

STATEMENT OF ROSE A. MCMURRAY, ACTING ADMINISTRATOR
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
DEPARTMENT OF TRANSPORTATION
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE
HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
JUNE 8, 1993

Good morning Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to update you on the Department of Transportation's ongoing efforts to improve the safety of transporting hazardous materials. With me today is Mr. Alan Roberts, the Associate Administrator for Hazardous Materials Safety, who will respond to your more technical questions. I especially want to address our progress in implementing the regulatory provisions under the Hazardous Materials Transportation Act (HMTA), as amended by the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) of 1990. I would also like to submit, for the record, a detailed summary of RSPA's implementation of the HMTUSA provisions. I hope this information will be useful to you in your efforts to reauthorize the HMTA.

As you know, the HMTUSA was the most comprehensive change to hazardous materials legislation since the HMTA was passed in 1974. HMTUSA was a convergence of ideas, driven by unprecedented coordination and cooperation among the states and local

governments, industry, and Federal interests. It assigned our agency, the Research and Special Programs Administration (RSPA), major new responsibilities. RSPA has made significant progress in carrying out the Act's statutory obligations.

REGISTRATION

One of the significant new programs under HMTUSA was the "Hazardous Materials Transportation Registration and Fee Assessment Program" which was initiated in September 1992 after an extensive rulemaking effort. The rule requires persons who transport, or cause to be transported, certain hazardous materials to file registration statements with RSPA and pay an annual fee of \$300 to fund an emergency preparedness grants program. To date, we have collected approximately \$11 million from 36,000 registrants, including re-registrants from the 1992-1993 registration year.

In conjunction with the publication of the final rule, RSPA developed an extensive outreach and compliance program to advise shippers and carriers of the new registration requirements through information and education. Over 200,000 informational brochures and registration forms were mailed out for the initial registration period. For the 1993-94 registration year (July 1, 1993 through June 30, 1994), in an effort to seek out those entities which have not yet registered with us, we are using additional Federal data sources, together with national industry and trade associations, to identify potential registrants.

This year however, a new element is being added to the registration program. While we will continue our aggressive outreach effort, greater emphasis is being placed on enforcement at the Federal, state and local levels, which should result in significantly higher registration. RSPA is working closely with the Federal Highway Administration (FHWA) and the Federal Railroad Administration (FRA). Today is the first day of the FHWA's ROADCHECK '93, a 3-day intensive national program to identify whether motor carriers are in violation of the Federal Motor Carrier Safety and Hazardous Materials Regulations. Over 3000 Federal and state inspectors, operating at more than 300 locations throughout the U.S., will carry out extensive motor carrier safety inspections during the 3-day period. As part of ROADCHECK '93, nine states, one from each FHWA region, will combine their inspection forces with FHWA specialists nationwide, to emphasize the registration requirement and provide RSPA with a report of non-compliant parties for follow-up action. Finally, with the cooperation and support of the other administrations within DOT, RSPA has established an enforcement referral policy designed to take action against persons failing to register and pay the fee. To date, RSPA has identified more than 100 entities that have not registered and apparently are required to do so. We are referring information on those shippers and carriers to the modal agencies for appropriate enforcement action.

Although we were somewhat disappointed with the number of registrants who filed for the first cycle, we are encouraged by the

number of registrants to date for the 1993-94 registration year, which begins on July 1, 1993. Through our ongoing outreach and enforcement efforts, we estimate that 45,000 persons will register this year, which will generate \$11.25 million for the grants program. If that number is significantly less than anticipated, RSPA will evaluate the program to determine whether the amount of the registration fee needs to be increased or other program adjustments need to be made in time for the next collection cycle.

PLANNING AND TRAINING GRANTS PROGRAM

The enforcement and outreach efforts of the registration program are critical because the funds generated by the registration program support our new emergency preparedness grants program. Through the grants program, we are working with the states to increase the training of emergency responders and assist local emergency planning committees. This assistance will reinforce the State Emergency Response Commission Local Emergency Planning Committee structure mandated by the Emergency Planning Community Right-to-Know Act of 1986, and enhance training in hazardous materials emergency response, which is vital to the continued safe and efficient transportation of hazardous materials.

This year is the first year of the grant program, and we have received an overwhelming response to it. In fact, approximately \$3.5 million has been awarded to 49 states and territories so far this fiscal year, and we anticipate awarding a total of \$8.9 million by the end of the 1993 fiscal year.

TRAINING RULE

In addition to providing needed resources for the preparation of emergency responders, HMTUSA also required RSPA to finalize its efforts to issue regulations requiring training to be given to all hazardous materials employees by their employers. This training covers the safe loading, unloading, handling, storing, and transportation of hazardous materials, and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials. It has been a little over a year since we issued the final rule on training - and the initial training of employees must be completed prior to October of this year. Recurrent training is required at least once every two years. Since most hazardous materials incidents can be attributed to human error, the better people are trained, the less likely they will become involved in or cause accidents.

This rule will assist in increasing safety by helping assure that all employees involved in hazardous materials are trained to perform their duties. As a result of this new regulation, we hope to see a measurable reduction in incidents involving hazardous materials.

NATIONAL ACADEMY OF SCIENCES STUDY

On April 29, 1993, a study on the feasibility and necessity of establishing a central reporting system and computerized telecommunications data center, capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials within the U.S., was transmitted by the National Academy of Sciences (NAS) to Congress and the Secretary of Transportation.

The center would also be able to identify hazardous materials being transported by any mode of transportation, and be capable of providing information to aid response to accidents and incidents involving the transportation of hazardous materials. We are reviewing the NAS study and preparing a report on the NAS recommendations to submit to Congress later this year.

REGULATIONS ON IMPROVING HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Closely related to this study is a rulemaking which addresses improvements to the current system of placarding vehicles transporting hazardous materials, and establishing a central reporting system and data center. An advance notice of proposed rulemaking was published last year; comments are being reviewed, and an analysis of those comments will be included in our report to Congress on the NAS study.

OIL POLLUTION ACT

In another major action, RSPA published an interim final rule in February to implement the Oil Pollution Act of 1990. The rule strengthens release prevention by subjecting the bulk transportation of previously unregulated oil to RSPA's Hazardous Materials Regulations issued under the HMTA. The purpose of the rule is to protect the environment from oil spills by requiring carriers to develop improved oil spill prevention efforts and emergency response capabilities. This is a controversial rule because the definition of oil in the Act includes non-petroleum oils such as vegetable oils. Because of the concerns expressed by the edible oil industry and others, a hearing was held here last

month and the comment period on the interim final rule was extended until June 3, 1993. We are currently reviewing the comments on the rule to determine further action.

CLOSING REMARKS

RSPA is committed to working with all segments of the hazardous materials community to safeguard our environment and improve hazardous materials transportation safety. At the Federal, state, and local levels, we continue to strengthen existing programs and cultivate new programs that bring us closer to achieving our goal-- improved safety and nationwide uniformity in the application and enforcement of the Hazardous Materials Regulations.

We look forward to working with you in the coming months as you reauthorize the Hazardous Materials Transportation Act. Thank you and I will be happy to respond to any questions you might have.

**STATUS OF THE DEPARTMENT OF TRANSPORTATION'S IMPLEMENTATION OF
THE HAZARDOUS MATERIALS TRANSPORTATION UNIFORM SAFETY ACT OF 1990**

**Sec. 4 Federal Regulations Governing Transportation of
Hazardous Materials**

(1) Regulations

REQUIREMENTS:

The law requires the Secretary to issue regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce.

STATUS:

The Research and Special Programs Administration (RSPA) will extend the Hazardous Materials Regulations to intrastate transport of hazardous materials. The Advance Notice of Proposed Rulemaking (ANPRM) that was published on June 29, 1987, is being used as the basis for this action. An NPRM has been prepared and is under review.

(2) Preemption of Covered Subjects

REQUIREMENTS:

Non-federal regulations on certain covered subjects are preempted unless they are substantively the same as the Federal requirements.

STATUS:

Final rules on preemption standards and procedures were published on February 28, 1991, and May 13, 1992.

(3) Highway Routing

REQUIREMENTS:

The law requires the Secretary to issue Federal standards, established in conjunction with the States, to be used by the States and Indian tribes in establishing, maintaining, and enforcing: (a) specific highway routes over which hazardous materials may or may not be transported by motor vehicles, and (b) limitations and requirements with respect to highway routing.

STATUS:

The Federal Highway Administration (FHWA) developed and published a Notice of Proposed Rulemaking (NPRM) on August 31, 1992, and conducted a series of public hearings during October 1992. FHWA is preparing a final rule. Also, an Interim Final Rule was

published on September 24, 1992, establishing an FHWA regulation, consistent with previous RSPA regulations, for highway routing of radioactive materials shipments.

Sec. 5 Representation and Tampering - Regulations

REQUIREMENTS:

The law prohibits persons, by marking or otherwise, from representing that a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements in Title 49, Code of Federal Regulations (CFR) unless it meets the requirements of all applicable regulations; or that a hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel, if it is not. The law also prohibits unlawful tampering with any marking, labeling, placarding or description on required documents or packages, containers, rail freight cars, aircraft, vessels or motor vehicles.

STATUS:

On February 28, 1991, RSPA published a Final Rule prohibiting unlawful representation and unlawful tampering.

Sec. 6 Maintenance and Disclosure of Shipping Papers - Regulations

REQUIREMENTS:

The law requires the Secretary to issue regulations specifying what information must be contained in shipping papers, where shipping papers are to be maintained during transportation of hazardous materials, and under what circumstances shipping papers shall be disclosed to appropriate emergency response authorities.

STATUS:

Maintenance and location of shipping papers are specified in the Hazardous Materials Regulations for all modes except rail. An ANPRM which addresses this issue is being developed by the Federal Railroad Administration (FRA) in Docket HM-201A.

Sec. 7 Training for Hazardous Materials Transportation Employees - Regulations

REQUIREMENTS:

The law requires the Secretary to issue regulations to establish requirements for training to be given by all hazardous materials employers to their employees regarding: 1) the safe loading, unloading, handling, storing, and transportation of hazardous

materials, and 2) emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials.

STATUS:

A Final Rule establishing training requirements for all persons involved in the transportation of hazardous materials (HM-126F) was published on May 15, 1992. The rule requires hazmat employers to begin training their employees no later than November 15, 1992, and complete training and employee testing by October 1, 1993.

Sec. 8 Hazardous Materials Transportation Registration; Motor Carrier Safety Permits

(1) Registration of Shippers and Carriers - Regulations

REQUIREMENTS:

The law requires persons who transport or cause to be transported certain hazardous materials to file a registration statement with the Secretary and pay an annual fee to fund an emergency preparedness program. The law requires registration filing by March 31, 1992, but the Secretary may extend that deadline to September 30, 1992.

STATUS:

On October 10, 1991, an NPRM was published in the Federal Register. Three hearings were held and over 160 comments were received. Comments were considered and a Final Rule was issued on July 9, 1992. Clarification and formal interpretations were published on July 28, 1992, and August 21, 1992. Simultaneously, RSPA mounted a massive public awareness and outreach program. The rule requires certain shippers and carriers to register and pay a \$300 fee. The statutory deadline for implementing the program was met. Over 26,000 shippers and carriers have registered. The second year cycle of registration began in April 1993, with the mailing of renewal forms. Registrants must register and pay the fee by July 1, 1993.

(2) Permitting Regulations

REQUIREMENTS:

The law requires the Secretary to develop and publish regulations for the issuance and revocation of motor carrier safety permits, including application procedures and terms and conditions of permits. All hazardous materials motor carriers transporting Class A or B explosives, liquefied natural gas, hazardous materials designated as extremely toxic by inhalation, or highway

route controlled quantity radioactive materials must be issued a permit prior to transportation of those hazardous materials.

STATUS:

FHWA has prepared an NPRM which is expected to clear OMB before the end of June.

Sec. 12 Penalties

REQUIREMENTS:

The Hazardous Materials Transportation Uniform Safety Act (HMTUSA) provides for the assessment of civil penalties for violations of "orders" issued by the Secretary; increases the maximum civil penalty that may be assessed from \$10,000 to \$25,000 and establishes a minimum civil penalty of \$250; defines "acting knowingly" for purposes of assessing civil penalties for violations; and provides criminal penalties for knowingly violating 49 U.S.C. 1804(f) or for willfully violating a provision of the Hazardous Materials Transportation Act (HMTA), or an order or regulation issued under the HMTA.

STATUS:

RSPA published a Final Rule implementing these provisions on February 28, 1991.

Sec. 13 Relationship to Other Laws, Determination of Preemption and Waiver of Preemption - Regulations

REQUIREMENTS:

The law establishes Federal preemption standards and provides for administrative determinations of preemption and waivers of preemption by the Secretary. The law also prohibits States from levying any fee in connection with the transportation of hazardous materials that is not equitable and not used for purposes related to the transportation of hazardous materials, including enforcement and planning, development, and maintenance of a capability for emergency response.

STATUS:

Final Rules implementing these provisions were issued on February 28, 1991, and May 13, 1992.

Sec. 15 Transportation of Certain Highly Radioactive Materials

(1) Railroad Transportation Study (Dedicated Train Study)

REQUIREMENTS:

The law requires the Secretary, in consultation with the Department of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the railroad transportation industry and shippers of high-level radioactive waste and spent nuclear fuel, to study the comparative safety of using trains operated exclusively for transporting high-level waste and spent nuclear fuel with the safety of other methods of rail transportation, and report the results to Congress.

STATUS:

Funding for this study was not included in the fiscal year (FY) 1991 Appropriations Act, but was included in the FY 1992 Appropriations Act. A study was initiated with the Volpe National Transportation Systems Center (VNTSC) in FY 1992. A workshop was held in Denver on September 28-29, 1992, with the respective groups mentioned in the law, to discuss the issues. In addition, VNTSC has solicited comments from various groups to supplement the information from the workshop. A draft report has been prepared and is undergoing internal review. It is estimated that the final report should be submitted to Congress in September 1993.

(2) Safe Rail Transport of Certain Radioactive Materials

REQUIREMENTS:

The law requires the Secretary, taking into consideration the findings of the Railroad Transportation Study, to amend existing regulations, as appropriate, to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including dedicated trains.

STATUS:

Action required by this subsection is largely dependent upon the findings of the Railroad Transportation Study (Dedicated Train Study) which is currently ongoing. Refer to the status update on the Dedicated Train Study for additional information.

(3) Mode and Route Study

REQUIREMENTS:

The law requires the Secretary to undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel.

STATUS:

The VNTSC awarded a study contract in January 1993. A draft report is anticipated by November 1993. The study will benefit from work being conducted under the FRA's Dedicated Train Study.

(4) Inspections of Vehicles Transporting Highway Route Controlled Quantities of Radioactive Materials

REQUIREMENTS:

The law requires the Secretary to develop regulations governing the mandatory inspection and certification of motor vehicles prior to each use of that motor vehicle to transport highway route controlled quantity radioactive materials. Training materials must be developed and training courses must be conducted.

STATUS:

The radioactive materials inspection requirements in Section 15 will be included in the Safety Permit NPRM in Section 8.

Sec. 16 Safety Inspectors - Hiring

REQUIREMENTS:

The law requires the Secretary to employ and maintain 30 more inspectors above the number authorized for FY 1990. Ten of the inspectors must focus on radioactive material (RAM) activities, including point of origin inspections of high level RAM, and to the extent possible, other RAM. Of the additional inspectors authorized for RAM inspections, 1 is allocated to RSPA; not less than 3 are allocated to FRA; and not less than 3 are allocated to FHWA. The other 20 inspectors will be allocated among RSPA, FHWA and FRA at the Secretary's discretion.

STATUS:

RSPA was assigned one safety inspector to focus on promoting safety in the transportation of radioactive materials, including low level materials. A RAM inspector was hired, but subsequently resigned. RSPA intends to hire or assign another RAM safety inspector before the end of FY 1993.

The FHWA was allocated 3 positions of the 10 radioactive material inspector positions; FHWA hired 1 RAM specialist and 2 hazardous materials specialists. Of the 20 general hazardous materials safety inspectors, the FHWA was allocated 17 hazardous materials specialists in the field. All of those positions were filled by the end of FY 1991. With these additional positions, FHWA now has 32 hazardous materials inspector positions in the field and headquarters offices.

Funding for additional hazardous materials inspectors was not included in FRA's FY 1991 Safety budget; however, to implement this section of HMTUSA, the FRA FY 1992 safety budget did include funding for 6 hazardous materials inspector positions. FRA's FY 1993 safety budget was essentially the same as FY 1992 levels and did not specifically request additional funding to address HMTUSA requirements. In addition to the inspectors in the hazardous materials discipline, all 4 of the other FRA inspection disciplines, i.e., motive power and equipment, track, operating practices and signal and train control, contribute to the safe transportation of all hazardous materials, including shipments of both high and low level radioactive materials. At the end of FY 1990, FRA had 36 hazardous materials (discipline specific) field inspectors. Currently, FRA has 43 such inspectors, for an increase of 7 since FY 1990, which is a 20 percent increase over FY 1990 levels. Additionally, there are 8 hazardous materials supervisory specialists at the regional level, and a staff of 6 hazardous materials specialists at the headquarters level.

Sec. 17 Public Sector Planning and Training Grant Programs

(1) Regulations

REQUIREMENTS:

The law requires the Secretary to issue regulations to allow: (1) States to receive grants to develop, improve, and implement emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986, and determine the need for regional hazardous materials response teams, and (2) States and Indian tribes to receive grants for training public sector employees to respond to accidents and incidents involving hazardous materials.

STATUS:

The Final Rule implementing the Public Sector Training and Planning Grants was published on September 17, 1992. As of May 12, 1992, RSPA has awarded grants to States for emergency planning and training.

(2) Public Sector Training Curriculum

REQUIREMENTS:

The law requires the Secretary to develop and update periodically a curriculum necessary to train public sector emergency response and preparedness teams. The Secretary must consult with the regional response teams established pursuant to the National Contingency Plan, persons who provide training for responding to accidents and incidents involving transportation of hazardous materials, and representatives of persons who respond to such accidents and incidents.

STATUS:

RSPA established a curriculum development workgroup, composed of representatives of the Federal Interagency Coordination Group, to develop a national curriculum which will be articulated in two ways: first, as training guidelines to measure the adequacy of courses, and second, as the more traditional model curriculum with required hours and courses. RSPA and the Federal Emergency Management Agency (FEMA) have begun drafting the curriculum with the assistance of the workgroup. The national curriculum, acting as a measuring stick for grant applications, will help responders obtain training to assist them in meeting Occupational Safety and Health Administration and Environmental Protection Agency regulations and National Fire Protection Association guidelines. The workgroup will also identify existing sources which provide information on available courses; support FEMA in its effort to establish dissemination procedures (which are required by HMTUSA), and establish mechanisms and timing for agency review to minimize duplication of effort. The national curriculum draft guidelines were published on April 1, 1993, and are now in review.

(3) Minimization of Duplication of Federal Effort - Review

REQUIREMENTS:

The Secretary and the heads of other Federal departments, agencies and instrumentalities are required to review periodically all emergency response and preparedness training programs of those agencies for the purpose of minimizing duplication of effort and expense in carrying out such training programs and take such actions, including coordination of

training programs, as may be necessary to minimize such duplication of effort and expense.

STATUS:

The requirement is being performed by the Federal Interagency Coordination Group, consisting of the Department of Transportation (DOT), Federal Emergency Management Agency, Environmental Protection Agency, Occupational Safety and Health Administration, Department of Energy, and the National Institute of Environmental Health Sciences. It is an ongoing effort.

Sec. 18 Hazmat Employee Training Grant Program

REQUIREMENTS:

HMTUSA authorizes the National Institute of Environmental Health Sciences (NIEHS) to make grants to nonprofit organizations involved in training private sector hazmat employees.

STATUS:

The FY 1993 DOT Appropriations Act limited funding for the grant program, including the NIEHS grants, to \$11 million, and provided that funding shall be available only through the Secretary of Transportation. In addition, this program duplicates the effort required under Section 106 of the Hazardous Materials Transportation Act, which requires private sector employers to train hazardous materials employees.

Sec. 19 Railroad Tank Cars - Regulations

REQUIREMENTS:

The law prohibits the use of railroad tank cars for the transportation in commerce of hazardous materials unless the air brake equipment support attachments comply with the standards for attachments set forth in Title 49 CFR, Parts 179.100-16 and 179.200-19, in effect on the date of enactment. This prohibition took effect in two phases: the first was the date of enactment (November 16, 1990) for Class A and B explosives and materials designated as poisonous by inhalation, and the second was July 1, 1991, for any hazardous materials.

STATUS:

On October 8, 1991, FRA issued a Final Rule effective on October 8, 1991, prohibiting the transportation in commerce of all hazardous materials in tank cars with air brake support attachments that did not comply with the standards set forth in Title 49 CFR, Parts 179.100-16 and 179.200-19, that were in effect as of November 16, 1990.

Sec. 20 Application of Federal, State & Local Law to Federal Contractors - Regulations

REQUIREMENTS:

HMTUSA makes Federal contractors transporting hazardous materials or manufacturing, fabricating, marking, reconditioning, repairing or testing a package or container for use in the transportation of hazardous materials subject to all applicable Federal, State, local, and Indian tribal regulations, except where preempted by the HMTA or other Federal law, in the same manner and to the same extent as any person engaged in such activities.

STATUS:

On February 28, 1991, a Final Rule was published making Federal contractors subject to all applicable Federal, State, local, and Indian tribal regulations, except where preempted, in the same manner and extent as any person engaged in such activities.

Sec. 21 Railroad Tank Car Study

REQUIREMENTS:

The law requires the Secretary to enter into a contract with an appropriate disinterested body for a study of (1) the railroad tank car design process, including specifications development, design approval, repair process approval, repair accountability, and the process by which designs and repairs are presented, weighed, and evaluated, and (2) railroad tank car design criteria, including whether head shields should be installed on all tank cars which carry hazardous materials. The Secretary is to report the results of the study to Congress.

STATUS:

Funding for this study was not included in the FY 1991 Appropriations Act, but was included in the FY 1992 Appropriations Act. A study was initiated with the Transportation Research Board (TRB) of the National Academy of Sciences in FY 1992. A TRB committee has been formed and has held two meetings on the issues. The report to Congress is expected to be completed in September 1994.

Sec. 22 Uniformity of State Motor Carrier Registration and Permitting Forms and Procedures - Report

REQUIREMENTS:

The law requires the Secretary to establish a working group to develop uniform forms and procedures for States to use in registering and permitting entities which transport hazardous

materials over highways. The group will report to Congress within three years of enactment on its findings and recommendations on nationwide uniformity of hazardous materials transportation over highways. HMTUSA also requires the Secretary to issue regulations, implementing those recommendations with which he agrees, that are contained in the report.

STATUS:

The FHWA established a working group to provide uniform forms and procedures for States' use in registering and permitting hazardous materials highway mode shippers and carriers and to make recommendations regarding base state registration/fee collection in a Final Report to the Secretary, to the Senate Commerce Committee, and to the House Public Works Committee. The Working Group (Alliance for Uniform Hazardous Material Procedures) will meet May 23 - 25, 1993, in St. Louis, Missouri to finalize recommendations to FHWA. The recommendations will include a model Base State Hazardous Materials Registration and Permitting System. The form and complete Base State program will be tested in a four-State (West Virginia, Ohio, Nevada, and California) pilot program beginning in July 1993. The deadline for the final report to Congress is November 16, 1993.

Sec. 23 Financial Responsibility - Regulation

REQUIREMENTS:

The law establishes a \$5,000,000 minimum level of financial responsibility for hazardous materials carriers. The law allows the Secretary, by regulation, to reduce the \$5,000,000 for any class of vehicles or operations for the 3 1/2 year period beginning on the effective date of the regulations or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

STATUS:

The Department will prepare a regulation, if warranted.

Sec. 24 Federally Leased Commercial Motor Vehicles - Guidelines

REQUIREMENTS:

The law amends the Motor Carrier Safety Act of 1984 to allow any State which receives Motor Carrier Safety Assistance Program funds to apply any regulations pertaining to commercial motor vehicles (CMV) safety to federally leased CMV's.

STATUS:

Although the language in Section 24 is permissive, the FHWA will notify the States about the amended law so that they may address this in their upcoming legislative sessions.

Sec. 25 Improvements to Hazardous Materials Identification Systems

(1) Regulations

REQUIREMENTS:

HMTUSA requires the Secretary to conduct regulatory proceedings to determine methods: (1) of improving the current system of placarding vehicles transporting hazardous materials, and (2) for establishing a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials; to identify hazardous materials being transported by any mode of transportation, and provide information to facilitate responses to accidents and incidents involving hazardous materials.

STATUS:

RSPA issued an ANPRM (HM-206) on June 9, 1992, that addressed both placarding and a central reporting system and data center. RSPA received more than 200 comments. These rulemakings have been delayed pending completion of a study by the National Academy of Sciences (NAS) which is required by Section 25(b) of the HMTUSA.

(2) Central Reporting System and Computerized Telecommunication Data Center Study - NAS

REQUIREMENTS:

HMTUSA requires the Secretary to enter into appropriate arrangements with the NAS to conduct a study of the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials; that can identify hazardous materials being transported by any mode of transportation, and that can provide information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

STATUS:

RSPA contracted with the NAS to conduct the study. The report was completed and sent to Congress and the Secretary of Transportation on April 29, 1993.

(3) Review of NAS Study and Report to Congress

REQUIREMENTS:

The law requires the Secretary to review the report of the NAS and the results of rulemaking, prepare and submit to Congress a report summarizing the report and the results of rulemaking, together with the Secretary's recommendations concerning the establishment and operation of a central reporting system and computerized telecommunications center and the Secretary's recommendations concerning implementation of the recommendations contained in the NAS study.

STATUS:

RSPA will review the comments to the rulemaking docket (HM-206), as well as the NAS study, and prepare and submit to Congress a report with the Secretary's recommendations.

Sec. 26 Continually Monitored Telephone Systems - Regulations

REQUIREMENTS:

The Secretary is required to initiate a rulemaking proceeding on the feasibility, necessity, and safety benefits of requiring carriers involved in the hazardous materials transportation industry to establish continually monitored telephone systems equipped to provide emergency response information and assistance with respect to accidents and incidents involving hazardous materials.

STATUS:

RSPA included this issue in the ANPRM published on June 9, 1992.

Sec. 27 Shipper Responsibility Report - Report to Congress

REQUIREMENTS:

The law requires the Secretary to submit a report to Congress on the safety benefits of a law requiring a shipper to share liability for costs, damages, and fees assessed against the motor carrier for bulk hazardous materials incidents, if the shipper has used a carrier with an unsatisfactory or conditional safety rating.

STATUS:

The FHWA submitted the report to Congress on November 5, 1991. The report concluded that although a shipper responsibility law might marginally increase pressure on carriers to operate safely, it is unlikely that the improvement would be significant. The financial responsibility regulations currently in effect adequately protect the traveling public from the risk of uncollectible judgments. The Department believes that the Motor Carrier Safety Act and HMTA will accomplish as much as, if not more than, a shipper responsibility law. The DOT has, therefore, concluded that the proposed shipper responsibility law is unnecessary.

Sec. 28 State Participation in Investigations and Surveillance

REQUIREMENTS:

The law amended Section 206 of the Federal Railroad Safety Act of 1970 (FRSA) to permit state inspection and surveillance under any Federal regulation "related to railroad safety." The express intent of this amendment was to make the hazardous materials regulations issued under the HMTA one of the Federal railroad safety regulations covered by FRA's state participation program.

STATUS:

On June 24, 1992, the FRA published a Final Rule, effective on July 24, 1992, revising the regulations in Title 49, CFR, Part 212, concerning State participation in railroad safety inspections and investigations with respect to the transportation of hazardous materials.

Sec. 29 Retention of Markings and Placards

REQUIREMENTS:

The law requires the Secretary of Labor to issue regulations to require any employer who receives a package or vehicle containing hazardous materials to retain markings, placards, labels, and other information required by the Hazardous Materials Regulations until the hazardous materials have been removed from the package, container, or transport vehicle.

STATUS:

RSPA is requesting the Department of Labor to make a direct reply on the status of their rulemaking on the retention of markings and placards.