

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 576

To enhance safety requirements for trains transporting hazardous materials, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Ms. CANTWELL (for herself and Mr. VANCE)

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Railway Safety Act of 2023”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RAIL SAFETY

Sec. 101. Definitions.

Sec. 102. Safety requirements for high-hazard trains.

Sec. 103. Ensuring the safety of long trains.

Sec. 104. Blocked highway-rail grade crossings.

Sec. 105. Inspections.

Sec. 106. Defect detection systems.

1 1.2, or 1.3 (as such terms are defined in section
2 173.50 of title 49, Code of Federal Regulations).

3 “(2) FLAMMABLE GAS.—The term ‘flammable
4 gas’ has the meaning given such term in section
5 173.115(a) of title 49, Code of Federal Regulations.

6 “(3) FLAMMABLE LIQUID.—The term ‘flam-
7 mable liquid’ has the meaning given such term in
8 section 173.120(a) of title 49, Code of Federal Reg-
9 ulations.

10 “(4) HAZARDOUS MATERIAL.—The term ‘haz-
11 arduous material’ means a substance or material des-
12 ignated by the Secretary of Transportation as haz-
13 arduous pursuant to section 5103 of title 49, United
14 States Code.

15 “(5) HIGH-HAZARD TRAIN.—The term ‘high-
16 hazard train’ means a single train transporting,
17 throughout the train consist—

18 “(A) 20 or more tank cars loaded with a
19 flammable liquid;

20 “(B) 1 tank car or intermodal portable
21 tank load with a material toxic or poisonous by
22 inhalation;

23 “(C) 1 or more cars loaded with high-level
24 radioactive waste or spent nuclear fuel;

1 “(D) 10 or more cars loaded with explo-
2 sives;

3 “(E) 5 or more tank cars loaded with a
4 flammable gas; or

5 “(F) 20 or more cars loaded with any com-
6 bination of flammable liquids, flammable gases,
7 or explosives.

8 “(6) HIGH-LEVEL RADIOACTIVE WASTE; SPENT
9 NUCLEAR FUEL.—The terms ‘high-level radioactive
10 waste’ and ‘spent nuclear fuel’ have the meanings
11 given to a ‘type B package’ or a ‘fissile material
12 package’, respectively, in section 173.403 of title 49,
13 Code of Federal Regulations.

14 “(7) MATERIAL TOXIC OR POISONOUS BY INHA-
15 LATION.—The term ‘material toxic or poisonous by
16 inhalation’ has the meaning given the term ‘material
17 poisonous by inhalation or Material toxic by inhala-
18 tion’ in section 171.8 of title 49, Code of Federal
19 Regulations.

20 “(b) RULEMAKING.—Not later than 1 year after the
21 date of the enactment of the Railway Safety Act of 2023,
22 the Secretary, in consultation with appropriate Federal
23 agencies, shall issue regulations that—

24 “(1) rescind the requirements set forth in para-
25 graphs (4) and (5) of section 174.310(a) of title 49,

1 Code of Federal Regulations, with respect to tank
2 cars carrying hazardous materials other than Class
3 3 flammable liquids;

4 “(2) revise the requirement set forth in section
5 174.310(a)(2) of title 49, Code of Federal Regula-
6 tions—

7 “(A) to limit all trains to a maximum
8 speed of 50 miles per hour; and

9 “(B) to limit high-hazard trains carrying
10 20 or more cars loaded with flammable liquids
11 to a maximum speed of 40 miles per hour while
12 that train travels within the limits of high-
13 threat urban areas (HTUAs) (as defined in
14 1508.3 of title 49, Code of Federal Regulations,
15 unless all tank cars containing a Class 3 flam-
16 mable liquid meet or exceed the DOT specifica-
17 tion 117 standards, the DOT specification
18 117P performance standards, or the DOT spec-
19 ification 117R retrofit standards set forth in
20 subpart D of part 179 of title 49, Code of Fed-
21 eral Regulations, including DOT-105A, DOT-
22 105H, DOT-105J, DOT-105S, DOT-112H,
23 DOT-112J, DOT-112S, and DOT-120S tank
24 cars;

1 “(3) require rail carriers operating high hazard
2 trains to comply with the requirements applicable to
3 high-hazard flammable trains under section 174.310
4 of title 49, Code of Federal Regulations;

5 “(4) require any Class I railroad transporting
6 hazardous materials—

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

9 “(i) the identity, quantity, and loca-
10 tion of hazardous materials on a train;

11 “(ii) the point of origin and destina-
12 tion of the train;

13 “(iii) any emergency response infor-
14 mation or resources required by the Sec-
15 retary; and

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

19 “(B) to enter into a memorandum of un-
20 derstanding with each applicable fusion center
21 to provide the fusion center with secure and
22 confidential access to the electronic train con-
23 sist information described in subparagraph (A)
24 for each train transporting hazardous materials
25 in the jurisdiction of the fusion center;

1 “(5) require each Class I railroad to provide
2 commodity flow reports of the hazardous materials
3 transported by a high-hazard train to each State
4 emergency response commission, Tribal emergency
5 response commission, or other responsible State or
6 Tribal agency, consistent with the notification con-
7 tent requirements under section 174.312 of title 49,
8 Code of Federal Regulations (or a successor regula-
9 tion), including—

10 “(A) a reasonable estimate of the number
11 of high-hazard trains that are expected to trav-
12 el, per week, through each county within the
13 applicable jurisdiction;

14 “(B) updates to such estimate when mak-
15 ing a change in volume of 25 percent;

16 “(C) a description of the hazardous mate-
17 rials being transported on such trains;

18 “(D) applicable emergency response infor-
19 mation, as required by regulation;

20 “(E) identification of the routes over which
21 the hazardous materials on such trains will be
22 transported; and

23 “(F) a point of contact at the Class I rail-
24 road who—

1 “(i) has knowledge of the railroads’
2 transportation of hazardous materials; and

3 “(ii) is responsible for serving as the
4 point of contact for the State emergency
5 response commission, Tribal emergency re-
6 sponse commission, or other State or Trib-
7 al agency responsible for receiving such in-
8 formation;

9 “(6) require each applicable State emergency
10 response commission to provide to a political subdivi-
11 sion of a State, or the public agency responsible for
12 emergency response or law enforcement, upon re-
13 quest of the political subdivision or public agency,
14 the information the commission receives from a
15 Class I railroad pursuant to paragraph (3), includ-
16 ing, for any such political subdivision or public agen-
17 cy responsible for emergency response or law en-
18 forcement that makes an initial request for such in-
19 formation, any updates received by the State emer-
20 gency response commission;

21 “(7) prohibit any Class I railroad, employee, or
22 agent from withholding, or causing to be withheld,
23 the train consist information from first responders,
24 emergency response officials, Federal and State
25 agencies, and law enforcement personnel described

1 in paragraph (2)(B) who are responding to an inci-
2 dent, accident, or public health or safety emergency
3 involving the rail transportation of hazardous mate-
4 rials; and

5 “(8) establish security and confidentiality pro-
6 tections, in coordination with the Secretary of
7 Homeland Security, including protections from the
8 public release of proprietary information or security
9 sensitive information (as defined in section 15.5 of
10 title 49, Code of Federal Regulations), to prevent
11 the release to unauthorized persons any electronic
12 train consist information or advanced notification or
13 information provided by Class I railroads under this
14 section.

15 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
16 tion may be construed to prohibit a Class I railroad from
17 voluntarily entering into a memorandum of understanding
18 with a State emergency response commission or an entity
19 representing or including first responders, emergency re-
20 sponse officials, and law enforcement personnel.

21 “(d) SAFETY IMPROVEMENTS.—Not later than 1
22 year after the date of the enactment of the Railway Safety
23 Act of 2023, the Secretary shall evaluate and update, to
24 the extent necessary for safety and in compliance with Ex-
25 ecutive Order 12866 (5 U.S.C. 601 note; relating to regu-

1 latory planning and review), the operational requirements
2 for high-hazard trains to ensure the safe transportation
3 of hazardous materials by rail, including—

4 “(1) preventing the placement of blocks of
5 empty railcars in locations within the consist of the
6 train that increase the chance or severity of a derail-
7 ment; and

8 “(2) requirements for an adequate number of
9 buffer cars between a locomotive or railcar and tank
10 cars transporting hazardous materials.

11 “(e) HAZARDOUS MATERIALS EMERGENCY RE-
12 SPONSE PLANS.—

13 “(1) PLAN CONTENTS.—The Secretary shall
14 promulgate regulations, in compliance with Execu-
15 tive Order 12866, requiring all Class I railroads that
16 operate high-hazard trains to submit to the Sec-
17 retary hazardous materials emergency response
18 plans that are consistent with the format of the Na-
19 tional Response Team ‘One Plan’. Such plans shall
20 include—

21 “(A) consideration of potential hazardous
22 materials release for the hazardous materials
23 identified under subsection (a)(7) that the rail-
24 road is transporting;

1 “(B) identification of the railroad’s haz-
2 ardous materials response teams that can
3 quickly respond to a release or potential release
4 within a reasonable amount of time;

5 “(C) identification of the equipment and
6 resources available to the hazardous materials
7 response teams;

8 “(D) organizational charts for the haz-
9 ardous materials response teams; and

10 “(E) plans to facilitate hazardous mate-
11 rials release liability claims.

12 “(2) COORDINATION.—Railroads shall coordi-
13 nate with relevant States and Tribes when creating
14 the plans required under paragraph (1).

15 “(3) TRIENNIAL REVIEW.—Not later than 1
16 year after a Class I railroad submits a hazardous
17 materials emergency response plan pursuant to
18 paragraph (1), and on a triennial basis thereafter,
19 the Secretary shall review such plan. If the Sec-
20 retary identifies deficiencies during such review, the
21 Secretary shall describe the nature of any defi-
22 ciencies and allow for correction.

23 “(4) VERIFICATION.—The Secretary shall peri-
24 odically audit a railroad’s hazardous materials emer-
25 gency response plan.”.

1 (b) CLERICAL AMENDMENT.—The analysis in chap-
2 ter 201 of title 49, United States Code, is amended by
3 inserting after the item relating to section 20154 the fol-
4 lowing:

“20155. High-hazard trains.”.

5 **SEC. 103. ENSURING THE SAFETY OF LONG TRAINS.**

6 (a) REVIEWING AND UPDATING SAFETY REGULA-
7 TIONS.—Not later than 1 year after the date on which
8 the Secretary submits to Congress the report required
9 under section 22422(d) of the Passenger Rail Expansion
10 and Rail Safety Act of 2021 (title II of division B of Pub-
11 lic Law 117–58), the Secretary shall independently evalu-
12 ate any safety concerns identified in the Comptroller Gen-
13 eral’s report titled “Freight Trains Are Getting Longer,
14 and Additional Information Is Needed to Assess Their Im-
15 pact” (GAO-19-443) and in the report required under sec-
16 tion 22422(d) of the Passenger Rail Expansion and Rail
17 Safety Act of 2021, by reviewing and subsequently updat-
18 ing, if necessary for safety and in compliance with Execu-
19 tive Order 12866 (5 U.S.C. 601 note; relating to regu-
20 latory planning and review), existing safety regulations to
21 ensure the safe transportation of goods and passengers by
22 rail, including consideration of the impact that train
23 length and weight have on the safe transportation of high-
24 hazard trains.

1 (b) REPORT.—Not later than 3 years after the date
2 on which the Secretary submits the report required under
3 subsection (a), if the Secretary has not addressed any rec-
4 ommendation contained within such report, the Secretary
5 shall submit a report to the Committee on Commerce,
6 Science, and Transportation of the Senate and the Com-
7 mittee on Transportation and Infrastructure of the House
8 of Representatives that justifies such inaction.

9 (c) REPORTING REQUIREMENT.—

10 (1) IN GENERAL.—The Secretary shall revise
11 the existing railroad accident or incident reporting
12 forms to require railroads to report the weight trail-
13 ing tonnages of any train involved in a reportable
14 accident or incident.

15 (2) PUBLICATION.—The Federal Railroad Ad-
16 ministration shall publish on its Rail Safety Data
17 website a summary of all reportable incidents and
18 accidents, categorized by train length and weight.

19 **SEC. 104. BLOCKED HIGHWAY-RAIL GRADE CROSSINGS.**

20 (a) STUDY.—The Secretary shall seek to enter into
21 an agreement with the National Academy of Sciences
22 under which the National Academy shall—

23 (1) conduct a study of 20 most frequently
24 blocked highway-rail grade crossings in not fewer

1 than 10 different States, as determined by the Sec-
2 retary based on—

3 (A) Federal Railroad Administration data;

4 (B) the work experience of the Office of
5 Railroad Safety's Grade Crossing and Tres-
6 passer Outreach Division;

7 (C) data from the blocked highway-rail
8 grade crossing portal. In selecting the crossings;
9 and

10 (D) geographic diversity; and

11 (2) provide recommendations to the Secretary
12 for solutions in preventing or reducing occurrences
13 or repeated occurrences where highway-rail grade
14 crossings are blocked for extended periods.

15 (b) MEMBERS.—In establishing the membership to
16 conduct the study described in subsection (a)(1), the Na-
17 tional Academy of Sciences shall appoint not fewer than
18 3 of its members who—

19 (1) are engineering or rail experts;

20 (2) are not railroad carriers, or entities funded
21 by railroad carriers;

22 (3) have relevant experience in railroad safety
23 technology or railroad operating experience; and

24 (4) have no financial ties to the rail industry.

1 (c) ELEMENTS.—The study conducted pursuant to
2 subsection (a)(1) shall—

3 (1) examine any potential impacts to railroad
4 and community safety due to blocked highway-rail
5 grade crossings;

6 (2) identify potential financial impacts incurred
7 by the railroad or its customers due to blocked
8 crossings;

9 (3) identify potential freight network efficiency
10 impacts due to solutions that will reduce or elimi-
11 nate the impacts of blocked crossings;

12 (4) examine community impacts that result
13 from blocked crossings;

14 (5) examine causes for blocked crossings;

15 (6) examine the potential impacts on railroad
16 operations of the recommendations made in the re-
17 port submitted pursuant to subsection (c), including
18 reliability of service to customers; and

19 (7) identify practical solutions to prevent
20 blocked crossings.

21 (d) REPORT.—Not later than 2 years after the date
22 of the enactment of this Act, the Secretary shall submit
23 a report to the Committee on Commerce, Science, and
24 Transportation of the Senate and the Committee on
25 Transportation and Infrastructure of the House of Rep-

1 representatives that contains the results of the study con-
2 ducted by the National Academy of Sciences pursuant to
3 this section.

4 (e) FUNDING.—From the amounts appropriated for
5 fiscal year 2024 to carry out section 20108 of title 49,
6 United States Code, the Secretary shall expend such sums
7 as may be necessary, but not more than \$2,000,000, to
8 carry out the study required under this section.

9 **SEC. 105. INSPECTIONS.**

10 (a) TIME AVAILABLE FOR INSPECTION.—

11 (1) IN GENERAL.—Subchapter II of chapter
12 201 of title 49, United States Code, is amended by
13 adding at the end the following:

14 **“§ 20172. Time available for inspection**

15 “No railroad may limit the time required for an em-
16 ployee to complete a railcar, locomotive, or brake inspec-
17 tion to ensure that each railcar, locomotive, and brake sys-
18 tem complies with safety laws and regulations.”.

19 (2) CLERICAL AMENDMENT.—The analysis for
20 subchapter II of chapter 201 of title 49, United
21 States Code, is amended by adding at the end the
22 following:

“20172. Time available for inspection.”.

23 (b) PRE-DEPARTURE RAILCAR INSPECTIONS.—Not
24 later than 120 days after the date of the enactment of
25 this Act, the Secretary shall amend the pre-departure in-

1 inspection requirements for Class I railroads under part 215
2 of title 49, Code of Federal Regulations (as written on
3 such date of enactment)—

4 (1) to ensure that after initial consultation with
5 the Federal Railroad Administration, and after each
6 subsequent annual consultation, each railroad identi-
7 fies inspection locations and, at such locations, has
8 inspectors designated under part 215 available for
9 the purpose of inspecting freight cars;

10 (2) to ensure that all freight cars are inspected
11 by an inspector designated under part 215 at a des-
12 ignated inspection location in the direction of travel
13 as soon as practicable; and

14 (3) to require each railroad that operates rail-
15 road freight cars to which such part 215 applies to
16 designate persons qualified to inspect railroad
17 freight rail cars, subject to any existing collective
18 bargaining agreement, for compliance and deter-
19 minations required under such part.

20 (c) PERIODIC RAILCAR INSPECTIONS.—

21 (1) FREIGHT CAR PERIODIC INSPECTIONS.—
22 Not later than 1 year after the date of the enact-
23 ment of this Act, the Secretary shall issue regula-
24 tions amending part 215 of title 49, Code of Federal

1 Regulations to create minimum requirements for the
2 periodic inspection of freight cars.

3 (2) REQUIREMENTS.—The regulations issued
4 pursuant to paragraph (1) shall—

5 (A) consider the periodic inspection re-
6 quirements applicable to locomotives under part
7 229 of title 49, Code of Federal Regulations,
8 and to passenger cars under part 238 of such
9 title;

10 (B) establish inspection intervals and cri-
11 teria, taking into account differences in the uti-
12 lization and service to which freight cars are
13 put and other factors as appropriate, including
14 ownership of the cars, provided that—

15 (i) initial inspections shall be per-
16 formed within a reasonable period, as de-
17 termined by the Secretary, which period
18 shall not be shorter than 6 years after the
19 issuance of regulations pursuant to para-
20 graph (1);

21 (ii) after the initial inspections re-
22 quired under clause (i), periodic inspec-
23 tions shall be required not more frequently
24 than once every 5 years; and

1 (iii) if a freight car is not at a suit-
2 able location for safely performing a peri-
3 odic inspection on the date such inspection
4 is required under this subsection, or if the
5 freight car is not on a Class I railroad, the
6 freight car may be moved to the next for-
7 ward location suitable for safely per-
8 forming the inspection on a Class I rail-
9 road;

10 (C) provide that periodic inspections may
11 be performed in conjunction with any other in-
12 spections or tests required under chapter I or
13 II of subtitle B of title 49, Code of Federal
14 Regulations;

15 (D) ensure that periodic inspections are
16 performed only where adequate facilities are
17 available for safely inspecting all components of
18 freight cars; and

19 (E) require that Class I railroads use in-
20 spectors designated under section 215 of title
21 49, Code of Federal Regulations, to perform
22 periodic inspections pursuant to this subsection
23 and that their primary responsibility is the in-
24 spection, testing, maintenance, or repair of
25 freight cars or their components.

1 (d) QUALIFIED LOCOMOTIVE INSPECTIONS.—Not
2 later than 1 year after the date of the enactment of this
3 Act, the Secretary shall review and amend, as necessary,
4 regulations under chapters 229 and 243 of title 49, Code
5 of Federal Regulations—

6 (1) to ensure appropriate training qualifications
7 and proficiency of employees, including qualified me-
8 chanical inspectors, performing locomotive inspec-
9 tions; and

10 (2) for locomotives in service on a Class I rail-
11 road, to require an additional daily inspection to be
12 performed by a qualified mechanical inspector be-
13 tween the current intervals under section
14 229.23(b)(2) of title 49, Code of Federal Regula-
15 tions.

16 (e) AUDITS.—

17 (1) IN GENERAL.—Not later than 60 days after
18 the date of the enactment of this Act, the Secretary
19 shall initiate audits of Federal railcar, locomotive,
20 and train brake system inspection compliance with
21 chapter II of subtitle B of title 49, Code of Federal
22 Regulations, which—

23 (A) consider whether the railroad has in
24 place procedures necessary for railcar, loco-

1 motive, and train brake system inspection com-
2 pliance under such chapter;

3 (B) assess the type, content, and adequacy
4 of training and performance metrics the rail-
5 road provides employees who perform railcar,
6 locomotive, and train brake system inspections,
7 including the qualifications specified for such
8 employees;

9 (C) determine whether the railroad has
10 practices that would interfere with an employ-
11 ee's responsibility to perform an inspection
12 safely ;

13 (D) determine whether railcars, loco-
14 motives, and train brake systems are inspected
15 on the railroad's network in accordance with
16 such chapter;

17 (E) involve proper communication of iden-
18 tified defects to railroad personnel and make
19 appropriate use of remedial action reports to
20 verify that repairs are made;

21 (F) determine whether managers coerce
22 employees to sign off on any documents
23 verifying an inspection or repair of a railcar, lo-
24 comotive, or train brake system;

1 (G) determine whether the railroad's in-
2 spection procedures reflect the current oper-
3 ating practices of the railroad carrier; and

4 (H) ensure that railroad inspection proce-
5 dures only provide for the use of persons per-
6 mitted to perform each relevant inspection
7 under such chapter.

8 (2) AUDIT SCHEDULING.—The Secretary
9 shall—

10 (A) schedule the audits required under
11 paragraph (1) to ensure that—

12 (i) every Class I railroad is audited
13 not less frequently than once every 5 years;
14 and

15 (ii) a limited number, as determined
16 by the Secretary, of Class II and Class III
17 railroads are audited annually, provided
18 that—

19 (I) no audit of a tourist, scenic,
20 historic, or excursion operation may
21 be required under this subsection; and

22 (II) no other Class II or III rail-
23 road may be audited more frequently
24 than once every 5 years; and

1 (B) conduct the audits described in sub-
2 paragraph (A)(ii) in accordance with—

3 (i) the Small Business Regulatory En-
4 forcement Fairness Act of 1996 (5 U.S.C.
5 601 note); and

6 (ii) appendix C of part 209 of title 49,
7 Code of Federal Regulations.

8 (3) UPDATES TO INSPECTION PROGRAM AND
9 PROCEDURES.—If, during an audit required under
10 this subsection, the auditor identifies a deficiency in
11 a railroad’s procedures or practices necessary to en-
12 sure compliance with chapter II of subtitle B of title
13 49, Code of Federal Regulations, the railroad shall
14 eliminate such deficiency, after first being provided
15 the opportunity to address whether such a deficiency
16 exists.

17 (4) CONSULTATION AND COOPERATION.—

18 (A) CONSULTATION.—In conducting any
19 audit required under this subsection, the Sec-
20 retary shall consult with the railroad being au-
21 dited and its employees, including any nonprofit
22 employee labor organization representing the
23 employees of the railroad that conduct railcar,
24 locomotive, or train brake system inspections.

1 (B) COOPERATION.—The railroad being
2 audited and its employees, including any non-
3 profit employee labor organization representing
4 mechanical employees, shall fully cooperate with
5 any audit conducted pursuant to this sub-
6 section—

7 (i) by providing any relevant docu-
8 ments requested; and

9 (ii) by making available any employees
10 for interview without undue delay or ob-
11 struction.

12 (C) FAILURE TO COOPERATE.—If the Sec-
13 retary determines that a railroad or any of its
14 employees, including any nonprofit employee
15 labor organization representing mechanical em-
16 ployees of the railroad is not fully cooperating
17 with an audit conducted pursuant to this sub-
18 section, the Secretary shall electronically notify
19 the Committee on Commerce, Science, and
20 Transportation of the Senate and the Com-
21 mittee on Transportation and Infrastructure of
22 the House of Representatives of such non-
23 cooperation.

24 (f) REVIEW OF REGULATIONS.—Not later than 5
25 years after the date of the enactment of this Act, and peri-

1 odically thereafter, the Secretary shall determine whether
2 any update to chapters I and II of subtitle B of title 49,
3 Code of Federal Regulations, is necessary to ensure the
4 adequacy of railcar, locomotive, and train brake system
5 inspections.

6 (g) ANNUAL REPORT.—The Secretary shall publish
7 an annual report on the public website of the Federal Rail-
8 road Administration that—

9 (1) summarizes the findings of the audits con-
10 ducted pursuant to subsection (d) during the most
11 recently concluded fiscal year;

12 (2) summarizes any updates made to chapter I
13 or II of subtitle B of title 49, Code of Federal Regu-
14 lations, pursuant to this section; and

15 (3) excludes any confidential business informa-
16 tion or sensitive security information.

17 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion may be construed—

19 (1) to provide the Secretary with any authority
20 to interpret, revise, alter, or apply a collectively bar-
21 gained agreement, nor any authority over collective
22 bargaining, collectively bargained agreements, or any
23 aspect of the Railway Labor Act (45 U.S.C. 151 et
24 seq.);

1 (2) to alter the terms or interpretations of ex-
2 isting collective bargaining agreements; or

3 (3) to abridge any procedural rights or rem-
4 edies provided under a collectively bargained agree-
5 ment.

6 **SEC. 106. DEFECT DETECTION SYSTEMS.**

7 (a) IN GENERAL.—Subchapter II of chapter 201 of
8 title 49, United States Code, as amended by section
9 105(a)(1), is further amended by adding at the end the
10 following:

11 **“§ 20173. Defect detection systems**

12 “(a) DEFINITIONS.—In this section:

13 “(1) COVERED RAIL CARRIER.—The term ‘cov-
14 ered rail carrier’ has the meaning given the term
15 ‘Class I carrier’ in section 10102.

16 “(2) DEFECT DETECTION SYSTEM.—The term
17 ‘defect detection system’ means the use of defect de-
18 tectors, the analysis of the data defect detectors
19 produce, and any other aspects a system that help
20 railroads identifying and understand the severity of
21 known safety conditions.

22 “(3) DEFECT DETECTOR.—The term ‘defect de-
23 tector’ means any device or equipment situated with-
24 in the rail system that can detect and communicate
25 a potential or known safety condition.

1 “(4) HIGH-HAZARD TRAIN.—The term ‘high-
2 hazard train’ has the meaning given such term in
3 section 20155(a)(6).

4 “(5) MAIN LINE.—The term ‘main line’
5 means—

6 “(A) a segment or route of railroad
7 tracks—

8 “(i) over which 5,000,000 or more
9 gross tons of railroad traffic is transported
10 annually; and

11 “(ii) that has a maximum authorized
12 speed for freight trains in excess of 25
13 miles per hour; and

14 “(B) intercity rail passenger transportation
15 or commuter rail passenger transportation
16 routes or segments over which high-hazard
17 trains operate.

18 “(6) PHYSICAL CHARACTERISTICS.—The term
19 ‘physical characteristics’ means the physical terrain
20 and operating considerations related to the physical
21 terrain for the relevant main line.

22 “(b) RAIL DEFECT DETECTOR ANALYSIS PRO-
23 GRAM.—The Secretary shall develop a program for the re-
24 search, development, testing, and evaluation of defect de-
25 tector systems to inform and support the rulemaking re-

1 quired under subsection (d) and the evaluation of plans
2 under subsection (e), which shall include—

3 “(1) an evaluation of existing manufacturer rec-
4 ommended practices, industry-developed voluntary
5 consensus technical standards, and railroad safety
6 data to inform appropriate standards for commer-
7 cially available defect detector systems and ensure
8 the integrity and reliability of their use on the gen-
9 eral railroad system, including standards relating
10 to—

11 “(A) maintenance;

12 “(B) testing;

13 “(C) inspection; and

14 “(D) installation;

15 “(2) an assessment of existing alert thresholds
16 and trending algorithms to determine appropriate
17 metrics and levels to ensure that defect detector sys-
18 tems identify unsafe equipment or operations in time
19 to take appropriate safety actions;

20 “(3) an evaluation of existing processes and
21 procedures for decision making and communication
22 of appropriate safety actions necessary to address
23 unsafe equipment or operations, including—

24 “(A) stoppage of rail equipment;

25 “(B) setting out rail equipment;

1 “(C) train speed reduction;

2 “(D) diverting a train; and

3 “(E) inspection requirements;

4 “(4) research to understand the capabilities and
5 limitations of existing technologies in use or devel-
6 oped to better assess the plans required under the
7 final rule issued pursuant to subsection (c); and

8 “(5) research to understand new or developing
9 technologies.

10 “(c) PLAN ELEMENTS.—

11 “(1) RISK-BASED.—Each defect detection sys-
12 tem plan required under the final rule issued pursu-
13 ant to subsection (d) shall be risk-based.

14 “(2) CONTENTS.—Each plan referred to in
15 paragraph (1) shall include—

16 “(A) a summary of the railroad’s proposed
17 defect detector network, including—

18 “(i) how the network will reduce the
19 risk of incidents near population centers
20 and on high-hazard train routes; and

21 “(ii) a description of how the network
22 will be implemented by the deadline set
23 forth in subsection (d)(1)(B); and

24 “(B) a description of how the railroad’s de-
25 fect detection system meets or exceeds the de-

1 fect detection performance standards described
2 in subsection (d)(1)(D);

3 “(C) except as provided in paragraph (3),
4 a risk-based approach for identifying overheated
5 wheel bearings that require the placement of
6 the types and spacing of defect detectors—

7 “(i) for main lines traveling within an
8 urbanized area with a population of at
9 least 75,000, at a distance that provides
10 for any train operating along the railroad’s
11 route to undergo detection not less than 10
12 miles before entering such an area;

13 “(ii) for main lines not equipped with
14 acoustic bearing detectors or other similar
15 technology, at a distance averaging 15
16 route miles to the extent possible based on
17 the physical characteristics of the route;
18 and

19 “(iii) for main lines equipped with
20 acoustic bearing detectors or other similar
21 technology, at a distance averaging 20
22 route miles to the extent possible based on
23 the physical characteristics of the route
24 along which such detectors are being in-
25 stalled;

1 “(D) the types and spacing of other way-
2 side defect detectors required to be placed, to
3 the extent such detectors are utilized;

4 “(E) the manufacturer’ expected perform-
5 ance for each type of defect detector and how
6 the carrier will assess compliance with such per-
7 formance;

8 “(F) procedures for promptly providing
9 pertinent safety alerts to train employees, in-
10 cluding locomotive engineers and conductors,
11 train dispatchers, and relevant maintenance em-
12 ployees;

13 “(G) the ability to share relevant safety
14 data from the defect detector network with
15 other railroad carriers and with rail car owners;

16 “(H) policies and procedures for training
17 employees regarding relevant elements of the
18 defect detector system, including—

19 “(i) persons whose duties include in-
20 stalling, maintaining, repairing, modifying,
21 inspecting, reviewing data, and testing
22 safety-critical elements of the railroad’s de-
23 fect detector, including central office, way-
24 side, or onboard subsystems;

1 “(B) TRIENNIAL REVIEWS.—Not less fre-
2 quently than triennially, the Secretary shall re-
3 view each alternative plan approved pursuant to
4 subparagraph (A) to determine its continuing
5 effectiveness at detecting bearing-related de-
6 fects.

7 “(d) RULEMAKING.—

8 “(1) IN GENERAL.—Not later than 1 year after
9 the date of the enactment of the Railway Safety Act
10 of 2023, the Secretary shall initiate a rulemaking,
11 and not later than 2 years after such date of enact-
12 ment, the Secretary shall issue a final rule, in com-
13 pliance with Executive Order 12866 (5 U.S.C. 601
14 note; relating to regulatory planning and review),
15 that—

16 “(A) requires covered rail carriers to sub-
17 mit, not later than 1 year after the issuance of
18 such final rule, defect detector network plans
19 that include the elements described in sub-
20 section (c)(2);

21 “(B) requires the covered rail carrier to
22 implement the plan required under paragraph
23 (1) not later than 3 years after the issuance of
24 such final rule;

1 “(C) creates procedures to review, approve,
2 monitor compliance of such plans;

3 “(D) establishes performance standards
4 measured by the ability of a defect detection
5 system to identify defects before a condition
6 that is likely to result in an accident or inci-
7 dent, including how such ability will be meas-
8 ured and reported for data related to require-
9 ments;

10 “(E) requires the reporting of data regard-
11 ing the defect detector network effectiveness, in-
12 cluding defect detector failures;

13 “(F) creates requirements for covered rail
14 carriers to test, inspect, and maintain any de-
15 fect detector based on the evaluation completed
16 pursuant to subsection (b)(1); and

17 “(G) establish appropriate thresholds for
18 alerts and corresponding safety actions, to the
19 extent necessary.

20 “(2) UPDATED STANDARDS.—The performance
21 standards established pursuant to paragraph (1)(D)
22 shall be updated not less frequently than once every
23 5 years.

24 “(e) UPDATES AND APPROVALS.—

1 “(1) UPDATES.—Each entity subject to the
2 mandate in subsection (a) shall update the plans re-
3 quired under subsection (d)(1)—

4 “(A) to reflect material changes to its rail-
5 car defect detector network; or

6 “(B) to address changes made to the per-
7 formance standards pursuant to subsection
8 (d)(2).

9 “(2) APPROVALS.—To ensure safety, the Sec-
10 retary shall promptly review each plan submitted
11 pursuant to subsection (d)(1), including the suffi-
12 ciency of the performance standards required under
13 subsection (c)(1)(D), and approve or reject each
14 plan and update that is required to be submitted
15 under this section.

16 “(3) REVIEWS FOR COMPLIANCE.—Not less fre-
17 quently than biannually, the Secretary shall conduct
18 reviews to ensure that railroad carriers are com-
19 plying with the plans required under paragraph (1).

20 “(4) PUBLIC AVAILABILITY.—Not later than 60
21 days after receipt, the Secretary shall make available
22 to the public on the website of the Department of
23 Transportation any plan or update submitted pursu-
24 ant to this section, but the Secretary shall redact—

1 “(A) proprietary information, as verified
2 by the Secretary; and

3 “(B) security-sensitive information, includ-
4 ing information described in section 1520.5(a)
5 of title 49, Code of Federal Regulations (or suc-
6 cessor regulation), as verified by the Secretary.

7 “(f) ENFORCEMENT.—The Secretary may assess a
8 civil penalty under chapter 213 of this title for any viola-
9 tion pursuant to the rulemaking under subsection (a)
10 for—

11 “(1) each accident or incident on a route where
12 the railroad is noncompliant with the plan approved
13 under subsection (e)(2); and

14 “(2) failing to take any corresponding safety
15 action to an alert as set forth in the approved plan
16 pursuant to subsection (c)(2)(J).

17 “(g) PRESERVATION OF AUTHORITY.—Nothing in
18 this section may be construed to restrict the authority of
19 the Secretary.”.

20 (b) CLERICAL AMENDMENT.—The analysis for sub-
21 chapter II of chapter 201 of title 49, United States Code,
22 as amended by section 105(a)(2), is further amended by
23 adding at the end the following:

 “20173. Defect detection systems.”.

24 (c) TEMPORARY DEFECT DETECTION ASSIST-
25 ANCE.—

1 (1) FORMULA GRANT PROGRAM.—The Adminis-
2 trator of the Federal Railroad Administration shall
3 establish a formula grant program to assist com-
4 muter railroads with installing defect detection tech-
5 nology.

6 (2) ELIGIBLE ENTITIES.—A commuter railroad
7 that has a contract with a Class I railroad, as of
8 May 1, 2023, that requires the commuter railroad to
9 install defect detection technology that complies with
10 the approved plan submitted pursuant to section
11 20173 of title 49, United States Code, is eligible to
12 receive a grant under this subsection.

13 (3) FORMULA.—Grant funding under this sub-
14 section shall be allocated based on the number of de-
15 fect detectors required to be installed to comply with
16 the grant conditions set forth in section 22909(j) of
17 title 49, United States Code.

18 (4) REQUIREMENTS.—Any eligible entity that
19 receive grant funding under this subsection shall
20 comply with the grant conditions set forth in such
21 section 22909(j).

22 (5) AUTHORIZATION OF APPROPRIATIONS.—
23 There is authorized to be appropriated to the Fed-
24 eral Railroad Administration such amounts as may

1 be necessary to carry out the formula grant program
2 under this subsection.

3 **SEC. 107. SAFE FREIGHT ACT OF 2023.**

4 (a) **SHORT TITLE.**—This section may be cited as the
5 “Safe Freight Act of 2023”.

6 (b) **FREIGHT TRAIN CREW SIZE.**—Subchapter II of
7 chapter 201 of title 49, United States Code, is amended
8 by inserting after section 20153 the following:

9 **“§ 20154. Freight train crew size safety standards**

10 “(a) **MINIMUM CREW SIZE.**—Except as provided in
11 subsections (b) and (c), a freight train operated by a Class
12 I railroad may not be operated without a 2-person crew
13 consisting of at least 1 appropriately qualified and cer-
14 tified conductor and 1 appropriately qualified and certified
15 locomotive engineer.

16 “(b) **EXCEPTIONS.**—

17 “(1) **IN GENERAL.**—Except as provided in para-
18 graph (2), the requirement under subsection (a)
19 shall not apply with respect to—

20 “(A) train operations on track that is not
21 a main line track (as defined in section
22 20173(a)(2);

23 “(B) locomotives performing assistance to
24 a train that has incurred mechanical failure or
25 lacks the power to traverse difficult terrain, in-

1 including traveling to or from the location where
2 assistance is provided;

3 “(C) locomotives that—

4 “(i) are not attached to any equip-
5 ment or are attached only to a caboose;
6 and

7 “(ii) do not travel farther than 50
8 miles from the point of origin of such loco-
9 motive; and

10 “(D) train operations staffed with fewer
11 than a 2-person crew at least 1 year before the
12 date of the enactment of the Safe Freight Act
13 of 2023 unless the Secretary determines that
14 such operations do not achieve an equivalent
15 level of safety as would result from compliance
16 with the requirement under subsection (a).

17 “(2) TRAINS INELIGIBLE FOR EXCEPTION.—

18 The exceptions under paragraph (2) may not be ap-
19 plied to—

20 “(A) a high-hazard train (as defined in
21 section 20155(a)); or

22 “(B) a train consist with a total length of
23 at least 7,500 feet.

1 “(c) WAIVER.—A railroad carrier may seek a waiver
2 of the requirements under subsection (a) in accordance
3 with section 20103(d).

4 “(d) PRESERVATION OF AUTHORITY.—Nothing in
5 this section may be construed to restrict the authority of
6 the Secretary.”.

7 (c) CLERICAL AMENDMENT.—The analysis for sub-
8 chapter II of chapter 201 of title 49, United States Code,
9 is amended by inserting after the item relating to section
10 20153 the following:

 “20154. Freight train crew size safety standards.”.

11 **SEC. 108. INCREASED PENALTIES FOR VIOLATIONS OF RAIL**
12 **SAFETY REGULATIONS.**

13 (a) RAILROAD SAFETY VIOLATIONS.—Section
14 21301(a) of title 49, United States Code, is amended—

15 (1) by striking paragraphs (1) and (2) and in-
16 serting the following:

17 “(1) A person may not fail to comply with a require-
18 ment of, a regulation prescribed under, or an order issued
19 by, the Secretary under chapters 201 through 211. Sub-
20 ject to section 21304, a person violating a requirement
21 of, a regulation prescribed under, or an order issued by,
22 the Secretary under chapters 201 through 211 is liable
23 to the United States Government for a civil penalty. An
24 act by an individual that causes a railroad carrier to be
25 in such a violation constitutes a violation of this para-

1 graph. A separate violation occurs for each day such viola-
2 tion continues.

3 “(2) The Secretary shall include in, or make applica-
4 ble to, each requirement of, regulation prescribed under,
5 and order issued under chapters 201 through 211 a civil
6 penalty for a violation of such requirement, regulation, or
7 order in an amount equal to—

8 “(A) at least \$5,000 and not more than
9 \$1,000,000; or

10 “(B) if the person committing such violation is
11 a small business concern (as such term is used in
12 part 121 of title 13, Code of Federal Regulations (or
13 a successor regulation)), including a Class III rail-
14 road, at least \$1,000 and not more than \$200,000”;

15 (2) by redesignating paragraphs (3) and (4) as
16 paragraphs (5) and (6), respectively;

17 (3) by inserting after paragraph (2) the fol-
18 lowing:

19 “(3) If a violation described in paragraph (1) results
20 in death, serious illness, or severe injury to any person,
21 causes an imminent hazard of death or injury, or results
22 in the substantial destruction of property, the Secretary
23 may increase the civil penalty required under paragraph
24 (2) to—

25 “(A) a maximum of \$5,000,000; or

1 “(B) if the person committing such violation is
2 a small business concern (as such term is used in
3 part 121 of title 13, Code of Federal Regulations (or
4 a successor regulation)), a maximum of \$500,000.

5 “(4) The Secretary may double the civil penalty oth-
6 erwise required under paragraph (2) or (3) if the violation
7 follows a pattern of repeated violations or otherwise re-
8 flects a deliberate indifference or conscious disregard to
9 the consequences of the conduct.”; and

10 (4) in paragraph (6), as redesignated, by add-
11 ing at the end the following: “Such civil action may
12 be brought in the judicial district in which the viola-
13 tion occurred or in which the defendant has its prin-
14 cipal executive office. If the civil action is against an
15 individual, the action may also be brought in the ju-
16 dicial district in which such individual resides.”.

17 (b) HOURS OF SERVICE VIOLATIONS.—Section
18 21301 of title 49, United States Code, is amended by add-
19 ing at the end the following:

20 “(d) ADDITIONAL PROVISIONS RELATED TO VIOLA-
21 TIONS OF CHAPTER 211.—(1) In any proceeding involving
22 a violation of chapter 211, or a violation of a regulation
23 or order issued pursuant to such chapter, a railroad car-
24 rier is deemed to have knowledge of the acts of its officers
25 and agents.

1 “(2) A civil action involving a violation of chapter
2 211, or a violation of a regulation or order issued pursuant
3 to such chapter, shall be brought in an appropriate district
4 court of the United States not later than 2 years after
5 the date of such violation unless administrative notifica-
6 tion under section 3711 of title 31 is given within such
7 2-year period to the person committing the violation. If
8 such notification is given, the action shall be brought not
9 later than the last day of the 5-year period specified in
10 section 2462 of title 28.

11 “(3) A separate violation of section 21106 occurs for
12 each day employee sleeping quarters are not in compliance
13 with the requirements under such section.”.

14 (c) UPDATES OF PENALTIES FOR INFLATION.—Not-
15 withstanding any other provision of law, including the
16 Federal Civil Penalties Inflation Adjustment Act of 1990
17 (28 U.S.C. 2461 note), the inflation adjustment—

18 (1) for minimum penalty amounts amended by
19 this section, and any discretionary inflation adjust-
20 ment of guideline penalty amounts by the Secretary,
21 shall be rounded to the nearest multiple of \$100;
22 and

23 (2) for maximum penalty amounts amended by
24 this section, shall be rounded to the nearest multiple
25 of \$1,000.

1 (d) REPEAL.—

2 (1) IN GENERAL.—Chapter 213 of title 49,
3 United States Code, is amended by striking sections
4 21302 and 21303.

5 (2) CLERICAL AMENDMENT.—The analysis for
6 chapter 213 of title 49, United States Code, is
7 amended by striking the items relating to sections
8 21302 and 21303.

9 **SEC. 109. SAFER TANK CARS.**

10 (a) CLASS 3 FLAMMABLE LIQUIDS PHASE-OUT
11 SCHEDULE.—Beginning on December 31, 2027, no rail-
12 road tank car, regardless of its construction date, may be
13 used to transport Class 3 flammable liquids in packing
14 groups II and III (other than Class 3 flammable liquids
15 listed in paragraphs (1) and (2) of section 7304(b) of the
16 Hazardous Materials Transportation Safety Improvement
17 Act of 2015 (49 U.S.C. 20155 note)), regardless of the
18 composition of the train consist, unless such tank car
19 meets or exceeds the DOT–117, DOT–117P, or DOT–
20 117R specifications (as in effect on the date of the enact-
21 ment of this Act), including DOT–105A, DOT–105H,
22 DOT–105J, DOT–105S, DOT–112H, DOT–112S, DOT–
23 112J, DOT–120J, and DOT–120S tank cars.

24 (b) CONFORMING REGULATORY AMENDMENTS.—

25 (1) IN GENERAL.—The Secretary—

1 (A) shall immediately remove or revise the
2 date-specific deadlines in any applicable regula-
3 tions or orders to the extent necessary to con-
4 form with the requirement under subsection (a);
5 and

6 (B) may not enforce any date-specific
7 deadlines or requirements that are inconsistent
8 with the requirement under subsection (a).

9 (2) RULE OF CONSTRUCTION.—Except as re-
10 quired under paragraph (1), nothing in this section
11 may be construed to require the Secretary to issue
12 regulations to implement this section.

13 (c) AMENDING THE PHASE-OUT DATE.—If the Sec-
14 retary, based on the data contained in the report issued
15 pursuant to subsection (d), determines that the phase-out
16 date under subsection (a) cannot be met due to insuffi-
17 cient manufacturing capacity or would otherwise result in
18 significant impacts to interstate commerce, the Secretary
19 may delay the phase-out scheduled under subsection (a)
20 to not later than December 31, 2028.

21 (d) GAO REVIEW.—Not later than 18 months after
22 the date of the enactment of this Act, the Comptroller
23 General of the United States shall issue a report to the
24 Secretary, the Committee on Commerce, Science, and
25 Transportation of the Senate and the Committee on

1 Transportation and Infrastructure of the House of Rep-
2 resentatives that—

3 (1) identifies the manufacturing capacity of
4 tank car manufacturers in North America, that
5 manufacture tank cars to meet DOT-117 and
6 DOT-117P specification requirements;

7 (2) identifies the retrofit capacity of tank car
8 manufacturers and other entities in North America
9 that can retrofit DOT-111 tank cars to meet DOT-
10 117R specification requirements;

11 (3) estimates the schedule of replacing tank
12 cars currently in service that are reaching the end
13 of their life cycle;

14 (4) identifies the number of tank cars that need
15 to be phased out or retrofitted under subsection (a)
16 and paragraph (2) and the number that could be
17 retrofitted; and

18 (5) estimates the demand for new tank cars.

19 **SEC. 110. RAIL SAFETY INFRASTRUCTURE RESEARCH AND**
20 **DEVELOPMENT GRANTS.**

21 (a) **RESEARCH REQUIREMENT.**—The Administrator
22 of the Federal Railroad Administration shall award
23 grants, in accordance with the restrictions and limitation
24 on eligibility for Class I railroads under section 22907 of
25 title 49, United States Code, which shall be used for re-

1 search and development of defect detectors and the pre-
2 vention of derailments of trains transporting hazardous
3 materials.

4 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to the Federal Railroad Ad-
6 ministration, \$22,000,000, which shall be used for the
7 grants authorized under subsection (a) and shall remain
8 available until expended.

9 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR TANK**
10 **CAR RESEARCH AND DEVELOPMENT.**

11 There is authorized to be appropriated to the Pipeline
12 and Hazardous Materials Safety Administration,
13 \$5,000,000, which shall be used for expenses related to
14 the development of—

15 (1) stronger, safer tank cars and valves for
16 tank cars; and

17 (2) other tank car safety features.

18 **SEC. 112. FEDERAL RAILROAD ADMINISTRATION SAFETY**
19 **CULTURE.**

20 (a) REVIEW.—Not later than 1 year after the date
21 of the enactment of this Act, the Inspector General of the
22 Department of Transportation shall—

23 (1) conduct a review of the Federal Railroad
24 Administration's safety culture using the framework
25 developed by the Nuclear Energy Agency of the

1 Organisation for Economic Co-operation and Devel-
2 opment; and

3 (2) submit a report to the Committee on Com-
4 merce, Science, and Transportation of the Senate
5 and the Committee on Transportation and Infra-
6 structure of the House of Representatives that in-
7 cludes recommendations for improving the Federal
8 Railroad Administration's safety culture.

9 (b) CONSIDERATIONS.—As a part of the review con-
10 ducted pursuant to subsection (a)(1), the Inspector Gen-
11 eral shall consider the impacts of the Federal Railroad
12 Administration's—

13 (1) reorganization of its safety offices and man-
14 agement structure;

15 (2) reorganization of its policy and research of-
16 fices; and

17 (3) telework policies, including any change in
18 policies since the beginning of the COVID-19 pan-
19 demic.

20 (c) ACTION PLAN.—Not later than 1 year after the
21 submission of the report required under subsection (a)(2),
22 the Secretary shall submit to the Committee on Com-
23 merce, Science, and Transportation of the Senate and the
24 Committee on Transportation and Infrastructure of the
25 House of Representatives and post on a public-facing

1 website an action plan that addresses the recommenda-
2 tions and findings made by the Inspector General in such
3 report.

4 **TITLE II—HAZARDOUS MATE-**
5 **RIALS EMERGENCY RE-**
6 **SPONSE AND PREPAREDNESS**

7 **SEC. 201. HAZARDOUS MATERIALS REGISTRATION FEES.**

8 Section 5108(g) of title 49, United States Code, is
9 amended—

10 (1) in paragraph (1), by striking “(1) The Sec-
11 retary” and inserting the following:

12 “(1) IN GENERAL.—The Secretary”; and

13 (2) in paragraph (2)—

14 (A) in subparagraph (C), by striking “(C)
15 The Secretary” and inserting the following:

16 “(D) TRANSFER AND DEPOSIT.—The Sec-
17 retary”;

18 (B) in subparagraph (B), by striking “(B)
19 The Secretary” and inserting the following:

20 “(C) ADJUSTMENT.—The Secretary”; and

21 (C) by striking “(2)(A) In addition” and
22 all that follows through the period at the end
23 of clause (ix) of subparagraph (A) and inserting
24 the following:

25 “(2) ANNUAL FEE.—

1 “(A) ESTABLISHMENT.—In addition to a
2 fee established under paragraph (1), the Sec-
3 retary shall establish and impose by regulation
4 and collect an annual fee.

5 “(B) REQUIREMENT.—Subject to subpara-
6 graph (C), the fee established under subpara-
7 graph (A) shall be—

8 “(i) at least \$250 but not more than
9 \$500 from each person that—

10 “(I) is required to file a registra-
11 tion statement under this section; and

12 “(II) is identified as a small busi-
13 ness (within the meaning of part 121
14 of title 13, Code of Federal Regula-
15 tions (or successor regulations)); and

16 “(ii) at least \$500 but not more than
17 \$5,000 from each person that—

18 “(I) is required to file a registra-
19 tion statement under this section; and

20 “(II) is not identified as a small
21 business (within the meaning of part
22 121 of title 13, Code of Federal Regu-
23 lations (or successor regulations)).”.

1 **SEC. 202. VIRTUAL TRAINING OPTIONS.**

2 Section 5115(b)(1) of title 49, United States Code,
3 is amended—

4 (1) in subparagraph (B), by striking “and”
5 after the semicolon at the end; and

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

7 “(D) recommendations for the development
8 of courses described in subparagraph (B) that
9 have been adapted for virtual learning and any
10 courses for which the Secretary has rec-
11 ommended adaptation to provide virtual op-
12 tions, subject to the condition that the Sec-
13 retary ensures that the virtual options rec-
14 ommended will provide an equivalent level of
15 training as in-person courses; and”.

16 **SEC. 203. HAZARDOUS MATERIALS TRANSPORTATION**
17 **EMERGENCY RESPONSE AND PREPAREDNESS**
18 **GRANTS.**

19 (a) IN GENERAL.—Section 5116 of title 49, United
20 States Code, is amended—

21 (1) by striking the section designation and
22 heading and inserting the following:

23 “§ 5116. **Hazardous materials transportation emer-**
24 **gency response and preparedness”;**

25 (2) in subsection (a)—

26 (A) in paragraph (1)—

1 (i) in subparagraph (B), by striking
2 “and” after the semicolon at the end;

3 (ii) in subparagraph (C)—

4 (I) by striking “public sector em-
5 ployees” and inserting “emergency re-
6 sponse personnel”; and

7 (II) by striking the period at the
8 end and inserting a semicolon; and

9 (iii) by adding at the end the fol-
10 lowing:

11 “(D) until September 31, 2026, to purchase
12 personal protective equipment, as determined by the
13 Secretary, needed to respond to a hazardous mate-
14 rials emergency response incident, consistent with
15 paragraph (7) and subject to the condition that not
16 more than 50 percent of the funds made available
17 under this subsection may be used for that purpose;

18 “(E) to conduct and organize simulated and
19 field exercises relating to hazardous materials trans-
20 portation incidents; and

21 “(F) to develop a hazardous materials transpor-
22 tation emergency response preparedness gap analysis
23 in accordance with paragraph (9).”;

24 (B) in paragraph (5)(A)—

1 (i) in clause (i), by striking “public
2 sector employees being trained” and insert-
3 ing “emergency response personnel being
4 trained virtually or in person”;

5 (ii) in clause (ii), by striking “employ-
6 ees” and inserting “personnel”;

7 (iii) in clause (iii)—

8 (I) by striking “employees” and
9 inserting “personnel”; and

10 (II) by striking “and” after the
11 semicolon at the end; and

12 (iv) by adding at the end the fol-
13 lowing:

14 “(v) to cover the costs of personnel needed
15 to replace any personnel being trained; and

16 “(vi) to cover lost wages for any volunteer
17 being trained, up to a reasonable amount deter-
18 mined by the Secretary;”;

19 (C) in paragraph (6)—

20 (i) by striking subparagraph (A) and
21 inserting the following:

22 “(A) whether grant funds will be used to sup-
23 port the ability of the United States to respond to
24 hazardous materials incidents near infrastructure

1 commonly used to transport hazardous materials;”;
2 and

3 (ii) in subparagraph (B), by striking
4 “amounts” and inserting “number of ship-
5 ments”;

6 (D) by redesignating paragraphs (5) and
7 (6) as paragraphs (6) and (8), respectively;

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

10 “(5)(A) Subject to subparagraph (C), any State re-
11 ceiving a grant under this subsection shall, not later than
12 180 days after receiving the grant funds, make available
13 to eligible local entities—

14 “(i) not less than 70 percent of the grant
15 funds; or

16 “(ii) eligible services or activities described in
17 paragraph (1) having a value of not less than 70
18 percent of the amount of the grant.

19 “(B) A State shall certify to the Secretary that the
20 State has made the distribution to eligible local entities
21 required under paragraph (1) by providing such informa-
22 tion as the Secretary shall require.

23 “(C)(i) The Governor of a State may request in writ-
24 ing that the Secretary extend the period under subpara-
25 graph (A) for an additional period of time.

1 “(ii) The Secretary may approve a request under
2 clause (i) if the Secretary determines that the delay in
3 providing grant funding to eligible local entities pursuant
4 to the extension is necessary to promote effective invest-
5 ments to prepare for or respond to hazardous materials
6 transportation incidents.

7 “(D) Subparagraph (A) shall not apply to Tribes, the
8 District of Columbia, the Commonwealth of Puerto Rico,
9 American Samoa, the Commonwealth of the Northern
10 Mariana Islands, Guam, or the Virgin Islands.

11 “(E) An eligible local entity may petition the Sec-
12 retary to request that grant funds be provided by the Sec-
13 retary directly to the eligible local entity if a State fails
14 to apply for a grant under this subsection.

15 “(F) For purposes of this paragraph, term ‘eligible
16 local entity’ means each of the following:

17 “(i) A political subdivision of a State.

18 “(ii) A public emergency response organiza-
19 tion.”;

20 (F) by inserting after paragraph (6) (as so
21 redesignated) the following:

22 “(7) A recipient of funds provided under this sub-
23 section may use the funds to purchase personal protective
24 equipment only if the recipient agrees to properly maintain
25 and store that personal protective equipment.”; and

1 (G) by inserting after paragraph (8) (as so
2 redesignated) the following:

3 “(9)(A) Each hazardous materials transportation
4 emergency response preparedness gap analysis shall in-
5 clude—

6 “(i) an identification of gaps and limitations of
7 the hazard response program of the applicable juris-
8 diction, including—

9 “(I) knowledge and personal protective
10 equipment gaps; and

11 “(II) gaps in training, including Incident
12 Command Management training and ASTM
13 Standard E3241 training; and

14 “(ii) a strategic plan to address the gaps and
15 limitations identified under clause (i).

16 “(B) In developing a hazardous materials transpor-
17 tation emergency response preparedness gap analysis
18 under subparagraph (A), the entity preparing the analysis
19 shall—

20 “(i) coordinate with Regional Response Teams
21 (as described in section 300.115 of title 40, Code of
22 Federal Regulations (or a successor regulation));

23 “(ii) include States, Tribes, hazardous materials
24 emergency response programs, local governments,
25 and emergency response personnel (including fire

1 service organizations) in that development, as appro-
2 priate; and

3 “(iii) provide an opportunity for States, Tribes,
4 hazardous materials emergency response programs,
5 local governments, and emergency response per-
6 sonnel (including fire service organizations) to re-
7 view and comment on the analysis before the anal-
8 ysis is published.”;

9 (3) in subsection (d)—

10 (A) in the second sentence, by striking
11 “Amounts” and inserting the following:

12 “(2) CERTAIN AMOUNTS.—Amounts”;

13 (B) in the first sentence, by striking “A
14 grant under this section is for 80 percent of the
15 cost the State or Indian tribe incurs” and in-
16 serting the following:

17 “(1) IN GENERAL.—A grant under this section
18 is for 90 percent of the costs incurred by a State,
19 or 100 percent of the costs incurred by a Tribe,”;
20 and

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

22 “(3) IN-KIND CONTRIBUTIONS.—For purposes
23 of this subsection, the contributions of a State or
24 Tribe toward the costs of an activity funded by a

1 grant under this section may be in the form of in-
2 kind contributions.”;

3 (4) in subsection (h)—

4 (A) in the second sentence—

5 (i) in paragraph (4), by striking “2
6 percent” and inserting “4 percent”;

7 (ii) by redesignating paragraphs (1)
8 through (4) as subparagraphs (A) through
9 (D), respectively, and indenting appro-
10 priately; and

11 (iii) in the matter preceding subpara-
12 graph (A) (as so redesignated), by striking
13 “Without” and inserting the following:

14 “(2) USES.—Without”; and

15 (B) in the first sentence—

16 (i) by striking “section 5108(g)(2)(C)
17 of this title” and inserting “section
18 5108(g)(2)(D)”;

19 (ii) by striking “The Secretary” and
20 inserting the following:

21 “(1) IN GENERAL.—The Secretary”; and

22 (C) by adding at the end the following:

23 “(3) SET ASIDE.—

24 “(A) IN GENERAL.—The amounts collected
25 under section 5123—

1 “(i) shall be set aside for the purpose
2 of carrying out subsection (k); and

3 “(ii) shall be available, without fur-
4 ther appropriation, for that purpose.

5 “(B) APPLICATION.—The set-aside de-
6 scribed in subparagraph (A)—

7 “(i) shall apply until the earliest date
8 on which the total amount set aside and
9 available for expenditure under that sub-
10 subparagraph equals or exceeds \$50,000,000;
11 and

12 “(ii) after that date, shall apply to
13 each subsequent period—

14 “(I) beginning on a date on
15 which the total amount set aside and
16 available for expenditure under that
17 subparagraph is less than
18 \$20,000,000; and

19 “(II) ending on the earliest sub-
20 sequent date on which the total
21 amount set aside and available for ex-
22 penditure under that subparagraph
23 equals or exceeds \$50,000,000.”;

24 (5) in subsection (k)—

1 (A) in paragraph (3), by striking “such
2 planning and training programs” and inserting
3 “each grant program”;

4 (B) by redesignating paragraphs (1)
5 through (4) as subparagraphs (A), (B), (D),
6 and (E), respectively, and indenting appro-
7 priately;

8 (C) by inserting after subparagraph (B)
9 (as so redesignated) the following:

10 “(C) a description of any personal protec-
11 tive equipment purchased using grant funds;”;
12 and

13 (D) in the matter preceding subparagraph
14 (A) (as so redesignated)—

15 (i) in the first sentence, by striking
16 “an annual report”; and

17 (ii) by striking “the report to the pub-
18 lic” in the first sentence and all that fol-
19 lows through “grants and include—” in
20 the third sentence and inserting the fol-
21 lowing: “to the public an annual report
22 that—

23 “(1) includes information on the allocation and
24 uses of the grants made available under—

25 “(A) this section; and

1 “(B) subsections (e) and (i) of section
2 5107;

3 “(2) identifies the ultimate recipients of those
4 grants;

5 “(3) identifies the amount of funding available
6 for each grant;

7 “(4) describes any unobligated balances, total
8 annual drawdown by each grantee, and recovered
9 balances;

10 “(5) includes the amount of funding rescinded,
11 by grant recipient, for each grant; and

12 “(6) includes—”;

13 (6) by striking “tribe” each place it appears
14 and inserting “Tribe”; and

15 (7) by striking “tribes” each place it appears
16 and inserting “Tribes”.

17 (b) ASSISTANCE FOR LOCAL EMERGENCY RESPONSE
18 TRAINING.—Section 5116(j)(1)(A) of title 49, United
19 States Code, is amended by striking “liquids” and insert-
20 ing “materials”.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
22 5128(b) of title 49, United States Code, is amended—

23 (1) in the matter preceding paragraph (1), by
24 striking “Hazardous Materials Preparedness Fund”

1 and inserting “Hazardous Materials Emergency Pre-
2 paredness Fund”;

3 (2) in paragraph (3), by striking “section
4 5116(h)(3); and” and inserting “section
5 5116(h)(2)(C);”; and

6 (3) by striking paragraph (4) and inserting the
7 following:

8 “(4) \$4,000,000 to carry out section 5116(i);
9 and

10 “(5) \$1,000,000 to carry out section 5116(j).”.

11 (d) CLERICAL AMENDMENT.—The analysis for chap-
12 ter 51 of title 49, United States Code, is amended by
13 striking the item relating to section 5116 and inserting
14 the following:

“5116. Hazardous materials transportation emergency response and prepared-
ness.”.

15 (e) CONFORMING AMENDMENTS.—

16 (1) Section 5102 of title 49, United States
17 Code, is amended by striking paragraph (6) and in-
18 serting the following:

19 “(6) ‘Indian tribe’, ‘Indian Tribe’, and ‘Tribe’
20 have the meaning given the term ‘Indian Tribe’ in
21 section 4 of the Indian Self-Determination and Edu-
22 cation Assistance Act (25 U.S.C. 5304).”.

1 (2) Section 5123 of title 49, United States
2 Code, is amended by striking subsection (g) and in-
3 sserting the following:

4 “(g) TRANSFER OF AMOUNTS COLLECTED.—
5 Amounts collected under this section shall be transferred
6 to the Hazardous Materials Emergency Preparedness
7 Fund established under section 5116(h).”.

8 **SEC. 204. EMERGENCY RESPONSE ASSISTANCE.**

9 Section 5116 of title 49, United States Code, is
10 amended—

11 (1) by redesignating subsection (k) as sub-
12 section (l);

13 (2) by inserting after subsection (j) the fol-
14 lowing:

15 “(k) EMERGENCY RESPONSE ASSISTANCE.—

16 “(1) DEFINITIONS.—In this subsection:

17 “(A) SIGNIFICANT HAZARDOUS MATERIALS
18 TRANSPORTATION INCIDENT.—The term ‘sig-
19 nificant hazardous materials transportation in-
20 cident’ means an incident that—

21 “(i) involves hazardous materials
22 being moved by a motor carrier or rail car-
23 rier;

24 “(ii) requires a response by at least 1
25 eligible entity described in paragraph (6)

1 for which the Secretary estimates the costs
2 to the eligible entity to be at least \$15,000;
3 and

4 “(iii) results in a serious injury, fatal-
5 ity, or substantial property damage.

6 “(B) SUBSTANTIAL PROPERTY DAMAGE.—

7 The term ‘substantial property damage’ means
8 damage to public or private property or the en-
9 vironment (including clean up costs) the Sec-
10 retary reasonably estimates to be more than
11 \$45,000.

12 “(2) ESTABLISHMENT OF PROGRAM.—Not later
13 than 1 year after the date of enactment of the Rail-
14 way Safety Act of 2023, the Secretary, in consulta-
15 tion with the Administrator of the Federal Emer-
16 gency Management Agency and the Administrator of
17 the Environmental Protection Agency, after pro-
18 viding an opportunity for notice and comment, shall
19 establish an emergency response assistance program
20 to provide immediate financial assistance to commu-
21 nities responding to a significant hazardous mate-
22 rials transportation incident.

23 “(3) SIGNIFICANT HAZARDOUS MATERIALS
24 TRANSPORTATION INCIDENT.—

1 “(A) IN GENERAL.—The Secretary shall
2 have the authority to declare a significant haz-
3 ardous materials transportation incident.

4 “(B) GUIDELINES.—The Secretary shall
5 establish and publish guidelines to determine
6 whether a significant hazardous materials
7 transportation incident has occurred.

8 “(4) RELEASE OF FUNDS.—

9 “(A) IN GENERAL.—The Secretary shall
10 immediately make available from the amount
11 set aside under subsection (h)(3) in the Haz-
12 ardous Materials Emergency Preparedness
13 Fund established under subsection (h)(1) (re-
14 ferred to in this subsection as the ‘Fund’) up
15 to \$10,000,000 to quickly reimburse eligible en-
16 tities described in paragraph (6) that responded
17 to a significant hazardous materials transpor-
18 tation incident if—

19 “(i) the Secretary declares the inci-
20 dent a significant hazardous materials
21 transportation incident; and

22 “(ii) at least 14 days but not later
23 than 21 days after the declaration of a sig-
24 nificant hazardous materials transportation
25 incident, the Secretary determines, in ac-

1 cordance with paragraph (8), that the re-
2 sponsible party does not have an accept-
3 able reimbursement plan.

4 “(B) ADDITIONAL FUNDS.—In addition to
5 any amounts made available under subpara-
6 graph (A), the Secretary shall make additional
7 funding available from the amount set aside
8 under subsection (h)(3) in the Fund if the Sec-
9 retary determines that the additional funding is
10 necessary.

11 “(C) AUTHORITY.—The Secretary may
12 make funds available under this subsection if
13 the Secretary determines the responsible party
14 is not complying with its acceptable plan under
15 paragraph (8).

16 “(5) ADMINISTRATION OF FUNDS.—The Sec-
17 retary may provide funds from the amount set aside
18 under subsection (h)(3) in the Fund to a State in
19 which a hazardous materials transportation incident
20 occurred for the State to use and administer reim-
21 bursements in accordance with this subsection, in-
22 cluding by providing funds to eligible entities de-
23 scribed in paragraph (6).

1 “(6) ELIGIBLE ENTITIES DESCRIBED.—The eli-
2 gible entities referred to in paragraphs (4)(A) and
3 (5) are—

4 “(A) States, territories, and Tribes;

5 “(B) political subdivisions of a State or
6 territory; and

7 “(C) public emergency response organiza-
8 tions.

9 “(7) USE OF FUNDS.—

10 “(A) IN GENERAL.—Funds made available
11 under paragraph (4) or (5) may be used only—

12 “(i) for the cost of replacing personal
13 protective equipment that is damaged, con-
14 taminated, or otherwise rendered unusable
15 as a result of the response of the eligible
16 entity to a significant hazardous materials
17 transportation incident;

18 “(ii) for overtime pay of employees of
19 eligible entities that responded to the scene
20 of a significant hazardous materials trans-
21 portation incident;

22 “(iii) for operational costs exceeding
23 standard operating expenses that are di-
24 rectly related to the cost of responding to
25 the significant hazardous materials trans-

1 portation incident, such as the costs of
2 running a supplementary emergency re-
3 sponse center;

4 “ (iv) for the cost of providing baseline
5 health care assessments to emergency re-
6 sponse personnel who responded to the sig-
7 nificant hazardous materials transportation
8 incident, but not more than \$1,000 per
9 person, which shall be adjusted annually
10 for inflation; and

11 “ (v) to reimburse an eligible entity for
12 an eligible cost described in any of clauses
13 (i) through (iv) that is incurred within 30
14 days of the date of a significant hazardous
15 materials transportation incident.

16 “(B) DOCUMENTATION OF COSTS.—Not
17 later than 1 year after the date on which the
18 Secretary declares a significant hazardous ma-
19 terials transportation incident for which an eli-
20 gible entity receives assistance under this sub-
21 section, the eligible entity shall submit to the
22 Secretary documentation for each item for
23 which that assistance was used pursuant to the
24 eligible uses of funds described in subparagraph
25 (A).

1 “(C) MISUSE OF FUNDS.—If the Secretary
2 determines that an eligible entity has used as-
3 sistance received under this subsection in a
4 manner that violates subparagraph (A) or any
5 other provision of this subsection, the eligible
6 entity shall reimburse the Fund (if the assist-
7 ance was provided from the Fund) or the re-
8 sponsible party (if the assistance was provided
9 by the responsible party), for the amount of
10 that assistance.

11 “(8) ACCEPTABLE PLAN.—

12 “(A) IN GENERAL.—For purposes of para-
13 graph (4)(A)(ii), the Secretary shall consider a
14 reimbursement plan of a responsible party to be
15 acceptable if the plan seeks to review and proc-
16 ess claims made by eligible entities for the costs
17 described in paragraph (7) not later than 90
18 days after the date of the significant hazardous
19 materials transportation incident.

20 “(B) ADVANCE SUBMISSION; CERTAIN
21 PLANS.—

22 “(i) ADVANCE SUBMISSION.—A plan
23 to provide reimbursement to eligible enti-
24 ties in accordance with subparagraph (A)
25 may be submitted to the Secretary for ap-

1 proval in advance of any significant haz-
2 ardous materials transportation incident to
3 which the plan might apply.

4 “(ii) CERTAIN PLAN.—A hazardous
5 materials emergency response plan ap-
6 proved by the Secretary in accordance with
7 section 20155(e) shall be considered an ac-
8 ceptable plan for purposes of this sub-
9 section.

10 “(9) REIMBURSEMENT BY RESPONSIBLE
11 PARTY.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (F), the party responsible for a signifi-
14 cant hazardous materials transportation inci-
15 dent shall be liable to the Secretary for reim-
16 bursement of all amounts disbursed from the
17 Fund under this subsection for that significant
18 hazardous materials transportation incident.

19 “(B) REQUIREMENT.—Any funding recov-
20 ered by the Secretary under this subsection
21 shall be deposited back into the Fund.

22 “(C) NOTICE.—After the Secretary has re-
23 ceived the documented costs under paragraph
24 (7)(B), the Secretary shall provide notice to the

1 responsible party regarding the total amount
2 owed.

3 “(D) FINAL AGENCY ACTION.—Not later
4 than 30 days after the Secretary makes a deter-
5 mination of the amount for which the respon-
6 sible party is liable under subparagraph (A),
7 the responsible party may challenge that deter-
8 mination as a final agency action.

9 “(E) CIVIL ACTION.—

10 “(i) IN GENERAL.—The Attorney
11 General may bring a civil action in an ap-
12 propriate district court of the United
13 States to collect unpaid amounts under
14 this paragraph and any accrued interest on
15 those amounts.

16 “(ii) LIMITATION ON JUDICIAL RE-
17 VIEW.—In a civil action under clause (i),
18 the amount for which a responsible party
19 is liable, as determined by the Secretary,
20 unless challenged under subparagraph (D),
21 shall not be subject to judicial review.

22 “(F) DISCRETION.—If the responsible
23 party is a small business concern (within the
24 meaning of part 121 of title 13, Code of Fed-
25 eral Regulations (or successor regulations)) that

1 is unable to fully reimburse the Secretary, the
2 Secretary shall have discretion with respect to
3 the amount of funds the Secretary requests
4 from the responsible party under this para-
5 graph.

6 “(10) STREAMLINED APPLICATION PROCESS.—

7 The Secretary shall streamline the application proc-
8 ess for the receipt of funds under this subsection, in-
9 cluding by—

10 “(A) providing technical assistance to eligi-
11 ble entities; and

12 “(B) creating a template that eligible enti-
13 ties can use to apply for funding.

14 “(11) SAVINGS PROVISIONS.—

15 “(A) LIABILITY.—Nothing in this sub-
16 section limits, or may be construed to limit, the
17 liability of a responsible party.

18 “(B) REIMBURSEMENT.—

19 “(i) IN GENERAL.—A responsible
20 party may, in accordance with any other
21 applicable law—

22 “(I) seek to establish that an-
23 other party was responsible, in whole
24 or in part (as such other law allows),
25 for the applicable significant haz-

1 ardous materials transportation inci-
2 dent; and

3 “**(II)** seek reimbursement (to the
4 extent such other law allows) from
5 that other party.

6 “**(ii)** **EFFECT OF SUBSECTION.—**
7 Nothing in this subsection limits, or may
8 be construed to limit, the ability of a re-
9 sponsible party to seek reimbursement
10 from any other party found to be respon-
11 sible in any civil action arising from the
12 applicable significant hazardous materials
13 transportation incident.

14 “**(iii)** **EFFECT OF DETERMINATION.—**
15 A determination by the Secretary that a
16 party is a responsible party for purposes of
17 this subsection shall not be considered or
18 otherwise have any effect with respect to
19 the determination of liability in any civil
20 action described in clause (ii).

21 “**(iv)** **EFFECT OF REIMBURSEMENTS**
22 **AND OTHER ACTIVITIES.—**No activity
23 taken under this subsection to reimburse
24 an eligible entity, reimburse the Secretary,
25 prepare or carry out a reimbursement

1 plan, or otherwise comply with or make a
2 payment under this subsection shall be
3 considered or otherwise have any effect
4 with respect to the determination of liabil-
5 ity in any civil action described in clause
6 (ii).

7 “(12) COMPTROLLER GENERAL REPORT.—

8 “(A) IN GENERAL.—Not later than Sep-
9 tember 30, 2027, the Comptroller General of
10 the United States shall submit to Congress a
11 report on the effectiveness this subsection.

12 “(B) CONTENTS.—The report submitted
13 under subparagraph (A) shall include, at a min-
14 imum, information on—

15 “(i) the number of significant haz-
16 ardous materials transportation incidents
17 that received funding under this sub-
18 section;

19 “(ii) the amount of financial assist-
20 ance the Secretary provided to eligible enti-
21 ties;

22 “(iii) the amount of financial assist-
23 ance responsible parties submitted to the
24 Secretary under paragraph (9);

1 “(iv) the amount of reimbursement
2 the Secretary received from eligible entities
3 as required under paragraph (7)(C);

4 “(v) whether the amounts provided by
5 the Secretary under this subsection ade-
6 quately reflect the amounts actually spent
7 by the eligible entities;

8 “(vi) whether the Secretary was able
9 to provide the financial assistance quickly
10 enough to the eligible entities so that the
11 assistance effectively supported the pre-
12 paredness of the eligible entities to respond
13 to potential future incidents; and

14 “(vii) any other factors the Comp-
15 troller General of the United States con-
16 siders to be appropriate to review the effec-
17 tiveness of this subsection.”; and

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

19 “(m) DEFINITIONS.—In this section:

20 “(1) EMERGENCY RESPONSE PERSONNEL.—

21 The term ‘emergency response personnel’ means—

22 “(A) an employee of a State, territory,
23 Tribe, or political subdivision of a State; and

24 “(B) a person belonging to a public emer-
25 gency response organization.

