

**DEPARTMENT OF TRANSPORTATION****Research and Special Programs Administration****49 CFR Part 171****[Docket No. RSPA-99-5013 (HM-229)]****RIN 2137-AD21****Hazardous Materials: Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report Form; Correction****AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Final rule; response to appeals and correction.

**SUMMARY:** On December 3, 2003, RSPA published a final rule under Docket No. RSPA-99-5013 (HM-229) to update and clarify requirements in the Hazardous Materials Regulations applicable to incident reporting requirements and the Hazardous Materials Incident Report (HMIR) DOT Form F 5800.1. In response to appeals submitted by persons affected by the December 3, 2003 final rule, this final rule amends certain requirements, and makes minor editorial corrections. This final rule is effective January 1, 2005. The effective date for the final rule published on December 3, 2003 has been extended from July 1, 2004 to January 1, 2005.

**DATES:** *Effective Date:* This final rule is effective on January 1, 2005. The effective date for the final rule published on December 3, 2003 has been extended from July 1, 2004 to January 1, 2005. Only the revised DOT Form F 5800.1 (01-2004) specified in this final rule will be accepted for incidents occurring on or after January 1, 2005. Filers must use the previous DOT Form F 5800.1 (Rev 6/89) form for all incidents up to and including December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** T. Glenn Foster, (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, or Kevin Coburn, (202) 366-4555, Office of Hazardous Materials Planning & Analysis, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:****I. Background**

On December 3, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket HM-229 (68 FR 67746) revising incident reporting requirements of the

Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) and the Hazardous Materials Incident Report Form DOT F 5800.1. Specifically, the final rule:

- Revised the hazardous materials incident report form;
- Provided for electronic filing of incident reports;
- Established one-call reporting of hazardous materials incidents;
- Expanded reporting requirements to persons other than carriers;
- Expanded reporting exceptions;
- Provided criteria for telephonic notification;
- Provided criteria for updates to incident reports;
- Required reporting of undeclared shipments of hazardous materials;
- Required reporting of non-release incidents involving cargo tanks;
- Provided definitions of “Undeclared Hazardous Material” and “Unintentional Release”; and
- Eliminated redundant or unnecessary regulations. In addition, the December 3 final rule revised the HMR to address three recommendations from the National Transportation Safety Board (NTSB):

- Consistent with NTSB Recommendation H-92-6, established a program to collect information necessary to identify patterns of cargo tank equipment failures, including the reporting of all accidents involving a DOT specification cargo tank, with or without a release of hazardous materials.

- Consistent with NTSB recommendation R-89-52, set forth procedures being implemented to ensure there is feedback to shippers when an incident has occurred.

- Consistent with NTSB recommendation H-99-58, established a specific time period for reporting incidents meeting criteria in § 171.15 (telephonic notification).

**II. Appeals**

The following organizations and one individual submitted appeals to the December 3, 2003 final rule, in accordance with 49 CFR Part 106: The Air Transport Association (ATA-Air); the American Trucking Associations (ATA-Trucking); the Association of American Railroads (AAR); the National Propane Gas Association (NPGA); the National Tank Truck Carriers, Inc. (NTTC); the Petroleum Transportation & Storage Association (PTSA); and Mr. John V. Currie. The appellants expressed concern about several revisions included in the final rule. In addition, two appellants asked for a revision to the effective date of the final

rule. The issues raised by the appellants are discussed in detail below.

**A. Appeals Granted**

**Electronic Filing**—The December 3 final rule revised § 171.16 (b) to require each person reporting under this section to submit a written or electronic HMIR to the Information Systems Manager at the Research and Special Programs Administration. Mr. John Currie stated that as drafted, § 171.16(b)(1) could be interpreted to require both the submission of a written and electronic HMIR. We agree that the language is unclear and could lead to unnecessary submissions of duplicate reports. Therefore, in this final rule, we are adding the word “or” between the addresses for written and electronic submittal of the HMIR to clarify that either a written or electronic report must be submitted, not both.

**Revised Hazardous Materials Incident Form DOT F 5800.1**—The December 3 final rule revised the HMIR Form DOT F 5800.1 and instructions. AAR requested that RSPA reconsider eliminating certain required information on the HMIR that AAR considers unnecessary and difficult to obtain. AAR notes that, as drafted, the instructions following Item 23 instruct the filer to skip Part III “Packing Information” and proceed to Part IV, which AAR believes was not RSPA’s intent. However, if Part III is to be completed, AAR takes issue with two points related to Item 28, found in Part III. The first point is discussed here; the second point can be found under the “Appeals Denied” section of this document.

Item 28 requires the identification of the manufacturer and model number for any valve or device that failed on a tank car. AAR stated that this poses a problem if the specification plates containing this information are missing or obscured. The builder of the tank car may not be able to provide this information on the HMIR if subsequent owners or lessees have changed valves. Railroads would be compelled to rely on the efforts of car owners for this information in order to complete the required entry on the incident report form. This reliance on an outside party could jeopardize the thirty-day filing requirement. AAR believes RSPA should require this information to be clearly marked on valves and other devices at all times, if RSPA determines it is necessary.

We agree with AAR’s comment regarding reference to the guidance immediately following Item 23 of the HMIR. As drafted, the instructions omit Part III and instruct the filer to proceed

directly to Part IV for a hazardous materials incident, or a specification cargo tank 1,000 gallons or greater containing any hazardous material that received structural damage to the lading retention system that requires repair and did not have a release. This was not our intent. One of our objectives is to acquire accurate and complete data on incidents. In this final rule, we are removing the supplemental guidance immediately following Item 23 from the HMIR.

We also agree with AAR's concern regarding reporting the manufacturer and model number for any valve or device that failed on a tank car. In this final rule, we are retaining the requirement to specify the "type" of valve or device that failed during an incident. However, we are amending the requirement to provide the manufacturer and model number for any valve or device that failed on a tank to include the words "if present and legible."

#### B. Appeals Denied

*Effective Date of the Final Rule*—The December 3, 2003 final rule established the effective date of this rule as July 1, 2004. ATA-Air and ATA-Trucking request RSPA to reconsider the July 1, 2004 effective date. ATA-Air requests that RSPA allow carriers to begin complying with the new rules (other than those applicable to discoveries of undeclared hazardous materials) earlier than July 1, 2004. ATA-Air notes that many companies have pre-established training schedules and could begin their employees on the new requirements immediately. In addition, rather than expecting employees to retain the new incident reporting information for several months, the Association contends it would be beneficial to apply the training immediately. The appellant sees no potential concern if the carriers begin following the revised requirements earlier than currently required.

ATA-Trucking recommends that RSPA delay the effective date for 12 months following the publication of guidance implementing the electronic filing procedures and provide a three-month transitional period for the new system. The appellant states industry bears significant costs, including the revision of internal computer software and employee training, whenever an information requirement is revised. The appellant asserts the July 1, 2004 effective date would not provide industry adequate time to train its employees. In addition, this appellant notes the HM-229 NPRM called for the implementation of a variety of

electronic filing methods, including facsimile, electronic mail, and internet-based filing options. The appellant states the final rule does not provide for electronic filing. Instead, RSPA indicated that it is "in the process of developing the capability to allow electronic submission of the form and bulk transfer, and will issue an advisory notification upon completion." ATA-Trucking explains that, "\* \* \* depending upon the date electronic filing options go live, motor carriers will have to train their employees on the new form and then subsequently train them to implement the electronic filing options." The appellant contends this "\* \* \* will force industry to incur unnecessary training expenses." ATA-Trucking also believes "there should be a period of time (*i.e.*, three months) following the effective date, where the use of the existing HMIR form would result in a formal warning, rather than a notice of violation and civil penalty." The appellant believes a provision by RSPA "\* \* \* would help companies with multiple facilities train each potentially affected person," thus avoiding situations of non-compliance. The appellant notes that because most companies have already approved technical and informational projects for 2004 and finalized their 2004 capital budgets, it will be difficult to implement an informational change before the 2005 budget year. RSPA does not agree that we have not addressed electronic filing methods. We fully anticipate an operational electronic system by the effective date of the final rule, which, as previously stated, is the earliest date the revised form will be accepted. RSPA also recognizes that filers of the revised incident report may benefit from a tutorial phase for training purposes and orientation, and anticipates an interactive incident report form on our Web site prior to the effective date. This development will provide accessibility by filers and downloading capabilities of the revised form. In addition, RSPA is making available a dedicated facsimile phone line to facilitate this alternate reporting option. We are reconfiguring our computer software programs to accept electronic submissions via the Web site, and providing an electronic version of the form that can be completed, printed, and mailed or faxed to RSPA. Finally, a bulk transfer system is being developed to allow for batch transmittals of multiple incident reports. We reiterate that an advisory notification will be issued upon completion and availability of these alternate methods of incident report

filing. We do not agree that an immediate effective date, nor a delay of the effective date for 12 months following the publication of guidance implementing the electronic filing procedures with a three-month transitional period for the new system, is necessary, therefore these appeals are denied. However, we are extending the effective date until January 1, 2005 to provide companies with additional time for training and familiarization with the new HMIR. We reiterate that only the revised DOT Form F 5800.1 (01-2004) specified in this final rule will be accepted for incidents occurring on or after January 1, 2005. Filers must use the previous DOT Form F 5800.1 (Rev 6/89) form for all incidents up to and including December 31, 2004.

*Expansion of Reporting Requirements to Persons other than Shippers*—The December 3 final rule revised the HMR to expand the requirement to report incidents to the person in physical possession of a hazardous material at the time an incident occurs during transportation.

ATA-Trucking states that RSPA is "\* \* \* handcuffed by the jurisdictional decisions made in connection with the HM-223 rulemaking" and "\* \* \* has excluded unloading activities performed by non-carrier personnel from the scope of the hazardous materials incident reporting requirements." The appellant asserts that "\* \* \* RSPA's decision to exclude activities performed by the consignee will reduce the *quantity* of hazardous materials incident reports by RSPA." In addition, it states that "\* \* \* the *quality* of the information RSPA receives will be impacted, as the data will be over-weighted with packaging failures that occur during accidents, while the number of reports received from packaging failures that occur under normal conditions of transportation and are only discovered during the unloading process will be artificially under-weighted." RSPA's "\* \* \* decision to exempt consignees from the requirement to complete incident reports undermines the fundamental purpose of the Hazardous Materials Incident Reporting system, which is to collect meaningful data on the performance of DOT packaging standards under conditions normally incidental to transportation." ATA-Trucking recommends RSPA reconsider this aspect of the final rule and expand the hazardous materials incident reporting obligation to individuals responsible for the unloading of hazardous materials.

We disagree. The reporting requirements found in §§ 171.15 and 171.16 pertain to incidents that occur

during transportation, including storage incidental to transportation. The issues posed by the appellant concern whether incidents involving pre-transportation functions are reportable under §§ 171.15 and 171.16. While pre-transportation functions, such as shipper loading operations when a carrier is not present, are regulated under the HMR, they have not been and are not subject to the incident reporting requirements under this rulemaking because incidents related to pre-transportation functions occur prior to the beginning of transportation in commerce. Therefore, the status of reporting these pre-transportation functions has not been changed by either the HM-229 or HM-223 (68 FR 61905) final rules. Regarding our decision to exempt consignees from incident reporting, we point out that consignees have never been subject to incident reporting (except for consignees unloading rail cars in accordance with § 174.67). The clarifications in HM-223 are consistent with our long-standing interpretations of our statutory authority. In addition, we note that carrier reports, including reports by carriers involved in unloading hazardous materials at consignee facilities, are and have been sufficient to enable us to receive accurate information about packaging failures that occur during normal transportation operations. For these reasons, the ATA-Trucking's appeal concerning the expansion of reporting requirements to the person in physical possession of a hazardous material at the time an incident occurs in transportation is denied.

*Reporting Non-Release Incidents Involving Cargo Tanks*—The December 3 final rule requires an HMIR be submitted when a specification cargo tank with a capacity of 1,000 gallons or greater containing any hazardous material suffers structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system, even if there is no release of hazardous material. NTTC, ATA-Trucking, NPGA, and PTSA appealed this provision on the basis that it: (1) Is vague; (2) removes the certainty of whether to file an incident report; (3) could not be enforced in an equitable manner; and (4) places carriers in a compliance trap. The appellants recommend the provision either be deleted or modified to include a statement referencing damage requiring test and inspection of cargo tanks as set forth in § 180.407(b).

NTTC contends a product could be loaded into a cargo tank that was not designed for or otherwise suitable for the product, resulting in a compromise

of the lading retention system. In a second example, NTTC describes a carrier driver relinquishing control of the cargo tank to a shipper before the unit is staged for loading. Damage that may result from these activities might not be discovered for a considerable amount of time. NTTC does not believe RSPA addressed these concerns in the final rule and reiterates them in its appeal to this rulemaking. NTTC believes RSPA has unfairly and unwisely placed tank truck carriers in a "compliance trap" and wonders if tank truck operators will have to perform " \* \* \* detailed internal and external inspections of all lading retention systems after each 'near-miss'?" NTTC states RSPA justified this requirement by relying on a decade-old report by the NTSB (PB92-917220) and questions the relevancy of that report and recommendations. NTTC states the NTSB report contains only data of so-called "rollover" accidents involving cargo tank motor vehicles; all of the incidents in the report involved releases of hazardous materials in the environment and pertained to measurable specification shortages on vehicles that have previously been addressed by RSPA and the Federal Motor Carrier Safety Administration (FMCSA). NTTC states that if RSPA truly believes "accurate ('near miss' or 'close call') data will prevent safety gaps," as well as determine " \* \* \* how to allocate limited funds of the regulated community to provide the greatest safety benefits, RSPA would be remiss in not extending such reporting to all specification packagings." As an alternative, NTTC suggests the following modification: "A specification cargo tank with a capacity of 1,000 gallons or greater containing any hazardous material is damaged to the extent that it becomes subject to 49 CFR § 180.407(b)."

ATA-Trucking states that in addition to " \* \* \* artificially limiting the number of reports received from incidents discovered during unloading, RSPA has expanded the number of reports it will collect by expanding the incident reporting requirement to bulk cargo tanks that suffer certain damage that does not result in a release of hazardous materials." ATA-Trucking believes this "standard for reporting damage in the absence of a release is vague and will potentially lead to instances of non-compliance." ATA-Trucking supports the proposal crafted by NTTC. ATA-Trucking believes NTTC's proposal " \* \* \* would create objective reporting criteria and reduce instances of non-compliance resulting

from the uncertainty of whether to file an incident report" \* \* \* ATA-Trucking recommends RSPA eliminate the tank truck operator's obligation to file a hazardous materials report when no hazardous material has been released or in the alternative, amend § 171.16(a)(3) to reference § 180.407(b) as suggested by NTTC.

NPGA also " \* \* \* opposes the last portion of this provision and believes the collection of this incident information will not provide the type of data sought by RSPA that would result in increased safety." NPGA believes this provision is " \* \* \* vague, fails to provide the regulated parties the requisite certainty to enable compliance, and will lead to inconsistent enforcement in the field." NPGA reminds RSPA of its comments during the rulemaking stage noting the genesis of HM-229 was the HM-225A negotiated rulemaking between the cargo tank industry and DOT. NPGA argues that more data is not better data. NPGA notes RSPA's HM-229 preamble discussion " \* \* \* that such reporting can provide information concerning packaging integrity." This final rule expands the incident database " \* \* \* to include 'near miss' or 'close call' incidents, which " \* \* \* have the potential for significant consequences." NPGA believes the vagueness of this regulation creates uncertainty as to when a report should be filed. " \* \* \* Multiple instances of less serious damage could lead to a form of damage considered more serious, thus necessitating a report filing." NPGA recommends RSPA delete the phrase " \* \* \* even if there is no release of hazardous material" from § 171.16(a)(3), and modify the provision to reference § 180.407(b) as suggested by NTTC. NPGA contends this section " \* \* \* is much more familiar to the industry and provides a form of criteria for filing reports that the currently adopted provision lacks."

PTSA states this provision is vague, will lead to uneven compliance and inconsistent enforcement, and places a greater and unwarranted compliance burden on small business petroleum marketers. According to PTSA, " \* \* \* petroleum marketers are likely to incur undeserved civil penalties and unjustified safety rating scores \* \* \* " PTSA states that the ability for small business petroleum marketers to obtain certainty of compliance is vital to ensure the safe transportation of hazardous materials and maintain a competitive edge against larger hazardous materials carriers with more compliance resources. PTSA believes the information collected from non-

release incidents is subjective and disagrees with RSPA's belief that information collected can provide valuable data on packaging integrity. PTSA argues the terms "near miss" or "close call" in the preamble are too ambiguous to provide any degree of certainty. PTSA believes that " \* \* \* only engineering studies, under controlled conditions and involving expert analysis can provide the objective information regarding packaging integrity that RSPA seeks to collect." PTSA recommends RSPA eliminate the requirement for reporting under § 171.16(a)(3) involving incidents where no release occurs. If RSPA chooses not to follow this recommendation, PTSA contends that a less desirable, but more acceptable alternative would be to amend § 171.16(a)(3) to reference § 180.407(b) as suggested by NTTC.

RSPA disagrees with the appellants. We believe the revisions in this final rule encompass and exceed the conditions in § 180.407(b) by requiring a more detailed accounting of incidents involving hazardous materials, providing specific failure codes, expanding the reporting requirements to persons other than carriers, and defining an "undeclared hazardous material" and "unintentional release." We rationalize that "structural damage" is any damage that causes a person to ask the question implied in § 180.407(b)(2)—was the cargo tank damaged to an extent that its lading retention capability may be affected? If the damage is sufficient to trigger the repair of the cargo tank, an HMIR should be filed. Consequently, if the question is answered affirmatively, testing and inspection are also required. While RSPA recognizes that some judgment may still be involved, we do not foresee this causing a significant number of new reports being generated. In addition, such reporting will provide us with a better idea of the number of cargo tanks involved in accidents with at least some damage to the lading retention or lading protection system. As noted in the December 3 final rule, information gathered on damage to certified cargo tanks of 1,000 gallons or more that do not result in a release will be analyzed over the next several years to determine its usefulness in practice and if further rulemaking is necessary. As also noted in the December 3 final rule, RSPA may address requiring additional information for other bulk packagings in a future rulemaking. For these reasons, the appeals of NTTC, ATA-Trucking, NPGA, and PTSA regarding the reporting of non-release

incidents involving cargo tanks are denied.

*Reporting Undeclared Shipments of Hazardous Materials*—The December 3 final rule revised § 171.16 to require a person who discovers an undeclared hazardous material to submit an HMIR. ATA-Air requests reconsideration of the new requirement " \* \* \* in light of the current airport security environment, which did not exist during the comment period \* \* \*" of the final rule. This appellant notes the Transportation Security Administration (TSA) inspects checked baggage, resulting in a dramatic increase in the volume of such discoveries, and " \* \* \* the consumer-goods nature of most items found merits consideration." ATA-Air states that the revised four-page HMIR is an unnecessary burden and duplicates carriers' existing discrepancy reporting obligations for the same items under 49 CFR § 175.31." ATA-Air also stated that RSPA is required by the Paperwork Reduction Act (PRA) " \* \* \* to avoid such complication and duplication, particularly in view of carriers' dire financial circumstances and sharply reduced staffing \* \* \*" in the wake of September 11, 2001. The appellant disputes that the average number of incident reports from 1997–2000 is representative of current experience. The appellant stated that RSPA's analysis cited under the PRA section in the final rule preamble " \* \* \* should be updated to take into account the greatly increased volume of discoveries stemming from TSA screening." ATA-Air suggests RSPA defer implementation of this aspect of the rule until these issues are resolved. ATA-Air recommends RSPA " \* \* \* convene an advisory committee to bring together all stakeholders, including RSPA, Federal Aviation Administration (FAA), ATA-Air, and the carriers, to develop a workable solution to these issues." ATA-Air urges RSPA to " \* \* \* re-open the comment period for this aspect of the final rule, and revise the rule in accordance with those supplemental comments."

RSPA agrees with the appellant that the potential for the discoveries of undeclared shipments has greatly increased due to heightened awareness of airport security following the tragic September 11, 2001 attacks. However, in § 171.16(d)(3) of the December 3 final rule, we provided an exception from reporting hazardous material discovered in an air passenger's checked or carry-on baggage during the airport screening process. In addition, we acknowledge the potential for burdensome and duplicative discrepancy reporting obligations and refer the filer to § 175.31

of the HMR for discrepancy reporting by carriers. For these reasons, ATA-Air's appeal concerning the reporting of undeclared shipments of hazardous materials is denied.

*Requirements To Update the Incident Report*—The December 3 final rule amended the HMR to require that an HMIR must be updated within one year of the date of occurrence of the incident whenever one or more of the following occur: (1) A death results from injury caused by a hazardous material; (2) there was a misidentification of the hazardous material or package information on a prior incident report; (3) damage, loss or related cost that was not known when the initial incident report was filed becomes known; or (4) damage, loss, or related cost changes by \$25,000 or more, or 10% of the prior total estimate, whichever is greater. ATA-Trucking requests that with the exception of an incident that results in a death subsequent to the filing of the report, RSPA reconsider the obligation to update the incident report. The appellant states that although the preamble " \* \* \* references comments filed by industry indicating a substantial burden associated with this aspect of the final rule, RSPA has done little more than quote from these comments." ATA-Trucking also stated "RSPA performed no analysis of the burden associated with this requirement or the benefit of the update requirement (i.e., the number of updates that would result in a material impact upon RSPA's analyses). Instead, RSPA justified the update requirement with " \* \* \*" two sentences. ATA-Trucking asserts that "RSPA has a legal obligation to analyze the issue and discuss its conclusion in the final rule," and that RSPA " \* \* \* failed to respond meaningfully to these comments." ATA-Trucking recommends RSPA reconsider this requirement of the final rule by narrowing the scope of updating requirements to instances where a death occurs subsequent to the filing of an HMIR.

We disagree. RSPA believes the criteria outlined in the December 3 final rule to update an incident report are essential in monitoring the results of hazardous materials incidents. By establishing a requirement to report subsequent developments of hazardous materials incidents, RSPA is better equipped to increase the accuracy of the incident reporting database, highlight packaging shortcomings, and identify deficiencies in the handling and transportation of hazardous materials. In addition, we believe the factors necessary to warrant an additional update are severe enough to demand their addition to the incident report

database. For example, a carrier involved in an incident involving black powder reported damages of \$120,000, however, subsequent evaluation by the Federal Highway Administration (FHWA) estimated costs of \$25 million in terms of impacts due to traffic delays. We believe that better determinations of overall costs by carriers when filing the initial HMIR will minimize the need for subsequent updated reports. We disagree that an analysis of the burden associated with this requirement or the benefit of the update requirement was not performed. As previously stated in the December 3 final rule, we estimate approximately 800 incidents reported each year would require an update at a cost on average of \$6.00 per company, or \$4,800.00. An analysis of the associated costs to update the approximately 800 incident reports can be found in the regulatory evaluation as referenced under "Executive Order 12866 and DOT Regulatory Policies and Procedure" of the "Regulatory Analyses and Notices" section of the December 3 final rule, as well as the "Potential Cost Impacts" heading found under the "Regulatory Flexibility Act" of the December 3 final rule. For these reasons, ATA-Trucking's appeal is denied.

*Revised Hazardous Materials Incident Form DOT F 5800.1*—The December 3 final rule revised the HMIR and instructions. AAR requests that RSPA reconsider certain required information on the HMIR that AAR considers unnecessary and difficult to obtain. The appellant asserts the shipper/offoror's hazardous materials registration number required by Item 11 of the form is not readily available to carriers. The appellant believes that " \* \* \* railroads will have difficulty acquiring the shipper's registration number within the thirty (30) day filing limit specified in § 171.16(a)," therefore, registration numbers should be required on shipping papers if their inclusion is viewed as necessary by RSPA. In addition, the appellant is concerned that report numbers for reports filed by fire, police, and emergency responders required by Item 31 of the form are not readily available, and it does not perceive a need by RSPA for this information. The appellant contends this lack of easily accessible information presents another opportunity to exceed the thirty (30) day filing limit.

We disagree that the inclusion of the registration number of a shipper/offoror as required in Item 11, and an emergency responder's report number as required in Item 31 are unnecessary. This information is vital to constructing a thorough and comprehensive database of incident reports and subsequent

responses by emergency personnel. This cross-reference information provides RSPA with an enhanced capability to identify the effectiveness of existing regulations and industry operational procedures, focus on potential problems areas such as training and the handling and transportation of hazardous materials, improve analysis of hazardous materials incidents, and extend outreach to shippers of incidents involving materials they have offered for transportation. In addition, RSPA believes registration numbers can be acquired from the shipper/offoror during the standard notification between shippers and carriers that would normally follow in the aftermath of a hazardous materials incident. Likewise, a fire, police, or emergency responder report number can be obtained by the person in physical possession of the shipment from the responder at the time of an incident. For these reasons, AAR's petitions regarding Items 11 and 31 are denied.

AAR notes that, as drafted, the instructions following Item 23 instruct the filer to skip Part III "Packing Information" and proceed to Part IV. The appellant does not believe this was RSPA's intention. We agree, and address this issue under the "Appeals Granted" section of this document. AAR further states that if Part III is to be completed, it takes issue with two aspects of Item 28, found in Part III of the form. The first point regarding reporting the manufacturer and model number for any valve that failed on a tank car can be found under the "Appeals Granted" section of this document. The second point is discussed here. Item 28 requires a filer to indicate material of construction, design pressure, shell thickness, and head thickness as part of the packing construction and test information. AAR contends the tank car specification is previously required to be supplied for Item 26a; thus negating the need to provide the construction information requirement of Item 28.

We do not agree with AAR's appeal regarding the request for material of construction, design pressure, shell thickness, and head thickness required by Item 28 of the incident report. While Item 26a requires the identification markings of packagings, only the specification requirements can be obtained, not the actual pressure or thickness of an individual tank car. RSPA has determined that this information is necessary to gauge the effectiveness of packagings in the event of an incident, and can utilize this feedback to determine if future rulemakings pertaining to packaging specifications and minimal

requirements are warranted. Therefore, AAR's petition to omit the requirement to report material of construction, design pressure, shell thickness, and head thickness in Item 28 is denied.

### C. Clarification

A concerned industry member suggested that the definition of an "undeclared hazardous material" as revised in the December 3 final rule could be interpreted to exclude a shipment described as "freight all kinds." This is not our intention. A key objective of this final rule is to focus on defining and identifying undeclared hazardous material shipments. Undeclared shipments are a high priority and concern within the Department, especially in light of the increased safety environment that has become prevalent following the September 11, 2001 attacks. Our intent in this rule is to discover undeclared hazardous material shipments that have been buried or hidden in order to prevent damage to property, loss of life, or lack of communication to emergency responders. In that regard, we are amending the definition of "undeclared shipments" in § 171.8 to assist in further clarifying the regulations as follows: *Undeclared hazardous material* means a hazardous material that is: (1) Subject to any of the hazard communication requirements in subparts C (Shipping Papers), D (Marking), E (Labeling), and F (Placarding) of Part 172 of this subchapter, or an alternative marking requirement in Part 173 of this subchapter (such as §§ 173.4(a)(10) and 173.6(c)); and (2) offered for transportation in commerce without any visible indication to the person accepting the hazardous material for transportation that a hazardous material is present, on either an accompanying shipping document, or the outside of a transport vehicle, freight container, or package.

### III. Regulatory Analyses and Notices

#### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not a significant action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. This final rule is not a significant action under the Regulatory Policies and Procedures of the Department of Transportation. The revisions adopted in this final rule do not alter the cost-benefit analysis and conclusions contained in the Regulatory Evaluation prepared for the December 3, 2003 final rule. The Regulatory Evaluation is

available for review in the public docket for this rulemaking.

#### B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule preempts state, local, and Indian tribe requirements, but does not propose any regulation that has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous materials transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts state, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (1) The designation, description, and classification of hazardous materials;
- (2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;
- (4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or
- (5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject item number (4) above and preempts state, local, and Indian tribe requirements not meeting the "substantively the same" standard. This final rule is necessary to increase the usefulness of data collected for risk analysis and management by government and industry and, where possible, provide relief from regulatory requirements.

Federal hazardous materials transportation law provides at § 5125(b)(2) that, if we issue a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance.

#### C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply and a tribal summary impact statement is not required.

#### D. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires each agency to analyze proposed regulations and assess their impact on small businesses and other small entities to determine whether the proposed rule is expected to have a significant impact on a substantial number of small entities. The revisions adopted in this final rule do not alter the cost-benefit analysis and conclusions contained in the Regulatory Evaluation prepared for the December 3, 2003 final rule. Based on the assessment in the regulatory evaluation, I certify that, while this final rule applies to a substantial number of small entities, the economic impact on those small entities is not significant.

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of final rules on small entities are properly considered.

#### E. Paperwork Reduction Act

This revisions adopted in this final rule do not alter the cost-benefit analysis and conclusions contained in the regulatory evaluation prepared for the December 3, 2003 final rule.

#### F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

#### G. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the

Unfunded Mandates Reform Act of 1995. It does not result in costs of more than \$100 million or more to state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

#### H. Environmental Assessment

This final rule does not affect packaging or hazard communication requirements for shipments of hazardous materials transported in commerce. We find that there are no significant environmental impacts associated with this final rule.

#### List of Subjects in 49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and record keeping requirements.

■ In consideration of the foregoing, we are making the following corrections to FR Doc. 03–29597, appearing on page 67746 in the **Federal Register** of Wednesday, December 3, 2003:

#### PART 171—[CORRECTED]

■ 1. On page 67758, in the third column and continuing on page 67759, correct the definition for "undeclared hazardous material" to read as follows:

#### § 171.8 Definitions and abbreviations.

\* \* \* \* \*

*Undeclared hazardous material* means a hazardous material that is: (1) Subject to any of the hazard communication requirements in subparts C (Shipping Papers), D (Marking), E (Labeling), and F (Placarding) of Part 172 of this subchapter, or an alternative marking requirement in Part 173 of this subchapter (such as §§ 173.4(a)(10) and 173.6(c)); and (2) offered for transportation in commerce without any visible indication to the person accepting the hazardous material for transportation that a hazardous material is present, on either an accompanying shipping document, or the outside of a transport vehicle, freight container, or package.

\* \* \* \* \*

■ 2. On page 67759, in the third column, correct paragraph (b)(1) of § 171.16 to read as follows:

#### § 171.16 Detailed hazardous materials incidents reports.

\* \* \* \* \*

(1) \* \* \*

(b) *Providing and retaining copies of the report.* Each person reporting under this section must—

(1) Submit a written Hazardous Materials Incident Report to the

Information Systems Manager, DHM-63,  
Research and Special Programs  
Administration, Department of  
Transportation, Washington, DC 20590-  
0001, or an electronic Hazardous  
Material Incident Report to the  
Information System Manager, DHM-63,  
Research and Special Programs

Administration, Department of  
Transportation, Washington, DC 20590-  
0001 at <http://hazmat.dot.gov>;

\*   \*   \*   \*   \*

■ 3. Beginning on page 67761, correct  
Attachment 1—Hazardous Materials  
Incident Report, to read as set forth  
below.

Issued in Washington, DC, on May 14,  
2004, under the authority delegated in 49  
CFR Part 1.


**Samuel G. Bonasso,**

*Deputy Administrator, Research and Special  
Programs Administration.*

**BILLING CODE 4910-60-P**

## Attachment 1—Hazardous Materials Incident Report

**Note:** This attachment will not appear in the Code of Federal Regulations.

	U.S. Department of Transportation Research and Special Programs Administration	<b>Hazardous Materials Incident Report</b>	Form Approval OMB No. 2137-0039
According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 2137-0039. The filling out of this information is mandatory and will take 96 minutes to complete.			
<b>INSTRUCTIONS:</b> Submit this report to the Information Systems Manager, U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Safety, DHM-63, Washington, D.C. 20590-0001. If space provided for any item is inadequate, use a separate sheet of paper, identifying the entry number being completed. Copies of this form and instructions can be obtained from the Office of Hazardous Materials Website at <a href="http://hazmat.dot.gov">http://hazmat.dot.gov</a> . If you have any questions, you can contact the Hazardous Materials Information Center at 1-800-HMR-4922 (1-800-467-4922) or online at <a href="http://hazmat.dot.gov">http://hazmat.dot.gov</a> .			
<b>PART I - REPORT TYPE</b>			
1. This is to report: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> <input type="checkbox"/> A) A hazardous material incident         </div> <div> <input type="checkbox"/> B) An undeclared shipment with no release         </div> </div> <div style="margin-top: 5px;"> <input type="checkbox"/> C) A specification cargo tank 1,000 gallons or greater containing any hazardous materials that              (1) received structural damage to the lading retention system or damage that requires repair to a system              intended to protect the lading retention system and (2) did not have a release.       </div>			
2. Indicate whether this is: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> <input type="checkbox"/> An initial report         </div> <div> <input type="checkbox"/> A supplemental (follow-up) report         </div> <div> <input type="checkbox"/> Additional Pages         </div> </div>			
<b>PART II - GENERAL INCIDENT INFORMATION</b>			
3. Date of Incident: _____ 4. Time of Incident (use 24-hour time): _____			
5. Enter National Response Center Report Number (if applicable): _____			
6. If you submitted a report to another Federal DOT agency, enter the agency and report number: _____			
7. Location of Incident: City: _____ County: _____ State: _____ ZIP Code (if known): _____ Street Address/Mile Marker/Yardname/Airport/Body of Water/River Mile _____			
8. Mode of Transportation <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> Air</div> <div><input type="checkbox"/> Highway</div> <div><input type="checkbox"/> Rail</div> <div><input type="checkbox"/> Water</div> </div>			
9. Transportation Phase <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div><input type="checkbox"/> In Transit</div> <div><input type="checkbox"/> Loading</div> <div><input type="checkbox"/> Unloading</div> <div><input type="checkbox"/> In Transit Storage</div> </div>			
10. Carrier/Reporter <div style="margin-top: 5px;">           Name _____            Street _____            City _____ State _____ ZIP Code _____            Federal DOT ID Number _____ Hazmat Registration Number _____         </div>			
11. Shipper/Offendor <div style="margin-top: 5px;">           Name _____            Street _____            City _____ State _____ ZIP Code _____            Waybill/Shipping Paper _____ Hazmat Registration Number _____         </div>			
12. Origin (if different from shipper address) <div style="margin-top: 5px;">           Street _____            City _____ State _____ ZIP Code _____         </div>			
13. Destination <div style="margin-top: 5px;">           Street _____            City _____ State _____ ZIP Code _____         </div>			
14. Proper Shipping Name of Hazardous Material: _____			
15. Technical/Trade Name: _____			
<div style="display: flex; justify-content: space-between;"> <div>           16. Hazardous Class/ Division: _____         </div> <div>           17. Identification Number: _____            (E.g. UN2764, NA 2020)         </div> <div>           18. Packing Group: _____            (if applicable)         </div> <div>           19. Quantity Released: _____            (Include Measurement Units)         </div> </div>			
20. Was the material shipped as a hazardous waste? <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> <input type="checkbox"/> Yes    <input type="checkbox"/> No         </div> <div>           If yes, provide the EPA Manifest Number: _____         </div> </div>			
21. Is this a Toxic by Inhalation (TIH) material? <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> <input type="checkbox"/> Yes    <input type="checkbox"/> No         </div> <div>           If yes, provide the Hazard Zone: _____         </div> </div>			
22. Was the material shipped under an Exemption, Approval, or Competent Authority Certificate? <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> <input type="checkbox"/> Yes    <input type="checkbox"/> No         </div> <div>           If yes, provide the Exemption, Approval, or CA number: _____         </div> </div>			
23. Was this an undeclared hazardous materials shipment? <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div> <input type="checkbox"/> Yes    <input type="checkbox"/> No         </div> </div>			
Form DOT F 5800.1 (01-2004)		Page 1	
Reproduction of this form is permitted			



**PART III - PACKAGING INFORMATION**

**24. Check Packaging Type** (check only one - if more than one, list type of packaging, copy Part III, and complete for each type:

- |                                   |                              |  |                                      |
|-----------------------------------|------------------------------|--|--------------------------------------|
| <input type="checkbox"/> Non-bulk | <input type="checkbox"/> IBC | <input type="checkbox"/> Cargo tank Motor Vehicle (CTMV) | <input type="checkbox"/> Tank Car    |
| <input type="checkbox"/> Cylinder | <input type="checkbox"/> RAM | <input type="checkbox"/> Portable Tank                   | <input type="checkbox"/> Other _____ |

**25. See instructions and enter the appropriate failure codes found at the end of the instructions. Be sure to enter the codes from the list that corresponds to the particular packaging type checked above. Enter the number of codes as appropriate to describe the incident. Enter the most important failure point in line 1. If there are more than two failure points, provide in this format in part VI.**

- |                       |                   |                          |
|-----------------------|-------------------|--------------------------|
| 1. What Failed: _____ | How Failed: _____ | Causes of Failure: _____ |
| 2. What Failed: _____ | How Failed: _____ | Causes of Failure: _____ |

**26a. Provide the packaging identification markings, if available.**

Identification Markings: \_\_\_\_\_  
 (Examples: 1A1/Y1.4/150/92/USA/RB/93/RL, UN31H1/Y0493/USA/M9339/10800/1200, DOT - 105A - 100W (RAIL), DOT 406 (HIGHWAY), DOT 51, DOT 3-A)

**26b. For Non-bulk, IBC, or non-specification packaging, if identification markings are incomplete or unavailable, see instructions and complete the following:**

**Single Package or Outer Packaging:**

Packaging Type: \_\_\_\_\_  
 Material of Construction: \_\_\_\_\_  
 Head Type (Drums only): ☐ Removable ☐ Non - Removable

**Single Package or Inner Packaging (if any):**

Packaging Type: \_\_\_\_\_  
 Material of Construction: \_\_\_\_\_

**27. Describe the package capacity and the quantity:**

**Single Package or Outer Packaging:**

Package Capacity: \_\_\_\_\_  
 Amount in Package: \_\_\_\_\_  
 Number in Shipment: \_\_\_\_\_  
 Number Failed: \_\_\_\_\_

**Single Package or Inner Packaging (if any):**

Package Capacity: \_\_\_\_\_  
 Amount in Package: \_\_\_\_\_  
 Number in Shipment: \_\_\_\_\_  
 Number Failed: \_\_\_\_\_

**28. Provide packaging construction and test information, as appropriate:**

Manufacturer: _____	Manufacture Date: _____
Serial Number: _____	Last Test Date: _____
Material of Construction: _____ (if Tank Car, CTMV, Portable Tank, or Cylinder)	
Design Pressure: _____ (if Tank Car, CTMV, Portable Tank)	
Shell Thickness: _____ (if Tank Car, CTMV, Portable Tank)	
Head Thickness: _____ (if Tank Car, CTMV)	
Service Pressure: _____ (if Cylinder)	
If valve or device failed:	
Type: _____	Manufacturer: _____ Model: _____
	(if present and legible) (if present and legible)

**29. If the packaging is for Radioactive Materials, complete the following:**

Packaging Category: ☐ Type A ☐ Type B ☐ Type C ☐ Excepted ☐ Industrial

Packaging Certification: ☐ Self Certified ☐ U.S. Certification Certification Number \_\_\_\_\_

Nuclide(s) Present: \_\_\_\_\_ Transport Index: \_\_\_\_\_

Activity: \_\_\_\_\_ Critical Safety Index: \_\_\_\_\_

**PART IV - CONSEQUENCES**

30. Result of Incident (check all that apply): ☐ Spillage ☐ Fire ☐ Explosion ☐ Material Entered Waterway/Storm Sewer  
☐ Vapor (Gas) Dispersion ☐ Environmental Damage ☐ No Release

31. Emergency Response : The following entities responded to the incident: (Check all that apply)

☐ Fire/EMS Report # \_\_\_\_\_ ☐ Police Report # \_\_\_\_\_ ☐ In-house cleanup ☐ Other Cleanup

32. Damages: Was the total damage cost more than \$500? ☐ Yes ☐ No

If yes, enter the following information: If no, go to question 33.

Material Loss: \_\_\_\_\_ Carrier Damage: \_\_\_\_\_ Property Damage: \_\_\_\_\_ Response Cost: \_\_\_\_\_ Remediation/Cleanup Cost: \_\_\_\_\_  
 \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

(See damage definitions in the instructions)

33a. Did the hazardous material cause or contribute to a human fatality? ☐ Yes ☐ No

If yes, enter the number of fatalities resulting from the hazardous material:

Fatalities: Employees \_\_\_\_\_ Responders \_\_\_\_\_ General Public \_\_\_\_\_

33b. Were there human fatalities that did not result from the hazardous material? ☐ Yes ☐ No If yes, how many? \_\_\_\_\_

34. Did the hazardous material cause or contribute to personal injury? ☐ Yes ☐ No

If yes, enter the number of injuries resulting from the hazardous material:

Hospitalized (Admitted Only): Employees \_\_\_\_\_ Responders \_\_\_\_\_ General Public \_\_\_\_\_

Non-Hospitalized: Employees \_\_\_\_\_ Responders \_\_\_\_\_ General Public \_\_\_\_\_

(e.g.: On site first aid or Emergency Room observation and release)

35. Did the hazardous material cause or contribute to an evacuation? ☐ Yes ☐ No

If yes, provide the following information:

Total number of general public evacuated \_\_\_\_\_ Total number of employees evacuated \_\_\_\_\_ Total Evacuated \_\_\_\_\_

Duration of the evacuation \_\_\_\_\_ (hours)

36. Was a major transportation artery or facility closed? ☐ Yes ☐ No If yes, how many? \_\_\_\_\_ (hours)

37. Was the material involved in a crash or derailment? ☐ Yes ☐ No

If yes, provide the following information: Estimated speed (mph): \_\_\_\_\_ Weather conditions: \_\_\_\_\_

Vehicle overturn? ☐ Yes ☐ No

Vehicle left roadway/track? ☐ Yes ☐ No

**PART V - AIR INCIDENT INFORMATION** (please refer to § 175.31 to report a discrepancy for air shipments)

38. Was the shipment on a passenger aircraft? ☐ Yes ☐ No

If yes, was it tendered as cargo, or as passenger baggage?

☐ Cargo ☐ Passenger baggage

39. Where did the incident occur (if unknown, check the appropriate box for the location where the incident was discovered)?

☐ Air carrier cargo facility ☐ Sort center ☐ Baggage area

☐ By surface to/from airport ☐ During flight ☐ During loading/unloading of aircraft

40. What phase(s) had the shipment already undergone prior to the incident? (Check all that apply)

☐ Shipment had not been transported ☐ Transported by air (first flight) ☐ Transport by air (subsequent flights)

☐ Initial transport by highway to cargo facility ☐ Transfer at sort center/cargo facility

**PART VI - DESCRIPTION OF EVENTS & PACKAGE FAILURE**

Describe the sequence of events that led to the incident and the actions taken at the time it was discovered. Describe the package failure, including the size and location of holes, cracks, etc. Photographs and diagrams should be submitted if needed for clarification. Estimate the duration of the release, if possible. Describe what was done to mitigate the effects of the release. Continue on additional sheets if necessary.

**PART VII - RECOMMENDATIONS/ACTIONS TAKEN TO PREVENT RECURRENCE**

Where you are able to do so, suggest or describe changes (such as additional training, use of better packaging, or improved operating procedures) to help prevent recurrence. Provide recommendations for improvement to hazardous materials transportation beyond the control of your individual company. Continue on additional sheets if necessary.

**PART VIII- CONTACT INFORMATION**

Contact's Name (Type or Print): _____	Telephone Number: (    ) _____
Contact's Title: _____	Fax Number: (    ) _____
Business Name and Address: _____	Hazmat Registration Number (if not already provided): _____
E-mail Address: _____	Date: _____
Preparer is: <input type="checkbox"/> Carrier <input type="checkbox"/> Shipper <input type="checkbox"/> Facility <input type="checkbox"/> Other _____	

## General Overview for Completing the Hazardous Materials Incident Report—Department of Transportation Form F 5800.1

### What Federal Regulation Requires Me To Submit the Report?

The Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) require that certain types of incidents be reported to the Research and Special Programs Administration (RSPA). Section 171.15 of the HMR requires an immediate telephonic report (within 12 hours) of certain types of hazardous materials incidents and a follow-up written report. Section 171.16 requires a written report for certain types of hazardous materials incidents within 30 days. Each type of report is explained below. (The full text of these sections is at the end of the instructions.)

### What Is the Purpose of the Report?

The information you are providing in this report is fundamental to hazardous material transportation risk analysis and risk management by government and industry. It allows us to better understand the causes and consequences of hazardous material transportation incidents. The data is used to identify trends and provide basic program performance measures. It helps to demonstrate the effectiveness of existing regulations and to identify areas where changes should be considered. It also assists all parties, including industry segments and individual companies, in understanding the types and frequencies of incidents, what can go wrong, and possible measures that would prevent their recurrence. Your accurate and complete description of incidents can make a significant contribution to continual safety improvement through better regulations, cooperative partnerships, and individual efforts.

### Who Must Complete the Report?

Any person in possession of a hazardous material during transportation, including loading, unloading and storage incidental to transportation, must report to the Department of Transportation (DOT) if certain conditions are met. This means that when the conditions apply for completing the report, the entity having physical control of the shipment is responsible for filling out and filing Form DOT F 5800.1.

For example, if a shipper is carrying hazardous material, the consignee is unloading the material and there is an incident involving this material, the consignee is responsible for filling out and filing the form. However, if the consignee is unloading the hazardous material and causes a hazardous materials incident involving a consignment intended for someone else, the shipper is responsible for filling out and filing the form.

### What Definitions Should I Know in Order To Complete the Report?

In order to accurately complete the report, you should be familiar with the following terms. A complete list of definitions is contained in § 171.8.

**Bulk packaging**—a packaging, other than a vessel or a barge, including a transport vehicle or freight container, in which

hazardous materials are loaded with no intermediate form of containment and which has:

(1) A maximum capacity greater than 450 liters (119 gallons) as a receptacle for a liquid;

(2) A maximum net mass greater than 400 kilograms (822 pounds) and a maximum capacity greater than 450 liters (119 gallons) as a receptacle for a solid; or

(3) A water capacity greater than 454 kilograms (1000 pounds) as a receptacle for a gas as defined in § 173.115.

**Cargo tank**—a bulk packaging which is:

(1) A tank intended primarily for the carriage of liquids or gases and includes appurtenances, reinforcements, fittings, and closures;

(2) Is permanently attached to or forms a part of a motor vehicle, or is not permanently attached to a motor vehicle but which, by reason of its size, construction, or attachment to a motor vehicle, is loaded or unloaded without being removed from the motor vehicle; and

(3) Is not fabricated under a specification for cylinders, portable tanks, tank cars, or multi-unit tank car tanks.

**Hazardous material**—a substance or material that has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and that has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous under the provisions of § 172.101, the Hazardous Materials Table (HMT), and materials that meet the defining criteria for hazard classes and divisions in Part 173.

**Hazardous substance**—a material, including its mixtures and solutions, that—

(1) Is listed in Appendix A to § 172.101;

(2) Is in a quantity, in one package, which equals or exceeds the reportable quantity (RQ) listed in Appendix A to § 172.101; and

(3) When in a mixture or solution—

(i) For radionuclides, conforms to paragraph 7 of Appendix A to § 172.101.

(ii) For other than radionuclides, is in a concentration by weight which equals or exceeds the concentration corresponding to the RQ of the material, as shown in the following table:

RQ pounds (kilograms)	Concentration by weight	
	Percent	PPM
5000 (2270) .....	10	100,000
1000 (454) .....	2	20,000
100 (45.4) .....	0.2	2,000
10 (4.54) .....	0.02	200
1 (0.454) .....	0.002	20

The term **hazardous substance** does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance in Appendix A to § 172.101, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas useable for fuel (or mixtures of natural gas and such synthetic gas).

**Hazardous waste**—any material that is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR Part 262.

**Marine pollutant**—a material that is listed in Appendix B to § 172.101 (also see § 171.4) and, when in a solution or mixture of one or more marine pollutants, is packaged in a concentration that equals or exceeds:

(1) Ten percent by weight of the solution or mixture for materials listed in Appendix B; or

(2) One percent by weight of the solution or mixture for materials that are identified as severe marine pollutants in Appendix B.

**Undeclared hazardous material**—means a hazardous material that is:

(1) Subject to any of the hazard communication requirements in subparts C (Shipping Papers), D (Marking), E (Labeling), and F (Placarding) of Part 172 of this subchapter, or an alternative marking requirement in Part 173 of this subchapter (such as §§ 173.4(a)(10) and 173.6(c)); and

(2) Offered for transportation in commerce without any visible indication to the person accepting the hazardous material for transportation that a hazardous material is present, on either an accompanying shipping document, or the outside of a transport vehicle, freight container, or package.

**Unintentional release**—the escape of a hazardous material from a package on an occasion not anticipated or planned. This includes releases resulting from collision, package failures, human error, criminal activity, negligence, improper packing, or unusual conditions such as the operation of pressure relief devices as a result of over-pressurization, overfill, or fire exposure. It does not include releases, such as venting of packages, where allowed, and the operational discharge of contents from packages.

Additionally, for purposes of reporting on this form, the following definitions should be used:

**Lading retention system**—a lading retention system consists of those items or equipment that provide containment of hazardous materials at some point during transportation, including loading and unloading. The cargo tank shell, associated piping, and valves are an example of a lading retention system. Dents or damage to a tank requiring repair to an accident protection system guarding the tank are examples of incidents that must be reported. Paint chips and scratches to either the tank or the accident protection system are examples of incidents that do not require reporting.

**Major transportation artery**—a highway, main road or secondary road but not a side street or dirt road. In the case of rail, any rail line except a rail spur.

### When Must I Submit a Written Report (DOT Form F 5800.1)?

Under § 171.16, you must submit a written report within 30 days after any of the following:

- An incident that was reported by telephonic notice under § 171.15;
- An unintentional release (see definitions) of a hazardous material during transportation including loading, unloading

- and temporary storage related to transportation;

- A hazardous waste is released;
  - An undeclared shipment with no release is discovered; or
- A specification cargo tank 1,000 gallons or greater containing any hazardous materials that (1) received structural damage to the lading retention system or damage that requires repair to a system intended to

protect the lading retention system, and (2) did not have a release.
- To clarify the requirement for a report based on structural damage to a specification cargo tank, the table below illustrates some examples:

EXAMPLES TO CLARIFY WHEN TO REPORT STRUCTURAL DAMAGE TO A SPECIFICATION CARGO TANK

Incident report required	No incident report required
Damage to an outlet valve that affects seating and requires replacement.	Handle broken or knocked off valve—but otherwise undamaged.
Serious damage that, if worse, could have resulted in the loss of the contents of the cargo tank. Damage to outlet lines that contain hazardous materials during transportation is in this category.	Serious damage that, even if worse, would not have resulted in the loss of the contents of the cargo tank. Damage to outlet lines that are normally not charged during transportation is in this category.
Cargo tank damage that requires professional inspection or recertification to ensure it is capable of meeting requirements.	Minor damage that obviously will not affect continuation of the cargo tank in service.
Cargo tank damage that requires immediate or subsequent repair because of questions about cargo tank integrity.	Cargo tank damage that requires repair for cosmetic reasons only.

When Is a Report Not Required?

You are not required to report a release of a hazardous material if ALL of the following apply:

- The shipment is not being offered for transportation or being transported by air;
- None of the criteria in § 171.15(a) applies;
- The material is not a hazardous waste;
- The material is properly classed as an ORM D, or a Packing Group III material in Class or Division 3, 4, 5, 6.1, 8, or 9;
- Each package has a capacity of less than 20 liters (5.2 gallons) for liquids or less than 30 kg (66 pounds) for solids;
- The total aggregate release is less than 20 liters (5.2 gallons) for liquids or less than 30 kg (66 pounds) for solids;
- The material does not meet the definition of an undeclared hazardous material in § 171.8; AND
- The shipment is an undeclared material discovered in an air passenger's checked or carry-on baggage during the airport screening process.

Also, you are not required to report releases of minimal amounts of material (*i.e.*, a pint or less) released from the manual operation of seals of pumps, compressors, or valves, during the connecting or disconnecting of loading and unloading lines, or, for materials for which venting is authorized, from vents, provided these releases do not result in property damage or trigger any of the telephonic notifications requirements found in § 171.15.

When Must I Make a Telephonic Report?

Under § 171.15, you must provide telephone notice within 12 hours after the incident occurs when one of the following conditions occurs during the course of transportation and is a direct result of the hazardous material:

- A person is killed;
- A person receives an injury requiring admittance to a hospital;
- The general public is evacuated for one hour or more;
- One or more major transportation arteries or facilities are closed for one hour or more;
- The operational flight plan or routine of an aircraft is altered;

- Fire, breakage, spillage or suspected radioactive contamination occurs involving a radioactive material;
  - Fire, breakage, spillage or suspected contamination occurs involving an infectious substance other than a diagnostic specimen or regulated medical waste;
  - There is a release of a marine pollutant in a quantity exceeding 450 liters (119 gallons) for liquids or 400 kilograms (882 pounds) for solids; or
  - A situation exists of such a nature that in the judgment of the person in possession of the hazardous material, it should be reported to DOT's National Response Center even though it does not meet the above criteria.
- You may decide that the situation should be reported even though it does not meet any of the above criteria.
- Make sure that you request the NRC report number when you make your telephonic report.

What Telephone Number Do I Call To Make an Immediate Notification of a Hazardous Materials Incident?

You must call 800-424-8802 (toll-free) or 202-267-2675 (toll-call) to make a telephonic incident report. This is the number to the National Response Center. This call must be made within 12 hours of the events that trigger this requirement. If the incident involves an infectious substance, you may notify the Director, Center for Disease Control and Prevention (CDC), U.S. Public Health Service, Atlanta, Georgia, toll-free at 800-232-0124. If a discrepancy of a shipment intended for air is discovered following its acceptance aboard aircraft, notify the nearest Federal Aviation Administration Civil Aviation Security Office as soon as practical.

How Long Do I Have To Submit the Written Report?

You must submit your written report within 30 days of discovery of the incident, § 171.16(a).

Am I Required To Update the Information in the Report?

Yes. You must use DOT Form F 5800.1 and check the "A supplemental (follow-up) report" box on question #2 to provide

additional information after the initial report. You are required to provide updates for up to one year after the initial filing if more information is gained or new developments arise concerning the following, for example:

- A death results from injuries caused by a hazardous material;
- The person responsible for preparing the original report learns that there is a misidentification of hazardous material or package information;
- Damage or loss or related costs that were not known at the time the report was filed become known; or
- Revised estimates of damages, losses, and related costs result in a change of \$25,000 or more, or 10% of the original cost estimates, whichever is greater, even if the original estimate was under \$500.

How and Where Do I Submit My Completed Report?

- You can mail paper copies of the report to the Information Systems Manager, U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Safety, DHM-63, Washington, DC 20590-0001; or
- You can submit the report on-line at <http://hazmat.dot.gov>.

How Long Must I Keep a Copy of the Report?

You must keep a copy of each report or an electronic image of the report for two years after the date you submit it to RSPA (§ 171.16(b)(3)).

Where Must I Keep a Copy of the Report?

The report must be accessible through your company's principal place(s) of business. You must be able to make the report available upon request to authorized representatives or a special agent of the Department within 24 hours of such a request (§ 171.16(b)(3)).

How Can I Get a Blank Copy of the Form F 5800.1?

There are a variety of sources for obtaining the Form F 5800.1. Please note that you are allowed to make unlimited photocopies of the form and distribute them.

- You may obtain limited copies of the form from the Information Systems Manager at the above address.

- You may download a copy of the form from our Web site at <http://hazmat.dot.gov/spills.htm>.
- Our Fax on Demand service has copies of the instructions and the form. Call 1-800-467-4922 and choose the Fax on Demand option #2.

#### *How Long Does It Take To Complete the Report?*

RSPA anticipates that it will take you approximately 1.6 hours to complete this report. This estimate includes the time it will take you to review the instructions, search your existing data sources for information, gather the required data, and complete and review the report.

#### *How Can I Comment on the Length of Time Needed To Complete the Report or on the Amount of Information Required in the Report?*

You can send your comments on the report, and any suggestions you have for reducing the amount of time needed to complete the report, to the following address:

(1) Information Systems Manager, U.S. Department of Transportation, Research and Special Programs Administration, Office of Hazardous Materials Safety, DHM-63, Washington, DC 20590-0001.

Please verify that your information is accurate. Although the required information is generally available at the time of the incident, you may need to do some additional investigation in order to obtain all of the facts pertaining to deaths, injuries or damage amounts. If you submit complete and accurate information at the time you file the report, it will decrease the chance of your having to supply missing information to DOT at a later date. RSPA may follow up on incomplete forms.

#### **Instructions for Form DOT F 5800.1**

Please print. Fill in all applicable blanks accurately to the best of your ability.

#### *Part I: Report Type*

(1) This is to report: Check the box that describes why you are filling out this form. This will normally be "A) A hazardous material incident." If you are reporting an undeclared shipment with no release, check the corresponding box, "B)." If you are reporting an incident involving a cargo tank motor vehicle containing a hazardous material that received structural damage to the lading retention system that may affect its ability to retain lading but does not release a hazardous material, check that appropriate box, "C)."

(2) Indicate what type of report this is: If this is an initial report, check the "initial report" box. If this is a follow-up to a previous report, check the "A supplemental (follow-up) report" box. If you are using additional pages, check the "Additional Pages" box.

#### *Part II: General Incident Information*

(3), (4) Date & Time of Incident: Enter the date and time the incident occurred. If you do not know the actual date and time, give the date and time you discovered the incident. Use 24-hour time for the incident time (e.g. "2400" for midnight, "1200" for

noon, "0747" for 7:47 a.m., "2115" for 9:15 p.m.).

(5) Enter National Response Center Report Number: If this incident was reported to the National Response Center (NRC), fill in the report number NRC assigned to the incident.

(6) If you submitted a report to another Federal DOT agency, enter the agency and report number: If you were required to fill out a report for another federal DOT agency such as the Federal Railroad Administration or the Federal Motor Carrier Safety Administration for this incident, please include the agency and report number. This will facilitate our combination of information.

(7) Location of Incident: Enter the geographic location of the incident (city, county, state, and zip code). If you do not know the actual location where the incident occurred, give the location where it was discovered. If the incident occurred at an airport or rail yard, include the name of the facility. If the incident occurred on a body of water, include the name and/or river mile. If you do not know the street address, or if the incident occurred on a highway, include a description such as "On I-70, mile marker 240."

(8) Mode of Transportation: Enter the code that corresponds to the mode of transportation in which the incident occurred or was discovered. If the incident occurred or was discovered in an in-transit storage area (e.g., a terminal or warehouse), check the box that corresponds to the mode by which the package was last transported.

(9) Transportation Phase: Enter the code that describes where the incident occurred in the transportation system. In transit means the incident occurred or was first discovered while the package was in the process of being transported. In-transit storage is storage incidental to transportation, such as at a terminal waiting for the next leg of transportation.

(10) Carrier/Reporter: Provide the name, street address, Federal DOT number (if applicable), and hazmat registration number of the carrier or the entity who is reporting the incident (if other than a carrier). The entity in physical possession of the material when the incident occurred or was discovered must report the incident.

(11) Shipper/Officer: Enter the information about the person or entity that originally offered for transportation the material or package involved in the incident.

(12) Origin: Enter the origin of the shipment if the address is different than the shipper/officer information entered in item #11.

(13) Destination: Enter the final destination of the shipment involved in the incident.

(14) through (19):

Hazardous Material Description: Enter the proper shipping name, technical or trade name, hazard class or division, ID number, packing group, and amount of material released. All of this information, except the amount of material released, can be found on the shipping papers that accompany the shipment, § 172.202. When indicating the amount of material released, include units of measurements (examples: 115 gallons, 69 tons).

(20) Was the material shipped as a hazardous waste? Check the "Yes" box if the material meets the definition of a hazardous waste in § 171.8 (requires an EPA Uniform Hazardous Waste Manifest). Include the EPA Manifest number.

(21) Is this a Toxic by Inhalation (TIH) material? If the material involved in the incident meets the definition of a Toxic by Inhalation material in § 173.132, check the "Yes" box and enter the Hazard Zone in the space provided.

(22) Was the material shipped under an Exemption, Approval, or Competent Authority Certificate? If the shipment was shipped under an exemption, an approval, or a Competent Authority Certificate, check the "Yes" box and provide the appropriate assigned number.

(23) Was this an undeclared hazardous materials shipment? If this material was not indicated in any way to be a hazardous material even though it was required to be described as such on a shipping paper, or if the material would normally be excepted from the shipping paper requirements (such as a small quantity material) and does not have the required markings, it is considered an undeclared hazardous material shipment. Check the appropriate box.

#### *Part III: Packaging Information*

(24) Packaging Type: Check the box that corresponds to the type of packaging involved in the incident. If more than one packaging type was involved in an incident, reproduce Part III of the form and fill out this section for each of the packaging types. For example, if three different packaging types were involved in an incident, fill out a separate Part III for each packaging type. If the type of packaging is not represented, check the "Other" box and enter a brief description such as "non-specification bulk bin."

(25) Enter the appropriate failure codes (found at the end of the instructions): Enter the codes that describe what failed on the packaging, how the packaging failed, and the cause(s) of the failure. Be sure to enter the codes from the list that corresponds to the particular packaging types checked above (#24). Enter the most important failure point in line 1. If there is a second failure point, enter in line 2. If there are more than two failure points, provide additional information in this format in Part VI. The following explains the content of each line:

What Failed: You can enter up to 2 "What Failed" codes to describe the part of the packaging that fails and was the immediate cause of the release. Often, on a simple packaging, only one code will be required. On more complex packaging, additional entries will help identify where that failure occurred. The first entry should designate the specific point of failure, followed by entries that help identify where that failure occurred. For instance, a deteriorated gasket on a pipe flange on the liquid line would have failure code 121 for gasket entered first and failure code 118 for flange entered second.

How Failed: Enter the "Failure" code that describes how the corresponding part of the packaging failed. The primary way the packaging failed should be entered first.

Cause(s) of Failure: Enter the "Cause of Failure" code that describes what caused the corresponding part of the packaging to fail in the way it did. The most probable or fundamental cause of failure should be entered first.

If none of the codes on the list fit exactly, use the closest matches and provide additional detail in Part VI. Also, if you believe a better set of codes would be more descriptive of what failed, how it failed, and the causes of failure, suggest them in Part VII.

(26a) Provide the complete packaging identification markings, if available: Every specification packaging, UN or DOT, has a packaging identification printed or stamped on it or on a plate attached to the packaging. Examples are provided on the form.

(26b) For Non-bulk, IBC, or non-specification packaging: Only fill out 26b if the marking is incomplete, destroyed, or unknown. Fill in the Outer and Inner packaging type and material of construction information, as appropriate. If the packaging is Non-bulk or Intermediate Bulk Container (IBC), use the codes below to enter the number or letter that applies for either Non-bulk or IBC packaging. For non-bulk, IBC or non-specification packaging provide a description of the packaging in the space(s) provided.

#### Non-Bulk Packaging Identification Codes

##### Outer Packaging

###### Type

- 1 = Drum
- 2 = Wooden Barrel
- 3 = Jerrican
- 4 = Box
- 5 = Bag
- 6 = Composite Packaging
- 7 = Pressure receptacle

###### Material

- A = Steel
- B = Aluminum
- C = Natural Wood
- D = Plywood
- F = Reconstituted Wood
- G = Fiberboard
- H = Plastic
- L = Textile
- M = Paper, multi-wall
- N = Metal other than steel or aluminum
- P = Glass, porcelain, or stoneware

##### Head Type

- 1 = Non-removable
- 2 = Removable

##### Inner Packaging

###### Type

- 1 = Bottle
- 2 = Can
- 3 = Box
- 4 = Bag
- 5 = Cylinder

###### Material

- A = Metal (any type)
- B = Glass, porcelain, or stoneware
- C = Plastic
- D = Fiberboard or cardboard
- E = Wood (any type)

#### IBC Packaging Identification Codes

##### Material of Construction

- 1—Metal
- 2—Plastic

##### 3—Composite

##### 4—Fiberboard

##### 5—Wooden

##### 6—Flexible

(27) Describe the package capacity and the quantity: Enter the total capacity of the inner and outer package. Also enter the actual amount of hazardous material that was shipped in the package, the number of packages in the shipment, and the number of packages that failed. Please include the units of measurement (liter, gallons, pounds, cubic feet, *etc.*)

(28) Provide package construction and test information, as appropriate: In the case of Non-bulk packagings or IBCs enter the name of the packaging manufacturer or the symbol of the manufacturer only if complete identification markings were not provided in #26b. Enter the date of manufacture and the serial number, if applicable. Enter the last test date if the packaging requires periodic testing. Also include the design pressure, shell thickness, head thickness, and service pressure if the failed packagings are of the type indicated in parenthesis after each question. If the packaging contained a valve, or other device that failed and resulted in a hazardous material release, enter the valve or device type, manufacturer (if present and legible), and model number (if present and legible).

(29) If the package is for Radioactive Materials, complete the following: Complete this question only if a radioactive material was involved. Indicate the packaging category, the packaging certification, certification number, and which nuclides were present, the transportation index (TI), activity of the nuclides, and the criticality safety index.

#### Part IV: Consequences

(30) Result of Incident: Check all boxes that describe what occurred during the incident or as a result of the incident. For example, in a situation where a truckload of 55 gallon drums of corrosive liquids overturns resulting in a release that contaminates a nearby wetlands and stream the boxes "Spillage," "Material Entered Waterway/Storm Sewer," and "Environmental Damage" may apply.

(31) Emergency Response: Check all boxes that correspond with any emergency response and cleanup crews that participated in resolving the incident. If a fire crew, EMS, or police unit responded to the incident, include the report number.

(32) Damages: You are required to provide information on estimated damages if your damages exceed \$500.00. This figure includes the cost of the material lost, property damage, vehicle damage, response costs, and clean-up costs. If you do not know these amounts at the time you complete the report, or the actual costs are revised by more than \$25,000, you must submit a follow-up report after you determine the amounts. The following definitions explain each of the costs:

Material Loss: Enter the value of material released and unrecoverable. Base this entry on the amount of material released multiplied by the unit value (*e.g.*, price per gallon or price per pound) as listed on the

shipper's invoice. If the invoice is not available, estimate the cost per unit using the shipper's basis.

Carrier Damage: Enter the total value of damage incurred by the carrier. Major components include costs to repair the damaged vehicle and costs resulting from damage to cargo. If the vehicle is declared "totaled," enter the insured value of the vehicle. This entry should not include damage to other property or to vehicles owned by other persons.

Property Damage: Enter the total value of costs resulting from damage to the property of others involved in the incident. These include: repair and replacement costs of other vehicles; repair and replacement costs to buildings and other fixed facilities; and restoration of open land beyond decontamination and cleanup.

Response Cost: Enter the total value of response costs. Response costs are those costs incurred immediately after the incident, and include local emergency response from police and fire departments and emergency response teams, as well as costs incurred by the responsible party. Response costs also include costs to contain the hazardous material released.

Remediation/Cleanup Cost: Enter the total value of the cost to cleanup and remediate the site. Cleanup costs are those costs incurred to collect, transport, and ultimately dispose of all material collected during the response phase. Remediation costs are those costs incurred to restore the incident scene to its pre-incident state, and could include excavation, disposal and replacement of contaminated soil, pumping, treatment and re-injection of contaminated groundwater, or absorption and disposal of hazardous material released into surface water.

(33a) Did the hazardous material cause or contribute to a human fatality? If a person was fatally injured by contact with the hazardous material or its vapors or by a fire or explosion that resulted from the hazardous material, check the "Yes" box and enter the number of fatalities that resulted directly from the hazardous material.

(33b) Were there human fatalities that did not result from the hazardous material? If the fatalities were not caused directly by the hazardous material, check the "Yes" box and enter the number of fatalities. An example: if a passenger car collided with a cargo tank carrying gasoline and the automobile driver was killed due to the collision, then the fatality was not caused by the hazardous material released. If, however, the accident resulted in the release of gasoline from the cargo tank and a resulting fire killed the automobile driver, then the fatality was caused by the hazardous material.

(34) Did the hazardous material cause or contribute to a personal injury? If a person was injured by contact with the hazardous material or its vapors or by a fire or explosion that resulted from the hazardous material, check the "Yes" box and enter the number of persons injured by the hazardous material.

Hospitalized means admitted to a medical facility, not treated and released from a facility, such as a hospital emergency room, where the person was never admitted to the hospital proper. Non-hospitalized

individuals are those who may have received attention from medical personnel on-site or at a facility (including hospital emergency room), but were not admitted to a medical facility. Indicate the number of injured employees, emergency responders (firefighters, police, medics, etc.) and members of the general public.

(35) Did the hazardous material cause or contribute to an evacuation? If the incident required the evacuation or removal of persons from a specific area because of possible or actual contact with the hazardous materials involved in the incident, check the "Yes" box. Separately specify the numbers of individuals from the general public evacuated and number of employees of the facility or workers in the area that were evacuated. Also provide the total number of individuals evacuated. Indicate the duration of the evacuation (in hours).

(36) Was a transportation artery or facility closed? If a road or transportation facility was closed due to the incident, check the "Yes" box and indicate the duration (in hours) here.

(37) Was the material involved in a crash or derailment? Check the "Yes" box if a hazardous material was involved in a crash or derailment. Provide the estimated speed and weather conditions at the time of the crash, such as rain, blowing snow, sleet, iced roadway, sun glare, fog, dry pavement, high winds, etc. Indicate if the vehicle overturned or left the roadway or track.

#### Part V: Air Incident Information

This section is for incidents with packagings transported or intended for transportation by aircraft. If your packaging was not transported or intended to be transported by air, skip this section.

(38) Was the shipment on a passenger aircraft? Indicate whether the shipment in question was on a commercial passenger aircraft. If so, indicate if the material was tendered (accepted for shipment) as cargo, or was located in a passenger's baggage, either in the cabin or baggage compartment.

(39) Where did the incident occur or where was the incident discovered? Indicate where in the course of transportation the incident occurred or was discovered.

(40) What phase(s) had the shipment already undergone prior to the incident? Check all boxes that describe the transportation phases the shipment went through before the incident occurred or was discovered.

#### Part VI: Description of Events and Packaging Failure

Please describe the events involved in the incident to provide us with a better understanding of the incident. Include information that has not been collected elsewhere on this form, and include special scenarios, outstanding circumstances, or other information that provides a complete picture of the incident. Describe the sequence of events that led to the incident, the package failure (if any) and actions taken at the time of discovery. Submit photographs and diagrams when necessary for clarification. You may continue on additional sheets if necessary.

#### Part VII: Recommendations/Actions Taken To Prevent Future Incidents

Recommendations may be preliminary in nature, may suggest actions by other parties, and may be subject to further investigation, refinement, acceptance, or rejection. Often, it may be beyond the ability of the preparer to offer recommendations, but where such recommendations can be made they have the potential of resulting in important improvements with safety benefits. For instance, such information can help companies identify common problems and alert the DOT to the need for additional measures such as outreach or broad training needs. This information can also help support regulatory changes.

#### Part VIII: Contact Information

Provide the name, title, telephone number, fax number, business name and address, hazmat registration number and email address of the contact person at your company who can answer questions about the information provided on this form. Make sure to check the box that describes the function of your firm: carrier, shipper, facility owner/operator, or other. If "Other" is checked, describe the function.

#### Instructions for Form DOT F 5800.1—Failure Codes for Part 3 of Form DOT F 5800.1

##### Complete Listing—All Packaging Types

##### Code What Failed

- 101 Air Inlet
- 102 Auxiliary Valve
- 103 Basic Material
- 104 Body
- 105 Bolts or Nuts
- 106 Bottom Outlet Valve
- 107 Check Valve
- 108 Chime
- 109 Closure (e.g., Cap, Top, or Plug)
- 110 Cover
- 111 Cylinder Neck or Shoulder
- 112 Cylinder Sidewall—Near Base
- 113 Cylinder Sidewall—Other
- 114 Cylinder Valve
- 115 Discharge Valve or Coupling
- 116 Excess Flow Valve
- 117 Fill Hole
- 118 Flange
- 119 Frangible Disc
- 120 Fusible Pressure Relief Device or Element
- 121 Gasket
- 122 Gauging Device
- 123 Heater Coil
- 124 High Level Sensor
- 125 Hose
- 126 Hose Adaptor or Coupling
- 127 Inlet (Loading) Valve
- 128 Inner Packaging
- 129 Inner Receptacle
- 130 Lifting Feature
- 131 Lifting Lug
- 132 Liner
- 133 Liquid Line
- 134 Liquid Valve
- 135 Loading or Unloading Lines
- 136 Locking Bar
- 137 Manway or Dome Cover
- 138 Mounting Studs
- 139 O-Ring or Seals

- 140 Outer Frame
- 141 Piping or Fittings
- 142 Piping Shear Section
- 143 Pressure Relief Valve or Device—Non-Reclosing
- 144 Pressure Relief Valve or Device—Reclosing
- 145 Remote Control Device
- 146 Sample Line
- 147 Stub Still (Tank Car)
- 148 Sump
- 149 Tank Head
- 150 Tank Shell
- 151 Thermometer Well
- 152 Threaded Connection
- 153 Vacuum Relief Valve
- 154 Valve Body
- 155 Valve Seat
- 156 Valve Spring
- 157 Valve Stem
- 158 Vapor Valve
- 159 Vent
- 160 Washout
- 161 Weld or Seam

##### Code How Failed

- 301 Abraded
- 302 Bent
- 303 Burst or Ruptured
- 304 Cracked
- 305 Crushed
- 306 Failed to Operate
- 307 Gouged or Cut
- 308 Leaked
- 309 Punctured
- 310 Ripped or Torn
- 311 Structural
- 312 Torn Off or Damaged
- 313 Vented

##### Code Cause(s) of Failure

- 501 Abrasion
- 502 Broken Component or Device
- 503 Commodity Self-ignition
- 504 Commodity Polymerization
- 505 Conveyer or Material Handling Equipment Mishap
- 506 Corrosion—Exterior
- 507 Corrosion—Interior
- 508 Defective Component or Device
- 509 Derailment
- 510 Deterioration or Aging
- 511 Dropped
- 512 Fire, Temperature, or Heat
- 513 Forklift Accident
- 514 Freezing
- 515 Human Error
- 516 Impact with Sharp or Protruding Object (e.g., nails)
- 517 Improper Preparation for Transportation
- 518 Inadequate Accident Damage Protection
- 519 Inadequate Blocking and Bracing
- 520 Inadequate Maintenance
- 521 Inadequate Preparation for Transportation
- 522 Inadequate Procedures
- 523 Inadequate Training
- 524 Incompatible Product
- 525 Incorrectly Sized Component or Device
- 526 Loose Closure, Component, or Device
- 527 Misaligned Material, Component, or Device
- 528 Missing Component or Device
- 529 Overfilled
- 530 Overpressurized



531 Rollover Accident  
 532 Stub Sill Separation from Tank (Tank Cars)  
 533 Threads Worn or Cross Threaded  
 534 Too Much Weight on Package  
 535 Valve Open  
 536 Vandalism  
 537 Vehicular Crash or Accident Damage  
 538 Water Damage

*General Non-bulk and IBCs*

Code What Failed  
 103 Basic Material  
 104 Body  
 105 Bolts or Nuts  
 108 Chime  
 109 Closure (e.g., Cap, Top, or Plug)  
 110 Cover  
 119 Frangible Disc  
 120 Fusible Pressure Relief Device or Element  
 121 Gasket  
 125 Hose  
 128 Inner Packaging  
 129 Inner Receptacle  
 130 Lifting Feature  
 132 Liner  
 140 Outer Frame  
 143 Pressure Relief Valve or Device—Non-Reclosing  
 144 Pressure Relief Valve or Device—Reclosing  
 161 Weld or Seam  
 Code How Failed  
 301 Abraded  
 302 Bent  
 303 Burst or Ruptured  
 304 Cracked  
 305 Crushed  
 306 Failed to Operate  
 307 Gouged or Cut  
 308 Leaked  
 309 Punctured  
 310 Ripped or Torn  
 311 Structural  
 312 Torn Off or Damaged  
 313 Vented

Code Causes of Failure  
 501 Abrasion  
 503 Commodity Self-ignition  
 504 Commodity Polymerization  
 505 Conveyer or Material Handling Equipment Mishap  
 506 Corrosion—Exterior  
 507 Corrosion—Interior  
 508 Defective Component or Device  
 510 Deterioration or Aging  
 511 Dropped  
 513 Forklift Accident  
 514 Freezing  
 515 Human Error  
 516 Impact with Sharp or Protruding Object (e.g., nails)  
 517 Improper Preparation for Transportation  
 521 Inadequate Preparation for Transportation  
 522 Inadequate Procedures  
 523 Inadequate Training  
 529 Overfilled  
 530 Overpressurized  
 534 Too Much Weight on Package  
 535 Valve Open  
 536 Vandalism  
 537 Vehicular Crash or Accident Damage

538 Water Damage

*Cylinders*

Code What Failed  
 111 Cylinder Neck or Shoulder  
 112 Cylinder Sidewall—Near Base  
 113 Cylinder Sidewall—Other  
 114 Cylinder Valve  
 119 Frangible Disc  
 120 Fusible Pressure Relief Device or Element  
 122 Gauging Device  
 132 Liner  
 143 Pressure Relief Valve or Device—Non-Reclosing  
 144 Pressure Relief Valve or Device—Reclosing  
 161 Weld or Seam  
 Code How Failed  
 301 Abraded  
 303 Burst or Ruptured  
 304 Cracked  
 306 Failed to Operate  
 307 Gouged or Cut  
 308 Leaked  
 309 Punctured  
 313 Vented

Code Cause(s) of Failure  
 501 Abrasion  
 502 Broken Component or Device  
 503 Commodity Self-ignition  
 504 Commodity Polymerization  
 505 Conveyer or Material Handling Equipment Mishap  
 506 Corrosion—Exterior  
 507 Corrosion—Interior  
 508 Defective Component or Device  
 510 Deterioration or Aging  
 512 Fire, Temperature, or Heat  
 513 Forklift Accident  
 514 Freezing  
 515 Human Error  
 516 Impact with Sharp or Protruding Object (e.g., nails)  
 517 Improper Preparation for Transportation  
 519 Inadequate Blocking and Bracing  
 520 Inadequate Maintenance  
 521 Inadequate Preparation for Transportation  
 522 Inadequate Procedures  
 523 Inadequate Training  
 524 Incompatible Product  
 525 Incorrectly Sized Component or Device  
 526 Loose Closure, Component, or Device  
 527 Misaligned Material, Component, or Device  
 528 Missing Component or Device  
 529 Overfilled  
 530 Overpressurized  
 535 Valve Open  
 536 Vandalism  
 537 Vehicular Crash or Accident Damage

*Portable Tanks*

Code What Failed  
 105 Bolts or Nuts  
 106 Bottom Outlet Valve  
 107 Check Valve  
 108 Chime  
 109 Closure (e.g., Cap, Top, or Plug)  
 110 Cover  
 119 Frangible Disc  
 120 Fusible Pressure Relief Device or Element

121 Gasket  
 122 Gauging Device  
 125 Hose  
 127 Inlet (Loading) Valve  
 131 Lifting Lug  
 132 Liner  
 135 Loading or Unloading Lines  
 137 Manway or Dome Cover  
 140 Outer Frame  
 141 Piping or Fittings  
 143 Pressure Relief Valve or Device—Non-Reclosing  
 144 Pressure Relief Valve or Device—Reclosing  
 152 Threaded Connection  
 153 Vacuum Relief Valve  
 161 Weld or Seam

Code How Failed

301 Abraded  
 302 Bent  
 303 Burst or Ruptured  
 304 Cracked  
 305 Crushed  
 306 Failed to Operate  
 307 Gouged or Cut  
 308 Leaked  
 309 Punctured  
 310 Ripped or Torn  
 312 Torn Off or Damaged  
 313 Vented

Code Cause(s) of Failure

501 Abrasion  
 502 Broken Component or Device  
 503 Commodity Self-ignition  
 504 Commodity Polymerization  
 505 Conveyer or Material Handling Equipment Mishap  
 506 Corrosion—Exterior  
 507 Corrosion—Interior  
 508 Defective Component or Device  
 509 Derailment  
 510 Deterioration or Aging  
 511 Dropped  
 512 Fire, Temperature, or Heat  
 514 Freezing  
 515 Human Error  
 517 Improper Preparation for Transportation  
 520 Inadequate Maintenance  
 521 Inadequate Preparation for Transportation  
 522 Inadequate Procedures  
 523 Inadequate Training  
 524 Incompatible Product  
 525 Incorrectly Sized Component or Device  
 526 Loose Closure, Component, or Device  
 527 Misaligned Material, Component, or Device  
 528 Missing Component or Device  
 529 Overfilled  
 530 Overpressurized  
 531 Rollover Accident  
 536 Vandalism  
 537 Vehicular Crash or Accident Damage

*Bulk Tank Vehicles—Cargo Tank Motor Vehicles (CTMV) and Tank Cars*

Code What Failed

101 Air Inlet  
 105 Bolts or Nuts  
 106 Bottom Outlet Valve  
 107 Check Valve  
 110 Cover  
 115 Discharge Valve or Coupling  
 116 Excess Flow Valve

117	Fill Hole
118	Flange
119	Frangible Disc
120	Fusible Pressure Relief Device or Element
121	Gasket
122	Gauging Device
123	Heater Coil
124	High Level Sensor
125	Hose
126	Hose Adaptor or Coupling
127	Inlet (Loading) Valve
131	Lifting Lug
132	Liner
133	Liquid Line
134	Liquid Valve
135	Loading or Unloading Lines
136	Locking Bar
137	Manway or Dome Cover
138	Mounting Studs
139	O-Ring or Seals
141	Piping or Fittings
142	Piping Shear Section
143	Pressure Relief Valve or Device—Non-Reclosing
144	Pressure Relief Valve or Device—Reclosing
145	Remote Control Device
146	Sample Line
147	Stub Sill (Tank Car)
148	Sump
149	Tank Head
150	Tank Shell
151	Thermometer Well
152	Threaded Connection
153	Vacuum Relief Valve
154	Valve Body
155	Valve Seat
156	Valve Spring
157	Valve Stem
158	Vapor Valve
159	Vent
160	Washout
161	Weld or Seam
Code	How Failed
301	Abraded
302	Bent
303	Burst or Ruptured
304	Cracked
305	Crushed
306	Failed to Operate
307	Gouged or Cut
308	Leaked
309	Punctured
310	Ripped or Torn
311	Structural
312	Torn Off or Damaged
313	Vented
Code	Cause(s) of Failure
501	Abrasion
502	Broken Component or Device
503	Commodity Self-ignition
504	Commodity Polymerization
505	Conveyer or Material Handling Equipment Mishap
506	Corrosion—Exterior
507	Corrosion—Interior
508	Defective Component or Device
509	Derailment
510	Deterioration or Aging
511	Dropped
512	Fire, Temperature, or Heat
515	Human Error
517	Improper Preparation for Transportation

518	Inadequate Accident Damage Protection
519	Inadequate Blocking and Bracing
520	Inadequate Maintenance
521	Inadequate Preparation for Transportation
522	Inadequate Procedures
523	Inadequate Training
524	Incompatible Product
525	Incorrectly Sized Component or Device
526	Loose Closure, Component, or Device
527	Misaligned Material, Component, or Device
528	Missing Component or Device
529	Overfilled
530	Overpressurized
531	Rollover Accident
532	Stub Sill Separation from Tank (Tank Cars)
533	Threads Worn or Cross Threaded
536	Vandalism
537	Vehicular Crash or Accident Damage

#### **Hazardous Materials Regulations 49 CFR Sections 171.15 and 171.16**

##### *§ 171.15—Immediate notice of certain hazardous materials incidents.*

(a) *General.* As soon as practical but no later than 12 hours after the occurrence of any incident described in paragraph (b) of this section, each person in physical possession of the hazardous material must provide notice by telephone to the National Response Center (NRC) on 800-424-8802 (toll free) or 202-267-2675 (toll call). Notice involving an infectious substance (etiologic agent) may be given to the Director, Centers for Disease Control and Prevention, U.S. Public Health Service, Atlanta, GA, 800-232-0124 (toll free), in place of notice to the NRC. Each notice must include the following information:

- (1) Name of reporter;
- (2) Name and address of person represented by reporter;
- (3) Phone number where reporter can be contacted;
- (4) Date, time, and location of incident;
- (5) The extent of injury, if any;
- (6) Class or division, proper shipping name, and quantity of hazardous materials involved, if such information is available; and
- (7) Type of incident and nature of hazardous material involvement and whether a continuing danger to life exists at the scene.

(b) *Reportable incident.* A telephone report is required whenever any of the following occurs during the course of transportation in commerce (including loading, unloading, and temporary storage):

- (1) As a direct result of a hazardous material—
  - (i) A person is killed;
  - (ii) A person receives an injury requiring admittance to a hospital;
  - (iii) The general public is evacuated for one hour or more;
  - (iv) A major transportation artery or facility is closed or shut down for one hour or more; or
  - (v) The operational flight pattern or routine of an aircraft is altered;
- (2) Fire, breakage, spillage, or suspected radioactive contamination occurs involving a

radioactive material (*see also* § 176.48 of this subchapter);

(3) Fire, breakage, spillage, or suspected contamination occurs involving an infectious substance other than a diagnostic specimen or regulated medical waste;

(4) A release of a marine pollutant occurs in a quantity exceeding 450 L (119 gallons) for a liquid or 400 kg (882 pounds) for a solid; or

(5) A situation exists of such a nature (*e.g.*, a continuing danger to life exists at the scene of the incident) that, in the judgment of the person in possession of the hazardous material, it should be reported to the NRC even though it does not meet the criteria of paragraph (b)(1), (2), (3) or (4) of this section.

(c) *Written report.* Each person making a report under this section must also make the report required by § 171.16 of this subpart.

**Note to § 171.15:** Under 40 CFR 302.6, EPA requires persons in charge of facilities (including transport vehicles, vessels, and aircraft) to report any release of a hazardous substance in a quantity equal to or greater than its reportable quantity, as soon as that person has knowledge of the release, to DOT's National Response Center at (toll free) 800-424-8802 or (toll) 202-267-2675.

##### *§ 171.16—Detailed hazardous materials incident reports.*

(a) *General.* Each person in physical possession of a hazardous material at the time that any of the following incidents occurs during transportation (including loading, unloading, and temporary storage) must submit a Hazardous Materials Incident Report on DOT Form F 5800.1 (01-2004) within 30 days of discovery of the incident:

- (1) Any of the circumstances set forth in § 171.15(b);
- (2) An unintentional release of a hazardous material or the discharge of any quantity of hazardous waste;
- (3) A specification cargo tank with a capacity of 1,000 gallons or greater containing any hazardous material suffers structural damage to the lading retention system or damage that requires repair to a system intended to protect the lading retention system, even if there is no release of hazardous material; or
- (4) An undeclared hazardous material is discovered.

(b) *Providing and retaining copies of the report.* Each person reporting under this section must—

(1) Submit a written Hazardous Materials Incident Report to the Information Systems Manager, DHM-63, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590-0001, or an electronic Hazardous Material Incident Report to the Information System Manager, DHM-63, Research and Special Programs Administration, Department of Transportation, Washington, DC 20590-0001 at <http://hazmat.dot.gov>;

(2) For an incident involving transportation by aircraft, submit a written or electronic copy of the Hazardous Materials Incident Report to the FAA Security Field Office nearest the location of the incident; and

(3) Retain a written or electronic copy of the Hazardous Materials Incident Report for

a period of two years at the reporting person's principal place of business. If the written or electronic Hazardous Materials Incident Report is maintained at other than the reporting person's principal place of business, the report must be made available at the reporting person's principal place of business within 24 hours of a request for the report by an authorized representative or special agent of the Department of Transportation.

(c) *Updating the incident report.* A Hazardous Materials Incident Report must be updated within one year of the date of occurrence of the incident whenever:

(1) A death results from injury caused by a hazardous material;

(2) There was a misidentification of the hazardous material or packaging information on a prior incident report;

(3) Damage, loss or related cost that was not known when the initial incident report was filed becomes known; or

(4) Damage, loss, or related cost changes by \$25,000 or more, or 10% of the prior total estimate, whichever is greater.

(d) *Exceptions.* Unless a telephone report is required under the provisions of § 171.15 of this part, the requirements of paragraphs (a), (b), and (c) of this section do not apply to the following incidents:

(1) A release of a minimal amount of material from—

(i) a vent, for materials for which venting is authorized;

(ii) the routine operation of a seal, pump, compressor, or valve; or

(iii) connection or disconnection of loading or unloading lines, provided that the release does not result in property damage.

(2) An unintentional release of hazardous material when:

(i) The material is properly classed as—

(A) ORM-D; or

(B) a Packing Group III material in Class or Division 3, 4, 5, 6.1, 8, or 9;

(ii) Each packaging has a capacity of less than 20 liters (5.2 gallons) for liquids or less than 30 kg (66 pounds) for solids;

(iii) The total aggregate release is less than 20 liters (5.2 gallons) for liquids or less than 30 kg (66 pounds) for solids; and

(iv) The material is not—

(A) offered for transportation or transported by aircraft,

(B) a hazardous waste, or

(C) an undeclared hazardous material.

(3) An undeclared hazardous material discovered in an air passenger's checked or carry-on baggage during the airport screening process. (For discrepancy reporting by carriers, *see* § 175.31 of this subchapter.)

[FR Doc. 04-11398 Filed 5-25-04; 8:45 am]

**BILLING CODE 4910-60-P**