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Part II

Department of Transportation

Research and Special Programs Administration

49 CFR Part 172

Improvements to Hazardous Materials Identification Systems; Proposed Rule

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49 CFR Part 172

[Docket No. HM-206; Notice No. 92-6]

RIN 2137-AB75

Improvements to Hazardous Materials Identification Systems

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA), requires that the Secretary of Transportation initiate a rulemaking proceeding to determine: (1) Methods to improve the current system of placarding vehicles transporting hazardous materials; (2) methods for establishing and operating a central reporting system and computerized telecommunications data center; and (3) the feasibility, necessity and safety benefits of requiring carriers to establish tinually monitored emergency onse telephone systems. The urpose of this notice is to solicit public comments on these issues.

DATES: Comments must be received on or before August 10, 1992.

ADDRESSES: Copies of the HMTUSA may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371 (202) 275-2091. Comments to this ANPRM should be addressed to the Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001. Comments should identify the Docket (HM-206) and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the docket number. The Dockets Unit is located in room 8419 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-5046. Fax number: (202) 366-3753. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday except Federal holidays.

FURTHER INFORMATION CONTACT: n Potter, Office of Hazardous Materials Standards, RSPA, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. (202) 366-4488.

SUPPLEMENTARY INFORMATION:

I. Legislative Requirements

On November 16, 1990, the President signed into law the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA; Pub. Law 101-615) resulting in a number of amendments to the Hazardous Materials Transportation Act (HMTA) of 1974. Section 25 of HMTUSA requires DOT to initiate a rulemaking to determine methods of improving the current system of placarding vehicles transporting hazardous materials and to determine methods for establishing and operating a central reporting system and computerized telecommunications data center for tracking hazardous materials shipments.

The Act directs the Department to consider methods of improving the placarding system to include: (1) Methods to make placards more visible, (2) methods to reduce the number of improper and missing placards, (3) alternative methods of marking vehicles for the purpose of identifying hazardous materials being transported, (4) methods of modifying the composition of placards to ensure their resistance to fire, (5) improving the coding system used with respect to such placards, (6) identification of appropriate emergency response procedures through symbols on placards and (7) whether or not telephone numbers for continually monitored emergency response telephone systems should be displayed on vehicles transporting hazardous materials.

Section 25 also requires DOT to evaluate in a rulemaking proceeding: (1) Whether a central reporting system and computerized telecommunications center should be operated by the Federal government or a private entity, either on its own initiative or under contract with the United States; (2) the estimated annualized cost of establishing, operating and maintaining such a system and center and for carrier and shipper compliance with such a system; (3) methods for financing the cost of establishing, operating and maintaining such a system and center; (4) the projected safety benefits of establishing, operating and maintaining such a system and center; (5) whether or not shippers, carriers and handlers of hazardous materials should have access to such a system, (6) methods for ensuring the security of the information and data stored in such a system, (7) types of hazardous materials and types of shipments for which information and data should be stored in such a system, (8) the degree of liability of the operator of such a system and center for providing incorrect, false or misleading information, (9) deadlines by which shippers, carriers and handlers of hazardous materials should be required to submit information to the operator of such a system and center, and minimum standards relating to the form and content of such information, (10) measures for ensuring compliance with the deadlines and standards for operating such a system, and (11) methods for accessing such a system through mobile satellite service or other technologies having the capability to provide two-way voice, data or facsimile service.

Section 26 of HMTUSA requires DOT to initiate a rulemaking on the feasibility, necessity and safety benefits of requiring hazardous materials carriers (in addition to the existing requirement for shippers) to maintain continually monitored telephone systems to provide emergency response information and assistance. DOT is required to determine which hazardous materials, if any, would be covered by such a requirement.

II. Hazard Identification and Communication System Under the Hazardous Materials Regulations (HMR)

Over the last 25 years, DOT has developed a comprehensive hazardous materials identification and communication system for hazardous materials. The system is designed to provide enforcement, fire and emergency response personnel with information in the event of transportation incidents or accidents involving the release of hazardous materials. Hazard communication requirements are set forth in subparts C through G of part 172 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180). The system involves communication of the following types of information: (1) Hazardous materials descriptions, including specific or generic proper shipping names, chemical or technical names, hazard classes, identification numbers, and other vital information, entered on shipping papers carried on the transport vehicle by the transporter; (2) hazardous materials proper shipping names and identification numbers, marked on non-bulk and bulk packages, (3) primary and subsidiary hazards, identified by labels affixed to packages, (4) primary hazards, identified by placards affixed to transport vehicles, freight containers and bulk packagings, and (5) emergency response information, entered on shipping papers, or presented in separate documents.

rgency response information must ntained on the transport vehicle, vessel or aircraft during transportation of the hazardous material in the same manner as is required for shipping papers. On aircraft, emergency response information must be maintained in the same manner as is required for the notification to the pilot-in-command. The information describes immediate hazards to health, risks of fire or explosion, precautions to be taken by responders first arriving at the scene of an incident, initial methods for handling spills and leaks in the absence of fire, and preliminary first aid measures to be taken. This information may be entered on shipping papers, presented on appropriate guide pages in DOT's "Emergency Response Guidebook," on material safety data sheets, or in other appropriate emergency response guidance documents.

Shippers who offer hazardous materials for transportation must also enter an emergency response telephone number on the shipping paper. The number must be monitored at all times while shipments are being transported or are stored incident to transportation. In effect, a first responder using that n must be able to contact, in one p all, a person who is either knowledgeable about the material and has comprehensive response and mitigation information, or has immediate access to such a person.

Firefighters and emergency response personnel have been trained to use hazard communication and emergency response information in responding to incidents. DOT shipping paper information, package commodity markings, hazard warning labels and vehicle placards are cross-referenced in DOT's Emergency Response Guidebook (ERG), which provides guidance for initial actions to be taken in response to hazardous materials incidents. Since 1980, RSPA has distributed more than 3.5 million copies of the ERG to emergency response entities without charge.

The current hazard communication system is recognized worldwide. DOT has aligned U.S. hazard communication requirements with international standards with adoption in 1976 of labels and placards conforming to United Nations (UN) recommendations.

II. Placarding System: Background and Proposed Changes

ember 1976, the Materials ra. ortation Bureau (predecessor of RSPA) issued final rules under Docket HM-103/112 (41 FR 40614-40691, September 20, 1976) to adopt a uniform vehicle placarding system. Final rules in HM-103/112 also required cargo tanks, portable tanks and tank cars to be uniformly marked and prescribed format improvements for shipping paper entries. Prior to the adoption of the uniform system that is now employed, shippers and carriers claimed they were burdened with a complex placarding system that failed to adequately communicate hazard information. Each mode of transportation had its own placarding system. While motor vehicles displayed hazard warnings (e.g., Flammable) text on rectangular background placards, rail car placarding contained detailed text on a square-on-point background.

Under HM-103/112, DOT established uniform placard formats and procedures among the different modes of transportation. In place of extensive textual elaboration of hazards on placards (e.g., "CAUTION This Car Contains POISON GAS Beware of Fumes from Leaking Packages") DOT revised its placarding format to display only single hazard class names with associated colors and pictographs. A final rule issued in 1977 achieved a unified placarding system.

DOT more closely aligned with the UN-recommended hazard communications system under Docket HM-181 (55 FR 52402-52729, Dec. 21, 1990). For example, DOT adopted the UN-recommended Dangerous When Wet (4.2) placard to replace the Flammable Solid W placard and added the Spontaneously Combustible (4.3) placard for which, under the old system, there is no separate hazard class. The placards displayed in subpart F of part 172 under Docket HM-181 largely retain the DOT format established in 1976. They are basically consistent with international and Canadian requirements, with minor differences in placard size and format. Provisions for placarding in subpart F of 49 CFR part 172 cover placard visibility, display and location (§ 172.516), placard size and construction specifications (§ 172.519), placard graphics (§§ 172.522-560), placarding exceptions and prohibited placarding (§ 172.502), and hazard class numbers on placards (§ 172.334). For most materials, changes to placarding requirements under Docket HM-181 go into effect on October 1, 1994.

Under HM-181, RSPA also adopted the UN-recommended Class 9 placard for miscellaneous materials many of which were previously regulated by DOT as other regulated materials (ORMs) and were not subject to placarding requirements. The UN recommended "Keep Away From Food" placard for low-hazard Class 6 poison materials also was adopted. Petitions to reconsider the final rule questioned the need for these placards. They pointed out that some ORMs excepted from placarding under 49 CFR are regulated under HM-181 as Table 2 materials requiring placarding when transported in amounts exceeding 1,000 pounds gross weight. Under § 391.11(a)(7) of the Federal Motor Carrier Safety Regulations (FMCSR), a vehicle used to transport hazardous materials is defined as a "commercial vehicle," requiring the driver to carry a commercial license if the vehicle contains a quantity of materials requiring placarding under 49 CFR. Petitioners stated that motor carriers transporting Class 9 miscellaneous materials or materials classified under the existing ORM class, other than hazardous wastes, have not been subject to the FMCSR because these materials were not subject to placarding. For the same reasons, petitioners also recommended excepting Molten Sulfur from Class 9 placarding, as now required by § 172 504(a).

In recent years, at least one organization has advocated replacement of the existing placarding system. During 1989 Congressional hearings on HMTA Amendments, the International Association of Fire Fighters (IAFF) expressed the view that DOT's placarding system is inadequate to provide essential response information. IAFF testified before the House Subcommittee on Surface Transportation on July 12, 1989 that, "current Federal law requires shippers to place placards on vehicles to identify hazardous cargoes, but often the placard is missing, burning or inaccurate." ("Hearings before the Subcommittee on Surface Transportation of the Committee on Public Works, House of Representatives, 101st Congress, First Session," pp. 896) IAFF stated that emergency responders would be better served by a computerized telecommunication system proposed in legislation introduced on June 8, 1989 (H.R. 2584), which was subsequently enacted in HMTUSA.

In this notice, RSPA also addresses whether or not the general prohibition contained in § 172.502(b) should be modified to specifically apply to the practice of displaying logos and slogans (e.g., "Drive Safely") on closed flip-type placard devices. Section 172 502(b) prohibits any display which, by its color, design, shape or content could be confused with any placard described in the HMR. RSPA and the Federal Highway Administration believe that the use of logos and slogans on flip-type devices diminishes the

effectiveness of required placarding and that consideration should be given to ecifically prohibiting them.

. Central Reporting System and Telecommunications Center: Background

Section 109(d)(1)(B) of the HMTA, which was not amended by the HMTUSA, requires the Secretary to establish and operate a central computerized data center to provide "technical and other information and advice for meeting emergencies" to firefighters and law enforcement personnel.

Since March 13, 1980, DOT has considered the section 109 requirement satisfied by recognizing the Chemical Transportation Emergency Center (CHEMTREC) operated by the Chemical Manufacturers Association (CMA) in a "Statement of Formal Recognition and Attendant Understandings." The Statement describes the CHEMTREC service "as a source of case-by-case telephonically issued information and advice to public and private bodies and organizations and other persons confronted with chemical and other hazardous materials emergency incidents."

CHEMTREC has been in operation 24 hours a day, seven days a week, since tember 1971 providing fire service, enforcement, emergency response, medical, and industry personnel with essential on-scene emergency information. Through its operation of an "800" number, CHEMTREC provides immediate guidance to any caller, at no charge, from the private and public sector who has an emergency involving any hazardous material. CHEMTREC also acts as a bridge to thousands of entities for immediate, detailed guidance on how to handle emergencies involving hazardous materials. Since adoption of a requirement to enter an emergency response telephone number on shipping papers (Docket HM-126C; 55 FR 33707; August 17, 1990), a number of entities now offer emergency response information services in addition to CHEMTREC.

The need for a central computerized reporting system for all hazardous materials shipments has been at issue for over five years among three different Congressional committees, the emergency response community, including firefighter organizations, industry, and RSPA. Proponents of a mandated central computerized porting system, including IAFF, ieve that there are inadequacies in sting information systems that reaten the safety of firefighters and the public. Opponents have expressed the view that it is unlikely that any of the few serious accidents that have occurred in recent years would have been prevented or mitigated by the information a centralized system would provide, and that such a system would be costly and impractical given the number of shipments involved.

Section 25 of HMTUSA directs DOT to institute this rulemaking report to Congress on ways such a system could be implemented. The Secretary also must give substantial weight in the rulemaking to recommendations made by the National Academy of Sciences (NAS) regarding the "feasibility and necessity" of implementing a centralized reporting and data system. The NAS study is mandated by section 25(b)(1) of HMTUSA.

In May 1991, DOT entered into a contract with NAS to conduct the study. A 16-member committee was formed, representing industry, academic, emergency response and firefighter communities. The first meeting of the Committee for the Assessment of a National Hazardous Materials Shipment Information System took place on November 13–14, 1991, establishing parameters for the study and project time-lines. The committee is scheduled to complete its study and report to Congress and the Secretary of Transportation in November 1992.

V. Request for Comments

Comments are requested in regard to methods for improving the current placarding system, establishing a centralized reporting system and computerized data center and requiring carriers to establish continually monitored emergency response telephone systems. Reasons should be given for supporting or opposing any of the proposed changes. Comments should identify and quantify expected benefits of such requirements and expected costs which would be incurred or saved as a result of each suggested regulatory change. If hazardous materials transportation incidents are referenced to demonstrate a need for changes to DOT's hazard communications system, please provide specific dates, locations and consequences directly attributable to inadequate hazard communication. Comments simply stating that there have been many transportation incidents in which emergency responders were unable to recover sufficient response information would not be as helpful in our evaluation as would specific cause/effect information.

For the convenience of commenters, questions are numbered consecutively. RSPA requests that commenters preface responses to questions raised in this ANPRM with the identifying number of each question. Comments need not be limited to the questions but should be pertinent to the subject matter.

Comments pertaining to improvements in DOT's hazard communication system already received pursuant to the review of Departmental regulations under the Regulatory Review Process initiated by the President (57 FR 4744, February 7, 1992) are addressed by the questions in this document or will be addressed in forthcoming corrections to Docket HM-181.

A. Improvements to the placarding identification system. Section 25(a)(2)(A) of HMTUSA requires the Secretary to initiate a rulemaking to determine methods of improving the current system of placarding vehicles transporting hazardous materials.

Placard Visibility, Size and Location

1. Would increasing the size of placards, incorporating larger identification numbers and hazard class symbols, improve hazard recognition? What size would be most effective? Are there any specific incidents in which the use of larger placards would have improved emergency response? The HMR specify a minimum size of 273 millimeters (mm) on edge for domestic placards and 250 mm for those conforming to international standards.

2. Is the existing square-on-point configuration too restrictive for adding emergency response guidance and hazard identification information? What changes, if any, should be made? And if so, what would be the costs and benefits?

3. To improve placard visibility, should RSPA require placards to be affixed on a vehicle in a manner so that, in the event of an accident, they can be observed regardless of orientation of the vehicle? For example, should placards be located on the tops and bottoms (in addition to each side and end) of transport vehicles to ensure placard visibility in the event of rollover incidents? This was suggested by the National Transportation Safety Board (NTSB) Safety Recommendation I-90-11 addressing a November 30, 1988 incident involving an overturned motor vehicle. NTSB pointed out that "front placards on the trailer have often been obscured by the tractor, and rear placards attached to removable gates have been thrown from the vehicle during an accident sequence." Section 172.504(a) prescribes the location of placards on transport vehicles.

4. Should the three-inch (76 mm) separation distance between placards and other information displayed on

transport vehicles specified in § 172.516(c)(4) be increased to improve presentation of placards? If so, specify what distance or height would be effective to ensure that placards are readily identifiable by emergency responders.

5. RSPA is aware of comments that claim that slogans or advertisements displayed on configurations similar to placards can confuse emergency responders. Should RSPA prohibit display of advertisements and such slogans as "Drive Safely" or other information configured in shapes similar to DOT placards?

6. As an alternative to placarding, are there other methods of marking a transport vehicle to improve hazard communication including visibility and durability? For example, would a color banding scheme for marking transport units, as allowed under Canadian Transport of Dangerous Goods (TDG) Regulations, be a workable alternative to placarding?

7. To improve hazard identification and communication during emergencies, should RSPA consider an additional placarding system to include a national motor vehicle numbering system similar to the Universal Machine Language Equipment Register (UMLER) system used to identify all rail cars in North America?

8. Domestically, use of reflective placards is permitted but not required under the HMR. However, placards constructed of reflective styrene material have been required under Part 5.2Z of the Canadian TDG regulations for explosives and certain bulk shipments since January 1986. We estimate the cost per reflective placard as ranging between $6.85 and $15.85 depending on the quantity of placards ordered and information contained. Should reflective placards be required? If so, for what class of hazardous materials? What would be the cost of replacing existing placards with reflective placards?

9. Should RSPA require placards to be displayed at places where hazardous materials are stored incidental to a transportation? If so, under what circumstances and in what manner?

Placard Information and Format

10. Should placards display information identifying appropriate emergency response procedures related to the hazardous materials being transported? Should placards display the DOT Emergency Response Guidebook Guide numbers referencing potential hazards and corresponding emergency actions?

11. Should there be changes in basic placard format? What specific incidents, if any, demonstrate the need for such changes? Do existing hazard class symbols on placards, like the burning "O" on the OXYGEN placard, adequately convey hazard information to emergency responders? Are there other symbols that could be used to more effectively display hazard warnings?

12. Should RSPA require an additional rectangular placard for information that cannot effectively be contained in the square-on-point configuration? For example, the square-on-point placard could be used as an immediate indicator to responders that hazardous materials are present in the transport vehicle. Responders could then refer to the rectangular placard for essential response and hazard identification information.

13. Should the display of hazardous materials (UN, NA) identification numbers be more extensively used to convey emergency response information? Section 13.7.5 of the UN Recommendations on the Transport of Dangerous Goods (7th Edition) recommends that a fully-loaded truckload of a packaged commodity be identified with the UN identification number for that commodity.

14. Would the display of the Class 9 or "Keep Away From Food" placards provide emergency responders with needed information in the event of an incident or accident? Should a Class 9 placard be required for Elevated Temperature Materials?

15. Should DOT develop a new "Poison Inhalation Hazard" placard to more specifically identify liquids and gases that are poisonous by inhalation? If so, what should the placard design be? Under § 172.505 in Docket HM-181, any quantity of a poisonous material subject to the "Poison-Inhalation Hazard" shipping description in § 172.203(m)(3) must be placarded with either a "POISON" or a "POISON GAS" placard.

16. Under § 172.510, if Division 2.3, Zone A gases and Division 6.1 Packing Group I Hazard Zone A liquids poisonous by inhalation are shipped by rail, the "POISON" and "POISON GAS" placards must be placed within a white square background. Should this requirement be extended to other modes? Should other hazard classes be included in such a requirement?

17. Technical specifications for color tolerance charts for determining the acceptability of colors used on labels and placards are set forth in appendix A to part 172. Are color tolerance charts meeting these or other specifications (e.g., the Pantone Color Code System which is used in Canada) available from commercial sources? Are there color standards available which could be incorporated by reference into the HMR? What would be the cost of these standards to users?

Placard Construction and Attachment

18. Should the composition of placards be improved to minimize destruction and loss during a fire incident? General placard specifications are contained in § 172.519. Please provide examples where fire-resistant placards effectively conveyed hazard warning information to first responders at incidents involving vehicular fires?

19. Should means for attaching placards be improved to minimize tampering or placard loss in an incident? Specifications for a recommended placard holder are contained in appendix C to part 172.

Exceptions From Placarding Requirements

20. Should the aggregate gross weight exception for Table 2 materials in § 172.504(d) be raised or lowered? If so, to what level?

21. If the 1,000-pound placarding exception is maintained, should it be modified to require that transport vehicles containing packages of certain size (volume or weight) be placarded? For example, should a transport vehicle containing a 55-gallon package be required to be placarded?

22. Should use of the DANGEROUS placard, now specified in § 172.504(b) to indicate the presence of two or more classes of Table 2 materials, be further restricted or eliminated? Under § 172.504(b), a transport vehicle or freight container containing two or more classes of materials requiring different placards specified in Table 2 may be placarded DANGEROUS in place of the separate placarding. However, if 5,000 pounds or more of one class of material is loaded at one loading facility, the placard specified for that material in Table 2 must be used.

23. Should RSPA require the DANGEROUS placard for all shipments of Table 2 materials in amounts less than 1,000 pounds, and specific placards for all shipments of more than 1,000 pounds or other amounts? Should all hazardous materials, regardless of quantity, be required to be placarded when in transportation? Would the meaning and impact of placarding be diminished should all hazardous materials, regardless of quantity, be required to be placarded?

24. Based on the risks involved, should RSPA transfer certain Table 2

materials to Table 1? If so, please detail your recommendation.

Transition Period

25. Is there a need for a longer transition period, beyond October 1, 1994 as required in § 171.14(b)(4) under HM-181, for the implementation of placarding requirements? What effect would a longer transition period have on the ability of emergency responders to respond to hazardous materials incidents?

B. Central Reporting System and Telecommunications Data Center

Section 25(a) of HMTUSA also requires the Secretary to determine, by rulemaking, methods for establishing and operating a central reporting system and computerized data center for hazardous materials transportation that is capable of receiving, storing and retrieving data pertaining to all shipments of hazardous materials; a system that can identify hazardous materials being transported by any mode of transportation and provide emergency response information as needed by responders to accidents and incidents involving the transportation of hazardous materials.

26. Should a central reporting system and computerized telecommunications data center be established? If so, should it be operated by the Federal Government or by a private entity, either on its own initiative, or under contract to the Government?

27. What would be the projected safety benefits of establishing and operating such a system?

28. Should remote locations, such as Alaska, be excluded from mandatory participation in a central computerized data reporting system?

29. To what extent do existing centralized data reporting systems already provide dispatcher-to-vehicle transmissions? Could these systems be modified to provide information to emergency responders in the event of incidents or accidents involving hazardous materials?

30. What elements of DOT's hazard communication system, if any, could be eliminated by the use of centralized reporting? Marking, Labeling and/or Placarding? Shipping papers? Incident reporting?

Data Entry and Removal

31. When, and by whom, would data be entered into the system? For example, must a farmer who picks up a variety of pesticides from a chemical distributor enter data into this system? Who would enter data, and when would data be entered, for shipments originated by foreign shippers? How would required data be entered by shippers and carriers who do not have computer capabilities?

32. At what points in the distribution chain would additional entries have to be made, e.g., highway/rail interchanges? How would the system accommodate data interchange between carriers? Between modes? Who would be responsible for entering data regarding intermodal shipments?

33. If only shippers enter data, how would the system include less-than-truckload distribution where an average shipment will involve multiple vehicles (pickup, line hauls, and delivery)?

34. Should a shipment report contain: The name and address of the party providing the data; point of shipment origin; point of shipment destination; vehicle identification; DOT proper shipping name, hazard class and commodity identification number; emergency telephone contact number; and quantity of materials involved and reportable quantities for hazardous materials that are also hazardous substances? Are disclosures related to so-called "blind" shipments of any relevance to current business practices?

35. What additional information should be included for hazardous waste shipments? Who should be required to enter hazardous waste data? The original shipper or generator? The consolidator of various waste shipments from small generators? The treatment facility? The disposal facility?

36. How can the accuracy of data entered into the system be assured?

37. Once data is entered into the system, how long should it remain in the data base until it is purged? Who should purge the system once shipments reach consignees: The originating shipper, carrier, consignee or system personnel?

System Access and Safeguards

38. Who should have access to such a system for obtaining information about hazardous materials shipments and technical and other emergency response information? Should other governmental organizations, such as Federal and state emergency response teams, or law enforcement agencies monitoring the distribution of chemicals commonly used in illegal drug manufacture, be permitted to access the system? Should industry emergency response teams have access?

39. What methods should be employed for ensuring the security of the information in such a system?

40. How can shipment information be limited to persons who have no competitive interest in other shippers' or carriers' information?

Emergency Responders: Use of the System

41. What data elements pertaining to emergency response should be required to be entered into the system? If emergency response information is to be a part of the system, who should be responsible for its inclusion for uniformity of presentation and content?

42. How would emergency responders identify individual shipments in transit by using this system? By vehicle identification numbers? By vehicle registration numbers? By aircraft tail numbers? By other means?

43. How would the system deliver information to emergency responders? Direct data center-to-response vehicles? Data center-to state or local level dispatching units-to-vehicle? Modem-to-modem? Telephonic link? Facsimile hard copy to vehicle receivers? Other methods? Would data from an electronic notification system reach on-scene responders in time to make basic first-response decisions?

44. How can such a system be accessed through mobile satellite service or other technologies having the capability of providing 2-way voice, data or facsimile services?

45. Would only satellite tracking-augmented realtime information (providing vehicle identification at all times) be of any use to responders?

46. If the electronic shipment notification system is extended to the local level, would it be more cost-effective to link the system with local emergency planning committees (LEPCs) established under Superfund Amendments and Reauthorization Act (SARA) of 1986, local fire departments, police departments or other local organizations?

47. Please provide details regarding any accident in which emergency response personnel have been killed or injured due to involvement of hazardous materials transported in compliance with existing regulations (e.g., placarding, labeling, package marking and shipping paper requirements) that would have been averted had a centralized data system been established and operating at that time.

Training in the Use of the System

48. How would training for operating a central computerized tracking system be presented? How often? To whom should training be presented or required?

49. How would the system be organized to allow for different operational training levels or operator sophistication?

System Costs

50. What would be the total annualized estimated costs of employing a nationwide central reporting system?

51. What would be the capital costs, operating costs (including telecommunication costs), and personnel or contractor costs for establishing and maintaining a centralized reporting system?

52. Should user fees be imposed to cover the costs of operating such a system? If so, should fees be based on total annual shipments? On a per shipment basis? On a per entry basis? Should governmental agencies using the system be charged a fee based on the amount of system usage?

53. What would be the impact of the added costs of complying with mandatory electronic shipment notification requirements on the ability of U.S industry to compete in the international marketplace?

54. What would be the impact of imposing a user fee on foreign shippers or carriers?

55. What would be the cost impact of requiring Federal agencies to comply with mandatory electronic shipment notification requirements? (Federal agencies make over 500,000 hazardous materials shipments a year.)

C. Continually-Monitored Telephone Systems

56. Should carriers, in addition to shippers, be required to maintain continually-monitored emergency response telephone systems for all or certain hazardous materials in transportation as specified in 49 CFR 172.604? Why? What would be the costs or benefits? What specific incidents, if any, demonstrate the need for the carrier requirement?

57. What has been the experience of the continually-monitored telephone system requirement in 49 CFR 172.604 imposed on shippers?

58. Should a requirement for a carrier continually-monitored telephone system be triggered by a specific amount of hazardous materials being carried? Should a requirement for carrier continually-monitored telephone systems be applied only to shipments of hazardous materials in bulk packaging?

59. Should such a requirement be applied only to certain types and quantities of hazardous materials, such as Packing Group I or II poisons, flammable or corrosive materials, certain classes of explosives, or highway-route-controlled radioactive materials?

60. Should a carrier's continually-monitored number be added to shipping papers or other shipper documentation? Or should it be marked on the transport vehicle or on the transport vehicle placarding? Any or all of these options?

61. How would carriers obtain detailed emergency response information regarding the hazardous materials on their vehicles? Would placement of continually-monitored phone numbers on placards, or transport vehicles, be useful to emergency responders? Would the addition of this kind of information diminish the effectiveness of placards?

62. What qualifications should be established for carriers to carry out response assistance through a continually-monitored telephone system?

63. As shippers are permitted to do, should carriers be authorized to use such chemical information services such as CHEMTREC to perform the carrier's monitored phone responsibility?

VI. Administrative Notices

A. Executive Order 12291

The effect of this advance notice of proposed rulemaking (ANPRM) does not meet the criteria specified in section 1(b) of Executive Order 12291 because it is not yet a major rule. However, this ANPRM is a significant rulemaking under the regulatory procedures of the Department of Transportation [44 U.S.C. 11034]. This ANPRM does not require a Regulatory Impact Analysis, or an environmental assessment or impact statement under the National Environmental Policy Act [42 U.S.C. 4321 *et seq.*]. A preliminary regulatory evaluation will be prepared based on comments to this ANPRM.

B. Executive Order 12612.

This ANPRM has been analyzed in accordance with the principles and criteria in Executive Order 12612 and, based on information available at this time, RSPA does not believe that this ANPRM would have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

C. Impact on Small Entities

As part of this rulemaking process, RSPA is required to consider economic impacts on small businesses and local governments under criteria of the Regulatory Flexibility Act. Comments are invited to help RSPA assess probable costs to small entities of implementing any of the actions suggested in this ANPRM.

Issued in Washington, DC on June 1, 1992, under authority delegated in 49 CFR part 106, appendix A.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 92-13240 Filed 6-8-92; 8:45 am]

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