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Research and Special Programs Administration

49 CFR Parts 171 and 175

Detailed Hazardous Materials Incident Reports; Notice of Proposed Rulemaking

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 175

[Docket No. HM-36B; Notice 87-3]

Detailed Hazardous Materials Incident Reports

AGENCY: Office of Hazardous Materials Transportation, Research and Special Programs Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes several changes to the Research and Special Programs Administration's (RSPA's) system of collecting information on incidents involving the transportation of hazardous materials.

The proposed amendment would revise the hazardous materials incident report form—DOT F 5800.1—to provide more meaningful and comprehensive incident data, especially in terms of incident causation and consequent factors; and carriers would be required to maintain a copy of the incident report forms submitted to RSPA for a period of two years. In addition, the proposed amendment would expand the present requirement that RSPA be notified, at the earliest practicable moment, of the occurrence of certain events (e.g. incidents involving fatalities, suspected radioactive contamination) relating to the transportation of hazardous materials to include events resulting in evacuations, the shutdown or closure of major transportation arteries, and instances where an aircraft is forced to deviate from its planned course, or is required to make an unscheduled landing. The proposed amendment would also require that all carriers involved in a hazardous materials incident provide assistance to an authorized representative of the Department of Transportation (DOT) in any follow-up investigations or special studies which DOT might undertake in connection with the incident.

The intended effect of these actions is to enhance the Department of Transportation's capability to evaluate the effectiveness of existing regulations; and to determine the need for regulatory changes to cover new or emerging transportation safety problems.

DATE: Comments must be received on or before July 29, 1987.

ADDRESS: Address comments to: Dockets Branch, Office of Hazardous Materials Transportation, DHM-30, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped post card. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: J. S. Nalevanko, Policy Development and Information Systems Division, DHM-61, Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC 20590, Telephone (202) 366-4484, or Irving R. Abis, Standards Division, DHM-12, Office of Hazardous Materials Transportation, U.S. Department of Transportation, Washington, DC 20590, Telephone (202) 366-4488.

SUPPLEMENTARY INFORMATION:

Background

On March 16, 1984, (49 FR 10042, March 16, 1984), RSPA published an Advance Notice of Proposed Rulemaking (ANPRM), Docket No. HM-36B, inviting comments on two major issues concerning the Department's collection of information on hazardous materials transportation incidents.

The first issue was whether the present criteria for submitting detailed, written reports on hazardous materials incidents should be changed and, if so, what the new criteria should be. Currently, written reports must be submitted if the incident requires a telephonic notice under § 171.15; or if, under § 171.16, there is an "unintentional release" of a hazardous material (not involving consumer commodities, batteries, paints, and related materials in packagings of five gallons or less).

The second issue was whether the current incident report form—F5800.1—should be changed and, if so, what the nature of this change should be.

In response to Docket No. HM-36B, RSPA received written comments from 27 different public and private organizations. One additional comment was entered into the Docket as a result of a public meeting on the subject, held on May 1, 1984, in Washington, DC. Each comment has been carefully considered in preparing this Notice of Proposed Rulemaking.

Resolution of Issues Raised in the ANPRM

Changing the current criteria for the submission of written hazardous materials incident reports.

The ANPRM requested comments on whether it would be desirable to change the current criteria for the submission of written reports, especially for hazardous materials incidents involving non-bulk packagings (generally, with a capacity of 110 gallons or less). The ANPRM suggested the possibility that such packagings might be exempted from the current reporting requirements, except for incidents resulting in a fatality or an injury, or meeting a certain number of other criteria.

Based on an analysis of the comments received, RSPA has decided not to exempt non-bulk packaging from the requirement of written incident reports. Among the reasons for this decision are the following.

First, the current reporting criteria are an important and necessary means to enable field investigators to monitor hazardous materials shippers, carriers, and packaging manufacturers of hazardous materials packages for compliance with the hazardous materials regulations; and to determine if a specific carrier, shipper or manufacturer is having problems with a particular package. This investigatory function pertains to both large and small packages and cannot be limited to large packages alone.

Second, RSPA has a rulemaking project under Docket HM-181, entitled "Performance-Oriented Packaging Standards," (47 FR 16268, April 15, 1982) which, among other things, proposes to make the DOT hazardous materials regulations performance standards as they pertain to non-bulk packagings. This will provide greater flexibility to both manufacturers and shippers in the design and utilization of packagings for hazardous materials. The proposed standards would apply to packages with a capacity of 450 liters or less for liquids or 400 kilograms or less for solids. Exempting incidents involving small packages from a reporting requirement would disrupt the continuity of RSPA's existing data base, and limit its ability to make comparative safety analyses and evaluate the record of the proposed performance packaging standards.

Finally, the current reporting criteria do not, either in the aggregate or in terms of individual carriers, constitute an excessive economic or administrative burden to the transportation industry. The reduction in the costs to carriers that would result from eliminating the current requirement to report all incidents involving non-bulk hazardous materials packages would not exceed $336,000 annually. This is not an excessive cost when shared by the thousands of companies engaged in the

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transportation of hazardous materials. Moreover, several of the commenters to the ANPRM who were opposed to changing the current reporting criteria pointed to several "benefits" that might be lost through the elimination of the current requirement to report all hazardous materials incidents. These benefits include such things as tracking the prospective performance record of the packaging standards associated with Docket HM-181; facilitating the effectiveness of the compliance and inspection programs of Federal, state and local agencies; and improving the decisionmaking process of DOT's operating administrations. These "benefits", while almost impossible to quantify in dollar terms, would not have to be very large before they would annually exceed $336,000 and the information obtained would begin to pay for itself. This figure is close to the average socioeconomic benefit RSPA associates with the avoidance of a single serious injury resulting from a hazardous materials incident. RSPA believes that the benefits of continuing with the current reporting criteria (and even incrementally strengthening its information collection efforts, as discussed later) exceed the costs.

The principal reason cited by the commenters who supported the idea that the current criteria should be changed so as to reduce the number of incidents reported is that the criteria result in the reporting of "tiny" or "insignificant" spills of hazardous materials. This viewpoint, however, misconstrues two of the primary purposes behind the current reporting criteria. In terms of the current reporting criteria, knowing that a particular package failed in transportation—regardless of whether the package resulted in the spillage of an ounce, 55 gallons, or more than 100 gallons of hazardous materials—is fundamental to RSPA's regulatory safety program. RSPA is concerned with minimizing the likelihood that packages containing hazardous materials will fail in transportation, and it is, therefore, interested in package failure rates quite apart from the amount of material spilled. On the other hand, RSPA is also interested in knowing the amount of material that is spilled; and this includes small spills. Small spills may become large and serious spills under a variety of circumstances (e.g., late discovery, or if immediate and effective remedial action is not taken), and the knowledge obtained about small spills may be used to prevent large spills from occurring. For these reasons, RSPA also has a vital interest in knowing the full spectrum of spillage rates associated with hazardous materials packagings, and it does not view "spill size" as an appropriate criterion for exempting non-bulk packages from reporting requirements.

Although RSPA has decided not to propose changes to the current § 171.16 criteria for the submission of detailed hazardous materials incident reports, RSPA is proposing in this notice to amend § 171.15 to include three additional criteria for the immediate (telephonic) notification of RSPA of certain types of hazardous materials incidents. Under § 171.16(a), any incident satisfying the following proposed new criteria also would have to be the subject of a detailed hazardous materials incident report:

(1) The evacuation of one or more properties adjacent to the property on which the incident occurs.

(2) The closure or shutdown of one or more major transportation arteries or facilities for one hour or more.

(3) The forced deviation of an aircraft from its planned course, or its unscheduled landing.

The first type of incident for which it is proposed that RSPA be given immediate notification involves a reporting criterion that originally appeared in the ANPRM. There, it was suggested that all incidents involving the evacuation of people would require the submission of a detailed written report. Three of the commenters to the ANPRM opposed this reporting criterion. They contended that "evacuation" is a subjective decision of the person in charge at the scene of the incident, and such decisions may or may not be warranted. One commenter stated that if a hazardous material is spilled in a terminal area, the initial response of supervisory personnel is to clear the area until the material is identified, and that this action can be interpreted as an "evacuation" since people are removed from the immediate scene of the incident. This commenter also stated that when "evacuation," as the term is commonly interpreted, is warranted, it is highly probable that one of the other reporting criteria of § 171.15 will also have been met. Several other commenters, while not in apparent opposition to a reporting criterion involving "evacuation," stated that this term should be more clearly defined.

RSPA believes that information concerning the foregoing three proposed criteria, including "evacuations", is of intrinsic value to the proper carrying out of its legislative responsibilities and regulatory functions. Such information enables government agency personnel to effectively respond to requests for information from elected officials, the press, and the general public. Such information is not now readily available to RSPA. This is because, under the current incident reporting requirements, there is no specific criterion whereby carriers are required to provide RSPA with immediate notification of hazardous materials transportation events involving the proposed reporting criteria. Even when there is no actual spillage of a hazardous material, the events covered by the criteria can occur and have a significant social and economic impact on the local community. In these instances, it is not probable that one of the other reporting criteria of § 171.15 will also have been met; and even if they were met, there is no explicit requirement that information concerning evacuations be provided RSPA.

Explicitly including the events covered by the proposed criteria will also serve to add further content and meaning to § 171.15(a)(6), whereby each carrier, at the earliest practicable moment, is required to notify RSPA when a situation exists of such a nature that, in the judgment of the carrier, it should be reported as soon as practicable.

Changing the current incident report form F 5800.1.

The main question raised in the ANPRM concerning possible changes to the current incident report form was whether separate report forms should be developed for incidents involving bulk packages (e.g., rail tank cars, and cargo tanks) and non-bulk packages (e.g., 55 gallon drums). Roughly, half of the commenters were in favor of RSPA's developing two separate report forms; and half favored retaining the current report form but adding various new data fields. The current incident report form is designed to serve various purposes, but its main purpose is to provide a clear and concise understanding of the events characterizing an incident, especially the sequence of events leading to the failure of the package, and the resulting consequences of the packaging failure.

Those in favor of a separate incident report form for bulk and non-bulk packaging incidents noted that the current report form seems designed to reflect failure mechanisms primarily associated with small packagings. These commenters believed that a separate form should be developed for bulk packagings to more adequately reflect the accident conditions and failure mechanisms associated with bulk packagings. One commenter even

suggested that a separate incident report form might be desirable for each of the several modes, with each form tailored to describe the failure mechanisms unique to each mode.

RSPA has carefully evaluated these comments and has decided to continue to use only one report form for the reporting of incidents for all modes. RSPA does agree that there is a need for more and better descriptive statistics about hazardous materials incidents, and the causative and consequence factors involved with such incidents. RSPA believes that this objective can be best accomplished through appropriate changes in the format and information content of the current report form, and by requiring that all carriers involved in a hazardous materials incident provide assistance to DOT in any follow-up investigations or special studies which DOT might undertake in connection with the incident.

In addition to raising the question of whether a separate incident report form might be desirable for each of the several modes involved in a hazardous materials incident, the ANPRM requested comments on the clarity and usefulness of the data fields and organizational format of the current report form. While none of the commenters suggested deleting any of the information items contained in the current report form, several suggested that new data fields be added, or that existing data requirements be clarified.

Several commenters stated that data should be provided on the identity of the agencies and persons notified as a result of an incident, or the first responders arriving at the scene of an incident, including their addresses and telephone numbers. RSPA has decided not to include this data in its proposed change to the current report form. This type of information, while relevant to establishing the effectiveness of emergency response programs, is not, in itself, sufficient for this purpose. Describing all factors that characterize emergency response actions at the scene of a hazardous materials incident is more appropriately obtained through special studies specifically directed to this area.

One commenter stated that the hazardous materials identification number (i.e., UN number) and RQ (Reportable Quantity) number, if shown on the shipping paper, should be included in the report form. This suggestion has been adopted and is a part of the proposed new report form, since it will aid in the cross-referencing of hazardous materials incident reports.

One commenter stated the Environmental Protection Agency's generator, transporter, disposal facility and waste manifest numbers should be included as data fields on the report form. This information must currently be submitted along with the hazardous materials incident report form, by § 171.16(a)(1), which states that a copy of the hazardous waste manifest must be attached to the incident report form when the incident involves a hazardous waste.

One commenter suggested that the incident report form should explicitly differentiate between bulk and non-bulk packages. Although the current report form already provides a means of differentiating between bulk and non-bulk packaging (e.g., by requiring the identification of the DOT specification number of the package involved in the incident), the proposed new report form makes this differentiation even more explicit.

One commenter suggested that information be provided on the report form to indicate if the incident occurred while the package was being loaded or unloaded by shippers or consignees, as distinct from carriers; and that, in this situation, it is the shipper or consignee, rather than the carrier, who is required to submit the incident report. This suggestion represents a misunderstanding of the regulations. Section 171.16(a) requires the carrier to submit the incident report, whether or not the carrier was actually involved in the loading or unloading of the hazardous material. The incident reporting system is not intended to establish liability or facilitate settling insurance damage claims. Nor do incidents resulting from vandalism, or the negligence or actions of other parties, relieve carriers from the obligation to report incidents occurring during the course of transportation, including temporary storage incidental thereto. The current form provides, and the proposed new form would continue to provide, space for any remarks a carrier may wish to make concerning who was engaged in loading or unloading the package when the incident occurred.

One commenter suggested that the name, age, and social security number of the driver of the vehicle, or person loading or unloading the vehicle, be included in all incident reports. Although RSPA does not agree that this information is useful in all cases, the proposed change to the current incident report would capture some of this information when the incident involves a motor carrier accident.

Finally, the suggestion by one commenter that weather conditions at the time of the incident (e.g., temperature) be indicated on the report form is being adopted in part by RSPA, since many hazardous materials can be extremely sensitive to temperature variations.

Incident Reporting Requirements: Specific Proposed Revisions.

Sections 171.15(a) and 175.45(a) would be amended to require the immediate (i.e., as soon as practicable) notification of RSPA of incidents involving the evacuation of one or more properties adjacent to the property on which the incident occurs. If people in any residences or buildings adjacent to the private property on which the spill occurs are not evacuated, the incident does not require immediate notification.

Sections 171.15(a) and 175.45(a) would also be amended to require the immediate (i.e., as soon as practicable) notification of RSPA of incidents involving the closure shutdown of one or more major transportation arteries or facilities for one hour or more. Here, "major transportation arteries or facilities" include, at the minimum, interstate highways; bridges or tunnels providing access to interstate highways; airports where scheduled turbojet passenger operations are conducted; commercially navigable waterways; and railroad main line track.

Sections 171.15(a) and 175.45(a) would also be amended to require the immediate notification of RSPA of all incidents in which an aircraft is forced to deviate from its planned course, or is required to make an unscheduled landing.

In accordance with these proposed amendments, § 175.45(a)(7) would also be deleted. Currently, if an aircraft operator conforms to the provisions of § 175.45, the carrier requirements of § 171.15, except § 171.15(c), are deemed to have been satisfied. Under the proposed amendments, aircraft operators would be required to notify both RSPA and the Federal Aviation Administration (FAA) of those incidents meeting the proposed reporting criteria of § 171.15(a).

RSPA recognizes that the proposed wording for these reporting requirements may not exhaustively cover all situations, but believes that the information required is sufficient to include most significant incidents.

The current 15-day period for submitting incident report forms would be increased to 30 days to provide more time for gathering data and completing the report form as accurately as possible.

A new section—§ 171.21, Assistance in Investigations and Special Studies—is

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proposed. This proposed section would require that all hazardous materials carriers make all records and information pertaining to any incident available to an authorized representative of the Department of Transportation upon request, and provide such representative all reasonable assistance in the investigation of any incident or studies involving such incidents. To further assist in these investigations and special studies, § 171.16 would be revised to require all carriers to maintain a copy of each incident report for a period of two years, at the carrier's principal place of business.

Incident Report Form: Proposed Changes

In general, RSPA has sought to retain as many features as possible of the current report form (DOT Form F 5800.1), not only because many of the data fields on the current form have been found essential and useful, but also because of the wide experience and familiarity the industry has had in its use. However, the report form has been reorganized for purposes of grouping the information into two major analytic/descriptive categories. Parts I through V of the proposed form generally pertain to conditions prevailing both immediately before and after the incident. Parts VI and VII pertain to information specific to the package or packages that failed in transportation, and the nature of that failure (a better understanding of how these parts of the proposed new incident report form interrelate can be gained by referring to Illustration 1 provided at the end of this document). The apparent increase in the length of the proposed form is largely due to an expansion of *choices* that those submitting the report have available to describe the nature of the incident. This is particularly the case with Part VII: Description of Packaging Failure. Since there are only 17 specific options available in the curent report form to describe the nature of the packaging failure, this information is often recorded in an unsystematic manner in the "Remarks" part of the report form. This has to be carefully reviewed by RSPA personnel to be sure of entering the correct data into the data base. The proposed report form provides 50 choices, systematically organized, to describe the nature of the packaging failure. Similar expansions of the choices available to describe the nature of a hazardous materials incident are contained in Part IV, item G, and Part V, items E and I of the proposed report form. RSPA believes these changes will facilitate the proper completion of the report form by carrier personnel and significantly reduce the amount of time necessary for RSPA to review and enter the data into its computerized data base. The proposed form will facilitate analyzing failure causes associated with hazardous materials incidents—which is the primary purpose behind the proposed changes to the incident report form.

It should also be noted that the proposed report form would not require information pertaining to what party issued the shipping papers accompanying the hazardous materials shipment. Also no longer required would be the trade name of the hazardous material involved in the incident; this information, while useful, is not considered essential to RSPA analysis and planning functions.

Since the majority of the information items on the proposed report form are not new and are self-explanatory, the following discussion focuses on those proposed changes RSPA considers to be significant or to require special emphasis.

In Part I, Description of Carrier, Company, or Individual Reporting, item C, information would be required on the reporting "code" or "number," if any, of the carrier submitting the incident report. In the case of motor carriers, the Federal Highway Administration (FHWA) issues each motor carrier under its jurisdiction a unique "census number," which is to be used if the carrier is involved in an accident meeting the reporting criteria for the FHWA. A similar carrier identification system (i.e., an alphabetical code) is in effect for the reporting of accidents to the Federal Railroad Administration (FRA), the U.S. Coast Guard (USCG), and the Federal Aviation Administration (FAA). This information is needed by RSPA for purposes of cross-referencing, checking and utilizing accident information on hazardous materials carriers which are also responsible for the reporting of accidents (which may or may not involve the spill of a hazardous material) to the modal administrations of DOT. Since this information is already required of carriers, no additional data burden is being imposed on the industry.

In Part III, Hazardous Material(s) Spilled, item C, information would be required on the identification number of the hazardous materials(s) spilled. For example, if the hazardous material involved in the incident is "Gasoline," the identification number of Gasoline is "UN 1203." The identification number for a hazardous material involved in an incident can be found on the shipping paper accompanying the material or from the Hazardous Materials Table at 49 CFR § 172.101, Column 3A.

In Part IV: Consequences of Spill, several things need to be emphasized. First, information would be required on the number of persons killed or injured as a result of the hazardous material(s) involved. If a fatality or injury resulted from a collision, and not from the release of the hazardous material, then "none" would be entered in the space provided. Second, concerning items E. and F. of Part IV (i.e., the number of people evacuated and estimated loss or property damage resulting from the spill), RSPA does not expect that these numbers will be exact. However, as previously mentioned, RSPA is proposing to change the current 15-day reporting period to 30-days. Within this time frame, much better estimates of the consequences of a spill should be available to carriers than was true in the past. The carriers should be able to obtain this information from police and newspaper reports and insurance and damage claim records.

Items F and G of Part V, Description of Incident, are closely related. If the spill was the result of a vehicle accident (e.g., collision with another vehicle, derailment, overturning while in transit), RSPA is proposing to require that a copy of all additional Federal report forms associated with the accident/incident be submitted, along with the hazardous materials incident report form. For example, if a motor carrier involved in a hazardous materials incident is also required to file a motor carrier accident report with the Federal Highway Administration a copy of that accident report form would have to be attached to the hazardous materials incident report form. It should be noted that this proposed requirement pertains only to vehicle accidents that result in a spill of hazardous materials. Copies of other Federal accident reports would not be required for vehicle accidents that do not result in a spill of the hazardous material. Copies of other Federal accident reports also would not be required for spills that were not the result of a vehicle accident. This proposed requirement complements the current requirement in § 171.16(a)(1) that a copy of the hazardous waste manifest must be attached to the incident report form when the incident involves a hazardous waste; and the current requirement of § 171.45(c), that a separate copy of incidents involving aircraft be sent to an FAA Civil Aviation Security Office. This information would be required, at little or no cost to the industry, in lieu of

developing a separate incident report form tailored to the hazardous materials package/incident environment unique to each mode. It will also aid in ensuring consistency and uniformity of the information obtained, and significantly benefit future safety analyses devoted to special conditions peculiar to each mode.

Part VI: Packaging Information; Part VII, Description of Packaging Failure. These two parts of the proposed report form are also closely tied together; their basic purpose is to identify the *number* and *type* of packages which resulted in a spill of hazardous materials, and the specific causes associated with each package that failed.

Other than providing more examples and clarifications of the information required, Part VI of the proposed report form is essentially the same as the current report form. As with the current form, columns a, b, and c may be used to convey a variety of information. The report form can convey the details of as many as three different types of packages that failed; or three packages of the same type but of different capacities; or three packages of the same type and size but made by three different manufacturers; or three different categories of packages involving numerous failure, with each category involving the same type of package and the same general failure mechanisms.

A brief example will serve to illustrate these matters. Suppose that an incident involved a shipment of hazardous materials in 40 DOT-12B fiberboard boxes, containing 4 glass jars per box; and due to the improper blocking of other freight, 4 boxes were crushed and 16 jars were cracked, spilling their contents. Then, in item A of Part VI, type of packaging from which material escaped, the entries would be "glass jar" in column a, and "fiberboard box" in column b. In item C, number of packages of same type which failed in identical manner, the entries would be "16" in column a, and "4" in column b. In item D, number of packages of same type in shipment, the entries would be "160" in column a, and "40" in column b. As this example indicates, columns a and b (and c, if necessary) may be used to indicate the details associated with failures involving multilayered packages (e.g., glass jars within fiberboard boxes). If columns a, b, and c are not adequate to describe the number of packages involved in the spillage of hazardous materials, then a separate sheet, or sheets, must be attached to the report form to provide the packaging information required by Parts VI and VII.

Part VII of the proposed report form expands the choices available to describe the failure mechanisms of the packages involved in an incident, and is expected to facilitate the accurate filling out of the report form, and to improve the analyses of packaging failures. With the current report form, ambiguities arise concerning the attribution of failure causes when an incident involves more than one package. The proposed form should obviate this problem.

The failure mechanisms associated with each package identified in columns a, b, and c of Part VI of the report form are to be identified in the corresponding columns a, b, and c of Part VII. Continuing with the example given above of glass bottles in 12B boxes crushed because of improper blocking, in item A.12. of Part VII, action causing packaging failure, improper blocking, the blocks under columns a and b would be marked to indicate this as a failure cause common to both packages involved in the incident; the same would be done for item B.1., object causing damage, other freight. In item C, how package(s) damaged, under column a, then block cracked would be marked, and under column b, the block crushed would be checked. Item D, where package(s) damaged may or may not be applicable in this example, and can be taken to illustrate the fact that not all the failure cause categories appearing in Part VII need be checked; nor are they intended to provide an exhaustive listing of how, where and why packagings can fail. In item E, what failed on package(s), "basic package material" seems to be the most appropriate descriptive term, and the "1" boxes under columns a and b would be checked.

Part VIII, Remarks. This part of the proposed report form is essentially the same as the current form, with one exception. Whereas the current form states that photographs and diagrams of the incident should be submitted when necessary for clarification, the proposed report form requires the submission of photographs of damage to packagings and a brief description of the incident when the incident involves bulk packaging such as portable tanks, rail tank cars or tank trucks, *and* the incident results in a fatality or an injury due to the hazardous material. The need for this type of information is based on the fact that since incidents involving fatalities and injuries requiring hospitalization are relatively rare events, it is important to obtain as much information concerning such events as is practicable. Photographs are one way to obtain such information. RSPA does not believe that this proposed requirement would impose a significant burden on industry. For one thing, incidents of such a nature usually result in photographs being produced for liability and insurance claims purposes. Furthermore, over the past 15 years, the number of incidents involving fatalities have averaged only 14 per year, with the largest number of such incidents never having exceeded 23. At the same time, RSPA currently receives approximately 75 photographs per year of incidents of all types, as a result of the present wording in the report form on this subject. Many, if not all, of these incidents include the incidents for which RSPA is now proposing that photographs be required to be submitted, in addition to the report form.

Administrative Notices

A. Paperwork Reduction Act

This proposed rulemaking contains information collection requirements in the following sections: Sections 171.15 and 171.16 and a new proposed § 171.21. These requirements will be submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980 (44 U.S.C., Chapter 35).

B. Executive Order 12291

This proposed rule does not meet the criteria specified in section 1(b) of Executive Order 12291 and is, therefore, not a major rule; however, it is a significant rule under the regulatory procedures of the Department of Transportation (44 CFR 11034). This proposal rule does not require a Regulatory Impact Analysis, or an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). A regulatory evaluation is available for review in the Docket.

C. Impact on Small Entities

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires a review of certain rules proposed after January 1, 1981, for their effects on small businesses, organizations, and governmental bodies. I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification is subject to modifications as a result of the review of comments received in response to this proposal.

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List of Subjecta

49 CFR Part 171

General information, Regulations, Definitions.

49 CFR Part 175

Hazardous material transportation, Air carriers.

In consideration of the foregoing, 49 CFR Part 171 and Part 175 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for Part 171 would continue to read as follows:

Authority: 49 U.S.C. 1802, 1803, 1804, 1808; 49 CFR Part 1, unless otherwise noted.

2. In § 171.15, paragraph (a)(6) would be revised and paragraphs (a)(7), (a)(8) and (a)(9) would be added to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) * * *

(6) One or more properties adjacent to the property on which the incident takes place are evacuated.

(7) One or more major transportation facilities are closed or shut down for one hour or more.

(8) An aircraft is forced to deviate from its planned course, or is required to make an unscheduled landing.

(9) A situation exists of such a nature that, in the judgment of the carrier, it should be reported in accordance with paragraph (b) of this section, even though it does not meet the criteria of paragraph (a)(1), (2), or (3) of this section; e.g., a continuing danger to life exists at the scene of the incident.

* * * * *

3. In § 171.16, paragraph (b) and the first sentence in paragraph (a) would be revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

(a) Each carrier who transports hazardous materials shall report in writing, in duplicate, on DOT Form F 5800.1 to the Department within 30 days of the date of discovery, each incident that occurs during the course of transportation (including loading, unloading, or temporary storage) in which, as a direct result of the hazardous materials, any of the circumstances set forth in § 171.15(a) occurs or there has been an unintentional release of hazardous materials from a package (including a tank) or any quantity of hazardous waste has been discharged during transportation. * * *

* * * * *

(b) Each carrier making a report under this section shall send that report to: Director, Office of Hazardous Materials Transportation (Attention: DHM-63), Research and Special Programs Administration, Department of Transportation, Washington, DC 20590; a copy of that report shall be retained at the carrier's principal place of business for a period of two years.

* * * * *

4. In Part 171, a new § 171.21 would be added to read as follows:

§ 171.21 Assistance in investigations and special studies.

(a) A carrier of hazardous materials must make all records and information pertaining to any incident available to an authorized representative or special agent of the Department of Transportation upon request. A carrier of hazardous materials must give an authorized representative or special agent of the Department of Transportation all reasonable assistance in the investigation of any incident.

(b) If the Department of Transportation makes an inquiry to a carrier of hazardous materials in connection with a study of incidents, the carrier must—

(1) Respond to the inquiry within 15 days after its receipt or within such other time as the inquiry may specify; and

(2) Provide a full, true, and correct answer to any questions included in the inquiry.

5. The incident reporting form (DOT Form F. 5800.1) would be revised to read as indicated below.

Note.—The Hazardous Materials Incident Report form will not be shown in the Code of Federal Regulations.

BILLING CODE 4910-60-M

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US Department of Transportation
Research and Special Programs Administration

HAZARDOUS MATERIALS INCIDENT REPORT

PURPOSE: The major purpose of this information is to support the assessment of hazardous materials packaging standards, and operating practices in hazardous materials transportation and temporary storage.

REQUIREMENTS: The regulations requiring reporting of hazardous materials incidents are contained in the Code of Federal Regulations, Title 49 Parts 100 to 199 (governing the transport of hazardous materials by rail, air, water and highway). Failure to comply with the reporting requirements contained therein can result in a civil penalty.

INSTRUCTIONS: Submit this report in duplicate to the Director, Office of Hazardous Materials Transportation, DHM-1, Research and Special Programs Administration, Department of Transportation, Washington, D.C. 20590. If space provided for any item is inadequate, complete that item under Section VIII, "Remarks," keying to the entry number being completed. Copies of this form, in limited quantities, may be obtained from the Director, Office of Hazardous Materials Transportation. Additional copies in this prescribed format may be reproduced and used, if on the same size and kind of paper.

I. DESCRIPTION OF CARRIER, COMPANY, OR INDIVIDUAL REPORTING

A. FULL NAME: _____. B. ADDRESS: _____.

C. LIST YOUR BMCS, MOTOR CARRIER CENSUS NUMBER, REPORTING RAILROAD, ALPHABETIC CODE, OR OTHER REPORTING CODE OR NUMBER (E.G., MERCHANT VESSEL ID#) HERE: _____.

II. SHIPMENT INFORMATION *(From Shipping Paper or Packaging)*

A. SHIPPER/ORIGIN:
1. Name: _____.
2. Address: _____.

B. CONSIGNEE/DESTINATION:
1. Name: _____.
2. Address: _____.

C. SHIPPING PAPER IDENTIFICATION NO.: _____

III. HAZARDOUS MATERIAL(S) SPILLED *(NOTE: REFERENCES TO SECTIONS ARE FROM 49 CFR.)*

A. PROPER SHIPPING NAME OF ITEMS (Sec. 172.101, Col 2): _____.

B. HAZARD CLASS (Sec. 172.101, Col. 3): _____.

C. IDENTIFICATION NUMBER (e.g., UN 2764, NA 2020): _____

IV. CONSEQUENCES OF SPILL:

A. ESTIMATED QUANTITY OF HAZARDOUS MATERIAL RELEASED (Indicate unit of measurement): _____.

B. NUMBER OF FATALITIES AS A RESULT OF SPILL: _____.

C. NUMBER OF INJURIES RESULTING IN HOSPITALIZATION AS A RESULT OF SPILL: _____.

D. NUMBER OF INJURIES NOT RESULTING IN HOSPITALIZATION AS A RESULT OF SPILL: _____.

E. NUMBER OF PEOPLE EVACUATED: _____.

F. ESTIMATED AMOUNT OF LOSS OR PROPERTY DAMAGE, INCLUDING COST OF DECONTAMINATION AND CLEAN-UP: _____.

1. PRODUCT LOSS: $_____.
2. CARRIER DAMAGE: $_____.
3. THIRD-PARTY PROPERTY DAMAGE: $_____.
4. DECONTAMINATION/CLEAN-UP: $_____.
5. OTHER: $_____.

G. WERE ANY OF THE FOLLOWING CONSEQUENCES ASSOCIATED WITH THE SPILL?
☐ VAPOR (GAS) DISPERSION ☐ FIRE ☐ ENVIRONMENTAL DAMAGE ☐ EXPLOSION ☐ OTHER _____

V. DESCRIPTION OF INCIDENT

A. TIME OF INCIDENT: Month: _____ Date: _____ Year: _____ Time: _____

B. ESTIMATED TEMPERATURE AT TIME OF INCIDENT: _____. C. LOCATION OF INCIDENT: City: _____ County: _____ State: _____ Route/Street: _____.

D. MODE: ☐ HIGHWAY-FOR-HIRE ☐ HIGHWAY-PRIVATE ☐ RAIL ☐ AIR ☐ WATER ☐ OTHER: _____

E. TRANSPORTATION PHASE DURING WHICH INCIDENT OCCURRED OR WAS DISCOVERED:
☐ ENROUTE BETWEEN ORIGIN/DESTINATION ☐ LOADING ☐ UNLOADING
☐ TEMPORARY STORAGE (E.G., TRUCK TERMINAL, CONSOLIDATION TERMINAL) ☐ OTHER: _____

F. WAS THE SPILL THE RESULT OF A VEHICLE ACCIDENT? ☐ NO (SKIP G) ☐ YES (COMPLETE G)

G. ATTACH COPY OF ALL ADDITIONAL FEDERAL REPORTS REQUIRED TO BE FILED AS A RESULT OF THE ACCIDENT.

H. ESTIMATED SPEED OF VEHICLE AT TIME OF INCIDENT: _____.

I. INDICATE TYPE(S) OF VEHICLE(S) INVOLVED: ☐ TANK TRUCK ☐ VAN TRUCK/TRAILER
☐ FLAT BED TRUCK/TRAILER ☐ RAIL TANK CAR ☐ BOX CAR ☐ BARGE ☐ OTHER MARINE VESSEL
☐ AIRCRAFT ☐ OTHER: _____

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VI. PACKAGING INFORMATION: If the package is multilayered (e.g., glass jars within a fiberboard box), begin with Column I for information on the innermost package.

	PACKAGE(S) a	b	c
A. TYPE OF PACKAGING INCLUDING INNER RECEPTABLES (STEEL DRUM, FIBERBOARD BOX, CYLINDER, RAIL TANK CAR, TANK TRUCK, JAR) FROM WHICH MATERIAL ESCAPED.	____	____	____
B. CAPACITY OR WEIGHT PER UNIT (55 GALLONS, 65 LBS., ETC.)	____	____	____
C. NUMBER OF PACKAGES OF SAME TYPE WHICH FAILED IN IDENTICAL MANNER.	____	____	____
D. NUMBER OF PACKAGES OF SAME TYPE IN SHIPMENT.	____	____	____
E. DOT SPECIFICATION NUMBER(S) ON PACKAGE (E.G., 11P, 17E, 3AA, MC-310, 105A100, 1A1, 1H1). IF NO SPECIFICATION NUMBER(S) CAN BE FOUND, ENTER "NONE," AND DESCRIBE PACKAGE IN REMARKS SECTION.	____	____	____
F. IF SHIPPED UNDER DOT OR USCG SPECIAL PERMIT OR EXEMPTION, ENTER PERMIT OR EXEMPTION NUMBER.	____	____	____
G. SHOW ALL OTHER DOT PACKAGING MARKINGS (E.G., STC, 18/16-55-80).	____	____	____
H. NAME, SYMBOL, OR REGISTRATION NUMBER OF PACKAGING MANUFACTURER.	____	____	____
I. SHOW SERIAL NUMBER OF CYLINDERS, CARGO TANKS, TANK CARS (E.G, GUTX 98765), PORTABLE TANKS.	____	____	____
J. TYPE DOT LABEL(S)/PLACARDING APPLIED.	____	____	____
K. IF RECONDITIONED OR REQUALIFIED, SHOW:			
1. REGISTRATION NUMBER OR SYMBOL; AND			
2. DATE OF LAST INSPECTION.	____	____	____

VII. DESCRIPTION OF PACKAGING FAILURE: *(Check all applicable boxes for the package(s), identified above.)*

A. ACTION CAUSING PACKAGING FAILURE

	a	b	c	
1.	☐	☐	☐	VEHICLE COLLISION
2.	☐	☐	☐	VEHICLE OVERTURN
3.	☐	☐	☐	DROPPED
4.	☐	☐	☐	STRUCK/RAMMED
5.	☐	☐	☐	METAL FATIGUE
6.	☐	☐	☐	CORROSION
7.	☐	☐	☐	INCOMPATIBLE MATERIALS
8.	☐	☐	☐	FIRE/HEAT
9.	☐	☐	☐	FREEZING
10.	☐	☐	☐	OVERLOADING/OVERFILLING
11.	☐	☐	☐	IMPROPER LOADING
12.	☐	☐	☐	IMPROPER BLOCKING
13.	☐	☐	☐	FRICTION/RUBBING
14.	☐	☐	☐	LOOSE FITTINGS, VALVES
15.	☐	☐	☐	DEFECTIVE FITTINGS, VALVES
16.	☐	☐	☐	VANDALISM
17.	☐	☐	☐	OTHER _____

B. OBJECT CAUSING DAMAGE

	a	b	c	
1.	☐	☐	☐	OTHER FREIGHT
2.	☐	☐	☐	FORKLIFT
3.	☐	☐	☐	NAIL/PROTRUSION
4.	☐	☐	☐	OTHER VEHICLE
5.	☐	☐	☐	WATER
6.	☐	☐	☐	GROUND/FLOOR/ROADWAY
7.	☐	☐	☐	ROADSIDE OBSTACLE
8.	☐	☐	☐	NO APPARENT DAMAGE (BY OTHER OBJECT)
9.	☐	☐	☐	OTHER _____

C. HOW PACKAGE(S) DAMAGED

	a	b	c	
1.	☐	☐	☐	PUNCTURED
2.	☐	☐	☐	CRACKED
3.	☐	☐	☐	BURST (FROM INTERNAL PRESSURE)
4.	☐	☐	☐	RIPPED
5.	☐	☐	☐	CRUSHED
6.	☐	☐	☐	RUBBED THROUGH/ABRADED
7.	☐	☐	☐	OTHER _____

D. WHERE PACKAGE(S) DAMAGED (FACING DIRECTION OF TRAVEL)

	a	b	c	
1.	☐	☐	☐	END, FORWARD
2.	☐	☐	☐	END, REAR
3.	☐	☐	☐	SIDE
4.	☐	☐	☐	BOTTOM
5.	☐	☐	☐	TOP
6.	☐	☐	☐	OTHER _____

E. WHAT FAILED ON PACKAGE(S)

	a	b	c	
1.	☐	☐	☐	BASIC PACKAGE MATERIAL
2.	☐	☐	☐	VALVE
3.	☐	☐	☐	FITTING
4.	☐	☐	☐	CLOSURE
5.	☐	☐	☐	CHIME
6.	☐	☐	☐	WELD
7.	☐	☐	☐	SEAMS
8.	☐	☐	☐	HOSE
9.	☐	☐	☐	TANK HEAD
10.	☐	☐	☐	INNER LINER
11.	☐	☐	☐	OTHER _____

VIII. REMARKS: Describe probable sequence of events that led to incident, action taken at time discovered, and action taken to prevent future incidents. Include any recommendations to improved packaging, handling, or transportation of hazardous materials. For BULK PACKAGING (PORTABLE TANKS, TANK CARS, TANK TRUCKS, ETC.) INCIDENTS RESULTING IN A FATALITY OR INJURY REQUIRING HOSPITALIZATION DUE TO THE HAZARDOUS MATERIAL, photographs of damage to packaging, and a brief description of incident sequence, cause, and results, must be submitted.

A. NAME OF PERSON PREPARING REPORT (Type or Print): _____. B. SIGNATURE: _____.

C. TELEPHONE NUMBER (Include Area Code): _____. D. DATE REPORT PREPARED: _____.

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PART 175—CARRIAGE BY AIRCRAFT

6. The authority citation for Part 175 would continue to read as follows:

Authority: 49 U.S.C. 1803, 1804, 1805, 1807, 1808; 49 CFR Part 1, unless otherwise noted.

7. In § 175.45, paragraphs (a)(6) and (a)(7) would be revised and paragraphs (a)(8) and (a)(9) would be added, and the first sentence of paragraph (c) would be revised to read as follows:

§ 175.45 Reporting hazardous materials incidents.

(a) * * *

(6) One or more properties adjacent to the property on which the incident occurs are evacuated.

(7) One or more transportation facilities are closed or shut down for one hour or more.

(8) An aircraft is forced to deviate from its planned course, or is required to make an unscheduled landing.

(9) A situation exists of such a nature that, in the judgment of the carrier, it should be reported to the Department even though it does not meet the criteria of paragraph (a)(1), (2), or (3) of this section, e.g., a continuing danger to life exists at the scene of the incident.

* * * * *

(c) Each operator who transports hazardous materials shall report in writing, in duplicate, on DOT Form F 5800.1 within 30 days of the date of discovery, each incident that occurs during the course of transportation (including loading, unloading, or temporary storage) in which, as a direct result of the hazardous materials, any of the circumstances set forth in paragraph (a) of this section occurs or there has been an unintentional release of hazardous materials from a package.

* * *

* * * * *

Issued in Washington, DC on March 23, 1987, under the authority delegated in 49 CFR Part 1, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

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