their assistance in identifying persons who have not registered, but who are required to do so.

As an alternative to increasing registration fees, RSPA recently proposed that offerors and transporters verify the registration status of each other before transportation begins. See Notice of Proposed Rulemaking in Docket HM-208A, 59 FR 15602, April 1, 1994. Most commenters opposed this proposal. Commenters overwhelmingly believed that Federal and State agencies should be responsible for enforcing the regulations, not industry. Logistical problems, administrative burdens, and increased costs were cited by commenters opposing this proposal. RSPA did not adopt the proposal in the final rule. 59 FR 32930, June 27, 1994.

Based on our outreach, our compliance efforts, and the results of ROADCHECK-93, RSPA believes the compliance rate to be approximately 90%. A significant increase in the campaign to inform shippers and carriers through education and stronger compliance is not expected to result in a sufficient number of new registrants to make-up the current funding shortfall. At the same time, 100% compliance remains the goal, and RSPA invites the submission of information which may be used to identify and contact unregistered offerors and transporters of hazardous materials. Suspected violations of the registration requirements may be brought to the attention of Federal or State enforcement agencies and specifically may be brought to RSPA's attention by calling RSPA's Registration Program Office at (202) 366–4484.

## VI. Factors Taken Into Consideration in Developing the Proposals of This NPRM

Within the range of \$250.00 to \$5,000.00, 49 U.S.C. 5108 allows RSPA to base the amount of the registration fee on one or more of the following factors:

- (1) The gross revenues from the transportation of hazardous materials;
- (2) The types of hazardous materials transported or caused to be transported;
- (3) The quantities of hazardous materials transported or caused to be transported;
- (4) The number of shipments of hazardous materials;
- (5) The number of activities which a person carries out for which a filing of a registration statement is required;
- (6) The threat to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported;

- (7) The percentage of gross revenues which are derived from the transport of hazardous materials;
- (8) The amount of funds which are made available to carry out the emergency response planning and training grant program; and
- (9) Such other factors as RSPA considers appropriate.

Given the relatively narrow permissible range of the registration fee (between \$250.00 and \$5,000.00), RSPA believes that the fee levels should be as simple and as straightforward as possible so as to be easily understood, administered, and enforceable. RSPA also believes that the fee levels should consider the comparative risks that may be posed by the types of activities covered by the registration requirement, to which emergency response planning and training are addressed. This includes the difference in the level of activity between small and large companies as well as any differences between the "types of hazardous materials transported or caused to be transported"-e.g., a highway route controlled quantity of radioactive materials, or a shipment of 5,000 pounds or more of one hazardous material for which placarding is required.

In trying to strike a balance between equity and efficiency considerations, and in trying to make the registration process as clear and as administratively simple as possible, RSPA has tried to link the registration fee to information which is readily available to potential registrants, which can be verified by inspection and enforcement personnel, and which bears some relationship to the risk or magnitude of a person's involvement in hazardous materials transportation activities. Although the registration statement and fee level categories are excepted from the Paperwork Reduction Act by 49 U.S.C. 5108, RSPA has sought to avoid any approach which would entail a large recordkeeping and accounting burden on industry and the government. For example, basing the annual registration fee on a person's annual gross revenue, or on the percentage of gross revenue derived from the transportation of hazardous materials, could require significant changes in the way paperwork tracking and accounting procedures are handled by a company. Further, this information would be subject to verification in order to ensure that a person's annual fee was in fact commensurate with annual gross revenue, or with the percentage of gross revenue, derived from the company's transportation of hazardous materials.

One commenter on the proposal under HM-208A, the National Industrial Transportation League (NITL), stated that, if the universe of prospective registrants is smaller than originally estimated, an equitable increase in fees to cover a deficiency in funds would be less costly and burdensome than requiring offerors and transporters to verify each other's registration status. NITL believed that this deficiency could be eliminated by increasing the flat fee or by implementing a graduated fee schedule with registrants who are significantly more involved in the transport of hazardous material bearing a proportionately larger share of the increase.

At its annual meeting on July 23–28, 1994, the National Conference of State Legislatures (NCSL) again expressed its support of the action taken by Congress in the 1990 amendments to the Hazardous Materials Transportation Act (now replaced by 49 U.S.C. 5101 et seq.) to clarify government's regulatory roles and responsibilities; establish uniform standards for regulation; improve the existing preemption determination procedure; provide increased financial support for inspection, enforcement, training and response activities; guarantee State fiscal autonomy; and increase overall program coordination and data collection. NCSL also expressed its concern that the current funding mechanism for Federal grants to State training and emergency response activities is deficient. These concerns include unreliable appropriations; insufficient receipt of registration fees; high administrative costs; and lack of collection enforcement.

## VII. Proposed Fees To Be Assessed for Funding the National Emergency Response Training and Planning Grant Program

In order to adequately fund the training and planning grant program, RSPA seeks, through this rulemaking action, to collect an amount equal to the annual funding authorization of \$18.975 million. RSPA believes that this is best accomplished by proposing fee levels that range from the statutorily mandated minimum (\$250.00) to the mandated maximum (\$5,000.00), depending on the type, quantity, and the manner in which hazardous materials are offered for transportation or transported.

RSPA is proposing to establish a graduated fee schedule based on the type of hazard posed and the quantity of material offered for transportation or transported during the prior calendar year. Any person registering for a registration year subsequent to a year in