. Although initial systems available to receive electronic submissions are limited, they will be expanded in the future as new systems are implemented within the Department or as new technologies become available.

We will continue to accept filing of a paper form, but we will not require the reporter to submit duplicate copies of the form. In addition, we have revised language in the regulations concerning the retention of the report in order to facilitate electronic storage. We have removed the provision requiring approval from the Department of Transportation to retain copies at a location other than the reporter's principal place of business. Instead, we allow the reporter to store the report at

a location other than the principal place of business if the report is available to the reporter's principal place of business 24 hours after a request by a representative of the Department. Often, electronic documents may be stored on a computer server that is not physically located at the person's place of business. Additionally, the storage location is not of paramount concern, provided the document can be produced in the specified time. This change allows more flexibility for storing electronic and physical copies of the reports.

B. Revisions to the Form

The proposed modifications to the data form were published in the **Federal Register** in a notice of proposed rulemaking (NPRM). These proposed modifications introduced new and revised data elements in the form. These revisions are intended to minimize burdens on the end user, while necessitating that the form be completed accurately.

As a result of these new requirements, as well as RSPA's intent to maximize the accuracy and completeness of the forms we receive, RSPA procured the services of the QED Group, LLC (QED) of Washington, DC to recruit both experienced and non-experienced users of the previous form to test the form proposed in the NPRM. QED convened a series of focus groups to provide RSPA with constructive feedback on the revised form.

The first focus group meeting took place on October 25, 2002, with a morning session attended by ten experienced filers and an afternoon session attended by four less experienced filers. Neither group indicated that major revisions to the layout of the draft form were necessary. However, we derived the following observations from this meeting:

- The form layout should be more compact than the version in the NPRM, but attention should still be paid to font size.
- The form should avoid the use of shaded regions, as these interfere with faxing.
- The form should explicitly identify the form and/or series number of the accompanying instructions, as well as URL information for instructions available online.
- Any such online instructions should contain links to the sections of the CFR cited, and should also contain links to definitions.
- There were no major issues or concerns with the graphics or other visual cues.
- Infrequent filers were concerned that the conditions for form filing were

not presented all in one place. They suggested a different grouping of instructions, something along the lines of a "Who—Why—When?" section. Infrequent filers preferred a format similar to a flowchart (perhaps on a separate instruction page or worksheet) to walk them through the incident characteristics and help them arrive at a filing decision.

Considerations of an electronic form were not a major element of the discussions in this session. The most significant finding regarding the design of the electronic form was that large companies would prefer direct data exchange to a piecemeal filing of form information via the Web. Small companies, however, welcomed the Web interface primarily because of the potential for live HTML links to instructions, definitions and supporting regulations.

The second focus group meeting took place on November 22, 2002, with a morning session attended by seven experienced filers and an afternoon session attended by six less experienced filers.¹ The full QED report can be found in the Docket. Some of the comments received from this group included:

- In general, participants reacted very positively to the new electronic form. Participants appreciated having direct access to the instructions for completing the form in an electronic version.
- Replace the numeric values and alpha codes with check-boxes.
- Change the wording for the entry of failure codes for packaging from "Enter up to 3 Codes" to "Enter up to 3 sets of Codes." They also suggested that a vertical line be drawn between each grouping of "What Failed How Failed Cause(s) of Failure."
- Air carriers indicated that for a hazardous material incident involving passenger baggage, there should be an ability to indicate the type of bag containing the item involved in the release, as well as any packaging within the bag.
- Language should be changed in Part 6 from "Describe the package failure" to something else since the report may not be in response to the failure of a package but due to some other hazardous material incident.
- Participants indicated that they would like the ability to save templates. These templates could be linked to a company- or location-specific password, and would store information such as reporting entity address, mode, and

¹ Other scheduled attendees of both sessions experienced work-related emergencies or had other difficulties that prevented them from participating in the focus group.