



JH: JBL: TGG: RF

XF: HAZ MAT TRANSP

Interoffice Communication

To Gary Draper

From Tom Grumbles

Date March 29, 1984

Subject TRANSPORTATION REGULATIONS, HR4518 AND HR2693

At your request, copies of the subject proposed bills were obtained and reviewed. Copies are attached for your information.

HR4518 - This bill was summarized in the SPI newsletter (attached). The advisory group would make recommendations on a broad range of transportation issues which the Secretary would consider for regulatory action. At this time the fate of the proposed bill is uncertain. It is closely tied to HR2693.

HR2693 - In general, this bill is proposed to "promote the public safety" by improving consistency of transportation regulations among states, delegate more responsibility for enforcement to the states, and providing means for state and local government to better respond to hazardous materials incidents. The bill included the following:

- A. An evaluation of existing training programs for those involved in the transportation of hazardous materials and emergency incidence response. Actions would be taken to improve information dissemination for the above and encourage the establishment of training centers.
- B. Federal grants would be available to states for assistance in developing State plans for enforcing Federal transportation regulations. The Secretary would develop procedures and criteria for these programs as outlined in the bill.
- C. Increasing the Federal role and rights in establishing regulations concerning the routing of hazardous materials and notification requirements prior to moving hazardous materials through jurisdictions.

The routing regulations would be promulgated with the participation of state, local and regional governments. Criteria for such routing is outlined in the bill.

- D. Federal grants would be available to assist in the development "of coordinated and effective emergency response programs for incidents, at the state and local level".
- E. Funds would be made available for research and development of response techniques.

COMMENTS - The general concept of obtaining consistency of transportation regulations and preemption by prevailing Federal regulations should have a positive impact on transportation operations.

VVV 000012352

Gary Draper
Page 2
March 29, 1984

The impact of State governments promulgating plans for enforcement is unclear. If the states have resources to develop plans and staff enforcement and inspection groups, an increased level of enforcement would be expected.

The development of numerous routing restrictions could obviously have an impact on our operations in terms of cost and delivery time. If the bill is enacted as written, we would want to become active, where possible, in local activities dealing with those recommendations.

I trust your contact on the SPI COT&D group will remain involved and aware of the progress of these bills. Also attached are hearing announcements for two issues which would increase required compliance activities. I have the full text of the announcements if you want to see them. Perhaps we should discuss attendance at the hearings or how we could find out what happened through SPI COT&D.

Thomas G. Grumbles

ajo

Attachments

VVV 000012353

desire to present comments at the public hearing notify Mr. Nalivander or Mr. Able by letter or telephone before April 30, 1984.

Note.—The Materials Transportation Bureau has determined that this document will not result in a significant regulation under DOT's regulatory policy and procedures (44 FR 11034). A preliminary economic evaluation of several alternatives is available for review in the docket (49 U.S.C. 1804, 1806; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 108).

Issued in Washington, D.C., on March 12, 1984.

Alan I. Roberts,
Associate Director for Hazardous, Materials
Regulation, Materials Transportation
Bureau.

(FR Doc. 84-7025 Filed 3-15-84; 8:45 am)
BILLING CODE 4910-60-01

49 CFR Part 172

[Docket No. HM-129C; Notice 84-2]

Required Use Of Emergency Response Guidebooks and Material Safety Data Sheets

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

ACTION: Advance Notice of Proposed
Rulemaking and Notice of Public
Hearing.

SUMMARY: This Notice solicits comments on the potential benefits and consequences of required use of Emergency Response Guidebooks (ERG) and/or Material Safety Data Sheets (MSDS's) to communicate information on the hazards of materials while they are moving in commerce. This solicitation is intended not only to address emergency situations involving significant discharges of hazardous materials, but what must be known about them when they are present in transport vehicles (including vessels and aircraft), and facilities associated with transportation such as terminals, piers, warehouses and other places where hazardous materials may be kept during the course of transportation.

DATES: A public hearing pertaining to the matters raised by this notice will be held on May 2, 1984, from 9:30 a.m. to 5:00 p.m. in room 2230 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Interested persons are invited to participate in the public hearing. The closing date for

Docket Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8428 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee E. Metcalfe, Chief, Regulations Development Branch, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590; (202) 426-2075.

SUPPLEMENTARY INFORMATION: The National Transportation Safety Board (NTSB) has recommended that the Department of Transportation determine, by mode of transportation, the feasibility of requiring comprehensive product-specific emergency response information such as MSDS's for hazardous materials moving in bulk quantities. The American Trucking Associations, Inc. (ATA) has petitioned MTB for a rule requiring placement of Emergency Response Guidebooks in certain transportation facilities. Comments that relate to the ATA petition have been received from other parties. This notice solicits comments on the potential benefits and consequences of required use of the ERG and/or MSDS's to communicate information on the hazards of materials while they are moving in commerce.

This notice contains a substantial amount of material that is directly quoted. Primary sources of the quoted material are as follows:

NTSB—National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594, James E. Burnett, Chairman

ATA—American Trucking Associations, Inc., 1816 P Street, NW., Washington, D.C. 20036, Robert A. Hirsch, Attorney and Richard M. Doyle, Hazardous Materials Specialist

IBT—International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, 25 Louisiana Avenue, NW., Washington, D.C. 20001, R. V. Durham, Director, Department of Safety and Health

WTA—Wyoming Trucking Association, Inc., 108 Rancho Avenue, Casper, Wyoming 82402, Larry E. Meredith, Managing Director

CIS—NEH/EPA Chemical Information System, CIS User Support Group, Computer Sciences Corporation, P.O. Box 2227, Falls Church, VA 22042, Katherine Noble, Project Manager

CHEMTREC—Chemical Transportation Emergency Center, Chemical Manufacturers Association, 2501 M Street, NW., Washington, D.C. 20037, Joe J. Mayhew, Director

NFPA—National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, Robert W. Grant, President

AAR—Association of American Railroads, Washington, D.C., Thomas Phemister, Director, Bureau of Explosives

ERG—Emergency Response Guidebook, Materials Transportation Bureau, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590, Alan I. Roberts, ERG Project Manager

As background to its Safety Recommendation I-83-2, issued November 29, 1983, NTSB stated the following:

About 11:00 a.m., e.s.t., on October 13, 1982, an eastbound tractor/cargo-tank semitrailer, owned and operated by Matlack, Incorporated, overturned when its driver took evasive action to avoid a head-on collision with a westbound pickup truck with another pickup truck in tow that crossed the centerline on State Route 299 approximately one-fourth mile west of Odessa, Delaware. The tank-trailer contained 5,600 gallons of divinylbenzene (DVB), 150 gallons of which leaked from the tank through a clean-out cap and a pressure relief device in the dome. As a result of the accident, five persons were treated for injuries at a local hospital; four (including the two Matlack drivers) were released and one was admitted for further treatment. In addition, 48 emergency response persons were treated and released for respiratory problems and skin rashes associated with exposure to the DVB.

Police officers were notified of a highway accident but were not informed that a hazardous material was involved. Upon arrival, police and ambulance crews devoted their activities to site security and first-aid to the crash victims.

The first arriving police officers reviewed the shipping papers and then returned them to the driver. The shipping papers described the cargo as "5,600 gallons of COMBUSTIBLE LIQUID, not otherwise specified (n.o.s.) (Divinylbenzene, 55, Inhibited) NA 1993." The truck was properly placarded in accordance with Department of Transportation regulations.

Approximately 100 emergency response personnel responded to the accident, but none of them had either previous experience

**DEPARTMENT OF TRANSPORTATION
Research and Special Programs
Administration**

49 CFR Part 177

[Docket No. HM-36B; Notice 84-1]

Detailed Hazardous Materials Incident Reports

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

ACTION: Advance Notice of Proposed Rulemaking, and Notice of Public Hearing.

SUMMARY: This notice invites comments on changing the reporting criteria for hazardous materials (hazmat) incidents under 49 CFR 171.16. The purpose of this notice is to review existing regulations for clarity and effectiveness. Comments are also invited on the adequacy of certain of the data fields in DOT Form F 5800.1 for purposes of describing the safety performance record of DOT specification packages. Comments received will be considered in the publication of a notice of proposed rulemaking if it is decided to propose specific changes to the existing requirement for carriers to submit detailed hazardous materials incident reports.

DATES: A public hearing on the matters raised by this notice will be held on May 1, 1984, in Washington, D.C., at 400 Seventh Street, SW., Room 2230, from 9:30 a.m. to 5:00 p.m. Interested persons are invited to participate in the public hearing. The closing date for submission of written comments is June 5, 1984.

ADDRESS: Address comments to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Branch is located in Room 8428, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: J. S. Nalevanko, Office of Regulatory Planning and Analysis, U.S. Department of Transportation, Washington, D.C. 20590. Telephone: (202) 472-2898, or Irving R. Abis, Standards Division, Office of Hazardous Materials Regulation, U.S. Department of

Transportation, Washington, D.C. 20590. Telephone: (202) 426-2075.

SUPPLEMENTARY INFORMATION:

Background

The Materials Transportation Bureau (MTB) is reviewing the requirements of § 171.16 that each carrier who transports hazardous materials submit to the Department a hazardous materials (hazmat) incident report (DOT Form F 5800.1) for each incident that occurs during the course of transportation (including loading/unloading, or temporary storage). The review was conducted in accordance with Executive Order 12291 as a part of MTB's program to evaluate existing regulations for clarity and to revoke or revise those that are not achieving their intended purpose; or can achieve their intended purpose in a more effective and efficient manner. To accomplish this purpose, a review team consisting of the personnel of several offices of MTB was established.

The review is also consistent with the final rule under Docket HM-36 (35 FR 16836, October 31, 1970) which established the current reporting requirements for hazardous materials incidents. In that docket it was noted that, after a period of time, the Department would evaluate the effectiveness of the incident reporting system and, as appropriate, take further rulemaking action to incorporate additional input on the reporting of hazardous materials incidents.

One of the major objections raised in Docket HM-36 referred to the requirement that a detailed, written report be filed in every case where there "has been an unintentional release of hazardous materials from a package." Many commenters believed that the Department would be flooded with numerous incident reports relating to the release of insignificant amounts of hazardous materials. In response to these comments, the Hazardous Materials Regulations Board (the predecessor of the present Materials Transportation Bureau) stated that it was not in a position to determine whether there are insignificant unintentional releases of hazardous materials that do not warrant the filing of a written report; and that it lacked criteria to establish a line between those releases that should and those that should not be reported.

This Advanced Notice of Proposed Rulemaking is intended to assist MTB in determining what these criteria should be, in light of the more than 130,000 hazmat incident reports submitted to MTB over the past 12 years.

The Present Reporting Requirements

The present reporting requirements of § 171.16 are triggered by the following criteria (Reporting criteria (A) and (B) below also require telephonic reports, as required by § 171.15.):

(A) All releases of a hazardous material, which as a direct result of the hazardous material, result in:

A fatality;

An injury requiring hospitalization; Estimated carrier or other property damage exceeding \$50,000.

(B) All incidents, whether or not there is an actual release of a hazardous material, in which:

A fire, breakage, spillage, or suspected contamination occurs involving shipment of radioactive materials;

A fire, breakage, spillage, or suspected contamination occurs involving shipment of etiologic agents; A situation exists of such a nature that in the judgment of the carrier, it should be reported, e.g., a continuing danger to life exists at the scene of the incident.

(C) All unintentional releases of hazardous materials from a package (including a tank) or any quantity of a hazardous waste during transportation, except for the following hazardous materials (except aboard aircraft):

Consumer commodity;

Battery, electric storage, wet, filled with acid or alkali;

Paint and paint related materials when shipped in packagings of five gallons or less.

Under these criteria, an average of 7,900 incidents per year have been reported to MTB over the last two years. The vast majority of these reports pertain to criterion (C)—that is, they do not involve a death, an injury, damage exceeding \$50,000, etc., and are primarily associated with incidents involving small packages, such as drums, bottles, cans, boxes, bags, etc. Approximately 79 percent of all incident reports involve small packages.

Nature and Extent of the Existing Hazmat Incident Reporting Data Base

At the beginning of 1983, there were approximately 130,000 hazmat incident reports (DOT Form F 5800.1) in the hazmat incident computerized data base. These reports span the 12-year period 1971-1982. During the two-year period 1981-1982, the data base increased by an average of 7,900 reports per year. Each report (see DOT Form F 5800.1 at the end of this document) contains approximately 30 primary data

RECEIVED

MAR 19 '84

Route: _____

98TH CONGRESS
1ST Session

H. R. 4518

Copy: _____

To establish in the Department of Transportation a working group on National
Uniform State Regulation of Interstate Motor Carriers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1983

Mr. HOWARD (for himself, Mr. SNYDER, Mr. ANDERSON, and Mr. STOUTER) (by request) introduced the following bill; which was referred to the Committee on Public Works and Transportation

A BILL

To establish in the Department of Transportation a working group on National Uniform State Regulation of Interstate Motor Carriers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. This Act may be cited as the "National
4 Uniform State Regulation of Interstate Motor Carriers Act of
5 1983".

6 SEC. 2. (a) There is established in the Department of
7 Transportation a working group whose members shall be ap-
8 pointed by the Secretary of Transportation (hereinafter the
9 Secretary) in consultation with State Governors and organi-

VVV 000012356

1 zations of State officials concerned with State truck registra-
2 tion and tax administration. The membership shall be com-
3 posed of State officials representing agencies with expertise
4 in vehicle registration, fuel tax, and third structure tax prac-
5 tices affecting the trucking industry. No more than one
6 member of the working group shall be appointed from each
7 State. The Secretary, or an official of the Department of
8 Transportation appointed by the Secretary, shall be a nonvot-
9 ing member of the working group. The Secretary may name
10 such additional nonvoting members, representing interested
11 parties or perspectives, as necessary. The limitation on mem-
12 bership from each State shall not affect the naming of non-
13 voting members. Nonvoting members shall not be eligible for
14 compensation for expenses under subsection (c) of this sec-
15 tion. The term of a member shall not exceed twelve months
16 unless the Secretary, in his or her discretion, determines
17 otherwise. The working group shall not be subject to the pro-
18 visions of the Federal Advisory Committee Act (5 U.S.C.
19 App. D).

20 (b)(1) The working group shall advise, consult with, and
21 make recommendations to the Secretary regarding uniform
22 State regulation of interstate motor carriers. The working
23 group is authorized to develop and recommend to the Secre-
24 tary standards for uniform State regulation of interstate
25 motor carriers in regard to vehicle registration, fuel tax, and

RECEIVED

MAR 19 '84

Route: _____

Copy: _____

98TH CONGRESS
1ST Session

H. R. 4518

To establish in the Department of Transportation a working group on National Uniform State Regulation of Interstate Motor Carriers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1983

Mr. HOWARD (for himself, Mr. SNYDER, Mr. ANDERSON, and Mr. SHUSTER) (by request) introduced the following bill; which was referred to the Committee on Public Works and Transportation

A BILL

To establish in the Department of Transportation a working group on National Uniform State Regulation of Interstate Motor Carriers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. This Act may be cited as the "National
4 Uniform State Regulation of Interstate Motor Carriers Act of
5 1983".

6 SEC. 2. (a) There is established in the Department of
7 Transportation a working group whose members shall be ap-
8 pointed by the Secretary of Transportation (hereinafter the
9 Secretary) in consultation with State Governors and organi-

VVV 000012358

1 zations of State officials concerned with State truck registra-
2 tion and tax administration. The membership shall be com-
3 posed of State officials representing agencies with expertise
4 in vehicle registration, fuel tax, and third structure tax prac-
5 tices affecting the trucking industry. No more than one
6 member of the working group shall be appointed from each
7 State. The Secretary, or an official of the Department of
8 Transportation appointed by the Secretary, shall be a nonvot-
9 ing member of the working group. The Secretary may name
10 such additional nonvoting members, representing interested
11 parties or perspectives, as necessary. The limitation on mem-
12 bership from each State shall not affect the naming of non-
13 voting members. Nonvoting members shall not be eligible for
14 compensation for expenses under subsection (c) of this sec-
15 tion. The term of a member shall not exceed twelve months
16 unless the Secretary, in his or her discretion, determines
17 otherwise. The working group shall not be subject to the pro-
18 visions of the Federal Advisory Committee Act (5 U.S.C.
19 App. I).

20 (b)(1) The working group shall advise, consult with, and
21 make recommendations to the Secretary regarding uniform
22 State regulation of interstate motor carriers. The working
23 group is authorized to develop and recommend to the Secre-
24 tary standards for uniform State regulation of interstate
25 motor carriers in regard to vehicle registration, fuel tax, and

1 third structure tax requirements. Topics considered by the
2 working group in formulating their recommendations shall in-
3 clude, but not be limited to—

4 (A) standardized procedures and forms;

5 (B) base State certification;

6 (C) single State unit for filings, applications, and
7 permits;

8 (D) payment to the base State of fees and taxes
9 due other States; and

10 (E) ensuring prompt and equitable distribution of
11 revenues.

12 Such standards shall not define or limit the amounts of any
13 State registration fees, fuel taxes, or third structure taxes.

14 (2) The working group shall also—

15 (A) define an approach to resolve any discrepan-
16 cies in States' implementation of standards ultimately
17 promulgated by the Secretary;

18 (B) identify permanent bodies to develop and rec-
19 ommend future modification of such standards, and

20 (C) consult with public and private interests (for
21 example, citizens representing safety and tax issues;
22 owner-operators; trucking and shipping associations;
23 contributing to, affected by, or concerned with State
24 motor carrier requirements during the development of
25 the standards.

1 (c) Voting members of the working group shall, while
2 attending meetings or conferences of such working group or
3 otherwise engaging in the business of such working group, be
4 entitled to receive compensation at a rate fixed by the Secre-
5 tary, but not exceeding \$100 per diem, including traveltime.
6 While away from their home or regular places of business,
7 voting members of the working group may be allowed travel
8 expenses, including per diem in lieu of subsistence, as author-
9 ized in section 5703 of title 5, United States Code, for per-
10 sons in the Government service employed intermittently.
11 Payments under this subsection shall not render members of
12 the working group to be employees or officials of the United
13 States for any purposes.

14 (d) The recommendations required by subsection (b) of
15 this section shall be submitted to the Secretary within twelve
16 months from the date of enactment of this Act.

17 (e) The Secretary may initiate rulemaking after receiv-
18 ing such recommendations, or in the absence of recommenda-
19 tions within twelve months after the date of enactment of this
20 Act, may promulgate regulations implementing such stand-
21 ards as described in subsection (b)(1) of this section.

22 (f)(1) After the effective date of any regulations promul-
23 gated under this Act, no State shall impose administrative
24 requirements that are in excess of the standards promulgated
25 under subsection (e) of this section.

1 ending September 30, 1985, to conduct the research required
2 under subsection (a) of this section.

3 OVERSIGHT

4 SEC. 316. The appropriate authorizing committees of
5 the Congress shall conduct periodic oversight hearings on the
6 effects of this title no less often than annually for the first 3
7 years following the date of enactment of this Act, to ensure
8 that this title is being implemented according to congression-
9 al intent and the purposes of this title.

10 TITLE IV

H. R. 2693

11 SHORT TITLE

12 SEC. 401. This title may be cited as the "Hazardous
13 Materials Transportation Act Amendments of 1983".

14 PURPOSES

15 SEC. 402. The purposes of this title are to—

16 (1) Promote the public safety by providing for in-
17 creased coordination among the various levels of gov-
18 ernment and greater consistency among Federal, State
19 and local rules and regulations;

20 (2) encourage and assist State and local govern-
21 ments to play a major role in the prevention of hazard-
22 ous materials transportation incidents by delegating the
23 enforcement of certain Federal regulations; and

24 (3) provide for greater assistance to State and
25 local governments in responding to such incidents

1 through coordinated and well-planned advice and as-
2 sistance at the time of the incident, training and tech-
3 nical assistance programs, and planning grants to en-
4 courage the adoption of coordinated incident-response
5 programs.

6 FINDINGS

7 SEC. 403. The Congress finds that—

8 (1) the transportation of hazardous materials can
9 create severe hazards to the public safety;

10 (2) such transportation is nonetheless essential to
11 commerce;

12 (3) in the interest of uniformity, the Hazardous
13 Materials Transportation Act (49 U.S.C. 1801 et seq.)
14 provides for the preemption of State and local govern-
15 mental regulation of hazardous materials transportation
16 to the extent that it is not consistent with Federal re-
17 quirements and regulations;

18 (4) despite this preemption, when serious hazard-
19 ous materials incidents occur, State and local govern-
20 ments necessarily have the primary responsibility for
21 emergency response; and

22 (5) increased coordination and greater consistency
23 between the Federal Government and State and local
24 governments would assist in the prevention of hazard-
25 ous materials transportation incidents and in the over-

1 all ability of State and local governments to respond to
2 such incidents.

3 DEFINITION

4 SEC. 404. Section 103 of the Hazardous Materials
5 Transportation Act (49 U.S.C. 1802) is amended by redas-
6 ignating paragraphs (3), (4), (5), (6), and (7), and all refer-
7 ences thereto, as paragraphs (4), (5), (6), (7), and (8), respec-
8 tively, and by inserting the following new paragraph immedi-
9 ately after paragraph (2):

10 "(3) 'incident' means any event occurring in the
11 transportation of hazardous materials or a transporta-
12 tion-related function such as loading, unloading, pack-
13 aging, or stowage which has led, or poses an imminent
14 threat of leading, to a release of hazardous materials
15 which could result in a serious risk to health, safety, or
16 property;"

17 PREVENTION OF AND RESPONSE TO HAZARDOUS
18 MATERIALS INCIDENTS

19 SEC. 405. The Hazardous Materials Transportation Act
20 (49 U.S.C. 1801 et seq.) is amended by inserting "Subtitle
21 A" immediately after "TITLE I—HAZARDOUS MATE-
22 RIALS", and by adding at the end thereof the following:

1 "SUBTITLE B

2 "FEDERAL TRAINING PROGRAMS FOR INCIDENT

3 PREVENTION AND RESPONSE

4 "SEC. 120. (a) EVALUATION.—(1) The Secretary and
5 the Director of the Federal Emergency Management Agency,
6 in coordination with other agencies with responsibilities relat-
7 ing to hazardous materials transportation, shall evaluate—

8 "(A) programs conducted by Federal, State, and
9 local agencies and private organizations which provide
10 training to shippers, carriers, inspectors, and enforce-
11 ment personnel involved in the transportation of haz-
12 ardous materials with respect to compliance with and
13 enforcement of rules, regulations, standards, and orders
14 promulgated by the Secretary under the authority of
15 this title; and

16 "(B) programs conducted by Federal, State, and
17 local agencies and private organizations which provide
18 training to agencies or organizations responsible for re-
19 sponding to incidents involving hazardous materials
20 transportation.

21 "(2) Not later than 5 months after the date of enactment
22 of this section, the Secretary and the Director shall submit
23 interim report to the Congress on the results of such evalua-
24 tion. Not later than 10 months after the date of enactment of
25 this section, the Secretary and the Director shall complete

1 such evaluation and submit the results of such evaluation to
2 the Congress.

3 “(b) TRAINING PROGRAMS.—If, as a result of the eval-
4 uation conducted pursuant to subsection (a) of this section,
5 the Secretary and the Director determine that existing train-
6 ing programs for the transportation of hazardous materials
7 are inadequate or that there is needless duplication among
8 such programs, the Secretary and the Director may develop
9 appropriate training programs and make recommendations as
10 to methods to improve existing programs. The Secretary and
11 the Director shall, upon request, provide to State and local
12 agencies and private organizations a description of training
13 programs and such other assistance as is appropriate to assist
14 such agencies and organizations in fulfilling their hazardous
15 materials and incident-response training needs.

16 “(c) INFORMATION DISSEMINATION.—The Secretary
17 or the Director, as they consider appropriate, shall maintain
18 an information dissemination service, which shall provide in-
19 structional materials in the training, skills, and knowledge
20 necessary to assist Federal, State, and local agencies and
21 private organizations in training personnel in safe and proper
22 methods for the transportation of hazardous materials and for
23 responding to incidents. Such information service shall identi-
24 fy specific elements with respect to training, equipment, and
25 methodologies necessary and useful in preventing incidents,

1 and in responding to incidents when they occur. In addition,
 2 training programs shall be identified which are determined,
 3 through the evaluation required by subsection (a) of this sec-
 4 tion, to be useful for training shippers, carriers, inspectors, or
 5 enforcement personnel with respect to hazardous materials
 6 transportation safety and for training response personnel.
 7 The Secretary and the Director may take all necessary meas-
 8 ures to improve the coordination and effectiveness of all such
 9 Federal, State, local, and private training programs.

10 “(d) TRAINING CENTERS.—As part of the effort to im-
 11 prove the coordination of incident-prevention training pro-
 12 grams, the Secretary, to the extent practicable, shall estab-
 13 lish or encourage the establishment of regional training cen-
 14 ters.

15 “STATE REGULATION AND GRANTS TO STATES

16 “SEC. 121. (a) GRANTS.—Under the terms and condi-
 17 tions of this section, and subject to the availability of funds,
 18 the Secretary is authorized to make grants to States for the
 19 development and implementation of programs for the enforce-
 20 ment of Federal rules, regulations, standards, and orders ap-
 21 plicable to hazardous materials transportation pursuant to the
 22 provisions of this title and consistent State rules, regulations,
 23 standards, and orders.

24 “(b) STATE PLAN.—(1) The Secretary shall, after
 25 notice and opportunity for comment by interested parties, for-

1 mulate procedures for any State to submit a plan whereby
2 the State agrees to adopt, and to assume responsibility for
3 enforcing, rules, regulations, standards, and orders issued
4 under this title and consistent State rules, regulations, stand-
5 ards, and orders. Such plan shall be approved by the Secre-
6 tary if the Secretary determines that the plan promotes the
7 objectives of this title, and the plan—

8 “(A) designates the State agency or agencies re-
9 sponsible for administering the plan throughout the
10 State;

11 “(B) contains satisfactory assurances that such
12 agency has or is taking steps pursuant to State law to
13 have the legal authority, resources, and qualified per-
14 sonnel necessary for the enforcement of such rules,
15 regulations, standards, and orders;

16 “(C) gives satisfactory assurances that such State
17 will devote adequate funds to the administration of
18 such plan and enforcement of such rules, regulations,
19 standards, and orders;

20 “(D) provides a right of entry and inspection suffi-
21 cient to enforce the provisions of this title; and

22 “(E) provides that such State agency will adopt
23 such uniform reporting requirements and use such uni-
24 form forms for recordkeeping, inspections, and investi-

1 gations as may be established and required by the Sec-
2 retary.

3 “(2) If a plan submitted under paragraph (1) of this sub-
4 section is rejected, the Secretary shall provide the State with
5 a written explanation of the Secretary's action, and shall
6 permit the State to modify and resubmit its proposed plan for
7 approval, in accordance with the procedures formulated pursu-
8 ant to such paragraph.

9 “(c) **WITHDRAWAL OF APPROVAL.**—The Secretary
10 shall, on the basis of reports submitted by the State agency,
11 and on his own inspections, make a continuing evaluation of
12 the manner in which each State with a plan approved under
13 this section is carrying out such plan. Whenever the Secre-
14 tary finds, after affording notice and opportunity for com-
15 ment, that a State plan previously approved is not being fol-
16 lowed or that it has become inadequate to assure the enforce-
17 ment of rules, regulations, standards, or orders issued under
18 this title, the Secretary shall notify the State of withdrawal
19 of approval of such plan. Upon receipt of such notice, such
20 plan shall cease to be in effect. Any State aggrieved by a
21 determination of the Secretary under this subsection may
22 seek judicial review pursuant to chapter 7 of title 5, United
23 States Code. The State may, however, retain jurisdiction in
24 any case commenced before the withdrawal of the plan when-

VVV 000012369

1 ever the issues involved do not directly relate to the reasons
2 for the withdrawal of approval of the plan.

3 “(d) REIMBURSEMENT.—By grants authorized under
4 this section, the Secretary shall reimburse any State in an
5 amount not to exceed 50 per centum of the costs incurred by
6 that State in that fiscal year in the development and imple-
7 mentation of programs to enforce hazardous materials trans-
8 portation rules, regulations, standards, and orders issued
9 under this title and consistent State rules, regulations, stand-
10 ards, and orders. The Secretary may allocate amounts appro-
11 priated for grants to support such programs among the States
12 whose applications for grants have been approved pursuant
13 to such criteria as may be established by the Secretary.

14 “ROUTING AND PRENOTIFICATION

15 “SEC. 122. (a) AUTHORITY.—(1) The Secretary may,
16 in consultation with State, local, and regional governments
17 and with appropriate Federal agencies, and as required to
18 protect the safety of the American public, establish—

19 “(A) regulations with respect to the routing of
20 hazardous materials being transported in interstate
21 commerce; and

22 “(B) a prenotification system which would inform
23 State or local governments in advance of the timing,
24 nature, and routing of hazardous materials shipments
25 through the jurisdictions.

1 “(b) CONSULTATION.—In establishing regulations
 2 under subsection (a) of this section, the Secretary shall seek
 3 the advice of various groups interested in the safety of the
 4 transportation of hazardous materials, including shippers,
 5 carriers, and users of hazardous materials and bulk package
 6 or container manufacturers; organizations which represent
 7 employees engaged in the transportation of hazardous materi-
 8 als; citizens’ and environmental groups; and private organiza-
 9 tions concerned with transportation safety or the provision of
 10 emergency services in response to a major accident involving
 11 the transportation of hazardous materials.

12 “EMERGENCY RESPONSE PLANNING GRANTS

13 “SEC. 123. (a) PLANNING GRANTS.—In order to pro-
 14 mote the development of coordinated and effective emergen-
 15 cy-response programs for incidents at the State and local
 16 levels, the Director of the Federal Emergency Management
 17 Agency may, taking into account consistency with the na-
 18 tional contingency plan (as revised pursuant to the provisions
 19 of the Comprehensive Environmental Response, Compensa-
 20 tion, and Liability Act of 1980 (42 U.S.C. 9601 et seq.),
 21 make emergency-response planning grants to units of State,
 22 regional, and local governments. Such grants shall be used,
 23 among other things, to—

24 “(1) assess the present response capabilities of
 25 each emergency-response agency within the scope of

1 the study area in terms of the adequacy of trained per-
2 sonnel, equipment, and information systems, and to de-
3 termine the most cost-effective means for upgrading
4 such capabilities;

5 "(2) determine at what point and to what extent
6 each such agency will become involved in the response
7 to a given incident;

8 "(3) determine which of such agencies will be the
9 lead agency for responding to a given type of incident
10 at any given location;

11 "(4) define the role of each such agency in re-
12 sponding to any incident; and

13 "(5) establish a communications network that will
14 permit onsite interagency communications as well as
15 operational and command communications.

16 "(b) RULES AND REGULATIONS.—The Director shall,
17 within 12 months after the date of enactment of this section,
18 establish such rules and regulations as the Director considers
19 necessary for the administration of emergency-response plan-
20 ning grants described in subsection (a) of this section. Any
21 such regulations shall provide that—

22 "(1) the Federal share of any such planning grant
23 shall not exceed 50 per centum of the cost of such
24 project; and

VVV 000012372

1 “(2) not less than 25 per centum of the funds obli-
2 gated for such grants shall be used to make planning
3 grants to units of regional or local government.

4 “(c) COORDINATED RESPONSE PROGRAMS.—To the
5 extent possible, the Director shall encourage the use of such
6 planning grants to promote planning for the establishment of
7 coordinated regional emergency-response programs.

8 “RESEARCH AND DEVELOPMENT

9 “Sec. 124. The Director of the Federal Emergency
10 Management Agency, in coordination with the Secretary,
11 may conduct research and development activities designed to
12 improve the capabilities of Federal, State, local, and private
13 agencies and organizations responsible for responding to an
14 incident. Such activities may include programs to—

15 “(1) encourage the development and demonstra-
16 tion of new and innovative techniques in responding to
17 incidents;

18 “(2) evaluate existing techniques and programs for
19 responding to incidents; and

20 “(3) promote the development and adoption of
21 minimum standards for training, equipment, coordina-
22 tion, information, and other resources related to re-
23 sponding to incidents.

1 "AUTHORIZATION OF APPROPRIATIONS

2 "Sec. 125. There are authorized to be appropriated to
3 the Secretary such sums as may be necessary for the pur-
4 poses of section 121 of this subtitle. In addition, there are
5 authorized to be appropriated to the Federal Emergency
6 Management Agency such sums as may be necessary for the
7 purposes of section 123 of this subtitle."

8 REPORTING SYSTEM AND DATA CENTER

9 Sec. 406. Section 108(d) of the Hazardous Materials
10 Transportation Act (49 U.S.C. 1808(d)) is amended—

11 (1) by inserting "(1)" immediately before "The
12 Secretary";

13 (2) by redesignating paragraphs (1), (2), and (3) as
14 subparagraphs (A), (B), and (C), respectively; and

15 (3) by adding at the end thereof the following:

16 "(2) Nothing in this subsection shall be construed to
17 limit the authority of the Secretary to enter into a contract
18 with a private entity for use of a supplemental reporting
19 system and data center operated and maintained by such
20 entity."

21 CONFORMING AMENDMENTS

22 Sec. 407. Sections 110, 111, and 115 of the Hazardous
23 Materials Transportation Act (49 U.S.C. 1809, 1810, and
24 1812) are amended by striking "title" wherever it appears
25 and inserting in lieu thereof "subtitle" in each such place.