

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