

112TH CONGRESS
1ST SESSION

S. 1952

To improve hazardous materials transportation safety and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2011

Mr. LAUTENBERG (for himself and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve hazardous materials transportation safety 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. SHORT TITLE.**

4 This Act may be cited as the “Hazardous Materials
5 Transportation Safety Improvement Act of 2011”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definition.
- Sec. 4. References to title 49, United States Code.
- Sec. 5. Training for emergency responders.
- Sec. 6. Paperless Hazard Communications Pilot Program.
- Sec. 7. Improving data collection, analysis, and reporting.

- Sec. 8. Loading and unloading of hazardous materials.
- Sec. 9. Hazardous material technical assessment, research and development, and analysis program.
- Sec. 10. Hazardous Material Enforcement Training Program.
- Sec. 11. Inspections.
- Sec. 12. Civil penalties.
- Sec. 13. Reporting of fees.
- Sec. 14. Special permits, approvals, and exclusions.
- Sec. 15. Highway routing disclosures.
- Sec. 16. Authorization of appropriations.

1 **SEC. 3. DEFINITION.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Transportation.

4 **SEC. 4. REFERENCES TO TITLE 49, UNITED STATES CODE.**

5 Except as otherwise expressly provided, whenever in
6 this Act an amendment or repeal is expressed in terms
7 of an amendment to, or repeal of, a section or other provi-
8 sion, the reference shall be considered to be made to a
9 section or other provision of title 49, United States Code.

10 **SEC. 5. TRAINING FOR EMERGENCY RESPONDERS.**

11 (a) TRAINING CURRICULUM.—Section 5115 is
12 amended—

13 (1) in subsection (b)(1)(B), by striking “basic”;

14 (2) in subsection (b)(2), by striking “basic”;

15 and

16 (3) in subsection (c), by striking “basic”.

17 (b) OPERATIONS LEVEL TRAINING.—Section 5116 is
18 amended—

19 (1) in subsection (b)(1), by adding at the end
20 the following: “To the extent that a grant is used to

1 train emergency responders, the State or Indian
2 tribe shall provide written certification to the Sec-
3 retary that the emergency responders who receive
4 training under the grant will have the ability to pro-
5 tect nearby persons, property, and the environment
6 from the effects of accidents or incidents involving
7 the transportation of hazardous material in accord-
8 ance with existing regulations or National Fire Pro-
9 tection Association standards for competence of re-
10 sponders to hazardous materials.”;

11 (2) in subsection (j)—

12 (A) by redesignating paragraph (5) as
13 paragraph (7); and

14 (B) by inserting after paragraph (4) the
15 following:

16 “(5) The Secretary may not award a grant to
17 an organization under this subsection unless the or-
18 ganization ensures that emergency responders who
19 receive training under the grant will have the ability
20 to protect nearby persons, property, and the environ-
21 ment from the effects of accidents or incidents in-
22 volving the transportation of hazardous material in
23 accordance with existing regulations or National
24 Fire Protection Association standards for com-
25 petence of responders to hazardous materials.

1 “(6) Notwithstanding paragraphs (1) and (3),
2 to the extent determined appropriate by the Sec-
3 retary, a grant awarded by the Secretary to an orga-
4 nization under this subsection to conduct hazardous
5 material response training programs may be used to
6 train individuals with responsibility to respond to ac-
7 cidents and incidents involving hazardous material.”;
8 and

9 (3) in subsection (k)—

10 (A) by striking “annually” and inserting
11 “an annual report”;

12 (B) by inserting “the report” after “make
13 available”;

14 (C) by striking “information” and insert-
15 ing “. The report submitted under this sub-
16 section shall include information”; and

17 (D) by striking “The report shall identify”
18 and all that follows and inserting the following:
19 “The report submitted under this subsection
20 shall identify the ultimate recipients of such
21 grants and include—

22 “(A) a detailed accounting and description
23 of each grant expenditure by each grant recipi-
24 ent, including the amount of, and purpose for,
25 each expenditure;

1 “(B) the number of persons trained under
2 the grant program, by training level;

3 “(C) an evaluation of the efficacy of such
4 planning and training programs; and

5 “(D) any recommendations the Secretary
6 may have for improving such grant programs.”.

7 **SEC. 6. PAPERLESS HAZARD COMMUNICATIONS PILOT**
8 **PROGRAM.**

9 (a) **IN GENERAL.**—The Secretary may conduct pilot
10 projects to evaluate the feasibility and effectiveness of
11 using paperless hazard communications systems. At least
12 1 of the pilot projects under this section shall take place
13 in a rural area.

14 (b) **REQUIREMENTS.**—In conducting pilot projects
15 under this section, the Secretary—

16 (1) may not waive the requirements under sec-
17 tion 5110 of title 49, United States Code; and

18 (2) shall consult with organizations rep-
19 resenting—

20 (A) fire services personnel;

21 (B) law enforcement and other appropriate
22 enforcement personnel;

23 (C) other emergency response providers;

24 (D) persons who offer hazardous material
25 for transportation;

1 (E) persons who transport hazardous ma-
2 terial by air, highway, rail, and water; and

3 (F) employees of persons who transport or
4 offer for transportation hazardous material by
5 air, highway, rail, and water.

6 (c) REPORT.—Not later than 2 years after the date
7 of the enactment of this Act, the Secretary shall—

8 (1) prepare a report on the results of the pilot
9 projects carried out under this section, including—

10 (A) a detailed description of the pilot
11 projects;

12 (B) an evaluation of each pilot project, in-
13 cluding an evaluation of the performance of
14 each paperless hazard communications system
15 in such project;

16 (C) an assessment of the safety and secu-
17 rity impact of using paperless hazard commu-
18 nications systems, including any impact on the
19 public, emergency response, law enforcement,
20 and the conduct of inspections and investiga-
21 tions; and

22 (D) a recommendation on whether
23 paperless hazard communications systems
24 should be permanently incorporated into the
25 Federal hazardous material transportation safe-

1 ty program under chapter 51 of title 49, United
2 States Code; and

3 (2) submit a final report to the Committee on
4 Commerce, Science, and Transportation of the Sen-
5 ate and the Committee on Transportation and Infra-
6 structure of the House of Representatives that con-
7 tains the results of the pilot projects carried out
8 under this section, including the matters described
9 in paragraph (1).

10 (d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM
11 DEFINED.—In this section, the term “paperless hazard
12 communications system” means the use of advanced com-
13 munications methods, such as wireless communications
14 devices, to convey hazard information between all parties
15 in the transportation chain, including emergency respond-
16 ers and law enforcement personnel. The format of commu-
17 nication may be equivalent to that used by the carrier.

18 **SEC. 7. IMPROVING DATA COLLECTION, ANALYSIS, AND RE-**
19 **PORTING.**

20 (a) ASSESSMENT.—

21 (1) IN GENERAL.—Not later than 6 months
22 after the date of the enactment of this Act, the Sec-
23 retary, in coordination with the Secretary of Home-
24 land Security, as appropriate, shall conduct an as-
25 sessment to improve the collection, analysis, report-

1 ing, and use of data related to accidents and inci-
2 dents involving the transportation of hazardous ma-
3 terial.

4 (2) REVIEW.—The assessment conducted under
5 this subsection shall review the methods used by the
6 Pipeline and Hazardous Materials Safety Adminis-
7 tration (referred to in this section as the “Adminis-
8 tration”) for collecting, analyzing, and reporting ac-
9 cidents and incidents involving the transportation of
10 hazardous material, including the adequacy of—

11 (A) information requested on the accident
12 and incident reporting forms required to be
13 submitted to the Administration;

14 (B) methods used by the Administration to
15 verify that the information provided on such
16 forms is accurate and complete;

17 (C) accident and incident reporting re-
18 quirements, including whether such require-
19 ments should be expanded to include shippers
20 and consignees of hazardous materials;

21 (D) resources of the Administration related
22 to data collection, analysis, and reporting, in-
23 cluding staff and information technology; and

24 (E) the database used by the Administra-
25 tion for recording and reporting such accidents

1 and incidents, including the ability of users to
2 adequately search the database and find infor-
3 mation.

4 (b) DEVELOPMENT OF ACTION PLAN.—Not later
5 than 9 months after the date of the enactment of this Act,
6 the Secretary shall develop an action plan and timeline
7 for improving the collection, analysis, reporting, and use
8 of data by the Administration, including revising the data-
9 base of the Administration, as appropriate.

10 (c) SUBMISSION TO CONGRESS.—Not later than 15
11 days after the completion of the action plan and timeline
12 under subsection (c), the Secretary shall submit the action
13 plan and timeline to the Committee on Commerce,
14 Science, and Transportation of the Senate and the Com-
15 mittee on Transportation and Infrastructure of the House
16 of Representatives.

17 (d) REPORTING REQUIREMENTS.—Section
18 5125(b)(1)(D) is amended by inserting “and other haz-
19 ardous materials transportation incident reporting to the
20 9–1–1 emergency system or involving State or local emer-
21 gency responders in the initial response to the incident”
22 before the period at the end.

1 **SEC. 8. LOADING AND UNLOADING OF HAZARDOUS MATE-**
 2 **RIALS.**

3 (a) RULEMAKING.—Not later than 2 years after date
 4 of the enactment of this Act, the Secretary, after consulta-
 5 tion with the Department of Labor and the Environmental
 6 Protection Agency, as appropriate, and after providing no-
 7 tice and an opportunity for public comment shall prescribe
 8 regulations establishing uniform procedures among facili-
 9 ties for the safe loading and unloading of hazardous mate-
 10 rials on and off tank cars and cargo tank trucks.

11 (b) INCLUSION.—The regulations prescribed under
 12 subsection (a) may include procedures for equipment in-
 13 spection, personnel protection, and necessary safeguards.

14 (c) CONSIDERATION.—In prescribing regulations
 15 under subsection (a), the Secretary shall give due consid-
 16 eration to carrier rules and procedures that produce an
 17 equivalent level of safety.

18 **SEC. 9. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT,**
 19 **RESEARCH AND DEVELOPMENT, AND ANAL-**
 20 **YSIS PROGRAM.**

21 (a) IN GENERAL.—Chapter 51 is amended by insert-
 22 ing after section 5117 the following:

23 **“§ 5118. Hazardous material technical assessment, re-**
 24 **search and development, and analysis**
 25 **program**

26 “(a) RISK REDUCTION.—

1 “(1) PROGRAM AUTHORIZED.—The Secretary of
2 Transportation may develop and implement a haz-
3 ardous material technical assessment, research and
4 development, and analysis program for the purpose
5 of—

6 “(A) reducing the risks associated with the
7 transportation of hazardous material; and

8 “(B) identifying and evaluating new tech-
9 nologies to facilitate the safe, secure, and effi-
10 cient transportation of hazardous material.

11 “(2) COORDINATION.—In developing the pro-
12 gram under paragraph (1), the Secretary shall—

13 “(A) utilize information gathered from
14 other modal administrations with similar pro-
15 grams; and

16 “(B) coordinate with other modal adminis-
17 trations, as appropriate.

18 “(b) COOPERATION.—In carrying out subsection (a),
19 the Secretary may work cooperatively with regulated and
20 other entities, including shippers, carriers, emergency re-
21 sponders, State and local officials, and academic institu-
22 tions.”.

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for chapter 51 is amended by inserting after the item
25 relating to section 5117 the following:

“5118. Hazardous material technical assessment, research and development, and analysis program.”.

1 **SEC. 10. HAZARDOUS MATERIAL ENFORCEMENT TRAINING**
2 **PROGRAM.**

3 (a) IN GENERAL.—The Secretary shall establish a
4 multimodal hazardous material enforcement training pro-
5 gram for government hazardous materials inspectors and
6 investigators—

7 (1) to develop uniform performance standards
8 for training hazardous material inspectors and inves-
9 tigators; and

10 (2) to train hazardous material inspectors and
11 investigators on—

12 (A) how to collect, analyze, and publish
13 findings from inspections and investigations of
14 accidents or incidents involving the transpor-
15 tation of hazardous material; and

16 (B) how to identify noncompliance with
17 regulations issued under chapter 51 of title 49,
18 United States Code, and take appropriate en-
19 forcement action.

20 (b) STANDARDS AND GUIDELINES.—Under the pro-
21 gram established under this section, the Secretary may de-
22 velop—

23 (1) guidelines for hazardous material inspector
24 and investigator qualifications;

1 (2) best practices and standards for hazardous
2 material inspector and investigator training pro-
3 grams; and

4 (3) standard protocols to coordinate investiga-
5 tion efforts among Federal, State, and local jurisdic-
6 tions on accidents or incidents involving the trans-
7 portation of hazardous material.

8 (c) AVAILABILITY.—The standards, protocols, and
9 findings of the program established under this section—

10 (1) shall be mandatory for—

11 (A) the Department of Transportation’s
12 multimodal personnel conducting hazardous
13 material enforcement inspections or investiga-
14 tions; and

15 (B) State employees who conduct federally
16 funded compliance reviews, inspections, or in-
17 vestigations; and

18 (2) shall be made available to Federal, State,
19 and local hazardous materials safety enforcement
20 personnel.

21 **SEC. 11. INSPECTIONS.**

22 (a) NOTICE OF ENFORCEMENT MEASURES.—Section
23 5121(c)(1) is amended—

24 (1) in subparagraph (E), by striking “and” at
25 the end;

1 (2) in subparagraph (F), by striking the period
2 at the end and inserting “; and”; and

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

4 “(G) shall provide to the affected offeror,
5 carrier, packaging manufacturer or tester, or
6 other person responsible for the package rea-
7 sonable notice of—

8 “(i) his or her decision to exercise his
9 or her authority under paragraph (1);

10 “(ii) any findings made; and

11 “(iii) any actions being taken as a re-
12 sult of a finding of noncompliance.”.

13 (b) REGULATIONS.—Section 5121(e) is amended by
14 adding at the end the following:

15 “(3) MATTERS TO BE ADDRESSED.—The regu-
16 lations issued under this subsection shall address—

17 “(A) the safe and expeditious resumption
18 of transportation of perishable hazardous mate-
19 rial, including radiopharmaceuticals and other
20 medical products, that may require timely deliv-
21 ery due to life-threatening situations;

22 “(B) the means by which—

23 “(i) noncompliant packages that
24 present an imminent hazard are placed

1 out-of-service until the condition is cor-
 2 rected; and

3 “(ii) noncompliant packages that do
 4 not present a hazard are moved to their
 5 final destination;

6 “(C) appropriate training and equipment
 7 for inspectors; and

8 “(D) the proper closure of packaging in
 9 accordance with the hazardous material regula-
 10 tions.”.

11 (c) GRANTS AND COOPERATIVE AGREEMENTS.—Sec-
 12 tion 5121(g)(1) is amended by inserting “safety and” be-
 13 fore “security”.

14 **SEC. 12. CIVIL PENALTIES.**

15 Section 5123 is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), by striking
 18 “\$50,000” and inserting “\$75,000”; and

19 (B) in paragraph (2), by striking
 20 “\$100,000” and inserting “\$175,000”; and

21 (2) by adding at the end the following:

22 “(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS
 23 AND INVESTIGATIONS.—The Secretary may impose a pen-
 24 alty on a person who obstructs or prevents the Secretary

1 from carrying out inspections or investigations under sub-
2 section (c) or (i) of section 5121.

3 “(i) PROHIBITION ON HAZARDOUS MATERIAL OPER-
4 ATIONS AFTER NONPAYMENT OF PENALTIES.—

5 “(1) IN GENERAL.—Except as provided under
6 paragraph (2), a person subject to the jurisdiction of
7 the Secretary under this chapter who fails to pay a
8 civil penalty assessed under this chapter, or fails to
9 arrange and abide by an acceptable payment plan
10 for such civil penalty, may not conduct any activity
11 regulated under this chapter beginning on the 91st
12 day after the date specified by order of the Secretary
13 for payment of such penalty unless the person has
14 filed a formal administrative or judicial appeal of the
15 penalty.

16 “(2) EXCEPTION.—Paragraph (1) shall not
17 apply to any person who is unable to pay a civil pen-
18 alty because such person is a debtor in a case under
19 chapter 11 of title 11.

20 “(3) RULEMAKING.—Not later than 2 years
21 after the date of the enactment of this subsection,
22 the Secretary, after providing notice and an oppor-
23 tunity for public comment, shall issue regulations
24 that—

1 “(A) set forth procedures to require a per-
 2 son who is delinquent in paying civil penalties
 3 to cease any activity regulated under this chap-
 4 ter until payment has been made or an accept-
 5 able payment plan has been arranged; and

6 “(B) ensures that the person described in
 7 subparagraph (A)—

8 “(i) is notified in writing; and

9 “(ii) is given an opportunity to re-
 10 spond before the person is required to
 11 cease the activity.”.

12 **SEC. 13. REPORTING OF FEES.**

13 Section 5125(f)(2) is amended by striking “, upon
 14 the Secretary’s request,” and inserting “biennially”.

15 **SEC. 14. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.**

16 (a) IN GENERAL.—Section 5117 is amended to read
 17 as follows:

18 **“§ 5117. Special permits, approvals, and exclusions**

19 “(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

20 “(1) CONDITIONS.—The Secretary of Transpor-
 21 tation may issue, modify, or terminate a special per-
 22 mit implementing new technologies or authorizing a
 23 variance from a provision under this chapter or a
 24 regulation prescribed under section 5103(b), 5104,
 25 5110, or 5112 to a person performing a function

1 regulated by the Secretary under section 5103(b)(1)
2 to achieve—

3 “(A) a safety level at least equal to the
4 safety level required under this chapter; or

5 “(B) a safety level consistent with the pub-
6 lic interest and this chapter, if a required safety
7 level does not exist.

8 “(2) FINDINGS REQUIRED.—

9 “(A) IN GENERAL.—Before issuing, renew-
10 ing, or modifying a special permit or granting
11 party status to a special permit, the Secretary
12 shall determine that the person is fit to conduct
13 the activity authorized by such permit in a
14 manner that achieves the level of safety re-
15 quired under paragraph (1).

16 “(B) CONSIDERATIONS.—In making the
17 determination under subparagraph (A), the
18 Secretary shall consider—

19 “(i) the person’s safety history (in-
20 cluding prior compliance history);

21 “(ii) the person’s accident and inci-
22 dent history; and

23 “(iii) any other information the Sec-
24 retary considers appropriate to make such
25 a determination.

1 “(3) EFFECTIVE PERIOD.—A special permit
2 issued under this section—

3 “(A) shall be for an initial period of not
4 more than 2 years;

5 “(B) may be renewed by the Secretary
6 upon application—

7 “(i) for successive periods of not more
8 than 4 years each; or

9 “(ii) in the case of a special permit re-
10 lating to section 5112, for an additional
11 period of not more than 2 years.

12 “(b) APPLICATIONS.—

13 “(1) REQUIRED DOCUMENTATION.—When ap-
14 plying for a special permit or the renewal or modi-
15 fication of a special permit or requesting party sta-
16 tus to a special permit under this section, the Sec-
17 retary shall require the person to submit an applica-
18 tion that contains—

19 “(A) a detailed description of the person’s
20 request;

21 “(B) a listing of the person’s current facili-
22 ties and addresses where the special permit will
23 be utilized;

24 “(C) a safety analysis prescribed by the
25 Secretary that justifies the special permit;

1 “(D) documentation to support the safety
2 analysis;

3 “(E) a certification of safety fitness; and

4 “(F) proof of registration, as required
5 under section 5108.

6 “(2) PUBLIC NOTICE.—The Secretary shall—

7 “(A) publish notice in the Federal Register
8 that an application for a special permit has
9 been filed; and

10 “(B) provide the public an opportunity to
11 inspect and comment on the application.

12 “(3) SAVINGS CLAUSE.—This subsection does
13 not require the release of information protected by
14 law from public disclosure.

15 “(c) COORDINATE AND COMMUNICATE WITH MODAL
16 CONTACT OFFICIALS.—

17 “(1) IN GENERAL.—In evaluating applications
18 under subsection (b), and making the findings and
19 determinations under subsections (a), (e), and (h),
20 the Administrator of the Pipeline and Hazardous
21 Materials Safety Administration shall consult, co-
22 ordinate, or notify the modal contact official respon-
23 sible for the specified mode of transportation that
24 will be utilized under a special permit or approval
25 before—

1 “(A) issuing, modifying, or renewing the
2 special permit;

3 “(B) granting party status to the special
4 permit; or

5 “(C) issuing or renewing the special permit
6 or approval.

7 “(2) MODAL CONTACT OFFICIAL DEFINED.—In
8 this section, the term ‘modal contact official’
9 means—

10 “(A) the Administrator of the Federal
11 Aviation Administration;

12 “(B) the Administrator of the Federal
13 Motor Carrier Safety;

14 “(C) the Administrator of the Federal
15 Railroad Administration; and

16 “(D) the Commandant of the Coast Guard.

17 “(d) APPLICATIONS TO BE DEALT WITH PROMPT-
18 LY.—The Secretary shall—

19 “(1) issue, modify, renew, or grant party status
20 to a special permit or approval for which a request
21 was filed under this section, or deny the issuance,
22 modification, renewal, or grant, on or before the last
23 day of the 180-day period beginning on the first day
24 of the month following the date of the filing of the
25 request; or

1 “(2) publish a statement in the Federal Reg-
2 ister that—

3 “(A) describes the reason for the delay of
4 the Secretary’s decision on the special permit or
5 approval; and

6 “(B) includes an estimate of the additional
7 time necessary before the decision is made.

8 “(e) EMERGENCY PROCESSING OF SPECIAL PER-
9 MITS.—

10 “(1) FINDINGS REQUIRED.—The Secretary may
11 not grant a request for emergency processing of a
12 special permit unless the Secretary determines
13 that—

14 “(A) a special permit is necessary for na-
15 tional security purposes;

16 “(B) processing on a routine basis under
17 this section would result in significant injury to
18 persons or property; or

19 “(C) a special permit is necessary to pre-
20 vent significant economic loss or damage to the
21 environment that could not be prevented if the
22 application were processed on a routine basis.

23 “(2) WAIVER OF FITNESS TEST.—The Sec-
24 retary may waive the requirement under subsection
25 (a)(2) for a request for which the Secretary makes

1 a determination under subparagraph (A) or (B) of
2 paragraph (1).

3 “(3) NOTIFICATION.—Not later than 90 days
4 after the date of issuance of a special permit under
5 this subsection, the Secretary shall publish a notice
6 in the Federal Register of the issuance that in-
7 cludes—

8 “(A) a statement of the basis for the find-
9 ing of emergency; and

10 “(B) the scope and duration of the special
11 permit.

12 “(4) EFFECTIVE PERIOD.—A special permit
13 issued under this subsection shall be effective for a
14 period not to exceed 180 days.

15 “(f) EXCLUSIONS.—

16 “(1) IN GENERAL.—The Secretary shall ex-
17 clude, in any part, from this chapter and regulations
18 prescribed under this chapter—

19 “(A) a public vessel (as defined in section
20 2101 of title 46);

21 “(B) a vessel exempted under section 3702
22 of title 46 or from chapter 37 of title 46; and

23 “(C) a vessel to the extent it is regulated
24 under the Ports and Waterways Safety Act of
25 1972 (33 U.S.C. 1221, et seq.).

1 “(2) FIREARMS.—This chapter and regulations
2 prescribed under this chapter do not prohibit—

3 “(A) or regulate transportation of a fire-
4 arm (as defined in section 232 of title 18), or
5 ammunition for a firearm, by an individual for
6 personal use; or

7 “(B) transportation of a firearm or ammu-
8 nition in commerce.

9 “(g) LIMITATION ON AUTHORITY.—Unless the Sec-
10 retary decides that an emergency exists, a person subject
11 to this chapter may only be granted a variance from this
12 chapter through a special permit or renewal granted under
13 this section.

14 “(h) APPROVALS.—

15 “(1) FINDINGS REQUIRED.—

16 “(A) IN GENERAL.—The Secretary may
17 not issue an approval or grant the renewal of
18 an approval pursuant to part 107 of title 49,
19 Code of Federal Regulations until the Secretary
20 has determined that the person is fit, willing,
21 and able to conduct the activity authorized by
22 the approval in a manner that achieves the level
23 of safety required under subsection (a)(1).

1 “(B) CONSIDERATIONS.—In making a de-
2 termination under subparagraph (A), the Sec-
3 retary shall consider—

4 “(i) the person’s safety history (in-
5 cluding prior compliance history);

6 “(ii) the person’s accident and inci-
7 dent history; and

8 “(iii) any other information the Sec-
9 retary considers appropriate to make such
10 a determination.

11 “(2) REQUIRED DOCUMENTATION.—When ap-
12 plying for an approval or renewal or modification of
13 an approval under this section, the Secretary shall
14 require the person to submit an application that con-
15 tains—

16 “(A) a detailed description of the person’s
17 request;

18 “(B) a listing of the persons current facili-
19 ties and addresses where the approval will be
20 utilized;

21 “(C) a safety analysis prescribed by the
22 Secretary that justifies the approval;

23 “(D) documentation to support the safety
24 analysis;

25 “(E) a certification of safety fitness; and

1 “(F) the verification of registration re-
2 quired under section 5108.

3 “(3) SAVINGS PROVISION.—Nothing in this sub-
4 section may be construed to require the release of
5 information protected by law from public disclosure.

6 “(i) NONCOMPLIANCE.—The Secretary may modify,
7 suspend, or terminate a special permit or approval if the
8 Secretary determines that—

9 “(1) the person who was granted the special
10 permit or approval has violated the special permit or
11 approval or the regulations issued under this chapter
12 in a manner that demonstrates that the person is
13 not fit to conduct the activity authorized by the spe-
14 cial permit or approval; or

15 “(2) the special permit or approval is unsafe.

16 “(j) RULEMAKING.—Not later than 2 years after the
17 date of the enactment of this Act, the Secretary, after pro-
18 viding notice and an opportunity for public comment, shall
19 issue regulations that establish—

20 “(1) standard operating procedures to support
21 administration of the special permit and approval
22 programs; and

23 “(2) objective criteria to support the evaluation
24 of special permit and approval applications.

1 “(k) ANNUAL REVIEW OF CERTAIN SPECIAL PER-
2 MITS.—

3 “(1) REVIEW.—The Secretary shall conduct an
4 annual review and analysis of special permits—

5 “(A) to identify consistently used and long-
6 standing special permits with an established
7 safety record; and

8 “(B) to determine whether such permits
9 may be converted into the hazardous materials
10 regulations.

11 “(2) FACTORS.—In conducting the review and
12 analysis under paragraph (1), the Secretary may
13 consider—

14 “(A) the safety record for hazardous mate-
15 rials transported under the special permit;

16 “(B) the application of a special permit;

17 “(C) the suitability of provisions in the
18 special permit for incorporation into the haz-
19 ardous materials regulations; and

20 “(D) rulemaking activity in related areas.

21 “(3) RULEMAKING.—After completing the re-
22 view and analysis under paragraph (1) and providing
23 notice and opportunity for public comment, the Sec-
24 retary shall issue regulations, as needed.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
 2 chapter 51 is amended by striking the item relating to
 3 section 5117 and inserting the following:

“5117. Special permits, approvals, and exclusions.”.

4 **SEC. 15. HIGHWAY ROUTING DISCLOSURES.**

5 (a) LIST OF ROUTE DESIGNATIONS.—Section
 6 5112(c) is amended—

7 (1) by striking “In coordination” and inserting
 8 the following:

9 “(1) IN GENERAL.—In coordination”; and

10 (2) by adding at the end the following:

11 “(2) STATE RESPONSIBILITIES.—

12 “(A) IN GENERAL.—Each State shall sub-
 13 mit to the Secretary, in a form and manner to
 14 be determined by the Secretary and in accord-
 15 ance with subparagraph (B)—

16 “(i) the name of the State agency re-
 17 sponsible for hazardous material highway
 18 route designations; and

19 “(ii) a list of the State’s currently ef-
 20 fective hazardous material highway route
 21 designations.

22 “(B) FREQUENCY.—Each State shall sub-
 23 mit the information described in subparagraph
 24 (A)(ii)—

25 “(i) at least once every 2 years; and

1 “(ii) not later than 60 days after a
2 hazardous material highway route designa-
3 tion is established, amended, or discon-
4 tinued.”.

5 (b) COMPLIANCE WITH SECTION 5112.—Section
6 5125(c)(1) is amended by inserting “, and is published
7 in the Department’s hazardous materials route registry
8 under section 5112(c)” before the period at the end.

9 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 5128 is amended to read as follows:

11 **“§ 5128. Authorization of appropriations**

12 “(a) IN GENERAL.—There are authorized to be ap-
13 propriated to the Secretary to carry out this chapter (ex-
14 cept sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and
15 5119)—

16 “(1) \$42,338,000 for fiscal year 2012; and

17 “(2) \$42,762,000 for fiscal year 2013.

18 “(b) HAZARDOUS MATERIALS EMERGENCY PRE-
19 PAREDNESS FUND.—From the Hazardous Materials
20 Emergency Preparedness Fund established under section
21 5116(i), the Secretary may expend, during each of fiscal
22 years 2012 and 2013—

23 “(1) \$188,000 to carry out section 5115;

24 “(2) \$21,800,000 to carry out subsections (a)

25 and (b) of section 5116, of which not less than

1 \$13,650,000 shall be available to carry out section
2 5116(b);

3 “(3) \$150,000 to carry out section 5116(f);

4 “(4) \$625,000 to publish and distribute the
5 Emergency Response Guidebook under section
6 5116(i)(3); and

7 “(5) \$1,000,000 to carry out section 5116(j).

8 “(c) HAZARDOUS MATERIALS TRAINING GRANTS.—
9 From the Hazardous Materials Emergency Preparedness
10 Fund established pursuant to section 5116(i), the Sec-
11 retary may expend \$4,000,000 for each of the fiscal years
12 2012 and 2013 to carry out section 5107(e).

13 “(d) CREDITS TO APPROPRIATIONS.—

14 “(1) EXPENSES.—In addition to amounts oth-
15 erwise made available to carry out this chapter, the
16 Secretary may credit amounts received from a State,
17 Indian tribe, or other public authority or private en-
18 tity for expenses the Secretary incurs in providing
19 training to the State, authority, or entity.

20 “(2) AVAILABILITY OF AMOUNTS.—Amounts
21 made available under this section shall remain avail-
22 able until expended.”.

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