

REGULATIONS

**Monday
June 19, 1989**

Part II

**Department of
Transportation**

**Research and Special Programs
Administration**

**49 CFR Parts 171 and 175
Detailed Hazardous Materials Incident
Reports; Final Rule**

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 171 and 175**

[Docket No. HM-36B; Amdt. Nos. 171-101, 175-43]

RIN 2137-AA51

Detailed Hazardous Materials Incident Reports**AGENCY:** Research and Special Programs Administration (RSPA), Department of Transportation (DOT).**ACTION:** Final rule.**SUMMARY:** These amendments implement several changes to RSPA's system for collecting information on incidents involving the transportation of hazardous materials. Briefly, these amendments:

1. 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 consequence;

2. Require carriers to maintain a copy of the incident report forms submitted to RSPA for a period of two years;

3. Require an incident report form to be submitted to RSPA within 30 days of the date of the incident (the current reporting requirement is 15 days);

4. Expand the present requirement that RSPA be notified of certain events including evacuations, closure of major transportation arteries or facilities, unscheduled events involving aircraft transporting hazardous materials, and fires associated with shipments of radioactive materials.

5. Clarify the present requirement that RSPA be notified of certain events involving radioactive materials and etiological agents.

6. Require all carriers involved in a hazardous materials incident to provide assistance to an authorized representative of the Department of Transportation (DOT) in any subsequent investigations or special studies which DOT might undertake in connection with the incident.

EFFECTIVE DATE: January 1, 1990. The current (DOT F. 5800.1) form may be continued in use until the effective date of this rule. However, compliance with the regulations as amended is authorized immediately.**FOR FURTHER INFORMATION CONTACT:** Joseph S. Nalevanko, (202) 366-4484, Policy Development and Information Systems Division, or Marilyn E. Morris, (202) 366-4488, Standards Division.

Office of Hazardous Materials Transportation, 400 7th Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On March 16, 1984, RSPA published an advance notice of proposed rulemaking (ANPRM) in the Federal Register (49 FR 10048) which proposed to change the hazardous materials incident reporting requirements. On March 27, 1987, RSPA published a notice of proposed rulemaking (NPRM) in the Federal Register (52 FR 9996) inviting comments on several specific proposed changes to its system of collecting information on incidents involving the transportation of hazardous materials. These changes are intended to enhance the value of the incident report form (DOT F 5800.1) as a means for the DOT to evaluate the effectiveness of its regulatory program, and to determine the need for regulatory changes to address new or emerging hazardous materials transportation safety problems. It is also intended to facilitate and enhance the ease of completing the hazardous materials incident report form for those who are required to submit this form to DOT.

In response to the NPRM, RSPA received written comments from two government agencies and 13 members of the public. All comments have been considered in preparing this final rule. Significant changes in this final rule from the proposals published in the NPRM are discussed in detail below. Information contained in the Supplementary Information section of the ANPRM and NPRM is hereby incorporated in this final rule by reference, except as it may be superseded herein. The public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions and existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Systems Manager, Office of Hazardous Materials Transportation, DHM-63, Research and Special Programs Administration, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (2137-0039), Washington, DC 20503.

Summary of Changes From NPRM

In response to the comments received and reviewed by RSPA, the final rule reflects several changes to the proposals contained in the NPRM.

Section 171.15 Immediate Notice of Certain Hazardous Materials Incidents

The NPRM had proposed to amend § 171.15 (and § 175.45 concerning incidents involving aircraft) to include three additional criteria for the immediate (i.e., telephonic) notification of the Department of certain types of hazardous materials incidents.

The first of the criteria pertains to incidents involving the evacuation of one or more properties adjacent to the property on which the incident occurs. One commenter found the language of this proposed reporting requirement to be ambiguous. This commenter stated that an "airport is usually a contiguous property of many square miles and would presumably, therefore, not require the notification if evacuated," i.e., if people in one area of an airport were evacuated to another area of the airport, the notification presumably would not be required. In response to this comment, paragraph (a)(6) of § 171.15 has been reworded to eliminate references to adjacent properties. The language of the proposed rule implied incorrectly that the Department need not be immediately notified of incidents where, for example, the general public in one area of an airport were evacuated to another area of the airport, or even of instances in which people are evacuated from an airport to property or properties adjacent to the airport that, in turn, are not evacuated. This final rule clarifies that paragraph (a)(6) applies only to incidents resulting in evacuations of the general public that are the direct result of hazardous materials. The purpose of limiting the scope of this reporting requirement to evacuations of the general public is to preclude the reporting of events wherein the initial response of either emergency response or supervisory personnel is to clear an area until the presence and the nature of a hazardous material is identified and the scope of the public risk is more adequately defined. Several commenters suggested that this safety purpose could be more effectively accomplished by limiting the reporting requirement to evacuations lasting a certain length of time. RSPA agrees with these comments and has accordingly modified the reporting requirement to accommodate them. Incidents involving evacuations of the general public with a duration of less than one hour will not require the immediate notification of the Department. It should be noted that, as written, the final rule does not require the immediate notification of the Department if members of the general public are evacuated from an area on