

(B) to evaluate the effects of project investments on performance.

(c) FUNDING.—From amounts authorized to carry out the Highway Research and Development Program, the Administrator of the Federal Highway Administration may use up to \$10,000,000 for each of fiscal years 2016 through 2020 to carry out this section.

Hazardous
Materials
Transportation
Safety
Improvement Act
of 2015.
49 USC 5101
note.

TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

SEC. 7001. SHORT TITLE.

This title may be cited as the “Hazardous Materials Transportation Safety Improvement Act of 2015”.

Subtitle A—Authorizations

SEC. 7101. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 of title 49, United States Code, 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) \$53,000,000 for fiscal year 2016;
- “(2) \$55,000,000 for fiscal year 2017;
- “(3) \$57,000,000 for fiscal year 2018;
- “(4) \$58,000,000 for fiscal year 2019; and
- “(5) \$60,000,000 for fiscal year 2020.

“(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(h), the Secretary may expend, for each of fiscal years 2016 through 2020—

- “(1) \$21,988,000 to carry out section 5116(a);
- “(2) \$150,000 to carry out section 5116(e);
- “(3) \$625,000 to publish and distribute the Emergency Response Guidebook under section 5116(h)(3); and
- “(4) \$1,000,000 to carry out section 5116(i).

“(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(h), the Secretary may expend \$4,000,000 for each of fiscal years 2016 through 2020 to carry out section 5107(e).

“(d) COMMUNITY SAFETY GRANTS.—Of the amounts made available under subsection (a) to carry out this chapter, the Secretary shall withhold \$1,000,000 for each of fiscal years 2016 through 2020 to carry out section 5107(i).

“(e) 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, Indian tribe, authority, or entity.

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

Subtitle B—Hazardous Material Safety and Improvement

SEC. 7201. NATIONAL EMERGENCY AND DISASTER RESPONSE.

Section 5103 of title 49, United States Code, is amended—
(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) **FEDERALLY DECLARED DISASTERS AND EMERGENCIES.**—

“(1) **IN GENERAL.**—The Secretary may by order waive compliance with any part of an applicable standard prescribed under this chapter without prior notice and comment and on terms the Secretary considers appropriate if the Secretary determines that—

“(A) it is in the public interest to grant the waiver;

“(B) the waiver is not inconsistent with the safety of transporting hazardous materials; and

“(C) the waiver is necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(2) **PERIOD OF WAIVER.**—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

“(3) **STATEMENT OF REASONS.**—The Secretary shall include in any order issued under this section the reasons for granting the waiver.”.

SEC. 7202. MOTOR CARRIER SAFETY PERMITS.

Section 5109(h) of title 49, United States Code, is amended to read as follows:

“(h) **LIMITATION ON DENIAL.**—The Secretary may not deny a non-temporary permit held by a motor carrier pursuant to this section based on a comprehensive review of that carrier triggered by safety management system scores or out-of-service disqualification standards, unless—

“(1) the carrier has the opportunity, prior to the denial of such permit, to submit a written description of corrective actions taken and other documentation the carrier wishes the Secretary to consider, including a corrective action plan; and

“(2) the Secretary determines the actions or plan is insufficient to address the safety concerns identified during the course of the comprehensive review.”.

SEC. 7203. IMPROVING THE EFFECTIVENESS OF PLANNING AND TRAINING GRANTS.

(a) **PLANNING AND TRAINING GRANTS.**—Section 5116 of title 49, United States Code, is amended—

(1) by redesignating subsections (c) through (k) as subsections (b) through (j), respectively,

(2) by striking subsection (b); and

(3) by striking subsection (a) and inserting the following:
“(a) PLANNING AND TRAINING GRANTS.—(1) The Secretary shall make grants to States and Indian tribes—

“(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe;

“(B) to decide on the need for regional hazardous material emergency response teams; and

“(C) to train public sector employees to respond to accidents and incidents involving hazardous material.

“(2) To the extent that a grant is used to train emergency responders under paragraph (1)(C), 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.

“(3) The Secretary may make a grant to a State or Indian tribe under paragraph (1) of this subsection only if—

“(A) the State or Indian tribe certifies that the total amount the State or Indian tribe expends (except amounts of the Federal Government) for the purpose of the grant will at least equal the average level of expenditure for the last 5 years; and

“(B) any emergency response training provided under the grant shall consist of—

“(i) a course developed or identified under section 5115 of this title; or

“(ii) any other course the Secretary determines is consistent with the objectives of this section.

“(4) A State or Indian tribe receiving a grant under this subsection shall ensure that planning and emergency response training under the grant is coordinated with adjacent States and Indian tribes.

“(5) A training grant under paragraph (1)(C) may be used—

“(A) to pay—

“(i) the tuition costs of public sector employees being trained;

“(ii) travel expenses of those employees to and from the training facility;

“(iii) room and board of those employees when at the training facility; and

“(iv) travel expenses of individuals providing the training;

“(B) by the State, political subdivision, or Indian tribe to provide the training; and

“(C) to make an agreement with a person (including an authority of a State, a political subdivision of a State or Indian tribe, or a local jurisdiction), subject to approval by the Secretary, to provide the training if—

“(i) the agreement allows the Secretary and the State or Indian tribe to conduct random examinations, inspections, and audits of the training without prior notice;

“(ii) the person agrees to have an auditable accounting system; and

“(iii) the State or Indian tribe conducts at least one on-site observation of the training each year.

“(6) The Secretary shall allocate amounts made available for grants under this subsection among eligible States and Indian tribes based on the needs of the States and Indian tribes for emergency response planning and training. In making a decision about those needs, the Secretary shall consider—

“(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the Indian tribe;

“(B) the types and amounts of hazardous material transported in the State or on such land;

“(C) whether the State or Indian tribe imposes and collects a fee for transporting hazardous material;

“(D) whether such fee is used only to carry out a purpose related to transporting hazardous material;

“(E) the past record of the State or Indian tribe in effectively managing planning and training grants; and

“(F) any other factors the Secretary determines are appropriate to carry out this subsection.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 5108(g) of title 49, United States Code, is amended by striking “5116(i)” each place it appears and inserting “5116(h)”.

(2) Section 5116 of such title is amended—

(A) in subsection (d), as so redesignated, by striking “subsections (a)(2)(A) and (b)(2)(A)” and inserting “subsection (a)(3)(A)”;

(B) in subsection (h), as so redesignated—

(i) in paragraph (1) by inserting “and section 5107(e)” after “section”;

(ii) in paragraph (2) by striking “(f)” and inserting “(e)”;

(iii) in paragraph (4) by striking “5108(g)(2) and 5115” and inserting “5107(e) and 5108(g)(2)”;

(C) in subsection (i), as so redesignated, by striking “subsection (b)” and inserting “subsection (a)”;

(D) in subsection (j), as so redesignated—

(i) by striking “planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107” and inserting “planning and training grants under subsection (a) and grants under subsection (i) of this section and under subsections (e) and (i) of section 5107”; and

(ii) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(c) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit the Secretary from recovering and deobligating funds from grants that are not managed or expended in compliance with a grant agreement.

49 USC 5116
note.

SEC. 7204. IMPROVING PUBLICATION OF SPECIAL PERMITS AND APPROVALS.

Section 5117 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “an application for a special permit” and inserting “an application for a new special permit or a modification to an existing special permit”; and

(B) by inserting after the second sentence the following: “The Secretary shall make available to the public on the Department of Transportation’s Internet Web site any special permit other than a new special permit or a modification to an existing special permit and shall give the public an opportunity to inspect the safety analysis and comment on the application for a period of not more than 15 days.”; and

(2) in subsection (c)—

(A) by striking “publish” and inserting “make available to the public”;

(B) by striking “in the Federal Register”;

(C) by striking “180” and inserting “120”; and

(D) by striking “the special permit” each place it appears and inserting “a special permit or approval”; and

(3) by adding at the end the following:

“(g) DISCLOSURE OF FINAL ACTION.—The Secretary shall periodically, but at least every 120 days—

“(1) publish in the Federal Register notice of the final disposition of each application for a new special permit, modification to an existing special permit, or approval during the preceding quarter; and

“(2) make available to the public on the Department of Transportation’s Internet Web site notice of the final disposition of any other special permit during the preceding quarter.”.

SEC. 7205. ENHANCED REPORTING.

Section 5121(h) of title 49, United States Code, is amended by striking “transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate” and inserting “make available to the public on the Department of Transportation’s Internet Web site”.

SEC. 7206. WETLINES.

(a) WITHDRAWAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall withdraw the proposed rule described in the notice of proposed rulemaking issued on January 27, 2011, entitled “Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids” (76 Fed. Reg. 4847).

(b) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Secretary from issuing standards or regulations regarding the safety of external product piping on cargo tanks transporting flammable liquids after the withdrawal is carried out pursuant to subsection (a).

49 USC 5103
note.

SEC. 7207. GAO STUDY ON ACCEPTANCE OF CLASSIFICATION EXAMINATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States

shall evaluate and transmit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report on the standards, metrics, and protocols that the Secretary uses to regulate the performance of persons approved to recommend hazard classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations (commonly referred to as “third-party labs”).

(b) EVALUATION.—The evaluation required under subsection (a) shall—

(1) identify what standards and protocols are used to approve such persons, assess the adequacy of such standards and protocols to ensure that persons seeking approval are qualified and capable of performing classifications, and make recommendations to address any deficiencies identified;

(2) assess the adequacy of the Secretary’s oversight of persons approved to perform the classifications, including the qualification of individuals engaged in the oversight of approved persons, and make recommendations to enhance oversight sufficiently to ensure that classifications are issued as required;

(3) identify what standards and protocols exist to rescind, suspend, or deny approval of persons who perform such classifications, assess the adequacy of such standards and protocols, and make recommendations to enhance such standards and protocols if necessary; and

(4) include annual data for fiscal years 2005 through 2015 on the number of applications received for new classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations, of those applications how many classifications recommended by persons approved by the Secretary were changed to another classification and the reasons for the change, and how many hazardous materials incidents have been attributed to a classification recommended by such approved persons in the United States.

(c) ACTION PLAN.—Not later than 180 days after receiving the report required under subsection (a), the Secretary shall make available to the public a plan describing any actions the Secretary will take to establish standards, metrics, and protocols based on the findings and recommendations in the report to ensure that persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, can sufficiently perform such examinations in a manner that meets the hazardous materials regulations.

(d) REGULATIONS.—If the report required under subsection (a) recommends new regulations in order for the Secretary to have confidence in the accuracy of classification recommendations rendered by persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, the Secretary shall consider such recommendations, and if determined appropriate, issue regulations to address the recommendations not later than 18 months after the date of the publication of the plan under subsection (c).

SEC. 7208. HAZARDOUS MATERIALS ENDORSEMENT EXEMPTION.

The Secretary shall allow a State, at the discretion of the State, to waive the requirement for a holder of a Class A commercial driver’s license to obtain a hazardous materials endorsement under

49 USC 31305
note.

part 383 of title 49, Code of Federal Regulations, if the license holder—

(1) is acting within the scope of the license holder’s employment as an employee of a custom harvester operation, agrichemical business, farm retail outlet and supplier, or livestock feeder; and

(2) is operating a service vehicle that is—

(A) transporting diesel in a quantity of 3,785 liters (1,000 gallons) or less; and

(B) clearly marked with a “flammable” or “combustible” placard, as appropriate.

Subtitle C—Safe Transportation of Flammable Liquids by Rail

SEC. 7301. COMMUNITY SAFETY GRANTS.

Section 5107 of title 49, United States Code, is amended by adding at the end the following:

“(i) **COMMUNITY SAFETY GRANTS.**—The Secretary shall establish a competitive program for making grants to nonprofit organizations for—

“(1) conducting national outreach and training programs to assist communities in preparing for and responding to accidents and incidents involving the transportation of hazardous materials, including Class 3 flammable liquids by rail; and

“(2) training State and local personnel responsible for enforcing the safe transportation of hazardous materials, including Class 3 flammable liquids.”.

49 USC 20103
note.

SEC. 7302. REAL-TIME EMERGENCY RESPONSE INFORMATION.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with appropriate Federal agencies, shall issue regulations that—

(1) require a Class I railroad transporting hazardous materials—

(A) to generate accurate, real-time, and electronic train consist information, including—

(i) the identity, quantity, and location of hazardous materials on a train;

(ii) the point of origin and destination of the train;

(iii) any emergency response information or resources required by the Secretary; and

(iv) an emergency response point of contact designated by the Class I railroad; and

(B) to enter into a memorandum of understanding with each applicable fusion center to provide the fusion center with secure and confidential access to the electronic train consist information described in subparagraph (A) for each train transporting hazardous materials in the jurisdiction of the fusion center;

(2) require each applicable fusion center to provide the electronic train consist information described in paragraph (1)(A) to State and local first responders, emergency response officials, and law enforcement personnel that are involved in the response to or investigation of an accident, incident, or

public health or safety emergency involving the rail transportation of hazardous materials and that request such electronic train consist information;

(3) require each Class I railroad to provide advanced notification and information on high-hazard flammable trains to each State emergency response commission, consistent with the notification content requirements in Emergency Order Docket No. DOT-OST-2014-0067, including—

(A) a reasonable estimate of the number of implicated trains that are expected to travel, per week, through each county within the applicable State;

(B) updates to such estimate prior to making any material changes to any volumes or frequencies of trains traveling through a county;

(C) identification and a description of the Class 3 flammable liquid being transported on such trains;

(D) applicable emergency response information, as required by regulation;

(E) identification of the routes over which such liquid will be transported; and

(F) a point of contact at the Class I railroad responsible for serving as the point of contact for State emergency response centers and local emergency responders related to the Class I railroad's transportation of such liquid.

(4) require each applicable State emergency response commission to provide to a political subdivision of a State, or public agency responsible for emergency response or law enforcement, upon request of the political subdivision or public agency, the information the commission receives from a Class I railroad pursuant to paragraph (3), including, for any such political subdivision or public agency responsible for emergency response or law enforcement that makes an initial request for such information, any updates received by the State emergency response commission.

(5) prohibit any Class I railroad, employee, or agent from withholding, or causing to be withheld, the train consist information from first responders, emergency response officials, and law enforcement personnel described in paragraph (2) in the event of an incident, accident, or public health or safety emergency involving the rail transportation of hazardous materials;

(6) establish security and confidentiality protections, including protections from the public release of proprietary information or security-sensitive information, to prevent the release to unauthorized persons any electronic train consist information or advanced notification or information provided by Class I railroads under this section; and

(7) allow each Class I railroad to enter into a memorandum of understanding with any Class II railroad or Class III railroad that operates trains over the Class I railroad's line to incorporate the Class II railroad or Class III railroad's train consist information within the existing framework described in paragraph (1).

(b) DEFINITIONS.—In this section:

(1) APPLICABLE FUSION CENTER.—The term “applicable fusion center” means a fusion center with responsibility for a geographic area in which a Class I railroad operates.

(2) CLASS I RAILROAD; CLASS II RAILROAD; CLASS III RAILROAD.—The terms “Class I railroad”, “Class II railroad”, and “Class III railroad” have the meaning given those terms in section 20102 of title 49, United States Code.

(3) CLASS 3 FLAMMABLE LIQUID.—The term “Class 3 flammable liquid” has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

(4) FUSION CENTER.—The term “fusion center” has the meaning given the term in section 210A(j) of the Homeland Security Act of 2002 (6 U.S.C. 124h(j)).

(5) HAZARDOUS MATERIAL.—The term “hazardous material” means a substance or material the Secretary designates as hazardous under section 5103 of title 49, United States Code.

(6) HIGH-HAZARD FLAMMABLE TRAIN.—The term “high-hazard flammable train” means a single train transporting 20 or more tank cars loaded with a Class 3 flammable liquid in a continuous block or a single train transporting 35 or more tank cars loaded with a Class 3 flammable liquid throughout the train consist.

(7) TRAIN CONSIST.—The term “train consist” includes, with regard to a specific train, the number of rail cars and the commodity transported by each rail car.

(c) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit a Class I railroad from voluntarily entering into a memorandum of understanding, as described in subsection (a)(1)(B), with a State emergency response commission or an entity representing or including first responders, emergency response officials, and law enforcement personnel.

SEC. 7303. EMERGENCY RESPONSE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine whether limitations or weaknesses exist in the emergency response information carried by train crews transporting hazardous materials.

(b) CONTENTS.—In conducting the study under subsection (a), the Comptroller General shall evaluate the differences between the emergency response information carried by train crews transporting hazardous materials and the emergency response guidance provided in the Emergency Response Guidebook issued by the Department of Transportation.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall 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 of the findings of the study under subsection (a) and any recommendations for legislative action.

49 USC 20155
note.

SEC. 7304. PHASE-OUT OF ALL TANK CARS USED TO TRANSPORT CLASS 3 FLAMMABLE LIQUIDS.

(a) IN GENERAL.—Except as provided for in subsection (b), beginning on the date of enactment of this Act, all DOT–111 specification railroad tank cars used to transport Class 3 flammable liquids shall meet the DOT–117, DOT–117P, or DOT–117R specifications in part 179 of title 49, Code of Federal Regulations, regardless of train composition.

(b) PHASE-OUT SCHEDULE.—Certain tank cars not meeting DOT–117, DOT–117P, or DOT–117R specifications on the date of

enactment of this Act may be used, regardless of train composition, until the following end-dates:

(1) For transport of unrefined petroleum products in Class 3 flammable service, including crude oil—

(A) January 1, 2018, for non-jacketed DOT–111 tank cars;

(B) March 1, 2018, for jacketed DOT–111 tank cars;

(C) April 1, 2020, for non-jacketed CPC–1232 tank cars; and

(D) May 1, 2025, for jacketed CPC–1232 tank cars.

(2) For transport of ethanol—

(A) May 1, 2023, for non-jacketed and jacketed DOT–111 tank cars;

(B) July 1, 2023, for non-jacketed CPC–1232 tank cars; and

(C) May 1, 2025, for jacketed CPC–1232 tank cars.

(3) For transport of Class 3 flammable liquids in Packing Group I, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2025.

(4) For transport of Class 3 flammable liquids in Packing Groups II and III, other than Class 3 flammable liquids specified in paragraphs (1) and (2), May 1, 2029.

(c) **RETROFITTING SHOP CAPACITY.**—The Secretary may extend the deadlines established under paragraphs (3) and (4) of subsection (b) for a period not to exceed 2 years if the Secretary determines that insufficient retrofitting shop capacity will prevent the phase-out of tank cars not meeting the DOT–117, DOT–117P, or DOT–117R specifications by the deadlines set forth in such paragraphs.

(d) **CONFORMING REGULATORY AMENDMENTS.**—

(1) **IN GENERAL.**—Immediately after the date of enactment of this section, the Secretary—

(A) shall remove or revise the date-specific deadlines in any applicable regulations or orders to the extent necessary to conform with the requirements of this section; and

(B) may not enforce any such date-specific deadlines or requirements that are inconsistent with the requirements of this section.

(2) **IMPLEMENTATION.**—Nothing in this section shall be construed to require the Secretary to issue regulations, except as required under paragraph (1), to implement this section.

(e) **SAVINGS CLAUSE.**—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule issued on May 08, 2015, entitled “Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains” (80 Fed. Reg. 26643), other than the provisions of the final rule that are inconsistent with this section.

(f) **CLASS 3 FLAMMABLE LIQUID DEFINED.**—In this section, the term “Class 3 flammable liquid” has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

SEC. 7305. THERMAL BLANKETS.

(a) **REQUIREMENTS.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to require that each tank car built to meet the DOT–117 specification and each non-jacketed tank car modified

49 USC 20155
note.

to meet the DOT-117R specification be equipped with an insulating blanket with at least ½-inch-thick material that has been approved by the Secretary pursuant to section 179.18(c) of title 49, Code of Federal Regulations.

(b) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Secretary from approving new or alternative technologies or materials as they become available that provide a level of safety at least equivalent to the level of safety provided for under subsection (a).

SEC. 7306. MINIMUM REQUIREMENTS FOR TOP FITTINGS PROTECTION FOR CLASS DOT-117R TANK CARS.

(a) PROTECTIVE HOUSING.—Except as provided in subsections (b) and (c), top fittings on DOT specification 117R tank cars shall be located inside a protective housing not less than ½-inch in thickness and constructed of a material having a tensile strength not less than 65 kilopound per square inch and conform to the following specifications:

(1) The protective housing shall be as tall as the tallest valve or fitting involved and the height of a valve or fitting within the protective housing must be kept to the minimum compatible with their proper operation.

(2) The protective housing or cover may not reduce the flow capacity of the pressure relief device below the minimum required.

(3) The protective housing shall provide a means of drainage with a minimum flow area equivalent to six 1-inch diameter holes.

(4) When connected to the nozzle or fittings cover plate and subject to a horizontal force applied perpendicular to and uniformly over the projected plane of the protective housing, the tensile connection strength of the protective housing shall be designed to be—

(A) no greater than 70 percent of the nozzle to tank tensile connection strength;

(B) no greater than 70 percent of the cover plate to nozzle connection strength; and

(C) no less than either 40 percent of the nozzle to tank tensile connection strength or the shear strength of twenty ½-inch bolts.

(b) PRESSURE RELIEF DEVICES.—

(1) The pressure relief device shall be located inside the protective housing, unless space does not permit. If multiple pressure relief devices are equipped, no more than 1 may be located outside of a protective housing.

(2) The highest point on any pressure relief device located outside of a protective housing may not be more than 12 inches above the tank jacket.

(3) The highest point on the closure of any unused pressure relief device nozzle may not be more than 6 inches above the tank jacket.

(c) ALTERNATIVE PROTECTION.—As an alternative to the protective housing requirements in subsection (a) of this section, the tank car may be equipped with a system that prevents the release of product from any top fitting in the case of an incident where any top fitting would be sheared off.

(d) **IMPLEMENTATION.**—Nothing in this section shall be construed to require the Secretary to issue regulations to implement this section.

(e) **SAVINGS CLAUSE.**—Nothing in this section shall prohibit the Secretary from approving new technologies, methods or requirements that provide a level of safety equivalent to or greater than the level of safety provided for in this section.

SEC. 7307. RULEMAKING ON OIL SPILL RESPONSE PLANS.

The Secretary shall, not later than 30 days after the date of enactment of this Act and every 90 days thereafter until a final rule based on the advanced notice of proposed rulemaking issued on August 1, 2014, entitled “Hazardous Materials: Oil Spill Response Plans for High-Hazard Flammable Trains” (79 Fed. Reg. 45079) is promulgated, notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate in writing of—

- (1) the status of such rulemaking;
- (2) any reasons why such final rule has not been implemented;
- (3) a plan for completing such final rule as soon as practicable; and
- (4) the estimated date of completion of such final rule.

SEC. 7308. MODIFICATION REPORTING.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall implement a reporting requirement to monitor industry-wide progress toward modifying rail tank cars used to transport Class 3 flammable liquids by the applicable deadlines established in section 7304.

(b) **TANK CAR DATA.**—The Secretary shall collect data from shippers and rail tank car owners on—

- (1) the total number of tank cars modified to meet the DOT–117R specification, or equivalent, specifying—
 - (A) the type or specification of each tank car before it was modified, including non-jacketed DOT–111, jacketed DOT–111, non-jacketed DOT–111 meeting the CPC–1232 standard, or jacketed DOT–111 meeting the CPC–1232 standard; and
 - (B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year;

- (2) the total number of tank cars built to meet the DOT–117 specification, or equivalent; and

- (3) the total number of tank cars used or likely to be used to transport Class 3 flammable liquids that have not been modified, specifying—

- (A) the type or specification of each tank car not modified, including the non-jacketed DOT–111, jacketed DOT–111, non-jacketed DOT–111 meeting the CPC–1232 standard, or jacketed DOT–111 meeting the CPC–1232 standard; and
- (B) the identification number of each Class 3 flammable liquid carried by each tank car in the past year.

(c) **TANK CAR SHOP DATA.**—The Secretary shall conduct a survey of tank car facilities modifying tank cars to the DOT–117R specification, or equivalent, or building new tank cars to the DOT–117 specification, or equivalent, to generate statistically-

49 USC 20155
note.

valid estimates of the anticipated number of tank cars those facilities expect to modify to DOT-117R specification, or equivalent, or build to the DOT-117 specification, or equivalent.

(d) **FREQUENCY.**—The Secretary shall collect the data under subsection (b) and conduct the survey under subsection (c) annually until May 1, 2029.

(e) **INFORMATION PROTECTIONS.**—

(1) **IN GENERAL.**—The Secretary shall only report data in industry-wide totals and shall treat company-specific information as confidential business information.

(2) **LEVEL OF CONFIDENTIALITY.**—The Secretary shall ensure the data collected under subsection (b) and the survey data under subsection (c) have the same level of confidentiality as required by the Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), as administered by the Bureau of Transportation Statistics.

(3) **DESIGNEE.**—The Secretary may—

(A) designate the Director of the Bureau of Transportation Statistics to collect data under subsection (b) and the survey data under subsection (c); and

(B) direct the Director to ensure the confidentiality of company-specific information to the maximum extent permitted by law.

(f) **REPORT.**—Each year, not later than 60 days after the date that both the collection of the data under subsection (b) and the survey under subsection (c) are complete, the Secretary shall submit a written report on the aggregate results, without company-specific information, to—

(1) the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) **DEFINITION OF CLASS 3 FLAMMABLE LIQUID.**—In this section, the term “Class 3 flammable liquid” has the meaning given the term flammable liquid in section 173.120 of title 49, Code of Federal Regulations.

SEC. 7309. REPORT ON CRUDE OIL CHARACTERISTICS RESEARCH STUDY.

Not later than 180 days after the research completion of the comprehensive Crude Oil Characteristics Research Sampling, Analysis, and Experiment Plan study at Sandia National Laboratories, the Secretary of Energy, in cooperation with the Secretary of Transportation, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Natural Resources of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that contains—

(1) the results of the comprehensive Crude Oil Characteristics Research Sampling, Analysis, and Experiment Plan study; and

(2) recommendations, based on the findings of the study, for—

(A) regulations by the Secretary of Transportation or the Secretary of Energy to improve the safe transport of crude oil; and

(B) legislation to improve the safe transport of crude oil.

SEC. 7310. HAZARDOUS MATERIALS BY RAIL LIABILITY STUDY.

(a) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall initiate a study on the levels and structure of insurance for railroad carriers transporting hazardous materials.

(b) **CONTENTS.**—In conducting the study under subsection (a), the Secretary shall evaluate—

(1) the level and structure of insurance, including self-insurance, available in the private market against the full liability potential for damages arising from an accident or incident involving a train transporting hazardous materials;

(2) the level and structure of insurance that would be necessary and appropriate—

(A) to efficiently allocate risk and financial responsibility for claims; and

(B) to ensure that a railroad carrier transporting hazardous materials can continue to operate despite the risk of an accident or incident; and

(3) the potential applicability, for a train transporting hazardous materials, of an alternative insurance model, including—

(A) a secondary liability coverage pool or pools to supplement commercial insurance; and

(B) other models administered by the Federal Government.

(c) **REPORT.**—Not later than 1 year after the date the study under subsection (a) is initiated, the Secretary shall submit a report containing the results of the study and recommendations for addressing liability issues with rail transportation of hazardous materials to—

(1) the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the Committee on Transportation and Infrastructure of the House of Representatives.

(d) **DEFINITIONS.**—In this section:

(1) **HAZARDOUS MATERIAL.**—The term “hazardous material” means a substance or material the Secretary designates as hazardous under section 5103 of title 49, United States Code.

(2) **RAILROAD CARRIER.**—The term “railroad carrier” has the meaning given the term in section 20102 of title 49, United States Code.

SEC. 7311. STUDY AND TESTING OF ELECTRONICALLY CONTROLLED PNEUMATIC BRAKES.

49 USC 20141
note.

(a) **GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct an independent evaluation of ECP brake systems, pilot program data, and the Department’s research and analysis on the costs, benefits, and effects of ECP brake systems.

(2) **STUDY ELEMENTS.**—In completing the independent evaluation under paragraph (1), the Comptroller General shall examine the following issues related to ECP brake systems:

(A) Data and modeling results on safety benefits relative to conventional brakes and to other braking technologies or systems, such as distributed power and 2-way end-of-train devices.

(B) Data and modeling results on business benefits, including the effects of dynamic braking.

(C) Data on costs, including up-front capital costs and on-going maintenance costs.

(D) Analysis of potential operational benefits and challenges, including the effects of potential locomotive and car segregation, technical reliability issues, and network disruptions.

(E) Analysis of potential implementation challenges, including installation time, positive train control integration complexities, component availability issues, and tank car shop capabilities.

(F) Analysis of international experiences with the use of advanced braking technologies.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the independent evaluation under paragraph (1).

(b) EMERGENCY BRAKING APPLICATION TESTING.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to—

(A) complete testing of ECP brake systems during emergency braking application, including more than 1 scenario involving the uncoupling of a train with 70 or more DOT–117 specification or DOT–117R specification tank cars; and

(B) transmit, not later than 18 months after the date of enactment of this Act, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the testing.

(2) INDEPENDENT EXPERTS.—In completing the testing under paragraph (1)(A), the National Academy of Sciences may contract with 1 or more engineering or rail experts, as appropriate, that—

(A) are not railroad carriers, entities funded by such carriers, or entities directly impacted by the final rule issued on May 8, 2015, entitled “Enhanced Tank Car Standards and Operational Controls for High-Hazard Flammable Trains” (80 Fed. Reg. 26643); and

(B) have relevant experience in conducting railroad safety technology tests or similar crash tests.

(3) TESTING FRAMEWORK.—In completing the testing under paragraph (1), the National Academy of Sciences and each contractor described in paragraph (2) shall ensure that the testing objectively, accurately, and reliably measures the performance of ECP brake systems relative to other braking technologies or systems, such as distributed power and 2-way end-of-train devices, including differences in—

(A) the number of cars derailed;

(B) the number of cars punctured;

- (C) the measures of in-train forces; and
- (D) the stopping distance.

(4) FUNDING.—The Secretary shall provide funding, as part of the agreement under paragraph (1), to the National Academy of Sciences for the testing required under this section—

(A) using sums made available to carry out sections 20108 and 5118 of title 49, United States Code; and

(B) to the extent funding under subparagraph (A) is insufficient or unavailable to fund the testing required under this section, using such sums as are necessary from the amounts appropriated to the Secretary, the Federal Railroad Administration, or the Pipeline and Hazardous Materials Safety Administration, or a combination thereof.

(5) EQUIPMENT.—

(A) RECEIPT.—The National Academy of Sciences and each contractor described in paragraph (2) may receive or use rolling stock, track, and other equipment or infrastructure from a railroad carrier or other private entity for the purposes of conducting the testing required under this section.

(B) CONTRACTED USE.—Notwithstanding paragraph (2)(A), to facilitate testing, the National Academy of Sciences and each contractor may contract with a railroad carrier or any other private entity for the use of such carrier or entity’s rolling stock, track, or other equipment and receive technical assistance on their use.

(c) EVIDENCE-BASED APPROACH.—

(1) ANALYSIS.—The Secretary shall—

(A) not later than 90 days after the report date, fully incorporate the results of the evaluation under subsection (a) and the testing under subsection (b) and update the regulatory impact analysis of the final rule described in subsection (b)(2)(A) of the costs, benefits, and effects of the applicable ECP brake system requirements;

(B) as soon as practicable after completion of the updated analysis under subparagraph (A), solicit public comment in the Federal Register on the analysis for a period of not more than 30 days; and

(C) not later than 60 days after the end of the public comment period under subparagraph (B), post the final updated regulatory impact analysis on the Department of Transportation’s Internet Web site.

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

(A) determine, based on whether the final regulatory impact analysis described in paragraph (1)(C) demonstrates that the benefits, including safety benefits, of the applicable ECP brake system requirements exceed the costs of such requirements, whether the applicable ECP brake system requirements are justified;

(B) if the applicable ECP brake system requirements are justified, publish in the Federal Register the determination and reasons for such determination; and

(C) if the Secretary does not publish the determination under subparagraph (B), repeal the applicable ECP brake system requirements.

(3) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule described under subsection (b)(2)(A) prior to the determination required under subsection (c)(2) of this section, or require the Secretary to promulgate a new rule on the provisions of such final rule, other than on the applicable ECP brake system requirements, if the Secretary does not determine that the applicable ECP brake system requirements are justified pursuant to this subsection.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) APPLICABLE ECP BRAKE SYSTEM REQUIREMENTS.—The term “applicable ECP brake system requirements” means sections 174.310(a)(3)(ii), 174.310(a)(3)(iii), 174.310(a)(5)(v), 179.202–10, 179.202–12(g), and 179.202–13(i) of title 49, Code of Federal Regulations, and any other regulation in effect on the date of enactment of this Act requiring the installation of ECP brakes or operation in ECP brake mode.

(2) CLASS 3 FLAMMABLE LIQUID.—The term “Class 3 flammable liquid” has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

(3) ECP.—The term “ECP” means electronically controlled pneumatic when applied to a brake or brakes.

(4) ECP BRAKE MODE.—The term “ECP brake mode” includes any operation of a rail car or an entire train using an ECP brake system.

(5) ECP BRAKE SYSTEM.—

(A) IN GENERAL.—The term “ECP brake system” means a train power braking system actuated by compressed air and controlled by electronic signals from the locomotive or an ECP–EOT to the cars in the consist for service and emergency applications in which the brake pipe is used to provide a constant supply of compressed air to the reservoirs on each car but does not convey braking signals to the car.

(B) INCLUSIONS.—The term “ECP brake system” includes dual mode and stand-alone ECP brake systems.

(6) RAILROAD CARRIER.—The term “railroad carrier” has the meaning given the term in section 20102 of title 49, United States Code.

(7) REPORT DATE.—The term “report date” means the date that the reports under subsections (a)(3) and (b)(1)(B) are required to be transmitted pursuant to those subsections.

TITLE VIII—MULTIMODAL FREIGHT TRANSPORTATION

SEC. 8001. MULTIMODAL FREIGHT TRANSPORTATION.

49 USC
prec. 70101.

(a) IN GENERAL.—Subtitle IX of title 49, United States Code, is amended to read as follows: