DEPARTMENT OF TRANSPORTATION
MATERIALS TRANSPORTATION BUREAU
WASHINGTON, D.C. 20590

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 171

[Docket No. HM-36A; Notice No. 80-5]

Elimination of Certain Reporting Requirements

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) is proposing to reduce its requirements for written reports of transportation incidents involving packagings containing certain low risk hazardous materials. Information accumulated in the 10 years reports have been filed indicates that incidents involving these particular hazardous materials do not pose significant safety or health problems. A useful data base has been established and the incident patterns are clear. Little or nothing new is being learned. The reduction should result in savings to carriers (fewer incident reports to prepare) and MTB (reduced processing and data management costs).

DATE: Comments must be received on or before August 14, 1980.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that the docket number be identified and that five copies be submitted. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: Irving R. Abis, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Washington, D.C. 20590, (202-472-2726).

SUPPLEMENTARY INFORMATION: This notice proposes to eliminate the detailed hazardous materials incident reports required by § 171.16 of the Hazardous Materials Regulations for materials being transported under the following proper shipping names, "Consumer commodity"; "Battery, electric storage, wet"; or "Paint, enamel, lacquer, stain, shellac *or* varnish; aluminum, bronze, gold, wood filler liquid *or* lacquer base, liquid." With respect to paint and related materials, this exception would apply only when shipped in quantities of five gallons or less.

The MTB has analyzed the hazardous materials incident data base and believes that continued reporting of incidents involving these materials would be of minimal value when weighed against the burden placed upon the carriers who are required to prepare and submit incident reports.

In 1979, approximately 18,000 incident report were filed with the MTB involving all hazardous materials. Of the incident reports submitted between January 1971 and October 1979 (excluding 1977), paint and related materials represented 21.4 percent of the incidents reported and batteries represented 8.1 percent of the incidents reported. Of the paint reports, including related materials, 86 percent involved packagings of five gallons or less. The major causes of the incidents were reported as resulting from packages "dropped in handling" and "damage by other freight." If this proposal is adopted, it is expected that there would be a 30 percent reduction in the number of hazardous materials incident reports submitted during the first complete reporting year. This would result in substantial savings for the carriers and MTB believes that information which is already contained in its data base is sufficient for its purposes.

The severity level of incidents involving paint and related materials, when shipped in quantities of five gallons or less, shows that there have been no deaths; a few minor injuries and property damage averaging $95 per report. The severity level of incidents involving batteries (electric storage, wet) shows no deaths, a few injuries, mostly minor in nature, and property damage averaging $157 per report. Reports pertaining to consumer commodities, ORM-D, represent less than one percent of the incident reports received by the MTB. For incidents involving these materials, no deaths or injuries were reported and property damage per incident averaged less than $11.

MTB estimates that a combined total of 9,000 man hours of effort will be eliminated by this change in the reporting requirements if it is adopted. This includes the time taken to obtain the information necessary to complete incident reports, the time consumed in preparing incident reports, and the review and processing time consumed by MTB and its contractors in compiling the data base after receipt of the incident reports.

This notice does not propose to change the requirement in § 171.16 which calls for a detailed written report for serious incidents as provided in § 171.15 or to change any of the reporting requirements relative to transportation by air. The MTB believes that continued reports of these materials being transported by air would be of value for further analysis because of the potential for serious consequences from incidents aboard aircraft which would otherwise be minor when they occur elsewhere.

In consideration of the foregoing, it is proposed to amend Part 171 of the Title 49, Code of Federal Regulations, as follows:

1. Section 171.16 would be amended by adding new paragraphs (c) and (d) as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(c) Except as provided in paragraph (d) of this section, the requirements of paragraph (a) of this section do not apply to incidents involving the unintentional release of hazardous materials being transported under the following proper shipping names:

(1) "Consumer commodity."

(2) "Battery, electric storage, wet."

(3) "Paint, enamel, lacquer, stain, shellac *or* varnish; aluminum, bronze, gold, wood filler liquid *or* lacquer based liquid" when shipped in quantities of five gallons or less.

(d) The exceptions to incident reporting provided in paragraph (c) of this section do not apply to:

(1) Incidents required to be reported under § 171.15(a);

(2) Incidents involving transportation aboard aircraft; nor

(3) Incidents involving the transportation of hazardous waste.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and par. (a)(4) App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et

seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on June 5, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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