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112TH CONGRESS
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[Report No. 112-162]

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

APRIL 25, 2012

Reported by Mr. ROCKEFELLER, without amendment

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”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 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.

3 **SEC. 3. DEFINITION.**

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

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

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

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

13 (a) TRAINING CURRICULUM.—Section 5115 is
14 amended—

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

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

17 and

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

2 (b) OPERATIONS LEVEL TRAINING.—Section 5116 is
3 amended—

4 (1) in subsection (b)(1), by adding at the end
5 the following: “To the extent that a grant is used to
6 train emergency responders, the State or Indian
7 tribe shall provide written certification to the Sec-
8 retary that the emergency responders who receive
9 training under the grant will have the ability to pro-
10 tect nearby persons, property, and the environment
11 from the effects of accidents or incidents involving
12 the transportation of hazardous material in accord-
13 ance with existing regulations or National Fire Pro-
14 tection Association standards for competence of re-
15 sponders to hazardous materials.”;

16 (2) in subsection (j)—

17 (A) by redesignating paragraph (5) as
18 paragraph (7); and

19 (B) by inserting after paragraph (4) the
20 following:

21 “(5) The Secretary may not award a grant to
22 an organization under this subsection unless the or-
23 ganization ensures that emergency responders who
24 receive training under the grant will have the ability
25 to protect nearby persons, property, and the environ-

1 ment from the effects of accidents or incidents in-
2 volving the transportation of hazardous material in
3 accordance with existing regulations or National
4 Fire Protection Association standards for com-
5 petence of responders to hazardous materials.

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

14 (3) in subsection (k)—

15 (A) by striking “annually” and inserting
16 “an annual report”;

17 (B) by inserting “the report” after “make
18 available”;

19 (C) by striking “information” and insert-
20 ing “. The report submitted under this sub-
21 section shall include information”; and

22 (D) by striking “The report shall identify”
23 and all that follows and inserting the following:
24 “The report submitted under this subsection

1 shall identify the ultimate recipients of such
2 grants and include—

3 “(A) a detailed accounting and description
4 of each grant expenditure by each grant recipi-
5 ent, including the amount of, and purpose for,
6 each expenditure;

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

9 “(C) an evaluation of the efficacy of such
10 planning and training programs; and

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

13 **SEC. 6. PAPERLESS HAZARD COMMUNICATIONS PILOT**
14 **PROGRAM.**

15 (a) **IN GENERAL.**—The Secretary may conduct pilot
16 projects to evaluate the feasibility and effectiveness of
17 using paperless hazard communications systems. At least
18 1 of the pilot projects under this section shall take place
19 in a rural area.

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

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

24 (2) shall consult with organizations rep-
25 resenting—

1 (A) fire services personnel;

2 (B) law enforcement and other appropriate
3 enforcement personnel;

4 (C) other emergency response providers;

5 (D) persons who offer hazardous material
6 for transportation;

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

9 (F) employees of persons who transport or
10 offer for transportation hazardous material by
11 air, highway, rail, and water.

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

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

16 (A) a detailed description of the pilot
17 projects;

18 (B) an evaluation of each pilot project, in-
19 cluding an evaluation of the performance of
20 each paperless hazard communications system
21 in such project;

22 (C) an assessment of the safety and secu-
23 rity impact of using paperless hazard commu-
24 nications systems, including any impact on the
25 public, emergency response, law enforcement,

1 and the conduct of inspections and investiga-
2 tions; and

3 (D) a recommendation on whether
4 paperless hazard communications systems
5 should be permanently incorporated into the
6 Federal hazardous material transportation safe-
7 ty program under chapter 51 of title 49, United
8 States Code; and

9 (2) submit a final report to the Committee on
10 Commerce, Science, and Transportation of the Sen-
11 ate and the Committee on Transportation and Infra-
12 structure of the House of Representatives that con-
13 tains the results of the pilot projects carried out
14 under this section, including the matters described
15 in paragraph (1).

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

1 **SEC. 7. IMPROVING DATA COLLECTION, ANALYSIS, AND RE-**
2 **PORTING.**

3 (a) ASSESSMENT.—

4 (1) IN GENERAL.—Not later than 6 months
5 after the date of the enactment of this Act, the Sec-
6 retary, in coordination with the Secretary of Home-
7 land Security, as appropriate, shall conduct an as-
8 sessment to improve the collection, analysis, report-
9 ing, and use of data related to accidents and inci-
10 dents involving the transportation of hazardous ma-
11 terial.

12 (2) REVIEW.—The assessment conducted under
13 this subsection shall review the methods used by the
14 Pipeline and Hazardous Materials Safety Adminis-
15 tration (referred to in this section as the “Adminis-
16 tration”) for collecting, analyzing, and reporting ac-
17 cidents and incidents involving the transportation of
18 hazardous material, including the adequacy of—

19 (A) information requested on the accident
20 and incident reporting forms required to be
21 submitted to the Administration;

22 (B) methods used by the Administration to
23 verify that the information provided on such
24 forms is accurate and complete;

25 (C) accident and incident reporting re-
26 quirements, including whether such require-

1 ments should be expanded to include shippers
2 and consignees of hazardous materials;

3 (D) resources of the Administration related
4 to data collection, analysis, and reporting, in-
5 cluding staff and information technology; and

6 (E) the database used by the Administra-
7 tion for recording and reporting such accidents
8 and incidents, including the ability of users to
9 adequately search the database and find infor-
10 mation.

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

17 (c) SUBMISSION TO CONGRESS.—Not later than 15
18 days after the completion of the action plan and timeline
19 under subsection (c), the Secretary shall submit the action
20 plan and timeline to the Committee on Commerce,
21 Science, and Transportation of the Senate and the Com-
22 mittee on Transportation and Infrastructure of the House
23 of Representatives.

24 (d) REPORTING REQUIREMENTS.—Section
25 5125(b)(1)(D) is amended by inserting “and other haz-

1 arduous materials transportation incident reporting to the
2 9–1–1 emergency system or involving State or local emer-
3 gency responders in the initial response to the incident”
4 before the period at the end.

5 **SEC. 8. LOADING AND UNLOADING OF HAZARDOUS MATE-**
6 **RIALS.**

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

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

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

1 **SEC. 9. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT,**
2 **RESEARCH AND DEVELOPMENT, AND ANAL-**
3 **YSIS PROGRAM.**

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

6 **“§ 5118. Hazardous material technical assessment, re-**
7 **search and development, and analysis**
8 **program**

9 “(a) RISK REDUCTION.—

10 “(1) PROGRAM AUTHORIZED.—The Secretary of
11 Transportation may develop and implement a haz-
12 ardous material technical assessment, research and
13 development, and analysis program for the purpose
14 of—

15 “(A) reducing the risks associated with the
16 transportation of hazardous material; and

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

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

22 “(A) utilize information gathered from
23 other modal administrations with similar pro-
24 grams; and

25 “(B) coordinate with other modal adminis-
26 trations, as appropriate.

1 (B) how to identify noncompliance with
2 regulations issued under chapter 51 of title 49,
3 United States Code, and take appropriate en-
4 forcement action.

5 (b) STANDARDS AND GUIDELINES.—Under the pro-
6 gram established under this section, the Secretary may de-
7 velop—

8 (1) guidelines for hazardous material inspector
9 and investigator qualifications;

10 (2) best practices and standards for hazardous
11 material inspector and investigator training pro-
12 grams; and

13 (3) standard protocols to coordinate investiga-
14 tion efforts among Federal, State, and local jurisdic-
15 tions on accidents or incidents involving the trans-
16 portation of hazardous material.

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

19 (1) shall be mandatory for—

20 (A) the Department of Transportation’s
21 multimodal personnel conducting hazardous
22 material enforcement inspections or investiga-
23 tions; and

1 (B) State employees who conduct federally
2 funded compliance reviews, inspections, or in-
3 vestigations; and

4 (2) shall be made available to Federal, State,
5 and local hazardous materials safety enforcement
6 personnel.

7 **SEC. 11. INSPECTIONS.**

8 (a) NOTICE OF ENFORCEMENT MEASURES.—Section
9 5121(e)(1) is amended—

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

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

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

15 “(G) shall provide to the affected offeror,
16 carrier, packaging manufacturer or tester, or
17 other person responsible for the package rea-
18 sonable notice of—

19 “(i) his or her decision to exercise his
20 or her authority under paragraph (1);

21 “(ii) any findings made; and

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

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

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

3 “(A) the safe and expeditious resumption
4 of transportation of perishable hazardous mate-
5 rial, including radiopharmaceuticals and other
6 medical products, that may require timely deliv-
7 ery due to life-threatening situations;

8 “(B) the means by which—

9 “(i) noncompliant packages that
10 present an imminent hazard are placed
11 out-of-service until the condition is cor-
12 rected; and

13 “(ii) noncompliant packages that do
14 not present a hazard are moved to their
15 final destination;

16 “(C) appropriate training and equipment
17 for inspectors; and

18 “(D) the proper closure of packaging in
19 accordance with the hazardous material regula-
20 tions.”.

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

24 **SEC. 12. CIVIL PENALTIES.**

25 Section 5123 is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking
3 “\$50,000” and inserting “\$75,000”; and

4 (B) in paragraph (2), by striking
5 “\$100,000” and inserting “\$175,000”; and

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

7 “(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS
8 AND INVESTIGATIONS.—The Secretary may impose a pen-
9 alty on a person who obstructs or prevents the Secretary
10 from carrying out inspections or investigations under sub-
11 section (c) or (i) of section 5121.

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

14 “(1) IN GENERAL.—Except as provided under
15 paragraph (2), a person subject to the jurisdiction of
16 the Secretary under this chapter who fails to pay a
17 civil penalty assessed under this chapter, or fails to
18 arrange and abide by an acceptable payment plan
19 for such civil penalty, may not conduct any activity
20 regulated under this chapter beginning on the 91st
21 day after the date specified by order of the Secretary
22 for payment of such penalty unless the person has
23 filed a formal administrative or judicial appeal of the
24 penalty.

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

5 “(3) RULEMAKING.—Not later than 2 years
6 after the date of the enactment of this subsection,
7 the Secretary, after providing notice and an oppor-
8 tunity for public comment, shall issue regulations
9 that—

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

15 “(B) ensures that the person described in
16 subparagraph (A)—

17 “(i) is notified in writing; and

18 “(ii) is given an opportunity to re-
19 spond before the person is required to
20 cease the activity.”.

21 **SEC. 13. REPORTING OF FEES.**

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

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

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

4 **“§ 5117. Special permits, approvals, and exclusions**

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

6 “(1) CONDITIONS.—The Secretary of Transpor-
7 tation may issue, modify, or terminate a special per-
8 mit implementing new technologies or authorizing a
9 variance from a provision under this chapter or a
10 regulation prescribed under section 5103(b), 5104,
11 5110, or 5112 to a person performing a function
12 regulated by the Secretary under section 5103(b)(1)
13 to achieve—

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

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

19 “(2) FINDINGS REQUIRED.—

20 “(A) IN GENERAL.—Before issuing, renew-
21 ing, or modifying a special permit or granting
22 party status to a special permit, the Secretary
23 shall determine that the person is fit to conduct
24 the activity authorized by such permit in a
25 manner that achieves the level of safety re-
26 quired under paragraph (1).

1 “(B) CONSIDERATIONS.—In making the
2 determination under subparagraph (A), the
3 Secretary 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 “(3) EFFECTIVE PERIOD.—A special permit
12 issued under this section—

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

15 “(B) may be renewed by the Secretary
16 upon application—

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

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

22 “(b) APPLICATIONS.—

23 “(1) REQUIRED DOCUMENTATION.—When ap-
24 plying for a special permit or the renewal or modi-
25 fication of a special permit or requesting party sta-

1 tus to a special permit under this section, the Sec-
2 retary shall require the person to submit an applica-
3 tion that contains—

4 “(A) a detailed description of the person’s
5 request;

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

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

11 “(D) documentation to support the safety
12 analysis;

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

14 “(F) proof of registration, as required
15 under section 5108.

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

17 “(A) publish notice in the Federal Register
18 that an application for a special permit has
19 been filed; and

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

22 “(3) SAVINGS CLAUSE.—This subsection does
23 not require the release of information protected by
24 law from public disclosure.

1 “(c) COORDINATE AND COMMUNICATE WITH MODAL
2 CONTACT OFFICIALS.—

3 “(1) IN GENERAL.—In evaluating applications
4 under subsection (b), and making the findings and
5 determinations under subsections (a), (e), and (h),
6 the Administrator of the Pipeline and Hazardous
7 Materials Safety Administration shall consult, co-
8 ordinate, or notify the modal contact official respon-
9 sible for the specified mode of transportation that
10 will be utilized under a special permit or approval
11 before—

12 “(A) issuing, modifying, or renewing the
13 special permit;

14 “(B) granting party status to the special
15 permit; or

16 “(C) issuing or renewing the special permit
17 or approval.

18 “(2) MODAL CONTACT OFFICIAL DEFINED.—In
19 this section, the term ‘modal contact official’
20 means—

21 “(A) the Administrator of the Federal
22 Aviation Administration;

23 “(B) the Administrator of the Federal
24 Motor Carrier Safety;

1 “(C) the Administrator of the Federal
2 Railroad Administration; and

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

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

6 “(1) issue, modify, renew, or grant party status
7 to a special permit or approval for which a request
8 was filed under this section, or deny the issuance,
9 modification, renewal, or grant, on or before the last
10 day of the 180-day period beginning on the first day
11 of the month following the date of the filing of the
12 request; or

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

15 “(A) describes the reason for the delay of
16 the Secretary’s decision on the special permit or
17 approval; and

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

20 “(e) EMERGENCY PROCESSING OF SPECIAL PER-
21 MITS.—

22 “(1) FINDINGS REQUIRED.—The Secretary may
23 not grant a request for emergency processing of a
24 special permit unless the Secretary determines
25 that—

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

3 “(B) processing on a routine basis under
4 this section would result in significant injury to
5 persons or property; or

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

10 “(2) WAIVER OF FITNESS TEST.—The Sec-
11 retary may waive the requirement under subsection
12 (a)(2) for a request for which the Secretary makes
13 a determination under subparagraph (A) or (B) of
14 paragraph (1).

15 “(3) NOTIFICATION.—Not later than 90 days
16 after the date of issuance of a special permit under
17 this subsection, the Secretary shall publish a notice
18 in the Federal Register of the issuance that in-
19 cludes—

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

22 “(B) the scope and duration of the special
23 permit.

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

4 “(f) EXCLUSIONS.—

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

8 “(A) a public vessel (as defined in section
9 2101 of title 46);

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

12 “(C) a vessel to the extent it is regulated
13 under the Ports and Waterways Safety Act of
14 1972 (33 U.S.C. 1221, et seq.).

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

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

21 “(B) transportation of a firearm or ammu-
22 nition in commerce.

23 “(g) LIMITATION ON AUTHORITY.—Unless the Sec-
24 retary decides that an emergency exists, a person subject
25 to this chapter may only be granted a variance from this

1 chapter through a special permit or renewal granted under
2 this section.

3 “(h) APPROVALS.—

4 “(1) FINDINGS REQUIRED.—

5 “(A) IN GENERAL.—The Secretary may
6 not issue an approval or grant the renewal of
7 an approval pursuant to part 107 of title 49,
8 Code of Federal Regulations until the Secretary
9 has determined that the person is fit, willing,
10 and able to conduct the activity authorized by
11 the approval in a manner that achieves the level
12 of safety required under subsection (a)(1).

13 “(B) CONSIDERATIONS.—In making a de-
14 termination under subparagraph (A), the Sec-
15 retary shall consider—

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

18 “(ii) the person’s accident and inci-
19 dent history; and

20 “(iii) any other information the Sec-
21 retary considers appropriate to make such
22 a determination.

23 “(2) REQUIRED DOCUMENTATION.—When ap-
24 plying for an approval or renewal or modification of
25 an approval under this section, the Secretary shall

1 require the person to submit an application that con-
2 tains—

3 “(A) a detailed description of the person’s
4 request;

5 “(B) a listing of the persons current facili-
6 ties and addresses where the approval will be
7 utilized;

8 “(C) a safety analysis prescribed by the
9 Secretary that justifies the approval;

10 “(D) documentation to support the safety
11 analysis;

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

13 “(F) the verification of registration re-
14 quired under section 5108.

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

18 “(i) NONCOMPLIANCE.—The Secretary may modify,
19 suspend, or terminate a special permit or approval if the
20 Secretary determines that—

21 “(1) the person who was granted the special
22 permit or approval has violated the special permit or
23 approval or the regulations issued under this chapter
24 in a manner that demonstrates that the person is

1 not fit to conduct the activity authorized by the spe-
2 cial permit or approval; or

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

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

8 “(1) standard operating procedures to support
9 administration of the special permit and approval
10 programs; and

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

13 “(k) ANNUAL REVIEW OF CERTAIN SPECIAL PER-
14 MITS.—

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

17 “(A) to identify consistently used and long-
18 standing special permits with an established
19 safety record; and

20 “(B) to determine whether such permits
21 may be converted into the hazardous materials
22 regulations.

23 “(2) FACTORS.—In conducting the review and
24 analysis under paragraph (1), the Secretary may
25 consider—

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

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

4 “(C) the suitability of provisions in the
5 special permit for incorporation into the haz-
6 ardous materials regulations; and

7 “(D) rulemaking activity in related areas.

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

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

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

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

16 (a) LIST OF ROUTE DESIGNATIONS.—Section
17 5112(c) is amended—

18 (1) by striking “In coordination” and inserting
19 the following:

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

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

22 “(2) STATE RESPONSIBILITIES.—

23 “(A) IN GENERAL.—Each State shall sub-
24 mit to the Secretary, in a form and manner to

1 be determined by the Secretary and in accord-
2 ance with subparagraph (B)—

3 “(i) the name of the State agency re-
4 sponsible for hazardous material highway
5 route designations; and

6 “(ii) a list of the State’s currently ef-
7 fective hazardous material highway route
8 designations.

9 “(B) FREQUENCY.—Each State shall sub-
10 mit the information described in subparagraph
11 (A)(ii)—

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

13 “(ii) not later than 60 days after a
14 hazardous material highway route designa-
15 tion is established, amended, or discon-
16 tinued.”.

17 (b) COMPLIANCE WITH SECTION 5112.—Section
18 5125(c)(1) is amended by inserting “, and is published
19 in the Department’s hazardous materials route registry
20 under section 5112(c)” before the period at the end.

21 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

22 Section 5128 is amended to read as follows:

23 **“§ 5128. Authorization of appropriations**

24 “(a) IN GENERAL.—There are authorized to be ap-
25 propriated to the Secretary to carry out this chapter (ex-

1 cept sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and
2 5119)—

3 “(1) \$42,338,000 for fiscal year 2012; and

4 “(2) \$42,762,000 for fiscal year 2013.

5 “(b) HAZARDOUS MATERIALS EMERGENCY PRE-
6 PAREDNESS FUND.—From the Hazardous Materials
7 Emergency Preparedness Fund established under section
8 5116(i), the Secretary may expend, during each of fiscal
9 years 2012 and 2013—

10 “(1) \$188,000 to carry out section 5115;

11 “(2) \$21,800,000 to carry out subsections (a)
12 and (b) of section 5116, of which not less than
13 \$13,650,000 shall be available to carry out section
14 5116(b);

15 “(3) \$150,000 to carry out section 5116(f);

16 “(4) \$625,000 to publish and distribute the
17 Emergency Response Guidebook under section
18 5116(i)(3); and

19 “(5) \$1,000,000 to carry out section 5116(j).

20 “(c) HAZARDOUS MATERIALS TRAINING GRANTS.—
21 From the Hazardous Materials Emergency Preparedness
22 Fund established pursuant to section 5116(i), the Sec-
23 retary may expend \$4,000,000 for each of the fiscal years
24 2012 and 2013 to carry out section 5107(e).

25 “(d) CREDITS TO APPROPRIATIONS.—

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

7 “(2) AVAILABILITY OF AMOUNTS.—Amounts
8 made available under this section shall remain avail-
9 able until expended.”.

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A BILL

To improve hazardous materials transportation
safety and for other purposes.

APRIL 25, 2012

Reported without amendment