

105TH CONGRESS  
2D SESSION

# S. 2349

To authorize appropriations for the hazardous materials transportation program, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 23, 1998

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To authorize appropriations for the hazardous materials transportation program, 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 Reauthorization Act of 1998”.

6       **SEC. 2. AMENDMENT OF TITLE 49; TABLE OF SECTIONS.**

7       (a) AMENDMENT OF TITLE 49, UNITED STATES  
8       CODE.—Except as otherwise expressly provided, whenever  
9       in this title an amendment or repeal is expressed in terms  
10      of an amendment to, or a repeal of, a section or other

1 provision, the reference shall be considered to be made to  
 2 a section or other provision of title 49, United States  
 3 Code.

4 (b) TABLE OF SECTIONS.—The table of sections for  
 5 this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of sections.
- Sec. 3. Findings and purposes; definitions.
- Sec. 4. Handling criteria repeal.
- Sec. 5. Hazmat employee training requirements.
- Sec. 6. Registration.
- Sec. 7. Shipping paper retention.
- Sec. 8. Public sector training curriculum.
- Sec. 9. Planning and training grants.
- Sec. 10. Special permits, pilot programs, and exclusions.
- Sec. 11. Administration.
- Sec. 12. Cooperative agreements.
- Sec. 13. Enforcement.
- Sec. 14. Penalties.
- Sec. 15. Preemption.
- Sec. 16. Judicial review.
- Sec. 17. Hazardous materials transportation reauthorization.
- Sec. 18. Authorization of appropriations.

## 6 SEC. 3. FINDINGS AND PURPOSES; DEFINITIONS.

7 (a) FINDINGS AND PURPOSES.—Section 5101 is  
 8 amended to read as follows:

### 9 “§ 5101. Findings and purposes

10 “(a) FINDINGS.—Congress finds with respect to haz-  
 11 ardous materials transportation that—

12 “(1) approximately 4,000,000,000 tons of regu-  
 13 lated hazardous materials are transported each year  
 14 and that approximately 1,000,000 movements of  
 15 hazardous materials occur each day, according to  
 16 Department of Transportation estimates;

1           “(2) accidents involving the release of hazard-  
2           ous materials are a serious threat to public health  
3           and safety;

4           “(3) many States and localities have enacted  
5           laws and regulations that vary from Federal laws  
6           and regulations pertaining to the transportation of  
7           hazardous materials, thereby creating the potential  
8           for unreasonable hazards in other jurisdictions and  
9           confounding shippers and carriers that attempt to  
10          comply with multiple and conflicting registration,  
11          permitting, routings, notification, loading, unloading,  
12          incidental storage, and other regulatory require-  
13          ments;

14          “(4) because of the potential risks to life, prop-  
15          erty and the environment posed by unintentional re-  
16          leases of hazardous materials, consistency in laws  
17          and regulations governing the transportation of haz-  
18          ardous materials, including loading, unloading, and  
19          incidental storage, is necessary and desirable;

20          “(5) in order to achieve greater uniformity and  
21          to promote the public health, welfare, and safety at  
22          all levels, Federal standards for regulating the trans-  
23          portation of hazardous materials in intrastate, inter-  
24          state, and foreign commerce are necessary and desir-  
25          able;

1           “(6) in order to provide reasonable, adequate,  
2           and cost-effective protection from the risks posed by  
3           the transportation of hazardous materials, a network  
4           of adequately trained State and local emergency re-  
5           sponse personnel is required;

6           “(7) the movement of hazardous materials in  
7           commerce is necessary and desirable to maintain  
8           economic vitality and meet consumer demands, and  
9           shall be conducted in a safe and efficient manner;

10          “(8) primary authority for the regulation of  
11          such transportation should be consolidated in the  
12          Department of Transportation to ensure the safe  
13          and efficient movement of hazardous materials in  
14          commerce; and

15          “(9) emergency response personnel have a con-  
16          tinuing need for training on responses to releases of  
17          hazardous materials in transportation and small  
18          businesses have a continuing need for training on  
19          compliance with hazardous materials regulations.

20          “(b) PURPOSES.—The purposes of this chapter are—

21               “(1) to ensure the safe and efficient transpor-  
22               tation of hazardous materials in intrastate, inter-  
23               state, and foreign commerce, including the loading,  
24               unloading, and incidental storage of hazardous ma-  
25               terials;

1 “(2) to provide the Secretary with preemption  
 2 authority to achieve uniform regulation of hazardous  
 3 materials transportation, to eliminate inconsistent  
 4 rules that apply differently from Federal rules, to  
 5 ensure efficient movement of hazardous materials in  
 6 commerce, and to promote the national health, wel-  
 7 fare, and safety; and

8 “(3) to provide adequate training for public sec-  
 9 tor emergency response teams to ensure safe re-  
 10 sponses to hazardous materials transportation acci-  
 11 dents and incidents.”.

12 (b) DEFINITIONS.—Section 5102 is amended by—

13 (1) by striking paragraph (1) and inserting the  
 14 following:

15 “(1) ‘commerce’ means trade or transportation  
 16 in the jurisdiction of the United States—

17 “(A) between a place in a State and a  
 18 place outside of the State;

19 “(B) that affects trade or transportation  
 20 between a place in a State and a place outside  
 21 of the State; or

22 “(C) on a United States-registered air-  
 23 craft.”;

24 (2) by striking paragraphs (3) and (4) and in-  
 25 serting the following:

1           “(3) ‘hazmat employee’ means an individual  
2       who—

3           “(A) is—

4               “(i) employed by a hazmat employer,

5               “(ii) self-employed, or

6               “(iii) an owner-operator of a motor  
7       vehicle; and

8           “(B) during the course of employment—

9               “(i) loads, unloads, or handles hazard-  
10       ous materials;

11               “(ii) manufactures, reconditions, or  
12       tests containers, drums, or other packag-  
13       ings represented as qualified for use in  
14       transporting hazardous materials;

15               “(iii) performs any function pertain-  
16       ing to the offering of hazardous materials  
17       for transportation;

18               “(iv) is responsible for the safety of  
19       transporting hazardous materials; or

20               “(v) operates a vehicle used to trans-  
21       port hazardous materials.

22       “(4) ‘hazmat employer’ means a person who—

23           “(A) either—

24               “(i) is self-employed,

1 “(ii) is an owner-operator of a motor  
2 vehicle, or

3 “(iii) has at least 1 employee; and

4 “(B) performs a function, or uses at least  
5 1 employee, in connection with—

6 “(i) transporting hazardous materials  
7 in commerce;

8 “(ii) causing hazardous materials to  
9 be transported in commerce, or

10 “(iii) manufacturing, reconditioning,  
11 or testing containers, drums, or other  
12 packagings represented as qualified for use  
13 in transporting hazardous materials.”;

14 (3) by striking “title.” in paragraph (7) and in-  
15 serting “title, except that a freight forwarder is in-  
16 cluded only if performing a function related to high-  
17 way transportation.”;

18 (4) by redesignating paragraphs (9) through  
19 (13) as paragraphs (12) through (16), respectively;

20 (5) by inserting after paragraph (8) the follow-  
21 ing:

22 “(9) ‘out-of-service order’ means a mandate  
23 that an aircraft, vessel, motor vehicle, train, other  
24 vehicle, or a part of any of these, not be moved until  
25 specified conditions have been met.

1           “(10) ‘package’ or ‘outside package’ means a  
2           packaging plus its contents.

3           “(11) ‘packaging’ means a receptacle and any  
4           other components or materials necessary for the re-  
5           ceptacle to perform its containment function in con-  
6           formance with the minimum packaging requirements  
7           established by the Secretary of Transportation.”;  
8           and

9           (6) by striking “ or transporting hazardous ma-  
10          terials to further a commercial enterprise;” in para-  
11          graph (12)(A), as redesignated by paragraph (4) of  
12          this subsection, and inserting “, and transporting  
13          hazardous materials to further a commercial enter-  
14          prise, or manufacturing, reconditioning, or testing  
15          containers, drums, or other packagings represented  
16          as qualified for use in transporting hazardous mate-  
17          rials;”.

18          (c) CLERICAL AMENDMENT.—The chapter analysis  
19          of chapter 51 is amended by striking the item relating to  
20          section 5101 and inserting the following:

“5101. Findings and purposes.”.

21          **SEC. 4. HANDLING CRITERIA REPEAL.**

22          Section 5106 is repealed and the chapter analysis of  
23          chapter 51 is amended by striking the item relating to  
24          that section.



1 **SEC. 5. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.**

2 Section 5107(f)(2) is amended by striking “and sec-  
3 tion 5106, and subsections (a) through (g)(1) and (h) of  
4 section 5108(a), and 5109 of this title”.

5 **SEC. 6. REGISTRATION.**

6 Section 5108 is amended by—

7 (1) by striking subsection (b)(1)(C) and insert-  
8 ing the following:

9 “(C) each State in which the person car-  
10 ries out any of the activities.”;

11 (2) by striking subsection (c) and inserting the  
12 following:

13 “(c) FILING SCHEDULE.—Each person required to  
14 file a registration statement under subsection (a) of this  
15 section shall file that statement annually in accordance  
16 with regulations issued by the Secretary.”;

17 (3) by striking “552(f)” in subsection (f) and  
18 inserting “552(b)”;

19 (4) by striking “may” in subsection (g)(1) and  
20 inserting “shall”; and

21 (5) by inserting “or an Indian tribe,” in sub-  
22 section (i)(2)(B) after “State,”.

23 **SEC. 7. SHIPPING PAPER RETENTION.**

24 Section 5110(e) is amended by striking the first sen-  
25 tence and inserting “After expiration of the requirement  
26 in subsection (c), the person who provided the shipping

1 paper and the carrier required to maintain it under sub-  
 2 section (a) shall retain the paper or an electronic image  
 3 thereof, for a period of 1 year after the shipping paper  
 4 was provided to the carrier, to be accessible through their  
 5 respective principal places of business.”.

6 **SEC. 8. PUBLIC SECTOR TRAINING CURRICULUM.**

7 Section 5115 is amended—

8 (1) in subsection (a), by striking “DEVELOP-  
 9 MENT AND UPDATING.—Not later than November  
 10 16, 1992, in” and inserting “UPDATING.—In”;

11 (2) in the first sentence of subsection (a), by  
 12 striking “develop and”;

13 (3) in subsection (a), by striking the second  
 14 sentence;

15 (4) in the first sentence of subsection (b), by  
 16 striking “developed”;

17 (5) in subparagraphs (A) and (B) of subsection  
 18 (b)(1), by inserting “or involving an alternative fuel  
 19 vehicle” after “material”; and

20 (6) by striking subsection (d) and inserting the  
 21 following:

22 “(d) DISTRIBUTION AND PUBLICATION.—With the  
 23 national response team, the Secretary of Transportation  
 24 may publish a list of programs that use a course developed  
 25 under this section for training public sector employees to

1 respond to an accident or incident involving the transpor-  
 2 tation of hazardous materials.”.

3 **SEC. 9. PLANNING AND TRAINING GRANTS.**

4 Section 5116 is amended by—

5 (1) by striking “of” in the second sentence of  
 6 subsection (e) and inserting “received by”;

7 (2) by striking subsection (f) and inserting the  
 8 following:

9 “(f) **MONITORING AND TECHNICAL ASSISTANCE.**—

10 The Secretary of Transportation shall monitor public sec-  
 11 tor emergency response planning and training for an acci-  
 12 dent or incident involving hazardous materials. Consider-  
 13 ing the results of the monitoring, the Secretary shall pro-  
 14 vide technical assistance to a State, political subdivision  
 15 of a State, or Indian tribe for carrying out emergency re-  
 16 sponse training and planning for an accident or incident  
 17 involving hazardous materials and shall coordinate the as-  
 18 sistance using the existing coordinating mechanisms of the  
 19 national response team for oil and hazardous substances  
 20 and, for radioactive material, the Federal Radiological  
 21 Preparedness Coordinating Committee.”; and

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

23 “(l) **SMALL BUSINESSES.**—The Secretary may au-  
 24 thorize a State or Indian tribe receiving a grant under  
 25 this section to use up to 25 percent of the amount of the

1 grant to assist small businesses in complying with regula-  
 2 tions issued under this chapter.”.

3 **SEC. 10. SPECIAL PERMITS, PILOT PROGRAMS, AND EXCLU-**  
 4 **SIONS.**

5 (a) Section 5117 is amended—

6 (1) by striking the section heading and insert-  
 7 ing the following:

8 “§ **Sec. 5117. Special permits, pilot programs, exemp-**  
 9 **tions, and exclusions**” ;

10 (2) by striking “2 years” in subsection (a)(2)  
 11 and inserting “4 years”;

12 (3) by redesignating subsection (e) as sub-  
 13 section (f); and

14 (4) by inserting after subsection (d) the follow-  
 15 ing:

16 “(e) **AUTHORITY TO CARRY OUT PILOT PRO-**  
 17 **GRAMS.**—

18 “(1) **IN GENERAL.**—The Secretary is authorized  
 19 to carry out pilot programs to examine innovative  
 20 approaches or alternatives to regulations issued  
 21 under this chapter for private motor carriage in  
 22 intrastate transportation of an agricultural produc-  
 23 tion material from—

24 “(A) a source of supply to a farm;

25 “(B) a farm to another farm;

1           “(C) a field to another field on a farm; or

2           “(D) a farm back to the source of supply.

3           “(2) LIMITATION.—The Secretary may not  
4 carry out a pilot program under paragraph (1) if the  
5 Secretary determines that the program would pose  
6 an undue risk to public health and safety.

7           “(3) SAFETY LEVELS.—In carrying out a pilot  
8 project under this subsection, the Secretary shall re-  
9 quire, as a condition of approval of the project, that  
10 the safety measures in the project are designed to  
11 achieve a level of safety that is equivalent to, or  
12 greater than, the level of safety that would otherwise  
13 be achieved through compliance with the standards  
14 prescribed under this chapter.

15           “(4) TERMINATION OF PROJECT.—The Sec-  
16 retary shall immediately terminate any project en-  
17 tered into under this subsection if the motor carrier  
18 or other entity to which it applies fails to comply  
19 with the terms and conditions of the pilot project or  
20 the Secretary determines that the project has re-  
21 sulted in a lower level of safety than was maintained  
22 before the project was initiated.

23           “(5) NONAPPLICATION.—This subsection does  
24 not apply to the application of regulations issued  
25 under this chapter to vessels or aircraft.”.

1 (b) Section 5119(c) is amended by adding at the end  
 2 the following:

3 “(4) Pending promulgation of regulations under  
 4 this subsection, States may participate in a program  
 5 of uniform forms and procedures recommended by  
 6 the working group under subsection (b).”.

7 (c) The chapter analysis for chapter 51 is amended  
 8 by striking the item related to section 5117 and inserting  
 9 the following:

“5117. Special permits, pilot programs, exemptions, and exclusions.”.

#### 10 **SEC. 11. ADMINISTRATION.**

11 (a) Section 5121 is amended by striking subsections  
 12 (a), (b), and (c) and redesignating subsections (d) and (e)  
 13 as subsections (a) and (b), respectively.

14 (b) Section 5122 is amended by redesignating sub-  
 15 sections (a), (b), and (c) as subsections (d), (e), and (f),  
 16 and by inserting before subsection (d), as redesignated,  
 17 the following:

18 “(a) GENERAL AUTHORITY.—To carry out this chap-  
 19 ter, the Secretary of Transportation may investigate,  
 20 make reports, issue subpoenas, conduct hearings, require  
 21 the production of records and property, take depositions,  
 22 and conduct research, development, demonstration, and  
 23 training activities. After notice and an opportunity for a  
 24 hearing, the Secretary may issue an order requiring com-

1   pliance with this chapter or a regulation prescribed under  
2   this chapter.

3       “(b) RECORDS, REPORTS, AND INFORMATION.—A  
4   person subject to this chapter shall—

5           “(1) maintain records, make reports, and pro-  
6       vide information the Secretary by regulation or  
7       order requires; and

8           “(2) make the records, reports, and information  
9       available when the Secretary requests.

10       “(c) INSPECTION.—

11           “(1) The Secretary may authorize an officer,  
12       employee, or agent to inspect, at a reasonable time  
13       and in a reasonable way, records and property relat-  
14       ed to—

15           “(A) manufacturing, fabricating, marking,  
16       maintaining, reconditioning, repairing, testing,  
17       or distributing a packaging or a container for  
18       use by a person in transporting hazardous ma-  
19       terials in commerce; or

20           “(B) the transportation of hazardous ma-  
21       terials in commerce.

22           “(2) An officer, employee, or agent under this  
23       subsection shall display proper credentials when re-  
24       quested.”.

1 **SEC. 12. COOPERATIVE AGREEMENTS.**

2 Section 5121, as amended by section 11(a), is further  
3 amended by adding at the end thereof the following:

4 “(f) **AUTHORITY FOR COOPERATIVE AGREEMENTS.**—  
5 To carry out this chapter, the Secretary may enter into  
6 grants, cooperative agreements, and other transactions  
7 with a person, agency or instrumentality of the United  
8 States, a unit of State or local government, an Indian  
9 tribe, a foreign government (in coordination with the State  
10 Department), an educational institution, or other entity  
11 to further the objectives of this chapter. The objectives  
12 of this chapter include the conduct of research, develop-  
13 ment, demonstration, risk assessment, emergency re-  
14 sponse planning and training activities.”.

15 **SEC. 13. ENFORCEMENT.**

16 Section 5122, as amended by section 11(b), is further  
17 amended—

18 (1) in the first sentence of subsection (a), by in-  
19 serting “inspect,” after “may”;

20 (2) by striking the last sentence of subsection  
21 (a) and inserting: “Except as provided in subsection  
22 (e) of this section, the Secretary shall provide notice  
23 and an opportunity for a hearing prior to issuing  
24 an order requiring compliance with this chapter or  
25 a regulation, order, special permit, or approval  
26 issued under this chapter.”; and



1           (3) by redesignating subsections (d), (e) and (f)  
 2           as subsections (f), (g) and (h), and inserting after  
 3           subsection (c) the following:

4           “(d) OTHER AUTHORITY.—

5                 “(1) INSPECTION.—During inspections and in-  
 6           vestigations, officers, employees, or agents of the  
 7           Secretary may—

8                 “(A) open and examine the contents of a  
 9           package offered for, or in, transportation  
 10          when—

11                 “(i) the package is marked, labeled,  
 12           certified, placarded, or otherwise rep-  
 13           resented as containing a hazardous mate-  
 14           rial, or

15                 “(ii) there is an objectively reasonable  
 16           and articulable belief that the package may  
 17           contain a hazardous material;

18                 “(B) take a sample, sufficient for analysis,  
 19           of material marked or represented as a hazard-  
 20           ous material or for which there is an objectively  
 21           reasonable and articulable belief that the mate-  
 22           rial may be a hazardous material, and analyze  
 23           that material;

24                 “(C) when there is an objectively reason-  
 25           able and articulable belief that an imminent

1 hazard may exist, prevent the further transpor-  
2 tation of the material until the hazardous quali-  
3 ties of that material have been determined; and

4 “(D) when safety might otherwise be com-  
5 promised, authorize properly qualified personnel  
6 to conduct the examination, sampling, or analy-  
7 sis of a material.

8 “(2) NOTIFICATION.—No package opened pur-  
9 suant to this subsection shall continue its transpor-  
10 tation until the officer, employee, or agent of the  
11 Secretary—

12 “(A) affixes a label to the package indicat-  
13 ing that the package was inspected pursuant to  
14 this subsection; and

15 “(B) notifies the shipper that the package  
16 was opened for examination.

17 “(e) EMERGENCY ORDERS.—

18 “(1) If, through testing, inspection, investiga-  
19 tion, or research carried out under this chapter, the  
20 Secretary decides that an unsafe condition or prac-  
21 tice, or a combination of them, causes an emergency  
22 situation involving a hazard of death, personal in-  
23 jury, or significant harm to the environment, the  
24 Secretary may immediately issue or impose restric-  
25 tions, prohibitions, recalls, or out-of-service orders,

1 without notice or the opportunity for a hearing, that  
2 may be necessary to abate the situation.

3 “(2) The Secretary’s action under this sub-  
4 section must be in a written order describing the  
5 condition or practice, or combination of them, that  
6 causes the emergency situation; stating the restric-  
7 tions, prohibitions, recalls, or out-of-service orders  
8 being issued or imposed; and prescribing standards  
9 and procedures for obtaining relief from the order.

10 “(3) After taking action under this subsection,  
11 the Secretary shall provide an opportunity for review  
12 of that action under section 554 of title 5.

13 “(4) If a petition for review is filed and the re-  
14 view is not completed by the end of the 30-day pe-  
15 riod beginning on the date the petition was filed, the  
16 action will cease to be effective at the end of that  
17 period unless the Secretary determines in writing  
18 that the emergency situation still exists.”.

19 **SEC. 14. PENALTIES.**

20 (a) IN GENERAL.—Section 5123(a)(1) is amended by  
21 striking the first sentence and inserting the following: “A  
22 person that knowingly violates this chapter or a regula-  
23 tion, order, special permit, or approval issued under this  
24 chapter is liable to the United States Government for a

1 civil penalty of at least \$250 but not more than \$27,500  
 2 for each violation.”.

3 (b) DEGREE OF CULPABILITY.—Section 5123(c)(2)  
 4 is amended to read as follows:

5 “(2) with respect to the violator, the degree of  
 6 culpability, any good-faith efforts to comply with the  
 7 applicable requirements, any history of prior viola-  
 8 tions, any economic benefit resulting from the viola-  
 9 tion, the ability to pay, and any effect on the ability  
 10 to continue to do business; and”.

11 (c) CRIMINAL PENALTY.—Section 5124 is amended  
 12 to read as follows:

13 **“§ Sec. 5124. Criminal penalty**

14 “(a) IN GENERAL.—A person knowingly violating  
 15 section 5104(b) of this title or willfully violating this chap-  
 16 ter or a regulation, order, special permit, or approval  
 17 issued under this chapter, shall be fined under title 18,  
 18 imprisoned for not more than 5 years, or both.

19 “(b) AGGRAVATED VIOLATIONS.—A person know-  
 20 ingly violating section 5104(b) of this title or willfully vio-  
 21 lating this chapter or a regulation, order, special permit,  
 22 or approval issued under this chapter, and thereby causing  
 23 the release of a hazardous materials, shall be fined under  
 24 title 18, imprisoned for not more than 20 years, or both.”.

1 **SEC. 15. PREEMPTION.**

2 (a) REQUIREMENTS CONTRARY TO PURPOSES OF  
3 CHAPTER.—Section 5125(a)(2) is amended by inserting  
4 “, the purposes of this chapter,” after “this chapter” the  
5 first place it appears.

6 (b) DEADWOOD.—Section 5125(b)(2) is amended by  
7 striking “prescribes after November 16, 1990.” and in-  
8 serting “prescribes.”.

9 (c) INDEPENDENT APPLICATION OF PREEMPTION  
10 STANDARDS.—Section 5125 is amended by adding at the  
11 end thereof the following:

12 “(h) INDEPENDENT APPLICATION OF EACH STAND-  
13 ARD.—Each preemption standard in subsections (a),  
14 (b)(1), (c), and (g) of this section and section 5119(c)(2)  
15 is independent in its application to a requirement of any  
16 State, political subdivision of a State, or Indian tribe.”.

17 **SEC. 16. JUDICIAL REVIEW.**

18 (a) IN GENERAL.—Chapter 51 is amended by redes-  
19 ignating section 5127 as section 5128, and by inserting  
20 after section 5126 the following new section:

21 **“§ Sec. 5127. Judicial review**

22 “(a) FILING AND VENUE.—Except as provided in  
23 section 20114(c), a person disclosing a substantial interest  
24 in a final order issued, under the authority of section 5122  
25 or 5123, by the Secretary of Transportation, the Adminis-  
26 trators of the Research and Special Programs Administra-

tion, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard (‘modal Administrator’), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

“(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

“(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further pro-

1 ceedings. After reasonable notice to the Secretary or the  
 2 modal Administrator, the court may grant interim relief  
 3 by staying the order or taking other appropriate action  
 4 when good cause for its action exists. Findings of fact by  
 5 the Secretary or the modal Administrator, if supported by  
 6 substantial evidence, are conclusive.

7       “(d) REQUIREMENT FOR PRIOR OBJECTION.—In re-  
 8 viewing a final order under this section, the court may  
 9 consider an objection to a final order of the Secretary or  
 10 the modal Administrator only if the objection was made  
 11 in the course of a proceeding or review conducted by the  
 12 Secretary, the modal Administrator, or an administrative  
 13 law judge, or if there was a reasonable ground for not  
 14 making the objection in the proceeding.

15       “(e) SUPREME COURT REVIEW.—A decision by a  
 16 court under this section may be reviewed only by the Su-  
 17 preme Court under section 1254 of title 28, United States  
 18 Code.”.

19       (b) CLERICAL AMENDMENT.—The chapter analysis  
 20 for chapter 51 is amended by striking the item related  
 21 to section 5127 and inserting the following:

“5127. Judicial review.

“5128. Authorization of appropriations.”.

1 **SEC. 17. HAZARDOUS MATERIALS TRANSPORTATION REAU-**  
2 **THORIZATION.**

3 (a) IN GENERAL.—Chapter 51, as amended by sec-  
4 tion 16 of this Act, is amended by redesignating section  
5 5128 as section 5129 and by inserting after section 5127  
6 the following:

7 **“§ Sec. 5128. High risk hazardous materials and haz-**  
8 **ardous waste; motor carrier safety study**

9 “(a) STUDY.—The Secretary of Transportation shall  
10 conduct a study—

11 “(1) to determine the safety benefits and ad-  
12 ministrative efficiency of implementing a Federal  
13 permit program for high risk hazardous materials  
14 and hazardous waste carriers;

15 “(2) to identify and evaluate alternative regu-  
16 latory methods and procedures that may improve the  
17 safety of high risk hazardous materials and hazard-  
18 ous waste carriers and shippers, including evaluating  
19 whether an annual safety fitness determination that  
20 is linked to permit renewals for hazardous materials  
21 and hazardous waste carriers is warranted;

22 “(3) to examine the safety benefits of increased  
23 monitoring of high risk hazardous materials and  
24 hazardous waste carriers, and the costs, benefits,  
25 and procedures of existing State permit programs;



1           “(4) to make such recommendations as may be  
2       appropriate for the improvement of uniformity  
3       among existing State permit programs; and

4           “(5) to assess the potential of advanced tech-  
5       nologies for improving the assessment of high risk  
6       hazardous materials and hazardous waste carriers’  
7       compliance with motor carrier safety regulations.

8       “(b) TIMEFRAME.—The Secretary shall begin the  
9       study required by subsection (a) within 6 months after  
10      the date of enactment of the Hazardous Materials Trans-  
11      portation Reauthorization Act of 1998 and complete it  
12      within 30 months after the date of enactment of that Act.

13       “(c) REPORT.—The Secretary shall report the find-  
14      ings of the study required by subsection (a), together with  
15      such recommendations as may be appropriate, within 36  
16      months after the date of enactment of the Hazardous Ma-  
17      terials Transportation Reauthorization Act of 1998.”.

18       (b) SECTION 5109 REGULATIONS TO REFLECT  
19      STUDY FINDINGS.—Section 5109(h) is amended by strik-  
20      ing “not later than November 16, 1991.” and inserting  
21      “based upon the findings of the study required by section  
22      5128(a).”.

23       (c) CONFORMING AMENDMENT.—The chapter analy-  
24      sis for chapter 51, as amended by section 16, is amended

1 by striking the item relating to section 5128 and inserting  
 2 the following:

“5128. High risk hazardous materials and hazardous waste; motor carrier safety  
 study.

“5129. Authorization of appropriations.”.

### 3 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 5129, as redesignated, is amended—

5 (1) by striking subsection (a) and inserting the  
 6 following:

7 “(a) GENERAL.—There are authorized to be appro-  
 8 priated to the Secretary of Transportation to carry out  
 9 this chapter (except sections 5107(e), 5108(g)(2), 5113,  
 10 5115, and 5116) not more than—

11 “(1) \$15,492,000 for fiscal year 1998;

12 “(2) \$16,000,000 for fiscal year 1999;

13 “(3) \$16,500,000 for fiscal year 2000;

14 “(4) \$17,000,000 for fiscal year 2001;

15 “(5) \$17,500,000 for fiscal year 2002; and

16 “(6) \$18,000,000 for fiscal year 2003.”; and

17 (2) by striking subsections (c) and (d) and in-  
 18 serting the following:

19 “(c) TRAINING CURRICULUM.—Not more than  
 20 \$200,000 is available to the Secretary of Transportation  
 21 from the account established under section 5116(i) for  
 22 each of the fiscal years ending September 30, 1999–2003,  
 23 to carry out section 5115.

24 “(d) PLANNING AND TRAINING.—

1           “(1) Not more than \$2,444,000 is available to  
2           the Secretary of Transportation from the account es-  
3           tablished under section 5116(i) for the fiscal year  
4           ending September 30, 1998, and such sums as may  
5           be necessary for fiscal years 1999–2003, to carry  
6           out section 5116(a).

7           “(2) Not more than \$3,666,000 is available to  
8           the Secretary of Transportation from the account es-  
9           tablished under section 5116(i) for the fiscal year  
10          ending September 30, 1998, and such sums as may  
11          be necessary for fiscal years 1999–2003, to carry  
12          out section 5116(b).

13          “(3) Not more than \$600,000 is available to  
14          the Secretary of Transportation from the account es-  
15          tablished under section 5116(i) for the fiscal year  
16          ending September 30, 1998, and such sums as may  
17          be necessary for fiscal years 1999–2003, to carry  
18          out section 5116(f).”.

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