

The revision to require reporting of certain incidents involving cargo tanks that do not result in a release of hazardous materials will apply to about 104,000 motor carriers. We estimate that this revision will result in about an increase of about 16 percent of the 17,810 total annual responses, or approximately 2,975 additional incident reports each year. On a one-to-one report/entity basis, motor carriers will incur increased compliance costs of approximately \$114,240 or about \$38/year/company.

The revision 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 final rule will result in an increase of approximately 8 percent of the 17,810 incidents reports submitted each year, or approximately 1,500 reports. Taken on a one-to-one report/entity ratio, we estimate the corresponding increased compliance costs of \$57,600 to be approximately \$38/year/company.

**Potential cost savings.** The revision in the final rule 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. The potential savings attributable to the revisions to the final rule total about \$276,000. The additional potential costs attributable to the revisions to the final rule total about \$275,712, for a net savings of approximately \$300.

**Consideration of 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 large numbers of small businesses, 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 revisions in this final rule will affect a significant number of small businesses or other small entities, there will be no substantial economic impact on these small businesses.

#### *F. 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.

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 final rule uses a base number of 17,000 annual incident reports.

As a result of this final rule, there was a modest increase in annual burden and costs. OMB approved this information collection as proposed under this rule on August 30, 2001. 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.

Requests for a copy of the information collection should be directed to Deborah Boothe or T. Glenn Foster, 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.

#### *G. 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.

#### *H. Unfunded Mandates Reform Act*

This final rule imposes no mandates and thus does 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.

#### *I. Environmental Assessment*

The revisions in this final rule will increase the quality of data collected on hazardous materials spills, increasing our ability to evaluate potential packaging problems that result in releases to the environment. Thus, the 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 final rule.

#### **List of Subjects**

##### *49 CFR Part 171*

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

■ In consideration of the foregoing, we are amending 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.**

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*Undeclared hazardous material* means a hazardous material that is (1) subject to any of the hazard communication requirements in subparts C (Shipping Papers), D (Marking), E (Labeling), and F (Placarding) of Part 172 of this subchapter, or an alternative marking requirement in Part 173 of this subchapter (such as §§ 173.4(a)(10) and 173.6(c)), and (2) offered for transportation in commerce without any clear indication of the presence of the hazardous material in or on at least one of the following: an accompanying shipping paper, the outer package, the transport vehicle or freight container, or another written statement by the person