

**Chart Comparing Current Law with 1997 and 1999 Administration Bills (Feb. 22, 1999)**

Current Law	1997 Administration Bill	1999 Administration Bill
<p>§5101. Purpose. "...to provide adequate protection against risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation."</p>	<p>Unchanged</p>	<p>Changes the purpose to –                      (1) "ensure the safe and efficient transportation of hazardous material in intrastate, interstate and foreign commerce..."                      (2) "provide the Secretary of Transportation with preemption authority..."                      (3) "provide adequate training for public sector emergency response teams and hazmat employees..."</p>
<p>§5102. Definitions. "Commerce" means trade or transportation...</p>	<p>Adds "on a United States registered aircraft"</p>	<p>Same changes as in 1997 Administration Bill</p>
<p>§5102. Definitions. "Hazmat employee"                      (1) includes an individual employed by a hazmat employer or who directly affects hazardous material transportation safety                      (2) includes owner-operator of motor vehicle                      (3) includes individuals who perform various hazmat functions, including manufacture, recondition, or test containers, drums and packagings and preparing hazmat for transportation</p>	<p>(1) Also includes individuals who are self- employed                      (2) Deletes "who during the course of employment directly affects hazardous material transportation safety as the Secretary decides"                      (3) changes preparing hazmat for transportation to "performs any function pertaining to the offering of hazardous material for transportation"</p>	<p>(1) Also includes individuals who are self-employed                      (2) In addition to including owner-operator of a motor vehicle, includes owner-operators of a vessel or aircraft                      (3) Under individuals who perform hazmat functions, includes those who also designs and inspects packaging, or a component thereof                      (4) changes preparing hazmat for transportation to "prepares or rejects hazardous material for transportation"</p>
<p>§5102. Definitions. "Hazmat employer"                      (1) A person using at least 1 employee in connection with transporting hazmat in commerce or causing it to be transported in commerce                      (2) includes owner-operator of a motor vehicle transporting hazmat                      (3) includes employers who perform hazmat functions,, including causing hazmat to be transported in commerce and a person manufacturing, reconditioning or testing containers, drums or packagings represented as qualified for use in transporting hazmat                      (4) Includes a department, agency or instrumentality of the US govt...</p>	<p>(1) Also includes a person who is self-employed</p>	<p>(1) Also includes a person who is self-employed                      (2) Includes owner-operator of a motor vehicle, vessel, or aircraft                      (3) Under individuals who perform hazmat functions, includes a person performing a function in connection with "rejecting hazardous material for transportation in commerce" and includes those who also design and inspect packaging, or a component thereof                      (4) deletes "includes a department agency or instrumentality of the United States government..."</p>

<p>§5102. Definitions. Motor carrier. Includes a motor carrier, motor private carrier and a freight forwarder.</p>	<p>(1) Includes a motor common carrier, motor contract carrier, motor private carrier, and freight forwarder. (2) Limits the inclusion of a freight forwarder to only those performing a function related to highway transportation</p>	<p>(1) Same as present law BUT (2) Limits the inclusion of a freight forwarder to only those performing a function related to highway transportation</p>
<p>§5102. Definitions. Does not include a definition for out-of-service order, package, or packaging</p>	<p>Adds a definition for (1) out-of-service order – “a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or part of any of these, not be moved until ...” (2) package (3) packaging</p>	<p>Adds a definition for (1) out-of-service order - “a mandate that an aircraft, vessel, motor vehicle, train, railcar, other vehicle, transport unit, transport vehicle, freight container, portable tank, or other package not be moved until...” (2) package (3) packaging</p>
<p>§5102. Definitions. Person. Includes a government, etc. offering hazmat in commerce or transporting hazmat to further a commercial enterprise</p>	<p>Also includes a person “manufacturing, reconditioning or testing containers, drums or other packagings represented as qualified for use in transporting hazardous material.”</p>	<p>Also includes a person “manufacturing, reconditioning or testing containers, drums, or other packagings, or a component thereof, represented as qualified for use in transporting hazardous material.”</p>
<p>§5103. General regulatory authority</p>	<p>No changes</p>	<p>No changes</p>
<p>§5104. Representation and tampering</p>	<p>No changes</p>	<p>No changes</p>
<p>§5105. Transporting certain highly radioactive material. Includes a provision for a routes and modes study</p>	<p>Includes a provision for a routes and modes study</p>	<p>Deletes the provision for a routes and modes study</p>
<p>§5106. Handling criteria.</p>	<p>Deletes this section.</p>	<p>Includes the entire section as in present hazmat law</p>

<p>§5107. Hazmat employee training requirements and grants</p> <p>(d) Coordination of training requirements. ...The Administrator of the EPA, the Secretaries of Labor and Transportation shall ensure that the training requirements do not conflict or duplicate...the regulations the Agency prescribes related to worker protection standards</p> <p>(e) Training grants. Funds shall be available under §5127(c)(3)</p> <p>(f) Relationship to other laws. (2) “An action of the Secretary of Transportation under ... sections 5106, 5108(a)-(g)(1) and (h), and 5109...”</p>	<p>(d) No changes</p> <p>(e) No changes</p> <p>(f)(2) Alters the sections to exclude 5106 and read “5108(c)-(g)(1) and (h) or 5109...”</p>	<p>(d) Deletes the words “or duplicate” and specifies that the “Agency” is the “Administrator of the Environmental Protection Agency”</p> <p>(e). Deletes “§5127(c)(3)” and inserts “5129(b)(1)”</p> <p>(f) No changes from present hazmat law</p>
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<p>§5108. Registration.</p> <p>(b)(1)(C). “each State in which the person carries out the activity.”</p> <p>(c)(1). Filing deadlines and Amendments. Each person required to file, “must file that first statement not later than 3/31/92. The Secretary may extend that date to 9/30/92, for activities referred to in subsection (a)(1) of this section. A person shall renew the statement consistent with regulations the Secretary prescribes, but not more than once each year and not less than once every 5 years.”</p> <p>(c)(2) “The Secretary of Transportation shall decide by regulation when and under what circumstances a registration statement must be amended and the procedures to follow in amending the statement.”</p> <p>(g)(2)(A) Fees. “...the fee shall be at least \$250 but not more than \$5000 from each person...”</p> <p>(g)(2)(A)(viii) “...the amount to be made available to carry out sections 5108(g)(2), 5115, and 5116 of this title.”</p> <p>(g)(2)(B) “The Secretary of Transportation shall adjust the amount being collected to reflect any unexpended balance in the account established under 5116(I) of this title. However, the Secretary is not required to refund any fee collected under this paragraph.”</p> <p>..</p>	<p>(b)(1)(C) “each State in which the person carries out any of the activities.”</p> <p>(c)(1) Filing Schedule -- Each person required to file, “shall file that statement annually in accordance with the regulations issued by the Secretary.”</p> <p>(c)(2) No changes</p> <p>(g)(2)(A) No changes</p> <p>(g)(2)(A)(viii) No changes</p> <p>(g)(2)(B) No changes</p> <p>(g)(2)(C) No changes</p>	<p>(b)(1)(C) “each State in which the person carries out any of the activities.”</p> <p>(c)(1) Filing Schedule -- Each person required to file, “shall file that statement in accordance with the regulations issued by the Secretary.”</p> <p>(c)(2) Deleted</p> <p>(g)(2)(A) “...the fee shall be at least \$500 from each person...”</p> <p>(g)(2)(A)(viii) “...the amount to be made available to carry out chapter 51 (except sections 5109, 5112, and 5119) of this title.”</p> <p>(g)(2)(B) Deletes language in present law and inserts “At the beginning of each fiscal year, the Secretary of Transportation shall publish a fee schedule for the fee established under this paragraph. The fee schedule shall be designed to collect the following amounts...”</p> <p>(g)(2)(C) Deletes language in present law and inserts “The Secretary shall transfer to the Secretary of the Treasury all funds received by the Secretary under this paragraph, except the amounts appropriated to RSPA pursuant to subsection 5129(a)(2), for deposit in the account the Secretary of the Treasury established under section 5116(I) of this title.”</p> <p>(g)(2)(D) Adds a section discussing fees collected under (g)(2)(B)(ii)</p> <p>(g)(2)(E) ey shall only be collected an</p>
<p>§5108 cont.</p> <p>(g)(2)(C) “The Secretary of Transportation shall transfer to the Secretary of the Treasury amounts the Secretary of Transportation collects under this paragraph for deposit in the account established under 5116(I) of this title.”</p>		<p>(g)(2)(E) Adds a section telling the Secretary to adjust the amount being collected under 5108(g)(2)(B) to reflect any unexpended balance in the account established in 5116(I)</p>
<p>§5108(I)(2)(B) The section does not apply to an authority of a State, or political subdivision of a State...</p>	<p>(I)(2)(B) No changes</p>	<p>(I)(2)(B) The section does not apply to “an authority of a State, Indian tribe, or political subdivision of a State...”</p>

<p>§5109 Motor Carrier Safety permits (h) The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.”</p>	<p>Deletes this section</p>	<p>Includes entire section as in present hazmat law, but changes paragraph (h) “The Secretary shall prescribe regulations necessary to carry out this section based upon the findings of the study required by section 5128(a) of this title.”</p>
<p>§5110 Shipping papers and disclosure (e) “Retention of papers. After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principle places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.”</p>	<p>(e) Deletes section and replaces it with “Retention of Shipping papers. After expiration of the requirement of subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection(a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier to be accessible through their respective principle places of business.”</p>	<p>(e) Deletes old section and replaces it with “Retention of papers. The person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper, or an electronic image of it, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.”</p>
<p>§5111. Rail Tank Cars</p>	<p>No changes</p>	<p>No changes</p>
<p>§5112. Highway Routing of hazmat</p>	<p>No changes</p>	<p>No changes</p>
<p>§5113. Unsatisfactory safety rating. “See section 31144.”</p>	<p>Includes subsections that are no longer in the present law on prohibited transportation, rating review, prohibited government use and public availability and updating of ratings</p>	<p>Deletes language and inserts “A violation of section 31144(c)(3) of this title shall be considered a violation of this chapter and shall be subject to the penalties in sections 5123 and 5124 of this chapter.” * Note – the law also alters 49 U.S.C. §31144(c)(3)</p>
<p>§5114. Air transportation of ionizing radiation material</p>	<p>No changes</p>	<p>No changes</p>

<p>§5115. Training curriculum for the public sector.</p> <p>(a) Development and Updating. Sets a time limit of 11/16/92. Discusses using the existing coordinating mechanisms of the national response team. Allows the Secretary of Transportation to consult with regional response teams, representative of commissions and persons that provide training for responding to accidents and incidents involving the transportation of hazmat and representative of persons that respond to accidents and incidents in developing the curriculum.</p>	<p>(a) Updating. Deletes the time limit. Does not discuss developing and updating a curriculum, only discusses updating a curriculum. The section allowing the Secretary to consult various people in developing the curriculum is deleted.</p>	<p>(a) Updating. Deletes the time limit. Replaces the national response team with the “National Response Team for Oil and Hazardous Substances”. Does not discuss developing and updating a curriculum, only discusses updating a curriculum. The section allowing the Secretary to consult various people in developing the curriculum is deleted.</p>
<p>§5115.</p> <p>(b) “Requirements. The curriculum developed...”</p> <p>(b)(1)(A)&amp;(B) Discuss developing a curriculum to help public sector employees respond quickly to an accident or incident involving the transportation of hazardous material</p> <p>(b)(1)(C) Discusses including in the curriculum programs that are developed under other U.S. Government grant programs, including those developed under section 126(g) of Superfund.</p>	<p>(b) deletes developed</p> <p>(b)(1)(A)&amp;(B) In addition to training employees to respond to an accident or incident involving the transportation of hazardous material, they should also be trained in responding to accidents or incidents involving an alternative fuel vehicle.</p> <p>(b)(1)(C) No changes</p>	<p>(b) replaces developed with maintained</p> <p>(b)(1)(A)&amp;(B) In addition to training employees to respond to an accident or incident involving the transportation of hazardous material, they should also be trained in responding to accidents or incidents involving an alternative fuel vehicle</p> <p>(b)(1)(C) Instead of discussing programs developed under other U.S. government grant programs, including superfund, replaces this with programs developed with Federal Financial Assistance.</p>
<p>§5115.</p> <p>(c) Training on complying with legal requirements.</p> <p>(3) The course under this section shall provide the training necessary for public sector employees to comply with standards related to emergency response training prescribed by the National Fire Protection Association</p>	<p>No changes</p>	<p>Replaces National Fire Protection Association with “such voluntary consensus standard-setting organizations as the Secretary deems appropriate.”</p>

<p>§5115(d) Distribution and Publication Discusses working with the national response team (1) the Director of FEMA shall distribute the curriculum and its updates (2) “the Secretary of Transportation may publish a list of programs that uses a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material.”</p>	<p>Discusses working with the national response team (1) This section is deleted (2) changes “uses” to “use”</p>	<p>Replaces national response team with “the National response Team for Oil and Hazardous Substances (1) This section is deleted (2) changes “uses” to “use” deletes “the transportation of” replaces “an accident or incident” with “accidents or incidents”</p>
<p>§5116. Planning and training grants, monitoring and review</p>	<p>No changes</p>	<p>§5116. Replaces “monitoring and review” with “emergency preparedness fund”</p>
<p>§5116(e) Government’s share of costs. Last sentence starts with “Amounts of the State or tribe under subsections (a)(2)(A) and (b)(2)(A)...”</p>	<p>Replace “of” with “received by”</p>	<p>Replace “of” with “received by” Delete “(a)(2)(A) and (b)(2)(A)” and insert “(a)(2) and (b)(2)”</p>
<p>§5116(f) Monitoring and technical assistance. “In coordination with the Secretaries of Transportation and Energy, Administrator of the EPA, and Director of the National Institute of Environmental Health Sciences, the Director of the FEMA shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretaries, Administrator, and Directors each shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the national response team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.”</p>	<p>Replaces all the Secretaries, Administrator and Directors that are listed with the Secretary of Transportation. Replaces national response team with “National Response Team for Oil and Hazardous Substances”</p>	<p>Replaces all the Secretaries, Administrator and Directors that are listed with the Secretary of Transportation. Replaces national response team with “National Response Team for Oil and Hazardous Substances”</p>
<p>§5116(g) Delegation of authority. “To minimize administrative costs and to coordinate Government grant programs...”</p>	<p>No changes</p>	<p>Replaces “government grant” with “Federal financial assistance”</p>

<p>§5116(I) Annual Registration Fee Account and its uses          “The Secretary of Treasury shall establish an account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation collects under section 5108(g)(2)(A) of this title and transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title...”          The amounts are available, among other things, “to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10% of the amounts made available from the account in a fiscal year may be used to pay these costs.”</p>	<p>No changes</p>	<p>Part of section deleted and replaced with “Emergency Preparedness Fund. -- The Secretary of the Treasury shall establish an Emergency Preparedness Fund account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title...”          The amounts are available “to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10% of the amounts made available from the account in a fiscal year to carry out these sections may be used to pay those costs.”          In addition, the amounts are available “to publish and distribute the North American Emergency Response Guidebook”</p>
<p>§5116(k) Reports</p>	<p>No changes</p>	<p>§5116(k) Deletes the section on Reports</p>
<p>§5116 Does not include a section on small businesses</p>	<p>§5116(l) Adds a section on Small Businesses</p>	<p>§5116(k) Adds the same section on Small Businesses that the 1997 Administration Bill added</p>
<p>§5117. Exemptions and Exclusions          “(a)(1) As provided under procedures prescribed by regulation, the Secretary of Transportation may issue an exemption from this chapter...”</p>	<p>Retitled “Special Permits and exclusions”          Every time “exemptions” appears, the bill replaces it with “special permits”          “(a)(1) As provided under procedures prescribed by regulation, the Secretary of Transportation may issue a special permit authorizing variances from this chapter...”</p>	<p>Same changes as 1997 Administration Bill</p>
<p>§5118. Inspectors</p>	<p>No changes</p>	<p>No changes</p>
<p>§5119. Uniform forms and procedures          (a) Working Group. “...The purposes of the working group are -- (1) to establish uniform forms and procedures for a State – (A) to register persons that transport or cause to be transported hazardous material by motor vehicle in the State.”</p>	<p>No changes</p>	<p>(a)(1)(A) After register adds “and issue permits to”</p>



§5119(c) Regulations on recommendations	No changes	Adds a fourth recommendation – “Pending promulgation of regulations under this subsection, States may participate in a program of uniform forms and procedures recommended by the working group under subsection (b).”
§5120. International uniformity of standards and requirements	No changes	No changes
§5121. Administrative (a) General authority (b) Records, report, and information (c) Inspection	Deletes subsections (a), (b) and (c)	Deletes subsections (a), (b) and (c)
§5121(e) Report “The report shall include....”	No changes	Renumbered as 5121(b) and after “The report shall include” adds “or make appropriate reference to...”
§5121	Adds a section “(c) Authority for Cooperative Agreements – To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.”	Changes are the same as the 1997 Administration Bill except (1) Changes heading to “Authority for Grants, Cooperative Agreements and Other Transactions” and (2) the “State Department” is replaced with the “Department of State”
§5122. Enforcement (a) General. “At the request of the Secretary of Transportation...”	Moved to section (f). No other changes	Moved to section (f). Renamed as ‘Enforcement by the Attorney General’ Deletes “of Transportation”

<p>§5122(b) Imminent hazards. Secretary may bring a civil action “to eliminate or ameliorate the hazard.” (b)(2) On request of the Secretary, the Attorney General shall bring an action under paragraph (1) of this subsection.”</p>	<p>Moved to section (g). No other changes</p>	<p>Moved to section (g). Substitutes “mitigate” for “ameliorate” Deletes (b)(2)</p>
<p>§5122(c) “Withholding of clearance. (1) If any owner, operator, or individual in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or individual in charge may be subject to such civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, ... (2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.”</p>	<p>Section not included</p>	<p>Moved to section (h) and changes wording -- “(1)If an owner... or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to penalty or fine, the Secretary of the Treasury, upon request of the Secretary of Transportation...” (2)...satisfactory to the Secretary of the Treasury.”</p>
<p>§5122. This section not included</p>	<p>“(a) GENERAL AUTHORITY.-- To carry out this chapter, the Secretary of Transportation may inspect, investigate, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.”</p>	<p>Same changes as 1997 Administration Law but the word “inspect” is not included replaces “subsection (e)” with “subsection (d)” Replaces “requiring” with “directing”</p>

<p>§5122. This section not included</p>	<p>“(b) RECORDS, REPORTS, AND INFORMATION.--A person subject to this chapter shall--</p> <p>(1) maintain records, make reports, and provide information the Secretary by regulation or order requires, and</p> <p>(2) make the records, reports, and information available when the Secretary requests.”</p>	<p>The section is entitled “Records, Reports, Property, and Information”</p> <p>(1) adds language “information that the Secretary...”</p> <p>(2) adds language “reports, property and information available for inspection when the Secretary requests.”</p>
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§5122 This section not included

“(c) Inspection - (1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to -  
(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or  
(B) the transportation of hazardous material in commerce.  
(2) an officer, employee, or agent under this subsections shall display proper credentials when requested.”

“(c) INSPECTIONS AND INVESTIGATIONS.--

(1) A designated officer or employee of the Secretary may--  
(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property related to--  
(I) designing, manufacturing, fabricating, marking, maintaining, reconditioning, repairing, inspecting, testing, or distributing a packaging, or a component thereof, for use by a person in transporting hazardous materials in commerce, or  
(ii) the transportation of hazardous material in commerce;  
(B) except for the packaging immediately adjacent to its hazardous material contents, open and examine a package offered for, or in, transportation when the officer or employee has an objectively reasonable and articulable belief that the package may contain a hazardous material;  
(C) remove from transportation a package or related packages in a shipment offered for or in transportation, and for which such officer or employee has an objectively reasonable and articulable belief that the package or packages may pose an imminent hazard, and for which the officer or employee contemporaneously documents that belief in accordance with procedures adopted under subsection (e) of this section;  
(D) gather information from the offeror, packaging manufacturer or retester, or other person responsible for the package to ascertain the nature and hazards of the contents of the package;”

(2) An officer or employee acting under this subsection shall display proper credentials when requested.

(3) For instances when, as a result of the inspection or investigation, an imminent hazard is not found to exist, the Secretary shall develop procedures to assist in the safe resumption of transportation of the package and transport unit.

§5122. These sections not included

(d) Other authority - During inspections and investigations, officers, employees, or agents of the Secretary may –

(1) open and examine the contents of a package offered for, or in transportation when –

(A) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

(B) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

(2) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be hazardous material, and analyze that material;

(3) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of the material have been determined, and

(4) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.”

(c)(1) – cont.

“ (E) as necessary, under terms and conditions specified by the Secretary, order the offeror, packaging manufacturer or retester, or other person responsible for the package to have the package transported to, opened and the contents examined and analyzed at a facility appropriate for the conduct of this activity; and

(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in the activities conducted under subsection (c)(1)(B) of this section.

(2) An officer or employee acting under this subsection shall display proper credentials when requested.

(3) For instances when, as a result of the inspection or investigation, an imminent hazard is not found to exist, the Secretary shall develop procedures to assist in the safe resumption of transportation of the package and transport unit.”

<p>§5122 This section not included</p>	<p>“(e) EMERGENCY ORDERS.--  (1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.  (2) The Secretary’s action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.  (3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.  (4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease</p>	<p>“(d) EMERGENCY ORDERS.--(1) If, upon inspection or investigation, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.  (2) The Secretary’s action under subsection (d)(1) must be in a written order describing the violation, condition or practice that is causing the imminent hazard, and stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed. The order also shall describe the standards and procedures for obtaining relief from the emergency order.  (3) After taking action under subsection (d)(1), the Secretary shall provide an opportunity for review of that action under section 554 of title 5, and such review shall occur no later than 20 days after issuance of such order.”</p>
	<p>(Cont.)  to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.”</p>	

<p>§5122 This section not included</p>	<p>This section not included</p>	<p>“(e) REGULATIONS.—The Secretary shall issue regulations with notice and comment, including an opportunity for informal hearing, to implement the authority in subsections (c) and (d) of this section.”</p>
<p>§5123. Civil Penalty “(a) Penalty. (1) A person that knowingly violates this chapter or a regulation prescribed or order issued under this chapter is liable to the U.S. Government for a civil penalty of at least \$250 but not more than \$25,000 for each violation...”</p>	<p>Changes words: “(1) A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the U.S. Government for a civil penalty of at least \$250 but not more than \$27,500 for each violation...”</p>	<p>Same changes as 1997 Administration Bill</p>
<p>§5123(c) Penalty Considerations “(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue to do business...”</p>	<p>Adds language “(2) with respect to the violator, the degree of culpability, any good faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business...”</p>	<p>Same changes as 1997 Administration Bill</p>
<p>§5124. Criminal Penalty “A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.”</p>	<p>Adds language – “(a) General. - A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years or both.” Also adds an entire subsection, (b), on Aggravating Violations</p>	<p>Same changes as 1997 Administration Bill. However, adds at the end of section (a) “...Knowledge by the person of the existence of a regulation or requirement prescribed by the Secretary is not an element of an offense under this section.”</p>
<p>§5125. Preemption “(a)(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, or a regulation prescribed under this chapter.”</p>	<p>No changes</p>	<p>Adds language - “...carrying out this chapter, the purposes of this chapter, or a regulation prescribed under this chapter.”</p>

§5125(b)(2). "...The Secretary shall decide on and publish in the Federal Register the effective date of section 5103(b) of this title for any regulation or standard about any of those subjects that the Secretary prescribes after November 16, 1990..."	Deletes "after November 16, 1990"	Same changes as 1997 Administration Bill
§5125(h) This section not included	This section not included	Adds "(h) Independent Application of Each Standard"
§5126. Relationship to other laws	No changes	No changes



No section on Judicial Review in Present law §5127. Authorization of appropriations. Moved to and Renumbered as §5128 in 1997 Administration Bill and §5129 in 1999 Administration Bill.

§5127. Judicial Review  
“(a). FILING AND VENUE.--  
Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the RSPA, the FAA, or the FHWA, or the Commandant of the US 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.

§5127. Judicial Review  
Same changes as 1997 Administration Bill  
Deletes all references to “the Administrators of the RSPA, the FAA, or the FHWA, or the Commandant of the United States Coast Guard (“modal administrator”)” and deletes all references to the modal Administrator  
In (a) adds words “... of the order...” after “...may apply for review”...  
Adds at the very end of (b) “..., United States Code”

	<p>§5127 (cont.)</p> <p>(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 proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.</p> <p>(d) REQUIREMENT FOR PRIOR OBJECTION.--In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.</p> <p>(e) SUPREME COURT REVIEW.-- A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.</p>	<p>(c) Deletes “After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists.”</p> <p>(d) &amp; (e) Unchanged from 1997 Administration bill except references to “or the modal Administrator” are deleted</p>
§5127. Authorization of appropriations	§5128. Authorization of Appropriations	§5129. Authorization of appropriations

<p>§5127. “(a) General. Not more than \$18,000,000 may be appropriated to the Secretary of Transportation for fiscal year 1993, \$18,000,000 for fiscal year 1994, \$18,540,000 for fiscal year 1995, \$19,100,000 for fiscal year 1996, and \$19,670,000 for fiscal year 1997 to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119).”</p>	<p>Deletes first reference to \$18,000,000 and replaces with \$15,492,000 Deletes “1993...fiscal year 1997” and inserts “1998, and such sums as may be necessary for fiscal years 1999, 2000, 2001, 2001, and 2003.”</p>	<p>Inserts after (a) General. “To carry out this chapter [49 USCS §§ 5101 et seq.] (except sections 5107(e), 5108(g), 5109, 5112, 5113, 5115, 5116, 5119, and 5128), (1)” Deletes first reference to “18,000,000” and inserts “13,638,000 is authorized to” Deletes “1993...and 5119” and inserts “2000, and, (2) from amounts collected under section 5108(g)(2)(B)(ii) of this title, not more than \$18,213,000 is authorized to be appropriated to the Secretary for fiscal year 2000, and such sums as may be necessary are authorized to be appropriated for fiscal years 2001 through 2005.”</p>
<p>§5127(b) Training of hazmat employee instructors (1) There is authorized to be appropriated to the Secretary, \$ 3,000,000 for each of fiscal years 1995, 1996, 1997, and 1998 to carry out section 5107(e). (2) (A) There shall be available to the Secretary for carrying out section 5116(j), from amounts in the account established pursuant to section 5116(i), \$250,000 for each of fiscal years 1995, 1996, 1997, and 1998. (B) In addition to amounts made available under subparagraph (A), there is authorized to be appropriated to the Secretary, for carrying out section 5116(j) \$ 1,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.</p>	<p>Section not included in 1997 Administration Bill (?)</p>	<p>Retitled (b) as “Supplemental Training Grants” Deletes (1) and 2(B). (2) (A) Deletes “There shall be available to the Secretary for carrying out section 5116(j)” and inserts “Not more than \$250,000 is available to the Secretary for fiscal year 2000 and such amounts as are necessary for fiscal years 2001 through 2005” Deletes “pursuant to” and inserts “under” After “5116(i)” inserts “of this title,” Deletes “\$ 250,000 for each of fiscal years 1995, 1996, 1997, and 1998” and inserts “to carry out section 5116(j) of this title”.</p>

<p>§5127(c) Training Curriculum  (1) Not more than \$1,000,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993-1998, to carry out section 5115 of this title.  (2) The Secretary of Transportation may transfer to the Director of the Federal Emergency Management Agency from amounts available under this subsection amounts necessary to carry out section 5115(d)(1) of this title.</p>	<p>Deletes "\$1,000,000" and inserts "\$200,000"  Deletes "1993-1998" and inserts "1999-2003"  Deletes subsection (2)</p>	<p>(c) Training curriculum. --  Deletes "\$1,000,000" and inserts "\$200,000"  "After "Secretary" Deletes "of Transportation" and inserts "for fiscal year 2000 and such amounts as are necessary for fiscal years 2001 through 2005"  Between "from" and "the account" inserts "amounts in"  Deletes "for each of the fiscal years ending September 30, 1993-1998"  Deletes (c)(2)</p>
<p>§5127(d) Planning and training –  (1) Not more than \$5,000,000 is available to the Secretary of Transportation from the account established under section 5116(I) of this title for each of the fiscal years ending September 30, 1993-1998, to carry out section 5116(a) of this title.  (2) Not more than \$7,800,000 is available to the Secretary of Transportation from the account established under section 5116(I) of this title for each of the fiscal years ending September 30, 1993-1998, to carry out section 5116(b) of this title  (3) Not more than the following amounts are available from the account established under section 5116(I) of this title for each of the fiscal years ending September 30, 1993-1998, to carry out section 5116(f) of this title:  (A) \$750,000 each to the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the Federal Emergency Management Agency.  (B) \$200,000 to the Director of the National Institute of Environmental Health Sciences.</p>	<p>(1) Deletes "\$5,000,000" and inserts "2,444,000"  Deletes "for each of the fiscal years ending September 30, 1993-1998" and inserts "for the fiscal year ending September 30, 1998, and such sums as may be necessary for the fiscal years 1999-2003,"  Deletes "5116(a)" and inserts "5115"  (2) Deletes "\$7,800,000" and inserts "3,666,000"  Deletes "for each of the fiscal years ending September 30, 1993-1998" and inserts "for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003"  (3) Deletes "the following amounts are" and inserts "\$600,000 is "  After "available" inserts "Secretary of Transportation"  Deletes "each of the fiscal years ending September 30, 1993-1998" and inserts "the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003"  Deletes subsections (A) &amp; (B)</p>	<p>(1) Deletes "of Transportation" and inserts "for fiscal year 2000 and such amounts as are necessary for fiscal years 2001 through 2005"  Inserts "amounts in" between "from" and "the account"  Deletes "for each of the fiscal years ending September 30, 1993-1998"  (2) Deletes "of Transportation" and inserts "for fiscal year 2000 and such amounts as are necessary for fiscal years 2001 through 2005"  Inserts "amounts in" between "from" and "the account"  Deletes "for each of the fiscal years ending September 30, 1993-1998"  (3) Deletes "the following amounts are" and inserts "\$150,000 is"  After "available" inserts "to the Secretary for fiscal year 2000 and such amounts as are necessary for fiscal years 2001 through 2005"  Inserts "amounts in" between "from" and "the account"  Deletes "for each of the fiscal years ending September 30, 1993-1998"  Deletes subsections (A) &amp; (B)</p>

§5127(e) Uniform forms and Procedures	Deletes this subsection	Deletes this subsection
§5127 This subsection not included	This subsection not included	Adds “(e) EMERGENCY RESPONSE GUIDEBOOK.”
(f) Credits to appropriations. The Secretary of Transportation may credit to any appropriation to carry out this chapter [49 USCS §§ 5101 et seq.] an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.	This subsection not included(?)	Moved to paragraph (h). No changes from current law
(g) Availability of amounts. Amounts available under subsections (c)-(e) of this section remain available until expended.	Moved to paragraph (f). Deletes “(c)-(e)” and inserts “(c) and (d)”	Moved to paragraph (I). Deletes “subsections (c)-(e) of”
Not included in current law	Not included in 1997 Administration Bill	Adds §5129(f) Administration Costs
Not included in current law	Not included in 1997 Administration Bill	Adds §5129(g) Training of Hazmat Employee Instructors
Not included in current law	Not included in 1997 Administration Bill	Adds §5128. High-risk hazardous material; motor carrier safety study
Not included in current law	Adds a section for a “Hazardous materials Pilot Program”	Not included in 1999 Administration Bill
Not included in current law	Not included in 1997 Administration Bill	Adds Sec. 19. “Intermodal Container Pilot Program.”