



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

September 12, 2014

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Barbara Mikulski
Chairwoman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairwoman Mikulski:

House of Representatives Report No. 113-136, which accompanied the Departments of Transportation, and Housing and Urban Development, and Related Agencies Appropriations Bill, 2014 (H.R. 2610), requested that the Federal Motor Carrier Safety Administration (FMCSA) meet the requirements in Section 33014 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), and report on improvements that would provide relief to motor carriers subject to the Hazardous Materials Safety Permit (HMSP) program under the Agency's existing authorities and FMCSA's anticipated implementation of such improvements.

Pursuant to the MAP-21 requirements, FMCSA submitted "The Hazardous Materials Safety Permit Program Implementation Report to Congress" in March 2014. The report contained six recommendations for improving the HMSP program. Following are the recommendations and statuses:

- 1. Fully utilize FMCSA's Safety Measurement System (SMS) as part of the HMSP Program.***
- 2. Institute an ongoing requirement to conduct compliance reviews for HMSP carriers with insufficient data to trigger SMS analysis.***

Recommendations 1 and 2: These two recommendations will be the initial focus of the Agency's actions to improve the HMSP program. These recommendations, including the integration of SMS to monitor HMSP carriers, will be accomplished without initiating formal rulemaking. FMCSA has conducted a thorough analysis to ensure compliance with the Administrative Procedure Act and consistency with existing HMSP regulations. FMCSA proposes to use SMS data as the basis for interventions that would provide improved oversight and flexibility for the hazardous material transportation industry. If an HMSP carrier is operating below designated thresholds in SMS, no additional action would be taken. However, if the carrier's scores indicated significant problems or if there is insufficient data in SMS to evaluate the carrier, a comprehensive investigation would be initiated. If the comprehensive investigation resulted in a rating other than "satisfactory," the HMSP carrier would now be able to request an upgrade by providing

evidence of corrective action. Rulemaking is not required to implement this recommendation; however, any such proposal will be published in the Federal Register with an opportunity for public comment.

At this time, FMCSA is reviewing SMS data and systems in order to determine how best to implement these recommendations and the most appropriate thresholds for intervention. We will then install the necessary information technology (IT) system upgrades. FMCSA expects to complete its review this summer, with full implementation of the recommendations in Fiscal Year (FY) 2015. This timeframe is based on the Agency's ability to formulate policy, publish the policy in the Federal Register, complete necessary information technology system changes, and train FMCSA staff on implementation of the new policy.

3. Evaluate the potential for an automated process for monitoring compliance with financial responsibility requirements.

Recommendation 3: This recommendation can be accomplished without additional legislative authority. Integration of FMCSA's Licensing and Insurance system into the Unified Registration System (URS) is in progress and, once in place, the URS will monitor motor carrier compliance with financial responsibility requirements. The Agency plans to implement systems changes under URS in FY 2015. These IT system upgrades will minimize duplication in submission of evidence of financial responsibility and will reduce the number of applications and renewals that are erroneously denied because proof of financial responsibility is not submitted with the application.

4. Replace the File Structure for the HMSP Program.

Recommendation 4: Improvements are being considered that would upgrade the HMSP system to allow for more accurate status reporting and historical information to be used to analyze this segment of the industry to identify trends and issues. As a result, data on denials, suspensions, and revocations will be accessible without labor intensive manual searches of the present system's audit tables. This improvement is currently under consideration and is dependent on available resources to revamp the systems; therefore, no timetable has yet been established. No additional authority is needed to implement this change.

5. Integrate the HMSP program into the Motor Carrier Safety Assistance Program (MCSAP) by requiring State adoption of the HMSP regulations in Title 49 Code of Federal Regulations (CFR) Part 385 as a condition for receiving MCSAP funds.

Recommendation 5: The proposal to require that States adopt Part 385 as a condition for receipt of MCSAP funding requires amendment of 49 CFR Part 350 through notice and comment rulemaking. The Agency is planning a complete review of Part 350, which will commence in FY 2015. No additional authority is needed to implement this change. This change will improve the consistency and uniformity of interstate and intrastate hazardous materials programs.

6. *Revise the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Hazardous Materials Registration Form to include a carrier's U.S. Department of Transportation (USDOT) Number as a required field.*

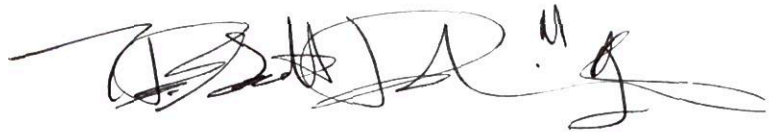
Recommendation 6: Requesting a carrier include its USDOT number on the PHMSA registration form requires modifications to an Office of Management and Budget-approved PHMSA Information Collection. When implemented, this change would then allow PHMSA to require motor carriers to enter their USDOT number when completing their PHMSA Hazardous Materials Registration, allowing the FMCSA to better link the two databases electronically for all carriers, not just those who voluntarily enter this information. This automation will decrease the number of errors and denials. FMCSA does not require additional authority to implement this change and will be working with PHMSA in the coming months to determine the required resources and establish a timeline during FY 2015.

No additional legislation is required for FMCSA to implement the HMSP program recommendations. Our efforts remain contingent upon completion of other priorities and the availability of dedicated resources to effectively implement these changes. This program remains a priority to the Agency.

A similar letter has been sent to the Vice Chairman of the Senate Committee on Appropriations; the Chairman and Ranking Member of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies; the Chairman and Ranking Member of the House Committee on Appropriations; and the Chairman and Ranking Member of the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies.

Should you need additional information or assistance, please contact Trevor Dean, Director for Governmental Affairs, at (202) 366-1927 or via email at trevor.dean@dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. F. Scott Darling, III', with a long horizontal flourish extending to the right.

T. F. Scott Darling, III
Acting Administrator