

MAY 5 1992

Mr. Travis P. Dungan
Administrator
Research and Special Programs Administration
Department of Transportation
Washington, D.C. 20590



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Dear Mr. Dungan:

Thank you for your letter of February 6, 1992, regarding four open safety recommendations (I-85-11, R-87-17, R-89-52, and I-80-1) related to the transportation of hazardous materials.

Safety Recommendation I-85-11 urged the Research and Special Programs Administration (RSPA) to revise the hazardous materials regulations to clearly describe shipper responsibilities for performing a sufficient analysis to determine that the materials shipped are compatible with the packaging materials, and that particular emphasis be given to the unique hazards of waste materials. The National Transportation Safety Board notes that as a result of the new classification system and performance-oriented packaging requirements promulgated under Docket HM-181, Title 49 CFR Section 173.24(e) now clearly describes shipper responsibilities for determining the compatibility of materials shipped with the packaging materials used in transportation:

. . . even though certain packagings are specified in this part, it is, nevertheless, the responsibility of the person offering a hazardous material for transportation to ensure that such packagings are compatible with their lading. . . . Hazardous materials may not be packaged or mixed together in the same outer packaging with other hazardous or nonhazardous materials if such materials are capable of reacting dangerously with each other.

Because of the positive action taken to clearly address shipper responsibilities with respect to cargo and packaging compatibility, Safety Recommendation I-85-11 is classified as "Closed--Acceptable Action."

Safety Recommendation R-87-17 requested that the RSPA revise 49 CFR Part 174, Subpart D, to require the placement of hazardous materials cars at a specified distance from the "end-of-the-train" rather than from the "occupied caboose." The Safety Board notes that the RSPA intends to evaluate the entire issue of car placement, and planned to address the recommendation in an Advance Notice of Proposed Rulemaking (ANPRM) in early 1992. However, the Safety Board remains concerned that with the increased use of cabooseless trains, the current wording could result in risk to a locomotive crew of a

train involved in a rear-end collision into a tank car. Further, the Board is also concerned about the length of time that it has taken the RSPA to act on this safety issue. In September 1989, the RSPA indicated it would address this recommendation through an ANPRM and the RSPA's latest response does not indicate any substantive progress. Pending further progress on this issue, Safety Recommendation R-87-17 remains classified as "Open--Unacceptable Response." The Safety Board encourages the RSPA to expedite regulatory action on this recommendation.

Safety Recommendation R-89-52 urged the RSPA to establish procedures that require carriers reporting hazardous materials incidents under the provisions of 49 CFR 171.16 to notify shippers whose hazardous materials shipments are involved. The Safety Board notes that the RSPA plans to develop an NPRM that includes a proposed provision to require all rail carriers to notify shippers whose tank cars are involved in an accident or an incident that results in the release of hazardous materials, and that after this initial effort, the RSPA will consider similar requirements for other modes of transportation. The Safety Board is pleased that the RSPA has reconsidered its position on this recommendation for the notification of shippers when their cargo is released in an incident, permitting the shippers the opportunity to develop corrective actions. Pending further action by the RSPA to address this issue, Safety Recommendation R-89-52 is classified as "Open--Acceptable Response."

Safety Recommendation I-80-1 requested that the RSPA amend 49 CFR 174.25 to include a requirement that the volume, in gallons, and the temperature at which the pressurized liquefied gases were loaded in tank cars be entered on bills of lading, waybills, and shipping orders. The Safety Board agrees that the RSPA's proposal to provide the volume based on a standard temperature of 60°F, which is uniformly used within the petrochemical industry, is a reasonable alternative to the recommended action. The Safety Board encourages the RSPA to expedite the proposal under Docket HM-166Y. Pending the completion of the regulatory action, Safety Recommendation I-80-1 is classified as "Open--Acceptable Alternate Response."

Sincerely,

Original Signed By
Susan Coughlin

Susan M. Coughlin
Acting Chairman

cc: Mr. Donald R. Trilling
Director
Office of Transportation Regulatory Affairs