

(2) A listing of State regulations issued and maintained in each State that are identical to the Federal regulations that are subject to exemption in subsection (a).

(3) The Secretary shall report the findings of the study to the appropriate committees of Congress not later than 18 months after the date of enactment of this Act.

(e) CONSTRUCTION.—Nothing in this section shall be construed as authority for the Secretary of Transportation to prescribe regulations.

### **TITLE III—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVE- MENT ACT OF 2012**

#### **SEC. 33001. SHORT TITLE.**

This title may be cited as the “Hazardous Materials Transportation Safety Improvement Act of 2012”.

#### **SEC. 33002. DEFINITION.**

In this title, the term “Secretary” means the Secretary of Transportation.

#### **SEC. 33003. REFERENCES TO TITLE 49, UNITED STATES CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### **SEC. 33004. TRAINING FOR EMERGENCY RESPONDERS.**

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

- (1) in subsection (b)(1)(B), by striking “basic”;
- (2) in subsection (b)(2), by striking “basic”; and
- (3) in subsection (c), by striking “basic”.

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

(1) in subsection (b)(1), by adding at the end the following: “To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.”;

(2) in subsection (j)—

(A) in paragraph (1), by striking “funds” and all that follows through “fighting fires for” and inserting “funds and through a competitive process, make a grant or make grants to national nonprofit fire service organizations for”;

(B) in paragraph (3)(A), by striking “train” and inserting “provide training, including portable training, for”;

(C) in paragraph (4)—

(i) by striking “train” and inserting “provide training, including portable training, for”; and

(ii) by inserting “comply with Federal regulations and national consensus standards for hazardous materials response and” after “training course shall”;

(D) by redesignating paragraph (5) as paragraph (8);  
and

(E) by inserting after paragraph (4) the following:

“(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to accidents and incidents involving hazardous materials.

“(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.

“(7) For the purposes of this subsection, the term ‘portable training’ means live, instructor-led training provided by certified fire service instructors that can be offered in any suitable setting, rather than specific designated facilities. Under this training delivery model, instructors travel to locations convenient to students and utilize local facilities and resources.”; and

(3) in subsection (k)—

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

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

(C) by striking “information” and inserting “. The report submitted under this subsection shall include information”; and

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

“(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

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

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

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

**SEC. 33005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.**

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

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

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

(A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

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

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

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

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations;

(D) an analysis of the associated benefits and costs of using the paperless hazard communications systems for each mode of transportation; and

(E) a recommendation that incorporates the information gathered in subparagraphs (A), (B), (C), and (D) on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) **PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.**—In this section, the term “paperless hazard communications system” means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

**SEC. 33006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.**

(a) **ASSESSMENT.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the United States Coast Guard, as appropriate, shall conduct an assessment to improve the collection,

analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the “Administration”) for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

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

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

(C) accident and incident reporting requirements, including whether such requirements should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

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

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

(d) REPORTING REQUIREMENTS.—Section 5125(b)(1)(D) is amended by inserting “and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident” before the period at the end.

**SEC. 33007. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.**

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

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

“(a) RISK REDUCTION.—

“(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

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

“(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

“(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

“(A) utilize information gathered from other modal administrations with similar programs; and

“(B) coordinate with other modal administrations, as appropriate.

“(b) COOPERATION.—In carrying out subsection (a), the Secretary shall work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.”.

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

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

**SEC. 33008. HAZARDOUS MATERIAL ENFORCEMENT TRAINING.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop uniform performance standards for training hazardous material inspectors and investigators on—

(1) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(2) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) STANDARDS AND GUIDELINES.—The Secretary may develop—

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

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) AVAILABILITY.—The standards, protocols, and guidelines established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation’s multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous material safety enforcement personnel.

**SEC. 33009. INSPECTIONS.**

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

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

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

(3) by adding at the end the following:

“(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

- “(i) his or her decision to exercise his or her authority under paragraph (1);
- “(ii) any findings made; and
- “(iii) any actions being taken as a result of a finding of noncompliance.”.

(b) REGULATIONS.—

(1) MATTERS TO BE ADDRESSED.—Section 5121(e) is amended by adding at the end the following:

“(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

“(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

“(B) the means by which—

“(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

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

“(C) appropriate training and equipment for inspectors;

and

“(D) the proper closure of packaging in accordance with the hazardous material regulations.”.

(2) FINALIZING REGULATIONS.—In accordance with section 5103(b)(2) of title 49, United States Code, not later than 1 year after the date of enactment of this Act, the Secretary shall take all actions necessary to finalize a regulation under paragraph (1) of this subsection.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by inserting “safety and” before “security”.

**SEC. 33010. CIVIL PENALTIES.**

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “at least \$250 but”; and

(ii) by striking “\$50,000” and inserting “\$75,000”;

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

(C) by amending paragraph (3) to read as follows:

“(3) If the violation is related to training, a person described in paragraph (1) shall be liable for a civil penalty of at least \$450.”; and

(2) by adding at the end the following:

“(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—

“(1) The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

“(2) For the purposes of this subsection, the term ‘obstructs’ means actions that were known, or reasonably should have been known, to prevent, hinder, or impede an investigation.

“(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—

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

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

“(3) RULEMAKING.—Not later than 2 years after the date of enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

“(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

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

“(i) is notified in writing; and  
“(ii) is given an opportunity to respond before the person is required to cease the activity.”.

**SEC. 33011. REPORTING OF FEES.**

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

**SEC. 33012. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.**

(a) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish—

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

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

(b) REVIEW OF SPECIAL PERMITS.—

(1) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a review and analysis of special permits that have been in continuous effect for a 10-year period to determine which special permits may be converted into the hazardous materials regulations.

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

(A) the safety record for hazardous materials transported under the special permit;

(B) the application of a special permit;

(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

(D) rulemaking activity in related areas.

(3) RULEMAKING.—After completing the review and analysis under paragraph (1), but not later than 3 years after the

date of enactment of this Act, and after providing notice and opportunity for public comment, the Secretary shall issue regulations to incorporate into the hazardous materials regulations any special permits identified in the review under paragraph (1) that the Secretary determines are appropriate for incorporation, based on the factors identified in paragraph (2).

(c) INCORPORATION INTO REGULATION.—Section 5117 is amended by adding at the end the following:

“(f) INCORPORATION INTO REGULATIONS.—

“(1) IN GENERAL.—Not later than 1 year after the date on which a special permit has been in continuous effect for a 10-year period, the Secretary shall conduct a review and analysis of that special permit to determine whether it may be converted into the hazardous materials regulations.

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

“(A) the safety record for hazardous materials transported under the special permit;

“(B) the application of a special permit;

“(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

“(D) rulemaking activity in related areas.

“(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and after providing notice and opportunity for public comment, the Secretary shall either institute a rulemaking to incorporate the special permit into the hazardous materials regulations or publish in the Federal Register the Secretary’s justification for why the special permit is not appropriate for incorporation into the regulations.”.

**SEC. 33013. HIGHWAY ROUTING DISCLOSURES.**

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

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

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

(2) by adding at the end the following:

“(2) STATE RESPONSIBILITIES.—

“(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

“(i) the name of the State agency responsible for hazardous material highway route designations; and

“(ii) a list of the State’s currently effective hazardous material highway route designations.

“(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

“(i) at least once every 2 years; and

“(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.”.

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

**SEC. 33014. MOTOR CARRIER SAFETY PERMITS.**

(a) **REVIEW.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall conduct a study of, and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on, the implementation of the hazardous material safety permit program under section 5109 of title 49, United States Code. In conducting the study, the Secretary shall review, at a minimum—

- (1) the list of hazardous materials requiring a safety permit;
- (2) the number of permits that have been issued, denied, revoked, or suspended since inception of the program and the number of commercial motor carriers that have never had a permit denied, revoked, or suspended since inception of the program;
- (3) the reasons for such denials, revocations, or suspensions;
- (4) the criteria used by the Federal Motor Carrier Safety Administration to determine whether a hazardous material safety permit issued by a State is equivalent to the Federal permit; and
- (5) actions the Secretary could implement to improve the program, including whether to provide opportunities for an additional level of fitness review prior to the denial, revocation, or suspension of a safety permit.

(b) **ACTIONS TAKEN.**—Not later than 2 years after the date of enactment of this Act, based on the study conducted under subsection (a), the Secretary shall either institute a rulemaking to make any necessary improvements to the hazardous materials safety permit program under section 5109 of title 49, United States Code or publish in the Federal Register the Secretary's justification for why a rulemaking is not necessary.

**SEC. 33015. WETLINES.**

(a) **EVALUATION.**—Not later than 1 year after the date of enactment of this Act, the United States Government Accountability Office shall evaluate, and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a report on the safety of transporting flammable liquids in the external product piping of cargo tank motor vehicles (commonly referred to as wetlines). The evaluation shall—

- (1) review the safety of transporting flammable liquids in the external product piping of cargo tank motor vehicles;
- (2) accurately quantify the number of incidents involving the transportation of flammable liquids in external product piping of cargo tank motor vehicles;
- (3) identify various alternatives to loading, transporting, and unloading flammable liquids in such piping;
- (4) examine the costs and benefits of each alternative; and
- (5) identify any obstacles to implementing each alternative.

(b) **REGULATIONS.**—The Secretary may not issue a final rule regarding transporting flammable liquids in the external product piping of cargo tank motor vehicles prior to completion of the evaluation conducted under subsection (a), or 2 years after the date of enactment of this Act, whichever is earlier, unless the Secretary determines that a risk to public safety, property, or

the environment is present or an imminent hazard (as defined in section 5102 of title 49, United States Code) exists and that the regulations will address the risk or hazard.

**SEC. 33016. HAZMAT EMPLOYEE TRAINING REQUIREMENTS AND GRANTS.**

Section 5107(e)(2) is amended—

- (1) by inserting “through a competitive process” between “made” and “to”; and
- (2) by striking “hazmat employee”.

**SEC. 33017. AUTHORIZATION OF APPROPRIATIONS.**

Section 5128 is amended to read as follows:

**“§ 5128. Authorization of appropriations**

“(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

- “(1) \$42,338,000 for fiscal year 2013; and
- “(2) \$42,762,000 for fiscal year 2014.

“(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2013 and 2014—

- “(1) \$188,000 to carry out section 5115;
- “(2) \$21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than \$13,650,000 shall be available to carry out section 5116(b);
- “(3) \$150,000 to carry out section 5116(f);
- “(4) \$625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and
- “(5) \$1,000,000 to carry out section 5116(j).

“(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend \$4,000,000 for each of the fiscal years 2013 and 2014 to carry out section 5107(e).

“(d) CREDITS TO APPROPRIATIONS.—

- “(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts 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.

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

**TITLE IV—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY ACT OF 2012**

**SEC. 34001. SHORT TITLE.**

This title may be cited as the “Sport Fish Restoration and Recreational Boating Safety Act of 2012”.