

reworded to clarify its intended scope and coverage.

*Section 171.16 Detailed Hazardous Materials Incident Reports*

The NPRM proposed to revise the hazardous materials incident report form—DOT F 5800.1—to provide more meaningful and comprehensive data on incidents, especially in terms of causation and consequence factors. In general, the proposed revision of the report form was designed to retain as many features as possible of the current report form, not only because many of the data fields on the current report form are essential, but also because of the wide experience and familiarity the industry has with this form. The improvement in the analytic usefulness of the form was accomplished by carefully and more logically reorganizing data fields and by providing a much broader array of choices to be marked as factors that best describe the nature of the incident. In the past, this type of information was largely provided by carriers who submitted lengthy narrative descriptions of the incident. RSPA believes that this change to the report form will significantly facilitate the completion of the form, provide a more systematic description of the incident, and decrease the time and effort involved in entering the information into RSPA's computerized incident data base. With one exception, all commenters favored a revision of the current incident report form.

A number of commenters suggested that several new data fields be added to the report form and that other proposed and existing data fields be clarified. These suggestions have been carefully evaluated and, where appropriate, have been incorporated into the report form (exhibit #1) and discussed in the guidance document for preparing the form (exhibit #2). For example, the new report form now requires those submitting the form to check the appropriate block that best describes the land use and the type of community at the site of the incident. On the other hand, the proposed data field pertaining to the estimated ambient temperature at the time of the incident has been deleted from the report form. RSPA believes that such estimates are not likely to be very accurate and will be duplicated by information requested elsewhere on the report form (e.g., instances of package failures due to heat or freezing).

Many commenters took exception to the proposed requirement that copies of other required reports be submitted to RSPA along with the incident report form. RSPA agrees and has deleted the

requirement accordingly. This action, however, does not affect the current requirement in § 171.16(a)(1) that a copy of the hazardous waste manifest be attached to the incident report form when the incident involves a hazardous waste; nor does it affect the current requirement in § 175.45(c) that, for incidents involving aircraft, a separate copy of the incident report form be sent to the FAA Civil Aviation Security Office nearest the incident.

The NPRM proposed to require that photographs be taken of the damage to packaging and accompany all report forms for all incidents resulting in a fatality or an injury requiring hospitalization caused by the release of a hazardous material from bulk packaging such as portable tanks, cargo tanks, rail tank cars (see § 171.8 for a precise definition of "bulk packaging"). Two commenters opposed this requirement. The American Trucking Association, Inc. (ATA) urged that photographs of incidents be furnished at the option of the carrier; the National Tank Truck Carriers Inc., (NTTC) believed that the proposed requirement that carriers assist the Department in any investigation or special studies relating to an incident (see discussion on § 171.21, *infra.*) would provide a better means for obtaining information on how a package failed than that provided by a photograph.

In light of these comments, RSPA has decided to retain the present language on the current incident report form that photographs and diagrams of the particulars of an incident should be, but are not required to be, submitted for clarification along with the report form itself.

Several commenters urged that RSPA give consideration to incorporating into Part 171 of 49 CFR, a specific set of instructions for completing Form 5800.1, in a manner similar to 49 CFR 394.20, which provides instructions for the preparation of the Motor Carrier Accident Report form MCS-50T. This suggestion has not been accepted. Currently, RSPA publishes a detailed, seven-page document entitled "Guidelines for Preparing Hazardous Materials Incident Reports." This guide is intended to assist carriers in accurately completing the hazardous materials incident report, Form 5800.1, and is available to the public upon request to the RSPA. In conjunction with this rulemaking, the guide has been extensively revised and expanded (see exhibit #2). RSPA's experience has shown that possible future revisions, clarifications and additional instructional assistance in completing

the incident report form are more easily accommodated and accomplished through a guidelines document than by incorporating such material into the body of the regulations. However, an informational note has been added at the end of § 171.16 to advise interested persons as to the availability of the guidelines free of charge upon request to RSPA.

The NPRM proposed that the current 15-day period for submitting incident report forms be increased to 30 days in order to provide more time to gather data and complete the report form as accurately as possible. Generally, commenters were either silent about this proposal or were in support of it. One commenter, however, urged RSPA to clarify the requirement that the information to be submitted within 30 days of the date of the incident be the best information available within 30 days. RSPA has not accepted this comment. Information that can reasonably be expected to be available within 30 days is, by definition, the best information available. No useful purpose is served by creating an implied distinction between the best information available and information that is less than the best. It is true that better information on the consequences of an incident, especially in terms of health effects or the estimated dollar amount of damage, may become available after 30 days. But RSPA has not proposed a requirement that carriers monitor the consequences of an incident beyond 30 days and subsequently submit this information to RSPA even though carriers on their own initiative may wish, and are encouraged, to do so.

This final rule also reflects two further revisions to § 171.16. The phrase "as a direct result of hazardous materials" has been deleted from § 171.16(a) as no longer applicable in view of the need to distinguish between incidents and consequences which are the "direct result of hazardous materials" and incidents involving the mere presence of hazardous materials. Section 171.16(a)(2) has been changed to reflect the fact that Part H of the current report (Form F 5800.1) has become section VIII in the revised report form.

The comments relating to the proposed change to § 171.16 concerning the requirement that carriers maintain a copy of each incident report for a period of two years are reviewed in the discussion under § 171.21 below, because this record retention requirement is related to the requirements of that section.