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; Amdt. No. 171-56]

Elimination of Certain Reporting Requirements

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

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the Hazardous Materials Regulations is to eliminate the requirement for written reports of transportation incidents involving certain low risk hazardous materials. The Materials Transportation Bureau (MTB) believes that this action will result in a significant savings to the public without adversely affecting public safety or health.

EFFECTIVE DATE: January 1, 1981.

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

SUPPLEMENTARY INFORMATION: On June 16, 1980, the MTB published a notice of proposed rulemaking, Docket HM-36A; Notice No. 80-5 (45 FR 40628) which proposed the elimination of certain requirements for the submission of hazardous materials incident reports presently required by § 171.16 of the Hazardous Materials Regulations. Subject to this action are 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 applies only when shipped in packagings of five gallons or less. The reasons for this action were stated in Notice 80-5.

The MTB received twenty-four comments in response to the proposed regulation and twenty-three of them, including one from the National Transportation Safety Board, were substantive in nature. All comments were in favor of the proposal.

Two commenters requested that all paperwork requirements be eliminated relative to the materials covered by this action. These comments are clearly outside the scope of this action. One commenter suggested that all reporting requirements for hazardous materials incidents other than those required under § 171.15(a) be eliminated. The MTB believes that written incident reports are valuable in determining problem areas which should be addressed by rulemaking. However, as stated in the notice of proposed rulemaking, the MTB believes that sufficient data has been obtained on the specified hazardous materials to justify eliminating the reporting requirements for these materials. The preamble to Docket No. HM-36; Amendments Nos. 171-7, 173-39, 174-7, 175-5, 176-3, 177-14, (35 FR 16836), published October 31, 1970, addressed the question of whether the incident reports would be of value. The preamble stated that as experience was gained under the incident report system, it would be easier to analyze which reports were of significant value and which were not. The MTB believes this rulemaking takes a step in determining those reports of significant value.

Several commenters suggested that the MTB consider eliminating reporting requirements for additional commodities. Further analysis will determine whether additional exceptions to the reporting requirements would be warranted and if so, additional notices of proposed rulemaking will be published.

Two commenters requested that wording of the proposed amendment in § 171.16(c)(3) be changed from "... when shipped in quantities of five gallons or less", to include multiple packagings of five gallon or less. The MTB agrees with this comment since the analysis upon which the notice was based involved incident reports of package failures, most of which were multiple packagings. This comment has been incorporated in § 171.16(c)(3).

Although not mentioned in the notice, § 171.16(b) is being revised to reflect a change in operational procedures in processing incident reports. Because this action, does not impose any burden on the general public, public proceedings are unnecessary.

In consideration of the foregoing, 49 CFR Part 171 is amended as follows:

In § 171.16 paragraph (b) is revised and paragraphs (c) and (d) are added to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

* * * * *

(b) Each carrier making a report under this section shall send that report to the Chief, Statistical Information Reporting Branch (DTS-233), Transportation Systems Center, U.S. Department of Transportation, Kendall Square, Cambridge, MA 02142.

(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 base liquid when shipped in packagings 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 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12221 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 October 24, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

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