



U.S. Department
of Transportation
**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

APR - 1 2004

The Honorable Ellen G. Engleman-Conners
Chairman
National Transportation Safety Board
Washington, DC 20594

Dear Chairman Engleman-Conners:

This letter addresses the National Transportation Safety Board's Safety (NTSB) Recommendations H-92-6, H-99-58, R-89-52, and I-01-01 issued to the Research and Special Programs Administration (RSPA).

On December 3, 2003, RSPA published a final rule under Docket HM-229 to revise the incident reporting requirements of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the hazardous materials incident report form, Form DOT F 5800.1. The final rule is effective July 1, 2004 (copy enclosed). We initiated the rulemaking to increase the usefulness of data collected for risk analysis and management by government and industry; address the above NTSB recommendations; and, where possible, provide relief from regulatory requirements. The major changes adopted in the HM-229 final rule include: (1) collecting more specific information on the incident reporting form; (2) expanding reporting exceptions; (3) expanding reporting requirements to persons other than carriers; (4) reporting undeclared shipments of hazardous materials; and (5) reporting non-release incidents of cargo tanks.

The Board's recommendations and our actions to address the recommendations are detailed in the following paragraphs:

H-92-6

RSPA implement, in cooperation with FMCSA, a program to collect information to identify patterns of cargo tank equipment failures, including reporting of all accidents involving a DOT specification cargo tank.

RSPA Action:

In the HM-229 final rule, we revised §171.16 to require a Hazardous Material Incident Report to be submitted when a specification cargo tank with a capacity of 1,000 gallons or greater suffers structural damage to the lading retention system or damages that require repair to a system intended to protect the lading retention system, even if there is no release of hazardous material. We therefore request that you classify recommendation H-92-6 as "Closed-Acceptable Action."

H-99-58

Require that a hazardous materials incident meeting the immediate notification requirements in 49 CFR 171.15 be reported within a specific time period to federal authorities.

RSPA Action:

In the HM-229 final rule, we revised §171.15 to require each person in physical possession of a hazardous material to provide notice by telephone of the occurrence of a reportable incident as soon as practical, but no later than 12 hours after the occurrence of the incident. A reportable incident is one that results in: (1) a fatality; (2) an injury requiring admittance to a hospital; (3) an evacuation of the general public for one hour or more; (4) closure of a major transportation artery or facility for one hour or more; (5) alteration of the operational flight pattern or routine of an aircraft; (6) fire, breakage, spillage, or suspected radioactive contamination involving a radioactive material; (7) fire, breakage, spillage, or suspected contamination involving an infectious substance other than a diagnostic specimen or regulated medical waste; (8) release of a marine pollutant in a quantity exceeding 450 L (119 gallons) for a liquid or 400 kg (882 pounds) for a solid; or (9) a situation of such a nature (e.g., a continuing danger to life exists at the scene of the incident) that, in the judgment of the person in possession of the hazardous material, the incident should be reported even though it does not meet the specific reporting criteria. Based on this revision to the telephonic reporting requirements, we request that you classify recommendation H-99-58 as "Closed-Acceptable Action."

R-89-52

Establish procedures that require carriers reporting hazardous materials incidents under 49 CFR Part 171.16 to notify shippers whose hazardous materials shipments are involved.

RSPA Action:

We agree that there are benefits to shippers being made aware of incidents involving their packages; however, we do not believe it is appropriate to impose the burden of notification on persons required to report incidents to DOT. RSPA is working with the Federal Aviation Administration (FAA) to develop a system to electronically share information concerning incidents, discrepancies, inspections, enforcement, exemptions, and registrations. This will assist in the identification and analysis of problems and trends related to transportation of hazardous material and will be used to notify shippers, or others, when problems become evident. Until this system is developed and implemented, FAA will provide copies of incidents related to the air mode to the relevant shippers, and RSPA, working with the modal administrations, will provide selective notification of incidents to shippers and make incident report information generally available on RSPA's website. Based on these actions, we request that you classify recommendation R-89-52 as "Closed-Acceptable Alternative Action."

I-01-01

Develop and implement policies and procedures to ensure that comprehensive reports concerning all significant failures of U.S. Department of Transportation specification tank cars, highway cargo tanks, and intermodal bulk containers containing hazardous materials are provided to the Research and Special Programs Administration.

RSPA Action:

In the HM-229 final rule, we revised §171.16 to require more detailed information on packaging failures, including failures of bulk packagings such as rail tank cars, highway cargo tanks, and intermodal bulk containers. The revised form will enable us to collect more specific packaging information for each reported incident. For example, the revised form requires the person submitting the report to identify the specific packaging that failed and indicate the component of the packaging that failed, how it failed, and what caused the failure. In addition, the report form includes information on the manufacturer, material of construction, manufacture date, most recent test date, and, where applicable, design and service pressure. Based on the revisions to the written report form, we request that you classify recommendation I-01-01 as "Closed-Acceptable Action."

We thank you for consideration of our request. If you have any questions, please contact me, or you may call James Wiggins, Director, Office of Policy and Program Support, at (202) 366-4831.

Sincerely yours,



Samuel G. Bonasso
Deputy Administrator

Enclosure