



National Transportation Safety Board

Washington, D.C. 20594

Office of the Chairman

MAR 25 2002

Honorable Ellen G. Engleman
Administrator
Research and Special Programs Administration
Washington, D.C. 20590

Dear Ms. Engleman:

The Safety Board is interested in updating its official correspondence files on the status of safety recommendations issued to the Research and Special Programs Administration (RSPA) that remain in an "open" status. This letter addresses Safety Recommendations H-92-1, -2, -4, -5, and -6, stated below, which were issued to RSPA on March 20, 1992, as a result of the National Transportation Safety Board's hazardous materials special investigation report on cargo tank rollover protection. The status of each recommendation is discussed below.

H-92-1

Provide cargo tank manufacturers with specific written guidance about (a) the factors and assumptions that must be considered when calculating the loads on cargo tank rollover protection devices in determining compliance with existing Department of Transportation [DOT] performance standards; and (b) acceptable means to shield and protect the top-mounted closure fittings on all bulk liquid cargo tanks.

RSPA's April 20, 1993, reply to the Safety Board indicated that RSPA would provide guidance to the Truck Trailer Manufacturers Association and others on the issues outlined in the Board's recommendation. Accordingly, on June 3, 1993, the Board classified Safety Recommendation H-92-1 "Open—Acceptable Response" pending publication of such guidance.

H-92-2

Assist the Federal Highway Administration [FHWA] to evaluate the design of the rollover protection devices installed on all cargo tanks manufactured by the Acro Trailer Company and by New Progress, Incorporated, to determine if the cargo tanks comply with existing Department of Transportation standards.

RSPA's January 14, 2000, letter indicated that RSPA had assisted the FHWA in evaluating rollover protection devices installed on cargo tanks. Accordingly, on March 15, 2000, the Safety Board classified Safety Recommendation H-92-2 "Open—Acceptable Response" pending completion of the FHWA's efforts to locate nonconforming cargo tanks. To date, we have received no further response to H-92-1 or H-92-2.



H-92-4

Assist the Federal Highway Administration to improve the performance of the rollover protection devices on bulk liquid cargo tanks by promulgating performance standards for rollover protection devices that are based on the engineering modeling and analysis conducted in response to Safety Recommendation H-92-3.

H-92-5

Assist the Federal Highway Administration to improve the performance of the rollover protection devices on bulk liquid cargo tanks by phasing out from hazardous materials service the use of all cargo tanks that fail to meet the new performance standards promulgated in response to Safety Recommendation H-92-4.

RSPA's December 23, 1999, letter indicated that the agency planned future action to promulgate performance standards for rollover protection devices. However, on March 17, 2000, the Safety Board classified Safety Recommendations H-92-4 and -5 "Open—Unacceptable Response" because RSPA's action had not been timely and because the agency's response did not indicate that it was according these recommendations a high priority. The Board has received no update from RSPA since then.

H-92-6

Implement, in cooperation with the Federal Highway Administration, a program to collect information necessary to identify patterns of cargo tank equipment failures, including the reporting of all accidents involving a Department of Transportation specification cargo tank.

RSPA's May 7, 1999, letter indicated that the agency had published an advanced notice of proposed rulemaking to revise DOT form F 5800.1, "Hazardous Materials Incident Report," for the purpose of gathering more and better information when an incident occurs and to more accurately describe the patterns and causes of tank failures. Accordingly, on July 8, 1999, the Safety Board classified Safety Recommendation H-92-6 "Open—Acceptable Response" pending completion of RSPA's efforts to revise the hazardous materials incident report.

On October 10, 2001, the Safety Board provided comments to RSPA's notice of proposed rulemaking (NPRM) "Hazardous Materials: Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report Form," Docket No. RSPA-99-5013 (HM-229), which was published at 66 *Federal Register* (FR) 128 on July 3, 2001.

The Safety Board noted in its comments that RSPA was proposing to require that undeclared shipments of hazardous materials found in transportation be reported, that telephonic and written notification be improved, that a report be filed for any hazardous materials container

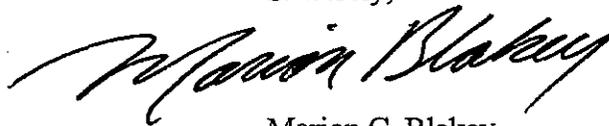
failure, that shippers be notified when a release involving their cargo occurs, and that information be collected that will help identify patterns of container and equipment failures. The Board supported RSPA's proposed requirements in each of these areas and noted that each of these requirements would serve to make the Hazardous Materials Information System database more effective and would satisfy the needs of RSPA and the transportation community. The Board noted, however, that RSPA's proposal that the maximum time limit for providing telephonic notification be 12 hours after the event was not adequate for investigative purposes and urged that the time limit be changed to within 2 hours after the event.

The Safety Board also expressed concern that the NPRM "Applicability of Hazardous Materials Regulations to Loading, Unloading, and Storage," Docket No. RSPA-98-4952 (HM-223), published at 66 FR 32420 on June 14, 2001, may result in the exclusion of most loading and unloading operations of tank cars, cargo tanks, and other bulk containers from the definition of "transportation" and, thereby, remove these operations from regulation under the DOT's hazardous materials regulations. Adoption of HM-223, in the Board's opinion, may limit the effectiveness of the proposals in HM-229 by excluding from RSPA reporting requirements those packaging failures that occur during loading and unloading operations.

Safety Recommendation H-92-6 remains classified "Open—Acceptable Response," pending completion of a final rule under HM-229.

The Safety Board would appreciate receiving an update from RSPA on its efforts to implement Safety Recommendations H-92-1, -2, -4, -5, and -6. A copy of the recommendation letter is enclosed for your reference. We look forward to hearing from you.

Sincerely,



Marion C. Blakey
Chairman

Enclosure

cc: Mr. Robert Clarke, Safety and Health Team Leader
Office of Transportation Policy Development