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118TH CONGRESS
1ST SESSION

S. 576

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

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2023

Mr. BROWN (for himself, Mr. VANCE, Mr. CASEY, Mr. RUBIO, Mr. FETTERMAN, Mr. HAWLEY, Ms. SMITH, Ms. KLOBUCHAR, Mr. BRAUN, Mr. ROMNEY, Mr. MARSHALL, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 13, 2023

Reported by Ms. CANTWELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the

5 ~~“Railway Safety Act of 2023”.~~

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

- See. 1. Short title; table of contents.
- See. 2. Defined term.
- See. 3. Safety requirements for trains transporting hazardous materials.
- See. 4. Rail car inspections.
- See. 5. Defect detectors.
- See. 6. Safe Freight Act of 2023.
- See. 7. Increasing maximum civil penalties for violations of rail safety regulations.
- See. 8. Safer tank cars.
- See. 9. Hazardous materials training for first responders.
- See. 10. Rail safety infrastructure research and development grants.
- See. 11. Appropriations for tank car research and development.

3 **SEC. 2. DEFINED TERM.**

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

6 **SEC. 3. SAFETY REQUIREMENTS FOR TRAINS TRANS-**
 7 **PORTING HAZARDOUS MATERIALS.**

8 (a) RULEMAKING.—Not later than 1 year after the
 9 date of the enactment of this Act, the Secretary shall issue
 10 regulations, or modify existing regulations, establishing
 11 safety requirements, in accordance with subsection (b),
 12 with which a shipper or rail carrier operating a train
 13 transporting hazardous materials that is not subject to the
 14 requirements for a high-hazard flammable train under sec-
 15 tion 174.310 of title 49, Code of Federal Regulations,
 16 shall comply with respect to the operation of each such
 17 train and the maintenance of specification tank cars.

18 (b) REQUIREMENTS.—The regulations issued pursu-
 19 ant to subsection (a) shall require shippers and rail car-
 20 riers—

1 (1) to provide advance notification and informa-
2 tion regarding the transportation of hazardous mate-
3 rials described in subsection (a) to each State emer-
4 gency response commissioner, the tribal emergency
5 response commission, or any other State or tribal
6 agency responsible for receiving the information no-
7 tification for emergency response planning informa-
8 tion;

9 (2) to include, in the notification provided pur-
10 suant to paragraph (1), a written gas discharge plan
11 with respect to the applicable hazardous materials
12 being transported; and

13 (3) to reduce or eliminate blocked crossings re-
14 sulting from delays in train movements.

15 (c) **ADDITIONAL REQUIREMENTS.**—In developing the
16 regulations required under subsection (a), the Secretary
17 shall include requirements regarding—

18 (1) train length and weight;

19 (2) train consist;

20 (3) route analysis and selection;

21 (4) speed restrictions;

22 (5) track standards;

23 (6) track, bridge, and rail car maintenance;

24 (7) signaling and train control;

25 (8) response plans; and

1 (9) any other requirements that the Secretary
2 determines are necessary.

3 ~~(d) HIGH-HAZARD FLAMMABLE TRAINS.—~~The Sec-
4 retary may modify the safety requirements for trains sub-
5 ject to section 174.310 of title 49, Code of Federal Regu-
6 lations, to satisfy, in whole or in part, the rulemaking re-
7 quired under subsection (a).

8 **SEC. 4. RAIL CAR INSPECTIONS.**

9 ~~(a) RULEMAKING.—~~

10 ~~(1) INSPECTION REQUIREMENTS.—~~Not later
11 than 1 year after date of the enactment of this Act,
12 the Secretary shall review and update, as necessary,
13 applicable regulations under chapters I and II of
14 subtitle B of title 49, Code of Federal Regulations—

15 ~~(A)~~ to create minimum time requirements
16 that a qualified mechanical inspector must
17 spend when inspecting a rail car or locomotive;
18 and

19 ~~(B)~~ to ensure that all rail cars and loco-
20 motives in train consists that carry hazardous
21 materials are inspected by a qualified mechan-
22 ical inspector at intervals determined by the
23 Secretary.

24 ~~(2) ABBREVIATED PRE-DEPARTURE INSPEC-~~
25 ~~TION.—~~The Secretary shall immediately amend sec-

1 tion 215.13(c) of title 49, Code of Federal Regula-
2 tions (permitting an abbreviated pre-departure in-
3 spection procedure) with respect to rail cars in train
4 consists carrying hazardous materials.

5 (b) AUDITS.—

6 (1) IN GENERAL.—Not later than 60 days after
7 the date of the enactment of this Act, the Secretary
8 shall initiate audits of Federal rail car inspection
9 programs, subject to the requirements under part
10 215 of title 49, Code of Federal Regulations,
11 which—

12 (A) consider whether such programs are in
13 compliance with such part 215;

14 (B) assess the type and content of training
15 and performance metrics that such programs
16 provide rail car inspectors;

17 (C) determine whether such programs pro-
18 vide inspectors with adequate time to inspect
19 rail cars;

20 (D) determine whether such programs re-
21 flect the current operating practices of the rail-
22 road carrier; and

23 (E) ensure that inspection programs are
24 not overly reliant on train crews.

1 (2) AUDIT SCHEDULING.—The Secretary
2 shall—

3 (A) schedule the audits required under
4 paragraph (1) to ensure that—

5 (i) each Class I railroad is audited not
6 less frequently than once every 5 years;
7 and

8 (ii) a select number, as determined by
9 the Secretary, of Class II and Class III
10 railroads are audited annually; and

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

13 (i) the Small Business Regulatory En-
14 forcement Fairness Act of 1996 (5 U.S.C.
15 601 note); and

16 (ii) appendix C of part 209 of title 49,
17 Code of Federal Regulations.

18 (3) UPDATES TO INSPECTION PROGRAM.—If,
19 during an audit required under this subsection, the
20 auditor identifies a deficiency in a railroad's inspec-
21 tion program, the railroad shall update the program
22 to eliminate such deficiency.

23 (4) CONSULTATION AND COOPERATION.—

24 (A) CONSULTATION.—In conducting any
25 audit required under this subsection, the Sec-

1 retary shall consult with the railroad being au-
2 dited and its employees, including any nonprofit
3 employee labor organization representing the
4 mechanical employees of the railroad.

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

11 (i) by providing any relevant docu-
12 ments requested; and

13 (ii) by making available any employees
14 for interview without undue delay or ob-
15 struction.

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

1 the House of Representatives of such non-
2 cooperation.

3 (c) REVIEW OF REGULATIONS.—The Secretary shall
4 triennially determine whether any update to part 215 of
5 title 49, Code of Federal Regulations, is necessary to en-
6 sure the safety of rail cars transported by rail carriers.

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

10 (1) summarizes the findings of the prior year's
11 audits;

12 (2) summarizes any updates made pursuant to
13 this section; and

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

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

18 (1) to limit the deployment of pilot programs
19 for the installation, test, verification, and review of
20 automated rail and train inspection technologies; or

21 (2) to direct the Secretary to waive any existing
22 inspection requirements under chapter I or II of
23 subtitle B of title 49, Code of Federal Regulations,
24 as part of pilot programs.

1 **SEC. 5. DEFECT DETECTORS.**

2 (a) RULEMAKING.—Not later than 1 year after the
3 date of the enactment of this Act, the Secretary shall issue
4 regulations establishing requirements for the installation,
5 repair, testing, maintenance, and operation of wayside de-
6 fect detectors for each rail carrier operating a train consist
7 carrying hazardous materials.

8 (b) REQUIREMENTS.—The regulations issued pursu-
9 ant to subsection (a) shall include requirements regard-
10 ing—

11 (1) the frequency of the placement of wayside
12 defect detectors, including a requirement that all
13 Class I railroads install a hotbox detector along
14 every 10-mile segment of rail track over which trains
15 carrying hazardous materials operate;

16 (2) performance standards for such detectors;

17 (3) the maintenance and repair requirements
18 for such detectors;

19 (4) reporting data and maintenance records of
20 such detectors;

21 (5) appropriate steps the rail carrier must take
22 when receiving an alert of a defect or failure from
23 or regarding a wayside defect detector; and

24 (6) the use of hotbox detectors to prevent
25 derailments from wheel bearing failures, including—

1 (A) the temperatures, to be specified by
 2 the Secretary, at which an alert from a hotbox
 3 detector is triggered to warn of a potential
 4 wheel bearing failure; and

5 (B) any actions that shall be taken by a
 6 rail carrier upon receiving an alert from a hot-
 7 box detector of a potential wheel bearing fail-
 8 ure.

9 (c) **DEFECT AND FAILURE IDENTIFICATION.**—The
 10 Secretary shall specify the categories of defects and fail-
 11 ures that wayside defect detectors covered by regulations
 12 issued pursuant to subsection (a) shall address, includ-
 13 ing—

14 (1) axles;
 15 (2) wheel bearings;
 16 (3) brakes;
 17 (4) signals;
 18 (5) wheel impacts; and
 19 (6) other defects or failures specified by the
 20 Secretary.

21 **SEC. 6. SAFE FREIGHT ACT OF 2023.**

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

1 (b) FREIGHT TRAIN CREW SIZE.—Subchapter H of
 2 chapter 201 of title 49, United States Code, is amended
 3 by inserting after section 20153 the following:

4 **“§ 20154. Freight train crew size safety standards**

5 “(a) MINIMUM CREW SIZE.—No freight train may be
 6 operated without a 2-person crew consisting of at least 1
 7 appropriately qualified and certified conductor and 1 ap-
 8 propriately qualified and certified locomotive engineer.

9 “(b) EXCEPTIONS.—Except as provided in subsection
 10 (c), the requirement under subsection (a) shall not apply
 11 with respect to—

12 “(1) train operations on track that is not a
 13 main line track;

14 “(2) a freight train operated—

15 “(A) by a railroad carrier that has fewer
 16 than 400,000 total employee work hours annu-
 17 ally and less than \$40,000,000 annual revenue
 18 (adjusted for inflation, as calculated by the Sur-
 19 face Transportation Board Railroad Inflation-
 20 Adjusted Index and Deflator Factor Table);

21 “(B) at a speed of not more than 25 miles
 22 per hour; and

23 “(C) on a track with an average track
 24 grade of less than 2 percent for any segment of
 25 track that is at least 2 continuous miles;

1 ~~“(3) locomotives performing assistance to a~~
 2 ~~train that has incurred mechanical failure or lacks~~
 3 ~~the power to traverse difficult terrain, including~~
 4 ~~traveling to or from the location where assistance is~~
 5 ~~provided;~~

6 ~~“(4) locomotives that—~~

7 ~~“(A) are not attached to any equipment or~~
 8 ~~are attached only to a caboose; and~~

9 ~~“(B) do not travel further than 30 miles~~
 10 ~~from the point of origin of such locomotive; and~~

11 ~~“(5) train operations staffed with fewer than a~~
 12 ~~2-person crew at least 1 year before the date of en-~~
 13 ~~actment of this section, if the Secretary determines~~
 14 ~~that such operations achieve an equivalent level of~~
 15 ~~safety as would result from compliance with the re-~~
 16 ~~quirement under subsection (a).~~

17 ~~“(e) TRAINS INELIGIBLE FOR EXCEPTION.—The ex-~~
 18 ~~ceptions under subsection (b) may not be applied to—~~

19 ~~“(1) a train transporting 1 or more loaded cars~~
 20 ~~carrying material toxic by inhalation (as defined in~~
 21 ~~section 171.8 of title 49, Code of Federal Regula-~~
 22 ~~tions);~~

23 ~~“(2) a train transporting—~~

1 (2) in paragraph (2), by striking “\$175,000”
 2 and inserting “the greater of 1 percent of the per-
 3 son’s annual income or annual operating income or
 4 \$1,750,000”.

5 (b) GENERAL VIOLATIONS OF CHAPTER 201.—Sec-
 6 tion 21301(a)(2) of title 49, United States Code, is
 7 amended—

8 (1) by striking “\$25,000.” and inserting “the
 9 greater of 0.5 percent of the person’s annual income
 10 or annual operating income or \$250,000”; and

11 (2) by striking “\$100,000.” and inserting “the
 12 greater of 1 percent of the person’s annual income
 13 or annual operating income or \$1,000,000”.

14 (c) ACCIDENT AND INCIDENT VIOLATIONS OF CHAP-
 15 TER 201; VIOLATIONS OF CHAPTERS 203 THROUGH
 16 209.—Section 21302(a) is amended—

17 (1) in paragraph (1), by striking “203–209”
 18 each place it appears and inserting “203 through
 19 209”; and

20 (2) in paragraph (2)—

21 (A) by striking “\$25,000” and inserting
 22 “the greater of 0.5 percent of the person’s an-
 23 nual income or annual operating income or
 24 \$250,000”; and

1 (B) by striking “\$100,000” and inserting
 2 “the greater of 1 percent of the person’s annual
 3 income or annual operating income or
 4 \$1,000,000”.

5 (d) VIOLATIONS OF CHAPTER 211.—Section
 6 ~~21303~~(a)(2) is amended—

7 (1) by striking “\$25,000.” and inserting “the
 8 greater of 0.5 percent of the person’s annual income
 9 or annual operating income or \$250,000”; and

10 (2) by striking “\$100,000.” and inserting “the
 11 greater of 1 percent of the person’s annual income
 12 or annual operating income or \$1,000,000”.

13 **SEC. 8. SAFER TANK CARS.**

14 (a) PHASE-OUT SCHEDULE.—Beginning on May 1,
 15 2025, a rail carrier may not use DOT-111 specification
 16 railroad tank cars that do not comply with DOT-117,
 17 DOT-117P, or DOT-117R specification requirements, as
 18 in effect on the date of enactment of this Act, to transport
 19 Class 3 flammable liquids regardless of the composition
 20 of the train consist.

21 (b) CONFORMING REGULATORY AMENDMENTS.—

22 (1) IN GENERAL.—The Secretary—

23 (A) shall immediately remove or revise the
 24 date-specific deadlines in any applicable regula-
 25 tions or orders to the extent necessary to con-

1 form with the requirement under subsection (a);
2 and

3 ~~(B)~~ may not enforce any date-specific
4 deadlines or requirements that are inconsistent
5 with the requirement under subsection (a).

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

10 **SEC. 9. HAZARDOUS MATERIALS TRAINING FOR FIRST RE-**
11 **SPONDERS.**

12 (a) ANNUAL REGISTRATION FEE.—Section 5108(g)
13 of title 49, United States Code, is amended by adding at
14 the end the following:

15 “(4) ADDITIONAL FEE FOR CLASS I RAIL CAR-
16 RIERS.—In addition to the fees collected pursuant to
17 paragraphs (1) and (2), the Secretary shall establish
18 and annually impose and collect from each Class I
19 rail carrier a fee in an amount equal to
20 \$1,000,000.”.

21 (b) ASSISTANCE FOR LOCAL EMERGENCY RESPONSE
22 TRAINING.—Section 5116(j)(1)(A) of title 49, United
23 States Code, is amended—

24 (1) by striking “liquids” and inserting “mate-
25 rials”; and

1 (b) FUNDING.—

2 (1) APPROPRIATION.—There is appropriated to
3 the Federal Railroad Administration, out of any
4 funds in the Treasury not otherwise appropriated,
5 \$22,000,000, which shall be used for the grants au-
6 thorized under subsection (a) for the improvement
7 and research of wayside defect detectors and the
8 prevention of derailments of trains containing haz-
9 ardous materials.

10 (2) AVAILABILITY OF FUNDING.—Amounts ap-
11 propriated under this subsection shall remain avail-
12 able until expended

13 **SEC. 11. APPROPRIATIONS FOR TANK CAR RESEARCH AND**
14 **DEVELOPMENT.**

15 There is appropriated to the Pipeline and Hazardous
16 Materials Safety Administration, out of any funds in the
17 Treasury not otherwise appropriated, \$5,000,000, which
18 shall be used for expenses related to the development of—

19 (1) stronger, safer tank cars and valves for
20 tank cars; and

21 (2) other tank car safety features.

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

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

1 **SEC. 102. SAFETY REQUIREMENTS FOR HIGH-HAZARD**
 2 **TRAINS.**

3 (a) *TANK CAR SAFETY REQUIREMENTS.*—Section
 4 20155 of title 49, United States Code, is amended to read
 5 as follows:

6 **“§20155. High-hazard trains**

7 “(a) *DEFINITIONS.*—In this section:

8 “(1) *EXPLOSIVES.*—The term ‘explosives’ means
 9 Class 1 explosives categorized in Division 1.1, 1.2, or
 10 1.3 (as such terms are defined in section 173.50 of
 11 title 49, Code of Federal Regulations).

12 “(2) *FLAMMABLE GAS.*—The term ‘flammable
 13 gas’ has the meaning given such term in section
 14 173.115(a) of title 49, Code of Federal Regulations.

15 “(3) *FLAMMABLE LIQUID.*—The term ‘flammable
 16 liquid’ has the meaning given such term in section
 17 173.120(a) of title 49, Code of Federal Regulations.

18 “(4) *HAZARDOUS MATERIAL.*—The term ‘haz-
 19 arduous material’ means a substance or material des-
 20 igned by the Secretary of Transportation as haz-
 21 arduous pursuant to section 5103 of title 49, United
 22 States Code.

23 “(5) *HIGH-HAZARD TRAIN.*—The term ‘high-haz-
 24 ard train’ means a single train transporting,
 25 throughout the train consist—

1 “(A) 20 or more tank cars loaded with a
2 flammable liquid;

3 “(B) 1 tank car or intermodal portable tank
4 load with a material toxic or poisonous by inha-
5 lation;

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

8 “(D) 10 or more cars loaded with explo-
9 sives;

10 “(E) 5 or more tank cars loaded with a
11 flammable gas; or

12 “(F) 20 or more cars loaded with any com-
13 bination of flammable liquids, flammable gases,
14 or explosives.

15 “(6) *HIGH-LEVEL RADIOACTIVE WASTE; SPENT*
16 *NUCLEAR FUEL.*—The terms ‘high-level radioactive
17 waste’ and ‘spent nuclear fuel’ have the meanings
18 given to a ‘type B package’ or a ‘fissile material
19 package’, respectively, in section 173.403 of title 49,
20 Code of Federal Regulations.

21 “(7) *MATERIAL TOXIC OR POISONOUS BY INHA-*
22 *LATION.*—The term ‘material toxic or poisonous by
23 inhalation’ has the meaning given the term ‘Material
24 poisonous by inhalation or Material toxic by inhala-

1 *tion’ in section 171.8 of title 49, Code of Federal Reg-*
2 *ulations.*

3 *“(b) RULEMAKING.—Not later than 1 year after the*
4 *date of the enactment of the Railway Safety Act of 2023,*
5 *the Secretary, in consultation with appropriate Federal*
6 *agencies, shall issue regulations that—*

7 *“(1) rescind the requirements set forth in para-*
8 *graphs (4) and (5) of section 174.310(a) of title 49,*
9 *Code of Federal Regulations, with respect to tank cars*
10 *carrying hazardous materials other than Class 3*
11 *flammable liquids;*

12 *“(2) revise the requirements set forth in section*
13 *174.310(a)(2) of title 49, Code of Federal Regula-*
14 *tions—*

15 *“(A) to limit all trains to a maximum*
16 *speed of 50 miles per hour; and*

17 *“(B) to limit high-hazard trains carrying*
18 *20 or more cars loaded with flammable liquids*
19 *to a maximum speed of 40 miles per hour while*
20 *that train travels within the limits of high-threat*
21 *urban areas (HTUAs) (as defined in 1508.3 of*
22 *title 49, Code of Federal Regulations, unless all*
23 *tank cars containing a Class 3 flammable liquid*
24 *meet or exceed the DOT specification 117 stand-*
25 *ards, the DOT specification 117P performance*

1 standards, or the DOT specification 117R re-
2 rofit standards set forth in subpart D of part
3 179 of title 49, Code of Federal Regulations, in-
4 cluding DOT-105A, DOT-105H, DOT-105J,
5 DOT-105S, DOT-112H, DOT-112J, DOT-
6 112S, and DOT-120S tank cars;

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

11 “(4) require any Class I railroad transporting
12 hazardous materials—

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

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

17 “(ii) the point of origin and destina-
18 tion of the train;

19 “(iii) any emergency response informa-
20 tion or resources required by the Secretary;
21 and

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

1 “(B) to enter into a memorandum of under-
2 standing with each applicable fusion center to
3 provide the fusion center with secure and con-
4 fidential access to the electronic train consist in-
5 formation described in subparagraph (A) for
6 each train transporting hazardous materials in
7 the jurisdiction of the fusion center;

8 “(5) require each Class I railroad to provide
9 commodity flow reports of the hazardous materials
10 transported by a high-hazard train to each State
11 emergency response commission, Tribal emergency re-
12 sponse commission, or other responsible State or Trib-
13 al agency, consistent with the notification content re-
14 quirements under section 174.312 of title 49, Code of
15 Federal Regulations (or a successor regulation), in-
16 cluding—

17 “(A) a reasonable estimate of the number of
18 high-hazard trains that are expected to travel,
19 per week, through each county within the appli-
20 cable jurisdiction;

21 “(B) updates to such estimate when making
22 a change in volume of 25 percent or more;

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

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

3 “(E) identification of the routes over which
4 the hazardous materials on such trains will be
5 transported; and

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

8 “(i) has knowledge of the railroads’
9 transportation of hazardous materials; and

10 “(ii) is responsible for serving as the
11 point of contact for the State emergency re-
12 sponse commission, Tribal emergency re-
13 sponse commission, or other State or Tribal
14 agency responsible for receiving such infor-
15 mation;

16 “(6) require each applicable State emergency re-
17 sponse commission to provide to a political subdivi-
18 sion of a State, or the public agency responsible for
19 emergency response or law enforcement, upon request
20 of the political subdivision or public agency, the in-
21 formation the commission receives from a Class I
22 railroad pursuant to paragraph (3), including, for
23 any such political subdivision or public agency re-
24 sponsible for emergency response or law enforcement
25 that makes an initial request for such information,

1 *any updates received by the State emergency response*
2 *commission;*

3 “(7) *prohibit any Class I railroad, employee, or*
4 *agent from withholding, or causing to be withheld, the*
5 *train consist information from first responders, emer-*
6 *gency response officials, Federal and State agencies,*
7 *and law enforcement personnel described in para-*
8 *graph (2)(B) who are responding to an incident, acci-*
9 *dent, or public health or safety emergency involving*
10 *the rail transportation of hazardous materials; and*

11 “(8) *establish security and confidentiality pro-*
12 *tections, in coordination with the Secretary of Home-*
13 *land Security, including protections from the public*
14 *release of proprietary information or security sen-*
15 *sitive information (as defined in section 15.5 of title*
16 *49, Code of Federal Regulations), to prevent the re-*
17 *lease to unauthorized persons any electronic train*
18 *consist information or advanced notification or infor-*
19 *mation provided by Class I railroads under this sec-*
20 *tion.*

21 “(c) *RULE OF CONSTRUCTION.—Nothing in this sec-*
22 *tion may be construed to prohibit a Class I railroad from*
23 *voluntarily entering into a memorandum of understanding*
24 *with a State emergency response commission or an entity*

1 *representing or including first responders, emergency re-*
2 *sponse officials, and law enforcement personnel.*

3 “(d) *SAFETY IMPROVEMENTS.*—*Not later than 1 year*
4 *after the date of the enactment of the Railway Safety Act*
5 *of 2023, the Secretary shall evaluate and update, to the ex-*
6 *tent necessary for safety and in compliance with Executive*
7 *Order 12866 (5 U.S.C. 601 note; relating to regulatory*
8 *planning and review), the operational requirements for*
9 *high-hazard trains to ensure the safe transportation of haz-*
10 *ardous materials by rail, including—*

11 “(1) *preventing the placement of blocks of empty*
12 *railcars in locations within the consist of the train*
13 *that increase the chance or severity of a derailment;*
14 *and*

15 “(2) *requirements for an adequate number of*
16 *buffer cars between a locomotive or railcar and tank*
17 *cars transporting hazardous materials.*

18 “(e) *HAZARDOUS MATERIALS EMERGENCY RESPONSE*
19 *PLANS.*—

20 “(1) *PLAN CONTENTS.*—*The Secretary shall pro-*
21 *mulgate regulations, in compliance with Executive*
22 *Order 12866, requiring all Class I railroads that op-*
23 *erate high-hazard trains to submit to the Secretary*
24 *hazardous materials emergency response plans that*

1 are consistent with the format of the National Re-
2 sponse Team ‘One Plan’. Such plans shall include—

3 “(A) consideration of potential hazardous
4 materials release for the hazardous materials
5 identified under subsection (a)(7) that the rail-
6 road is transporting;

7 “(B) identification of the railroad’s haz-
8 ardous materials response teams that can quickly
9 respond to a release or potential release within
10 a reasonable amount of time;

11 “(C) identification of the equipment and re-
12 sources available to the hazardous materials re-
13 sponse teams;

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

16 “(E) plans to facilitate hazardous materials
17 release liability claims.

18 “(2) COORDINATION.—Railroads shall coordinate
19 with relevant States and Tribes when creating the
20 plans required under paragraph (1).

21 “(3) TRIENNIAL REVIEW.—Not later than 1 year
22 after a Class I railroad submits a hazardous mate-
23 rials emergency response plan pursuant to paragraph
24 (1), and on a triennial basis thereafter, the Secretary
25 shall review such plan. If the Secretary identifies defi-

1 *ciencies during such review, the Secretary shall de-*
2 *scribe the nature of any deficiencies and allow for*
3 *correction.*

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

7 *(b) CLERICAL AMENDMENT.—The analysis in chapter*
8 *201 of title 49, United States Code, is amended by inserting*
9 *after the item relating to section 20154 the following:*

“20155. High-hazard trains.”.

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

11 *(a) REVIEWING AND UPDATING SAFETY REGULA-*
12 *TIONS.—Not later than 1 year after the date on which the*
13 *Secretary submits to Congress the report required under sec-*
14 *tion 22422(d) of the Passenger Rail Expansion and Rail*
15 *Safety Act of 2021 (title II of division B of Public Law*
16 *117–58), the Secretary shall independently evaluate any*
17 *safety concerns identified in the Comptroller General’s re-*
18 *port titled “Freight Trains Are Getting Longer, and Addi-*
19 *tional Information Is Needed to Assess Their Impact”*
20 *(GAO-19-443) and in the report required under section*
21 *22422(d) of the Passenger Rail Expansion and Rail Safety*
22 *Act of 2021, by reviewing and subsequently updating, if*
23 *necessary for safety and in compliance with Executive*
24 *Order 12866 (5 U.S.C. 601 note; relating to regulatory*
25 *planning and review), existing safety regulations to ensure*

1 *the safe transportation of goods and passengers by rail, in-*
2 *cluding consideration of the impact that train length and*
3 *weight have on the safe transportation of high-hazard*
4 *trains.*

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

13 **(c) REPORTING REQUIREMENT.**—

14 **(1) IN GENERAL.**—*The Secretary shall revise the*
15 *existing railroad accident or incident reporting forms*
16 *to require railroads to report the weight trailing ton-*
17 *nages of any train involved in a reportable accident*
18 *or incident.*

19 **(2) PUBLICATION.**—*The Federal Railroad Ad-*
20 *ministration shall publish on its Rail Safety Data*
21 *website a summary of all reportable incidents and ac-*
22 *cidents, categorized by train length and weight.*

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

2 (a) *STUDY.*—*The Secretary shall seek to enter into an*
3 *agreement with the National Academy of Sciences under*
4 *which the National Academy shall—*

5 (1) *conduct a study of 20 most frequently blocked*
6 *highway-rail grade crossings in not fewer than 10 dif-*
7 *ferent States, as determined by the Secretary based*
8 *on—*

9 (A) *Federal Railroad Administration data;*

10 (B) *the work experience of the Office of*
11 *Railroad Safety’s Grade Crossing and Trespasser*
12 *Outreach Division;*

13 (C) *data from the blocked highway-rail*
14 *grade crossing portal; and*

15 (D) *geographic diversity; and*

16 (2) *provide recommendations to the Secretary for*
17 *solutions in preventing or reducing occurrences or re-*
18 *peated occurrences where highway-rail grade crossings*
19 *are blocked for extended periods.*

20 (b) *MEMBERS.*—*In establishing the membership to*
21 *conduct the study described in subsection (a)(1), the Na-*
22 *tional Academy of Sciences shall appoint not fewer than*
23 *3 of its members who—*

24 (1) *are engineering or rail experts;*

25 (2) *are not railroad carriers, or entities funded*
26 *by railroad carriers;*

1 (3) *have relevant experience in railroad safety*
2 *technology or railroad operating experience; and*

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

4 (c) *ELEMENTS.*—*The study conducted pursuant to sub-*
5 *section (a)(1) shall—*

6 (1) *examine any potential impacts to railroad*
7 *and community safety due to blocked highway-rail*
8 *grade crossings;*

9 (2) *identify potential financial impacts incurred*
10 *by the railroad or its customers due to blocked cross-*
11 *ings;*

12 (3) *identify potential freight network efficiency*
13 *impacts due to solutions that will reduce or eliminate*
14 *the impacts of blocked crossings;*

15 (4) *examine community impacts that result from*
16 *blocked crossings;*

17 (5) *examine causes for blocked crossings;*

18 (6) *examine the potential impacts on railroad*
19 *operations of the recommendations made in the report*
20 *submitted pursuant to subsection (c), including reli-*
21 *ability of service to customers; and*

22 (7) *identify practical solutions to prevent blocked*
23 *crossings.*

24 (d) *REPORT.*—*Not later than 2 years after the date*
25 *of the enactment of this Act, the Secretary shall submit a*

1 *report to the Committee on Commerce, Science, and Trans-*
 2 *portation of the Senate and the Committee on Transpor-*
 3 *tation and Infrastructure of the House of Representatives*
 4 *that contains the results of the study conducted by the Na-*
 5 *tional Academy of Sciences pursuant to this section.*

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

11 (f) *RAILROAD CROSSING ELIMINATION PROGRAM.—*
 12 *Section 22909 of title 49, United States Code, is amended—*

13 (1) *in subsection (f)(2)(C)—*

14 (A) *in clause (i), by striking “or” after the*
 15 *semicolon;*

16 (B) *in clause (ii), by inserting “or” after*
 17 *the semicolon at the end; and*

18 (C) *by adding at the end the following:*

19 “*(iii) a bus route to a school or within*
 20 *1 mile of a school;”;* *and*

21 (2) *in subsection (g)—*

22 (A) *by striking “Except” and inserting the*
 23 *following:*

24 “*(1) IN GENERAL.—Except”;* *and*

25 (B) *by adding at the end the following:*

1 “(2) *CERTAIN BUS ROUTES.*—*The Federal share*
2 *of the cost of a project given additional consideration*
3 *under subsection (f)(2)(C)(iii) may not exceed 85 per-*
4 *cent.*”.

5 *(g) RAILROAD POINT OF CONTACT FOR BLOCKED*
6 *CROSSINGS.*—

7 (1) *IN GENERAL.*—*Not later than 180 days after*
8 *the date of the enactment of this Act, each railroad*
9 *carrier shall establish and maintain a toll-free tele-*
10 *phone service for rights-of-way over which the rail-*
11 *road carrier dispatches trains to directly receive calls*
12 *reporting blocked highway-rail grade crossings.*

13 (2) *USE OF EXISTING NUMBER.*—*A railroad car-*
14 *rier may comply with the requirement under sub-*
15 *section (a) by using the telephone number that is*
16 *being used to comply with section 20152(a)(1) of title*
17 *49, United States Code.*

18 (3) *PUBLICLY AVAILABLE.*—*Each railroad car-*
19 *rier subject to this subsection shall notify the Sec-*
20 *retary of the telephone number referred to in para-*
21 *graph (1) or (2), who shall post such number on a*
22 *publicly-available website of the Department of*
23 *Transportation.*

24 (4) *WAIVER.*—*The Secretary may waive the re-*
25 *quirement that the telephone service be toll-free for*

1 *Class II and Class III rail carriers if the Secretary*
 2 *determines that toll-free service would be cost prohibi-*
 3 *tive or unnecessary.*

4 **SEC. 105. INSPECTIONS.**

5 *(a) TIME AVAILABLE FOR INSPECTION.—*

6 *(1) IN GENERAL.—Subchapter II of chapter 201*
 7 *of title 49, United States Code, is amended by adding*
 8 *at the end the following:*

9 **“§ 20172. Time available for inspection**

10 *“(a) IN GENERAL.—No railroad may limit the time*
 11 *required for an employee to complete a railcar, locomotive,*
 12 *or brake inspection to ensure that each railcar, locomotive,*
 13 *and brake system complies with safety laws and regula-*
 14 *tions.*

15 *“(b) REQUIREMENT.—Employees shall perform their*
 16 *inspection duties promptly and shall not delay other than*
 17 *for reasons related to safety.”.*

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

“20172. Time available for inspection.”.

21 *(b) PRE-DEPARTURE RAILCAR INSPECTIONS.—Not*
 22 *later than 120 days after the date of the enactment of this*
 23 *Act, the Secretary shall amend the pre-departure inspection*
 24 *requirements for Class I railroads under part 215 of title*

1 49, Code of Federal Regulations (as written on such date
2 of enactment)—

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

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

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

19 (c) PERIODIC RAILCAR INSPECTIONS.—

20 (1) FREIGHT CAR PERIODIC INSPECTIONS.—Not
21 later than 1 year after the date of the enactment of
22 this Act, the Secretary shall issue regulations amend-
23 ing part 215 of title 49, Code of Federal Regulations
24 to create minimum requirements for the periodic in-
25 spection of freight cars.

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

3 (A) *consider the periodic inspection require-*
4 *ments applicable to locomotives under part 229*
5 *of title 49, Code of Federal Regulations, and to*
6 *passenger cars under part 238 of such title;*

7 (B) *establish inspection intervals and cri-*
8 *teria, taking into account differences in the utili-*
9 *zation and service to which freight cars are put*
10 *and other factors as appropriate, including own-*
11 *ership of the cars, provided that—*

12 (i) *initial inspections shall be per-*
13 *formed within a reasonable period, as deter-*
14 *mined by the Secretary, which period shall*
15 *not be shorter than 6 years after the*
16 *issuance of regulations pursuant to para-*
17 *graph (1);*

18 (ii) *after the initial inspections re-*
19 *quired under clause (i), periodic inspections*
20 *shall be required not more frequently than*
21 *once every 5 years; and*

22 (iii) *if a freight car is not at a suitable*
23 *location for safely performing a periodic in-*
24 *spection on the date such inspection is re-*
25 *quired under this subsection, or if the*

1 *freight car is not on a Class I railroad, the*
2 *freight car may be moved to the next for-*
3 *ward location suitable for safely performing*
4 *the inspection on a Class I railroad;*

5 *(C) provide that periodic inspections may*
6 *be performed in conjunction with any other in-*
7 *spections or tests required under chapter I or II*
8 *of subtitle B of title 49, Code of Federal Regula-*
9 *tions;*

10 *(D) ensure that periodic inspections are*
11 *performed only where adequate facilities are*
12 *available for safely inspecting all components of*
13 *freight cars; and*

14 *(E) require that Class I railroads use in-*
15 *spectors designated under section 215 of title 49,*
16 *Code of Federal Regulations, to perform periodic*
17 *inspections pursuant to this subsection and that*
18 *their primary responsibility is the inspection,*
19 *testing, maintenance, or repair of freight cars or*
20 *their components.*

21 *(d) QUALIFIED LOCOMOTIVE INSPECTIONS.—Not later*
22 *than 1 year after the date of the enactment of this Act, the*
23 *Secretary shall review and amend, as necessary, regulations*
24 *under chapters 229 and 243 of title 49, Code of Federal*
25 *Regulations—*

1 (1) *to ensure appropriate training qualifications*
2 *and proficiency of employees, including qualified me-*
3 *chanical inspectors, performing locomotive inspec-*
4 *tions; and*

5 (2) *for locomotives in service on a Class I rail-*
6 *road, to require an additional daily inspection to be*
7 *performed by a qualified mechanical inspector be-*
8 *tween the current intervals under section 229.23(b)(2)*
9 *of title 49, Code of Federal Regulations.*

10 *(e) AUDITS.—*

11 (1) *IN GENERAL.—Not later than 60 days after*
12 *the date of the enactment of this Act, the Secretary*
13 *shall initiate audits of Federal railcar, locomotive,*
14 *and train brake system inspection compliance with*
15 *chapter II of subtitle B of title 49, Code of Federal*
16 *Regulations, which—*

17 (A) *consider whether the railroad has in*
18 *place procedures necessary for railcar, loco-*
19 *motive, and train brake system inspection com-*
20 *pliance under such chapter;*

21 (B) *assess the type, content, and adequacy*
22 *of training and performance metrics the railroad*
23 *provides employees who perform railcar, loco-*
24 *motive, and train brake system inspections, in-*

1 cluding the qualifications specified for such em-
2 ployees;

3 (C) determine whether the railroad has
4 practices that would interfere with an employee's
5 responsibility to perform an inspection safely ;

6 (D) determine whether railcars, locomotives,
7 and train brake systems are inspected on the
8 railroad's network in accordance with such chap-
9 ter;

10 (E) involve proper communication of iden-
11 tified defects to railroad personnel and make ap-
12 propriate use of remedial action reports to verify
13 that repairs are made;

14 (F) determine whether managers coerce em-
15 ployees to sign off on any documents verifying
16 an inspection or repair of a railcar, locomotive,
17 or train brake system;

18 (G) determine whether the railroad's inspec-
19 tion procedures reflect the current operating
20 practices of the railroad carrier; and

21 (H) ensure that railroad inspection proce-
22 dures only provide for the use of persons per-
23 mitted to perform each relevant inspection under
24 such chapter.

25 (2) *AUDIT SCHEDULING.*—The Secretary shall—

1 (A) *schedule the audits required under*
2 *paragraph (1) to ensure that—*

3 (i) *every Class I railroad is audited*
4 *not less frequently than once every 5 years;*
5 *and*

6 (ii) *a limited number, as determined*
7 *by the Secretary, of Class II and Class III*
8 *railroads are audited annually, provided*
9 *that—*

10 (I) *no audit of a tourist, scenic,*
11 *historic, or excursion operation may be*
12 *required under this subsection; and*

13 (II) *no other Class II or III rail-*
14 *road may be audited more frequently*
15 *than once every 5 years; and*

16 (B) *conduct the audits described in sub-*
17 *paragraph (A)(i) in accordance with—*

18 (i) *the Small Business Regulatory En-*
19 *forcement Fairness Act of 1996 (5 U.S.C.*
20 *601 note); and*

21 (ii) *appendix C of part 209 of title 49,*
22 *Code of Federal Regulations.*

23 (3) *UPDATES TO INSPECTION PROGRAM AND*
24 *PROCEDURES.—If, during an audit required under*
25 *this subsection, the auditor identifies a deficiency in*

1 *a railroad's procedures or practices necessary to en-*
2 *sure compliance with chapter II of subtitle B of title*
3 *49, Code of Federal Regulations, the railroad shall*
4 *eliminate such deficiency, after first being provided*
5 *the opportunity to address whether such a deficiency*
6 *exists.*

7 (4) *CONSULTATION AND COOPERATION.—*

8 (A) *CONSULTATION.—In conducting any*
9 *audit required under this subsection, the Sec-*
10 *retary shall consult with the railroad being au-*
11 *ditied and its employees, including any nonprofit*
12 *employee labor organization representing the em-*
13 *ployees of the railroad that conduct railcar, loco-*
14 *motive, or train brake system inspections.*

15 (B) *COOPERATION.—The railroad being au-*
16 *ditied and its employees, including any nonprofit*
17 *employee labor organization representing me-*
18 *chanical employees, shall fully cooperate with*
19 *any audit conducted pursuant to this sub-*
20 *section—*

21 (i) *by providing any relevant docu-*
22 *ments requested; and*

23 (ii) *by making available any employ-*
24 *ees for interview without undue delay or ob-*
25 *struction.*

1 (C) *FAILURE TO COOPERATE.*—*If the Sec-*
2 *retary determines that a railroad or any of its*
3 *employees, including any nonprofit employee*
4 *labor organization representing mechanical em-*
5 *ployees of the railroad is not fully cooperating*
6 *with an audit conducted pursuant to this sub-*
7 *section, the Secretary shall electronically notify*
8 *the Committee on Commerce, Science, and*
9 *Transportation of the Senate and the Committee*
10 *on Transportation and Infrastructure of the*
11 *House of Representatives of such noncooperation.*

12 (f) *REVIEW OF REGULATIONS.*—*Not later than 5 years*
13 *after the date of the enactment of this Act, and periodically*
14 *thereafter, the Secretary shall determine whether any up-*
15 *date to chapters I and II of subtitle B of title 49, Code*
16 *of Federal Regulations, is necessary to ensure the adequacy*
17 *of railcar, locomotive, and train brake system inspections.*

18 (g) *ANNUAL REPORT.*—*The Secretary shall publish an*
19 *annual report on the public website of the Federal Railroad*
20 *Administration that—*

21 (1) *summarizes the findings of the audits con-*
22 *ducted pursuant to subsection (d) during the most re-*
23 *cently concluded fiscal year;*

1 (2) summarizes any updates made to chapter I
2 or II of subtitle B of title 49, Code of Federal Regula-
3 tions, pursuant to this section; and

4 (3) excludes any confidential business informa-
5 tion or sensitive security information.

6 (h) *RULE OF CONSTRUCTION.*—Nothing in this section
7 may be construed—

8 (1) to provide the Secretary with any authority
9 to interpret, revise, alter, or apply a collectively bar-
10 gained agreement, nor any authority over collective
11 bargaining, collectively bargained agreements, or any
12 aspect of the Railway Labor Act (45 U.S.C. 151 et
13 seq.);

14 (2) to alter the terms or interpretations of exist-
15 ing collective bargaining agreements; or

16 (3) to abridge any procedural rights or remedies
17 provided under a collectively bargained agreement.

18 **SEC. 106. EMERGENCY BRAKE SIGNALS.**

19 (a) *IN GENERAL.*—Not later than 30 days after the
20 date of the enactment of this Act, the Administrator of the
21 Federal Railroad Administration shall convene a meeting
22 of the Railroad Safety Advisory Committee for the purpose
23 of considering a regulatory safety task on the functioning
24 of emergency brake signals.

1 (b) *PURPOSE.*—*The Railroad Safety Advisory Com-*
2 *mittee shall consider—*

3 (1) *the sufficiency of the regulations under part*
4 *232 of title 49, Code of Federal Regulations, with re-*
5 *gard to end-of-train and head-of-train device commu-*
6 *nications;*

7 (2) *whether National Transportation Safety*
8 *Board Safety Recommendations R-20-028 and R-20-*
9 *029 have been adequately addressed;*

10 (3) *whether more frequent communication checks*
11 *between a head-of-train device and an end-of-train*
12 *device would improve rail safety; and*

13 (4) *whether repetition of the emergency brake*
14 *signal transmission until it is received by the end-of-*
15 *train device would improve rail safety.*

16 (c) *RECOMMENDATIONS AND WORK PLAN.*—*Not later*
17 *than 90 days after the meeting is convened pursuant to sub-*
18 *section (a), a working group of the Railroad Safety Advi-*
19 *sory Committee should—*

20 (1) *develop initial recommendations with respect*
21 *to the matters considered under subsection (b); and*

22 (2) *complete a work plan for implementing such*
23 *recommendations.*

1 **SEC. 107. DEFECT DETECTION SYSTEMS.**

2 (a) *IN GENERAL.*—Subchapter II of chapter 201 of
3 title 49, United States Code, as amended by section
4 105(a)(1), is further amended by adding at the end the fol-
5 lowing:

6 **“§20173. Defect detection systems**

7 “(a) *DEFINITIONS.*—In this section:

8 “(1) *COVERED RAIL CARRIER.*—The term ‘cov-
9 ered rail carrier’ has the meaning given the term
10 ‘Class I carrier’ in section 10102.

11 “(2) *DEFECT DETECTION SYSTEM.*—The term
12 ‘defect detection system’ means the use of defect detec-
13 tors, the analysis of the data defect detectors produce,
14 and any other aspects a system that help railroads
15 identifying and understand the severity of known
16 safety conditions.

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

21 “(4) *HIGH-HAZARD TRAIN.*—The term ‘high-haz-
22 ard train’ has the meaning given such term in section
23 20155(a)(6).

24 “(5) *MAIN LINE.*—The term ‘main line’ means—
25 “(A) a segment or route of railroad tracks—

1 “(i) over which 5,000,000 or more
2 gross tons of railroad traffic is transported
3 annually; and

4 “(ii) that has a maximum authorized
5 speed for freight trains in excess of 25 miles
6 per hour; and

7 “(B) intercity rail passenger transportation
8 or commuter rail passenger transportation routes
9 or segments over which high-hazard trains oper-
10 ate.

11 “(6) *PHYSICAL CHARACTERISTICS*.—The term
12 ‘physical characteristics’ means the physical terrain
13 and operating considerations related to the physical
14 terrain for the relevant main line.

15 “(b) *DEFECT DETECTOR ANALYSIS PROGRAM*.—The
16 Secretary shall develop a program for the research, develop-
17 ment, testing, and evaluation of defect detector systems to
18 inform and support the rulemaking required under sub-
19 section (d) and the evaluation of plans under subsection (c),
20 which shall include—

21 “(1) an evaluation of existing manufacturer rec-
22 ommended practices, industry-developed voluntary
23 consensus technical standards, and railroad safety
24 data to inform appropriate standards for commer-
25 cially available defect detector systems and ensure the

1 *integrity and reliability of their use on the general*
2 *railroad system, including standards relating to—*

3 *“(A) maintenance;*

4 *“(B) testing;*

5 *“(C) inspection; and*

6 *“(D) installation;*

7 *“(2) an assessment of existing alert thresholds*
8 *and trending algorithms to determine appropriate*
9 *metrics and levels to ensure that defect detector sys-*
10 *tems identify unsafe equipment or operations in time*
11 *to take appropriate safety actions;*

12 *“(3) an evaluation of existing processes and pro-*
13 *cedures for decision making and communication of*
14 *appropriate safety actions necessary to address unsafe*
15 *equipment or operations, including—*

16 *“(A) stoppage of rail equipment;*

17 *“(B) setting out rail equipment;*

18 *“(C) train speed reduction;*

19 *“(D) diverting a train; and*

20 *“(E) inspection requirements;*

21 *“(4) research to understand the capabilities and*
22 *limitations of existing technologies in use or developed*
23 *to better assess the plans required under the final rule*
24 *issued pursuant to subsection (c); and*

1 “(5) *research to understand new or developing*
2 *technologies.*

3 “(c) *PLAN ELEMENTS.—*

4 “(1) *RISK-BASED.—Each defect detection system*
5 *plan required under the final rule issued pursuant to*
6 *subsection (d) shall be risk-based.*

7 “(2) *CONTENTS.—Each plan referred to in para-*
8 *graph (1) shall include—*

9 “(A) *a summary of the railroad’s proposed*
10 *defect detector network, including—*

11 “(i) *how the network will reduce the*
12 *risk of incidents near population centers*
13 *and on high-hazard train routes; and*

14 “(ii) *a description of how the network*
15 *will be implemented by the deadline set*
16 *forth in subsection (d)(1)(B); and*

17 “(B) *a description of how the railroad’s de-*
18 *fect detection system meets or exceeds the defect*
19 *detection performance standards described in*
20 *subsection (d)(1)(D);*

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

1 “(i) for main lines traveling within an
2 urbanized area with a population of at least
3 75,000, at a distance that provides for any
4 train operating along the railroad’s route to
5 undergo detection not less than 10 miles be-
6 fore entering such an area;

7 “(ii) for main lines not equipped with
8 acoustic bearing detectors or other similar
9 technology, at a distance averaging 15 route
10 miles to the extent possible based on the
11 physical characteristics of the route; and

12 “(iii) for main lines equipped with
13 acoustic bearing detectors or other similar
14 technology, at a distance averaging 20 route
15 miles to the extent possible based on the
16 physical characteristics of the route along
17 which such detectors are being installed;

18 “(D) the types and spacing of other wayside
19 defect detectors required to be placed, to the ex-
20 tent such detectors are utilized;

21 “(E) the manufacturer’s expected perform-
22 ance for each type of defect detector and how the
23 carrier will assess compliance with such per-
24 formance;

1 “(F) procedures for promptly providing
2 pertinent safety alerts to train employees, in-
3 cluding locomotive engineers and conductors,
4 train dispatchers, and relevant maintenance em-
5 ployees;

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

9 “(H) policies and procedures for training
10 employees regarding relevant elements of the de-
11 fect detector system, including—

12 “(i) persons whose duties include in-
13 stalling, maintaining, repairing, modifying,
14 inspecting, reviewing data, and testing safe-
15 ty-critical elements of the railroad’s defect
16 detector, including central office, wayside,
17 or onboard subsystems;

18 “(ii) persons who receive and review
19 defect detector alerts; and

20 “(iii) persons who operate trains or
21 serve as a train or engine crew member;

22 “(I) policies for maintaining records re-
23 garding the required elements of the rail defect
24 detector network for not less than 5 years, which
25 shall not include data on individual alerts; and

1 “(J) designs for the collection and analysis,
2 including applicable alerts, thresholds, and cor-
3 responding safety actions.

4 “(3) *ALTERNATIVE HOT BEARING DETECTION*
5 *PLAN.*—

6 “(A) *SUBMISSION.*—A rail carrier may
7 comply with an alternative hot bearing detection
8 plan instead of the requirements described in
9 paragraph (2)(C) if—

10 “(i) the rail carrier submits such plan
11 to the Secretary and the Secretary approves
12 the plan; and

13 “(ii) the plan provides an equivalent
14 or higher level of safety as the requirements
15 described in paragraph (2)(B).

16 “(B) *TRIENNIAL REVIEWS.*—Not less fre-
17 quently than triennially, the Secretary shall re-
18 view each alternative plan approved pursuant to
19 subparagraph (A) to determine its continuing ef-
20 fectiveness at detecting bearing-related defects.

21 “(d) *RULEMAKING.*—

22 “(1) *IN GENERAL.*—Not later than 1 year after
23 the date of the enactment of the Railway Safety Act
24 of 2023, the Secretary shall initiate a rulemaking,
25 and not later than 2 years after such date of enact-

1 *ment, the Secretary shall issue a final rule, in com-*
2 *pliance with Executive Order 12866 (5 U.S.C. 601*
3 *note; relating to regulatory planning and review),*
4 *that—*

5 *“(A) requires covered rail carriers to sub-*
6 *mit, not later than 1 year after the issuance of*
7 *such final rule, defect detector network plans that*
8 *include the elements described in subsection*
9 *(c)(2);*

10 *“(B) requires the covered rail carrier to im-*
11 *plement the plan required under paragraph (1)*
12 *not later than 3 years after the issuance of such*
13 *final rule;*

14 *“(C) creates procedures to review, approve,*
15 *monitor compliance of such plans;*

16 *“(D) establishes performance standards*
17 *measured by the ability of a defect detection sys-*
18 *tem to identify defects before a condition that is*
19 *likely to result in an accident or incident, in-*
20 *cluding how such ability will be measured and*
21 *reported for data related to requirements;*

22 *“(E) requires the reporting of data regard-*
23 *ing the defect detector network effectiveness, in-*
24 *cluding defect detector failures;*

1 “(F) creates requirements for covered rail
2 carriers to test, inspect, and maintain any defect
3 detector based on the evaluation completed pur-
4 suant to subsection (b)(1); and

5 “(G) establish appropriate thresholds for
6 alerts and corresponding safety actions, to the
7 extent necessary.

8 “(2) *UPDATED STANDARDS.*—The performance
9 standards established pursuant to paragraph (1)(D)
10 shall be updated not less frequently than once every
11 5 years.

12 “(e) *UPDATES AND APPROVALS.*—

13 “(1) *UPDATES.*—Each entity subject to the man-
14 date in subsection (a) shall update the plans required
15 under subsection (d)(1)—

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

18 “(B) to address changes made to the per-
19 formance standards pursuant to subsection
20 (d)(2).

21 “(2) *APPROVALS.*—To ensure safety, the Sec-
22 retary shall promptly review each plan submitted
23 pursuant to subsection (d)(1), including the suffi-
24 ciency of the performance standards required under
25 subsection (c)(1)(D), and approve or reject each plan

1 *and update that is required to be submitted under*
2 *this section.*

3 “(3) *REVIEWS FOR COMPLIANCE.*—*Not less fre-*
4 *quently than biannually, the Secretary shall conduct*
5 *reviews to ensure that railroad carriers are complying*
6 *with the plans required under paragraph (1).*

7 “(4) *PUBLIC AVAILABILITY.*—*Not later than 60*
8 *days after receipt, the Secretary shall make available*
9 *to the public on the website of the Department of*
10 *Transportation any plan or update submitted pursu-*
11 *ant to this section, but the Secretary shall redact—*

12 “(A) *proprietary information, as verified by*
13 *the Secretary; and*

14 “(B) *security-sensitive information, includ-*
15 *ing information described in section 1520.5(a) of*
16 *title 49, Code of Federal Regulations (or suc-*
17 *cessor regulation), as verified by the Secretary.*

18 “(f) *ENFORCEMENT .*—*The Secretary may assess a*
19 *civil penalty under chapter 213 of this title for any viola-*
20 *tion pursuant to the rulemaking under subsection (a) for—*

21 “(1) *each accident or incident on a route where*
22 *the railroad is noncompliant with the plan approved*
23 *under subsection (e)(2); and*

1 “(2) failing to take any corresponding safety ac-
 2 tion to an alert as set forth in the approved plan pur-
 3 suant to subsection (c)(2)(J).

4 “(g) *PRESERVATION OF AUTHORITY*.—Nothing in this
 5 section may be construed to restrict the authority of the Sec-
 6 retary.”.

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

 “20173. *Defect detection systems*.”.

11 (c) *TEMPORARY DEFECT DETECTION ASSISTANCE*.—

12 (1) *FORMULA GRANT PROGRAM*.—The Adminis-
 13 trator of the Federal Railroad Administration shall
 14 establish a formula grant program to assist commuter
 15 railroads with installing defect detection technology.

16 (2) *ELIGIBLE ENTITIES*.—A commuter railroad
 17 that has a contract with a Class I railroad, as of May
 18 1, 2023, that requires the commuter railroad to in-
 19 stall defect detection technology that complies with the
 20 approved plan submitted pursuant to section 20173 of
 21 title 49, United States Code, is eligible to receive a
 22 grant under this subsection.

23 (3) *FORMULA*.—Grant funding under this sub-
 24 section shall be allocated based on the number of de-

1 *fect detectors required to be installed to comply with*
 2 *section 20173 of title 49, United States Code.*

3 (4) *REQUIREMENTS.*—*Any eligible entity that*
 4 *receive grant funding under this subsection shall com-*
 5 *ply with the grant conditions set forth in such section*
 6 *22909(j).*

7 (5) *AUTHORIZATION OF APPROPRIATIONS.*—
 8 *There is authorized to be appropriated to the Federal*
 9 *Railroad Administration such amounts as may be*
 10 *necessary to carry out the formula grant program*
 11 *under this subsection.*

12 **SEC. 108. SAFE FREIGHT ACT OF 2023.**

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

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

18 **“§20154. Freight train crew size safety standards**

19 *“(a) MINIMUM CREW SIZE.*—*Except as provided in*
 20 *subsections (b) and (c), a freight train operated by a Class*
 21 *I railroad may not be operated without a 2-person crew*
 22 *consisting of at least 1 appropriately qualified and certified*
 23 *conductor and 1 appropriately qualified and certified loco-*
 24 *motive engineer.*

25 *“(b) EXCEPTIONS.*—

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

4 “(A) *train operations on track that is not*
5 *a main line track (as defined in section*
6 *20173(a)(2);*

7 “(B) *locomotives performing assistance to a*
8 *train that has incurred mechanical failure or*
9 *lacks the power to traverse difficult terrain, in-*
10 *cluding traveling to or from the location where*
11 *assistance is provided;*

12 “(C) *locomotives that—*

13 “(i) *are not attached to any equipment*
14 *or are attached only to a caboose; and*

15 “(ii) *do not travel farther than 50 miles*
16 *from the point of origin of such locomotive;*
17 *and*

18 “(D) *train operations staffed with fewer*
19 *than a 2-person crew at least 1 year before the*
20 *date of the enactment of the Safe Freight Act of*
21 *2023 unless the Secretary determines that such*
22 *operations do not achieve an equivalent level of*
23 *safety as would result from compliance with the*
24 *requirement under subsection (a).*

1 “(2) *TRAINS INELIGIBLE FOR EXCEPTION.*—The
2 *exceptions under paragraph (2) may not be applied*
3 *to—*

4 “(A) *a high-hazard train (as defined in sec-*
5 *tion 20155(a)); or*

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

8 “(c) *WAIVER.*—*A railroad carrier may seek a waiver*
9 *of the requirements under subsection (a) in accordance with*
10 *section 20103(d).*

11 “(d) *PRESERVATION OF AUTHORITY.*—*Nothing in this*
12 *section may be construed to restrict the authority of the Sec-*
13 *retary.”.*

14 (c) *CLERICAL AMENDMENT.*—*The analysis for sub-*
15 *chapter II of chapter 201 of title 49, United States Code,*
16 *is amended by inserting after the item relating to section*
17 *20153 the following:*

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

18 **SEC. 109. INCREASED PENALTIES FOR VIOLATIONS OF RAIL**
19 **SAFETY REGULATIONS.**

20 (a) *RAILROAD SAFETY VIOLATIONS.*—*Section*
21 *21301(a) of title 49, United States Code, is amended—*

22 (1) *by striking paragraphs (1) and (2) and in-*
23 *serting the following:*

24 “(1) *A person may not fail to comply with a require-*
25 *ment of, a regulation prescribed under, or an order issued*

1 *by, the Secretary under chapters 201 through 211. Subject*
2 *to section 21304, a person violating a requirement of, a reg-*
3 *ulation prescribed under, or an order issued by, the Sec-*
4 *retary under chapters 201 through 211 is liable to the*
5 *United States Government for a civil penalty. An act by*
6 *an individual that causes a railroad carrier to be in viola-*
7 *tion constitutes a violation of this paragraph. A separate*
8 *violation occurs for each day such violation continues.*

9 “(2) *The Secretary shall include in, or make applicable*
10 *to, each requirement of, regulation prescribed under, and*
11 *order issued under chapters 201 through 211 a civil penalty*
12 *for a violation of such requirement, regulation, or order in*
13 *an amount equal to—*

14 “(A) *at least \$5,000 and not more than*
15 *\$1,000,000; or*

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

21 (2) *by redesignating paragraphs (3) and (4) as*
22 *paragraphs (5) and (6), respectively;*

23 (3) *by inserting after paragraph (2) the fol-*
24 *lowing:*

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

7 “(A) a maximum of \$5,000,000; or

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

12 “(4) The Secretary may double the civil penalty other-
13 wise required under paragraph (2) or (3) if the violation
14 follows a pattern of repeated violations or otherwise reflects
15 a deliberate indifference or conscious disregard to the con-
16 sequences of the conduct.”; and

17 (4) in paragraph (6), as redesignated, by adding
18 at the end the following: “Such civil action may be
19 brought in the judicial district in which the violation
20 occurred or in which the defendant has its principal
21 executive office. If the civil action is against an indi-
22 vidual, the action may also be brought in the judicial
23 district in which such individual resides.”.

1 (b) *HOURS OF SERVICE VIOLATIONS.*—Section 21301
2 *of title 49, United States Code, is amended by adding at*
3 *the end the following:*

4 “(d) *ADDITIONAL PROVISIONS RELATED TO VIOLA-*
5 *TIONS OF CHAPTER 211.*—(1) *In any proceeding involving*
6 *a violation of chapter 211, or a violation of a regulation*
7 *or order issued pursuant to such chapter, a railroad carrier*
8 *is deemed to have knowledge of the acts of its officers and*
9 *agents.*

10 “(2) *A civil action involving a violation of chapter*
11 *211, or a violation of a regulation or order issued pursuant*
12 *to such chapter, shall be brought in an appropriate district*
13 *court of the United States not later than 2 years after the*
14 *date of such violation unless administrative notification*
15 *under section 3711 of title 31 is given within such 2-year*
16 *period to the person committing the violation. If such noti-*
17 *fication is given, the action shall be brought not later than*
18 *the last day of the 5-year period specified in section 2462*
19 *of title 28.*

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

23 (c) *UPDATES OF PENALTIES FOR INFLATION.*—Not-
24 *withstanding any other provision of law, including the Fed-*

1 *eral Civil Penalties Inflation Adjustment Act of 1990 (28*
 2 *U.S.C. 2461 note), the inflation adjustment—*

3 *(1) for minimum penalty amounts amended by*
 4 *this section, and any discretionary inflation adjust-*
 5 *ment of guideline penalty amounts by the Secretary,*
 6 *shall be rounded to the nearest multiple of \$100; and*

7 *(2) for maximum penalty amounts amended by*
 8 *this section, shall be rounded to the nearest multiple*
 9 *of \$1,000.*

10 *(d) REPEAL.—*

11 *(1) IN GENERAL.—Chapter 213 of title 49,*
 12 *United States Code, is amended by striking sections*
 13 *21302 and 21303.*

14 *(2) CLERICAL AMENDMENT.—The analysis for*
 15 *chapter 213 of title 49, United States Code, is amend-*
 16 *ed by striking the items relating to sections 21302*
 17 *and 21303.*

18 **SEC. 110. SAFER TANK CARS.**

19 *(a) CLASS 3 FLAMMABLE LIQUIDS PHASE-OUT*
 20 *SCHEDULE.—Beginning on December 31, 2027, no railroad*
 21 *tank car, regardless of its construction date, may be used*
 22 *to transport Class 3 flammable liquids in packing groups*
 23 *II and III (other than Class 3 flammable liquids listed in*
 24 *paragraphs (1) and (2) of section 7304(b) of the Hazardous*
 25 *Materials Transportation Safety Improvement Act of 2015*

1 (49 U.S.C. 20155 note)), regardless of the composition of
2 the train consist, unless such tank car meets or exceeds the
3 DOT-117, DOT-117P, or DOT-117R specifications (as in
4 effect on the date of the enactment of this Act), including
5 DOT-105A, DOT-105H, DOT-105J, DOT-105S, DOT-
6 112H, DOT-112S, DOT-112J, DOT-120J, and DOT-
7 120S tank cars.

8 (b) *CONFORMING REGULATORY AMENDMENTS.*—

9 (1) *IN GENERAL.*—*The Secretary—*

10 (A) shall immediately remove or revise the
11 date-specific deadlines in any applicable regula-
12 tions or orders to the extent necessary to conform
13 with the requirement under subsection (a); and

14 (B) may not enforce any date-specific dead-
15 lines or requirements that are inconsistent with
16 the requirement under subsection (a).

17 (2) *RULE OF CONSTRUCTION.*—*Except as re-*
18 *quired under paragraph (1), nothing in this section*
19 *may be construed to require the Secretary to issue*
20 *regulations to implement this section.*

21 (c) *AMENDING THE PHASE-OUT DATE.*—*If the Sec-*
22 *retary, based on the data contained in the report issued*
23 *pursuant to subsection (d), determines that the phase-out*
24 *date under subsection (a) cannot be met due to insufficient*
25 *manufacturing capacity or would otherwise result in sig-*

1 *nificant impacts to interstate commerce, the Secretary shall*
2 *delay the phase-out scheduled under subsection (a) to De-*
3 *cember 31, 2028.*

4 *(d) GAO REVIEW.—Not later than 18 months after the*
5 *date of the enactment of this Act, the Comptroller General*
6 *of the United States shall issue a report to the Secretary,*
7 *the Committee on Commerce, Science, and Transportation*
8 *of the Senate and the Committee on Transportation and*
9 *Infrastructure of the House of Representatives that—*

10 *(1) identifies the manufacturing capacity of tank*
11 *car manufacturers in North America, that manufac-*
12 *ture tank cars to meet DOT–117 and DOT–117P*
13 *specification requirements;*

14 *(2) identifies the retrofit capacity of tank car*
15 *manufacturers and other entities in North America*
16 *that can retrofit DOT–111 tank cars to meet DOT–*
17 *117R specification requirements;*

18 *(3) estimates the schedule of replacing tank cars*
19 *currently in service that are reaching the end of their*
20 *life cycle;*

21 *(4) identifies the number of tank cars that need*
22 *to be phased out or retrofitted under subsection (a)*
23 *and paragraph (2) and the number that could be ret-*
24 *rofitted; and*

25 *(5) estimates the demand for new tank cars.*

1 **SEC. 111. RAIL SAFETY INFRASTRUCTURE RESEARCH AND**
2 **DEVELOPMENT GRANTS.**

3 (a) *RESEARCH REQUIREMENT.*—*The Administrator of*
4 *the Federal Railroad Administration shall award grants,*
5 *in accordance with the restrictions and limitation on eligi-*
6 *bility for Class I railroads under section 22907 of title 49,*
7 *United States Code, which shall be used for research and*
8 *development of defect detectors and the prevention of*
9 *derailments of trains transporting hazardous materials.*

10 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
11 *authorized to be appropriated to the Federal Railroad Ad-*
12 *ministration, \$22,000,000, which shall be used for the*
13 *grants authorized under subsection (a) and shall remain*
14 *available until expended.*

15 **SEC. 112. AUTHORIZATION OF APPROPRIATIONS FOR TANK**
16 **CAR RESEARCH AND DEVELOPMENT.**

17 *There is authorized to be appropriated to the Pipeline*
18 *and Hazardous Materials Safety Administration,*
19 *\$5,000,000, which shall be used for expenses related to the*
20 *development of—*

21 (1) *stronger, safer tank cars and valves for tank*
22 *cars; and*

23 (2) *other tank car safety features.*

1 **SEC. 113. FEDERAL RAILROAD ADMINISTRATION SAFETY**
2 **CULTURE.**

3 (a) *REVIEW.*—Not later than 1 year after the date of
4 the enactment of this Act, the Inspector General of the De-
5 partment of Transportation shall—

6 (1) *conduct a review of the Federal Railroad Ad-*
7 *ministration’s safety culture using the framework de-*
8 *veloped by the Nuclear Energy Agency of the*
9 *Organisation for Economic Co-operation and Devel-*
10 *opment; and*

11 (2) *submit a report to the Committee on Com-*
12 *merce, Science, and Transportation of the Senate and*
13 *the Committee on Transportation and Infrastructure*
14 *of the House of Representatives that includes rec-*
15 *ommendations for improving the Federal Railroad*
16 *Administration’s safety culture.*

17 (b) *CONSIDERATIONS.*—As a part of the review con-
18 ducted pursuant to subsection (a)(1), the Inspector General
19 shall consider the impacts of the Federal Railroad
20 Administration’s—

21 (1) *reorganization of its safety offices and man-*
22 *agement structure;*

23 (2) *reorganization of its policy and research of-*
24 *fices; and*

1 (3) *telework policies, including any change in*
2 *policies since the beginning of the COVID–19 pan-*
3 *demic.*

4 (c) *ACTION PLAN.*—*Not later than 1 year after the sub-*
5 *mission of the report required under subsection (a)(2), the*
6 *Secretary shall submit to the Committee on Commerce,*
7 *Science, and Transportation of the Senate and the Com-*
8 *mittee on Transportation and Infrastructure of the House*
9 *of Representatives and post on a public-facing website an*
10 *action plan that addresses the recommendations and find-*
11 *ings made by the Inspector General in such report.*

12 **SEC. 114. GAO REPORT ON ROADWAY WORKER PROTEC-**
13 **TIONS.**

14 (a) *IN GENERAL.*—*Not later than 1 year after the date*
15 *of the enactment of this Act, the Comptroller General of the*
16 *United States shall—*

17 (1) *conduct a review of currently available tech-*
18 *nologies for roadway workers (as defined in section*
19 *214.7 of title 49, Code of Federal Regulations) with*
20 *protection from the hazards of being struck by a train*
21 *or other on-track equipment in the United States; and*

22 (2) *submit to the Committee on Commerce,*
23 *Science, and Transportation of the Senate and the*
24 *Committee on Transportation and Infrastructure of*
25 *the House of Representatives a report that summa-*

1 *rizes the results of the review conducted under sub-*
2 *paragraph (a), including recommendations, as the*
3 *Comptroller General considers appropriate.*

4 *(b) CONTENTS.—The report submitted under sub-*
5 *section (a)(2) shall—*

6 *(1) describe the frequency, type, and causes of*
7 *incidences within the rail right-of-way associated*
8 *with roadway workers being struck by a train or*
9 *other on-track equipment, based on available data, in-*
10 *cluding whether individuals were acting in compli-*
11 *ance with the applicable rules, policies, procedures,*
12 *and practices;*

13 *(2) describe the types of technologies referenced*
14 *in subsection (a)(1) that are designed to reduce risk*
15 *of injury and death when deployed as a secondary*
16 *warning system to the standard operating procedures*
17 *of a rail carrier, including for each technology—*

18 *(A) the primary function and features;*

19 *(B) the maturity, implementation readi-*
20 *ness, and user experience;*

21 *(C) the frequency of implementation;*

22 *(D) any costs, including up front and ongo-*
23 *ing maintenance costs, of the technology and*
24 *other costs associated with the technology;*

1 (E) safety benefits associated with the tech-
2 nology relative to current rules, policies, proce-
3 dures, and practices; and

4 (F) ability to enhance protections for road-
5 way workers without negatively impacting oper-
6 ational or network efficiencies;

7 (3) discuss the potential for such technologies to
8 reduce or eliminate roadway worker accidents occur-
9 ring within the rail right-of-way;

10 (4) describe any challenges or barriers to adop-
11 tion of such safety technologies, including operational,
12 technical, and network efficiency challenges or bar-
13 riers; and

14 (5) assess the cost-beneficial nature of utilizing
15 such technology as a secondary warning system.

16 **SEC. 115. FEDERAL RAILROAD ADMINISTRATION SAFETY**
17 **WORKFORCE MANAGEMENT.**

18 Not later than 1 year after the date of the enactment
19 of this Act, the Inspector General of the Department of
20 Transportation shall submit a report to the Committee on
21 Commerce, Science, and Transportation of the Senate and
22 the Committee on Transportation and Infrastructure of the
23 House of Representatives that contains the results of a re-
24 view of the Federal Railroad Administration Office of Rail-

1 road Safety inspector and specialist staff resource manage-
2 ment, including—

3 (1) an assessment of the changes in the number
4 of Federal Railroad Administration safety inspectors
5 and specialists, including—

6 (A) the number of safety inspector and spe-
7 cialist vacancies;

8 (B) the number of such positions requested
9 in each of the budget requests for the last 10 fis-
10 cal years; and

11 (C) the actual workforce levels during each
12 of such fiscal years;

13 (2) an assessment of geographic allocation plans,
14 potential hiring and time-to-hire challenges, expected
15 retirement rates, and recruitment and retention strat-
16 egies;

17 (3) a description of any internal Federal Rail-
18 road Administration goals for compliance inspection
19 rates across the network of regulated activities, and
20 whether requested and actual safety inspector and
21 specialist workforce levels align with such goals;

22 (4) whether the system used for the notification,
23 processing, or storing of civil penalty enforcement
24 cases and other compliance actions recommended by
25 safety inspectors and specialists against railroads,

1 *shippers of hazardous materials, and other respond-*
2 *ents effectively supports the Federal Railroad Admin-*
3 *istration's compliance inspection and enforcement*
4 *program;*

5 *(5) whether any macroeconomic or other condi-*
6 *tions exist or have existed under which it has been*
7 *difficult for the Federal Railroad Administration to*
8 *fill safety inspector and specialist vacancies, and the*
9 *degree to which special rates of pay or other recruit-*
10 *ment and retention practices could ameliorate or*
11 *could have ameliorated such difficulty; and*

12 *(6) recommendations for any reforms that*
13 *could—*

14 *(A) improve the recruitment, hiring, and*
15 *retention of Federal Railroad Administration*
16 *safety inspectors and specialists, including po-*
17 *tential quality of life and workplace improve-*
18 *ments;*

19 *(B) improve Federal Railroad Administra-*
20 *tion workforce management processes; or*

21 *(C) increase the capacity for inspection ac-*
22 *tivities, if such capacity is identified as defi-*
23 *cient, at the Federal Railroad Administration,*
24 *including activities relating to the transpor-*
25 *tation of hazardous materials.*

1 **SEC. 116. OFFICE OF PERSONNEL MANAGEMENT REVIEW OF**
2 **SAFETY INSPECTOR AND SPECIALIST CLASSI-**
3 **FICATIONS.**

4 (a) *REVISING RAILROAD SAFETY SERIES.*—Not later
5 than 270 days after the date of the enactment of this Act,
6 the Director of the Office of Personnel Management shall—

7 (1) complete a review of the Railroad Safety Se-
8 ries, GS-2121, TS-37; and

9 (2) subject to subsection (b), revise the series re-
10 ferred to in paragraph (1), as appropriate, to reflect
11 factors impacting the Federal Railroad Administra-
12 tion's oversight of the railroad industry, including—

13 (A) current critical Federal Railroad Ad-
14 ministration disciplines; and

15 (B) technological advancements and oper-
16 ational conditions within the railroad industry.

17 (b) *REPORT.*—Not later than 30 days after completing
18 the review required under subsection (a), if the Director de-
19 termines that a revision of the Railroad Safety Series is
20 not appropriate, the Director shall submit a report to the
21 Committee on Homeland Security and Governmental Af-
22 fairs of the Senate, the Committee on Commerce, Science,
23 and Transportation of the Senate, the Committee on Over-
24 sight and Accountability of the House of Representatives,
25 and the Committee on Transportation and Infrastructure
26 of the House of Representatives that—

1 (1) *explains the findings of the review required*
2 *under subsection (a); and*

3 (2) *justifies the determination not to make revi-*
4 *sions to the Railroad Safety Series.*

5 **SEC. 117. ALCOHOL AND DRUG TESTING.**

6 *Not later than 1 year after the date of the enactment*
7 *of this Act, the Secretary shall amend part 219 of title 49,*
8 *Code of Federal Regulations, to require any employee who,*
9 *on behalf of a railroad, inspects locomotives, passenger cars,*
10 *railcars, or other on-track equipment, to be subject to the*
11 *breath or body fluid testing required under subparts C, D,*
12 *and E of such part.*

13 **TITLE II—HAZARDOUS MATE-**
14 **RIALS EMERGENCY RE-**
15 **SPONSE AND PREPAREDNESS**

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

17 *Section 5108(g) of title 49, United States Code, is*
18 *amended—*

19 (1) *in paragraph (1), by striking “(1) The Sec-*
20 *retary” and inserting the following:*

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

22 (2) *in paragraph (2)—*

23 (A) *in subparagraph (C), by striking “(C)*
24 *The Secretary” and inserting the following:*

1 “(D) *TRANSFER AND DEPOSIT.*—*The Sec-*
2 *retary*”;

3 (B) *in subparagraph (B), by striking “(B)*
4 *The Secretary” and inserting the following:*

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

6 (C) *by striking “(2)(A) In addition” and*
7 *all that follows through the period at the end of*
8 *clause (ix) of subparagraph (A) and inserting*
9 *the following:*

10 “(2) *ANNUAL FEE.*—

11 “(A) *ESTABLISHMENT.*—*In addition to a*
12 *fee established under paragraph (1), the Sec-*
13 *retary shall establish and impose by regulation*
14 *and collect an annual fee.*

15 “(B) *REQUIREMENT.*—*Subject to subpara-*
16 *graph (C), the fee established under subpara-*
17 *graph (A) shall be—*

18 “(i) *at least \$250 but not more than*
19 *\$500 from each person that—*

20 “(I) *is required to file a registra-*
21 *tion statement under this section; and*

22 “(II) *is identified as a small busi-*
23 *ness (within the meaning of part 121*
24 *of title 13, Code of Federal Regulations*
25 *(or successor regulations)); and*

1 “(ii) at least \$500 but not more than
2 \$5,000 from each person that—

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

5 “(II) is not identified as a small
6 business (within the meaning of part
7 121 of title 13, Code of Federal Regula-
8 tions (or successor regulations)).”.

9 **SEC. 202. VIRTUAL TRAINING OPTIONS.**

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

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

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

15 “(D) recommendations for the development
16 of courses described in subparagraph (B) that
17 have been adapted for virtual learning and any
18 courses for which the Secretary has recommended
19 adaptation to provide virtual options, subject to
20 the condition that the Secretary ensures that the
21 virtual options recommended will provide an
22 equivalent level of training as in-person courses;
23 and”.

1 **SEC. 203. HAZARDOUS MATERIALS TRANSPORTATION**
2 **EMERGENCY RESPONSE AND PREPAREDNESS**
3 **GRANTS.**

4 (a) *IN GENERAL.*—Section 5116 of title 49, United
5 States Code, is amended—

6 (1) *by striking the section designation and head-*
7 *ing and inserting the following:*

8 **“§5116. Hazardous materials transportation emer-**
9 **gency response and preparedness”;**

10 (2) *in subsection (a)*—

11 (A) *in paragraph (1)*—

12 (i) *in subparagraph (B), by striking*
13 *“and” after the semicolon at the end;*

14 (ii) *in subparagraph (C)*—

15 (I) *by striking “public sector em-*
16 *ployees” and inserting “emergency re-*
17 *sponse personnel”; and*

18 (II) *by striking the period at the*
19 *end and inserting a semicolon; and*

20 (iii) *by adding at the end the fol-*
21 *lowing:*

22 *“(D) until September 31, 2026, to purchase per-*
23 *sonal protective equipment, as determined by the Sec-*
24 *retary, needed to respond to a hazardous materials*
25 *emergency response incident, consistent with para-*
26 *graph (7) and subject to the condition that not more*

1 *than 50 percent of the funds made available under*
2 *this subsection may be used for that purpose;*

3 *“(E) to conduct and organize simulated and*
4 *field exercises relating to hazardous materials trans-*
5 *portation incidents; and*

6 *“(F) to develop a hazardous materials transpor-*
7 *tation emergency response preparedness gap analysis*
8 *in accordance with paragraph (9).”;*

9 *(B) in paragraph (5)(A)—*

10 *(i) in clause (i), by striking “public*
11 *sector employees being trained” and insert-*
12 *ing “emergency response personnel being*
13 *trained virtually or in person”;*

14 *(ii) in clause (ii), by striking “employ-*
15 *ees” and inserting “personnel”;*

16 *(iii) in clause (iii)—*

17 *(I) by striking “employees” and*
18 *inserting “personnel”; and*

19 *(II) by striking “and” after the*
20 *semicolon at the end; and*

21 *(iv) by adding at the end the following:*

22 *“(v) to cover the costs of personnel needed to*
23 *replace any personnel being trained; and*

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

4 (C) in paragraph (6)—

5 (i) by striking subparagraph (A) and
6 inserting the following:

7 “(A) whether grant funds will be used to support
8 the ability of the United States to respond to haz-
9 ardous materials incidents near infrastructure com-
10 monly used to transport hazardous materials;”;

11 (ii) in subparagraph (B), by striking
12 “amounts” and inserting “number of ship-
13 ments”;

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

16 (E) by inserting after paragraph (4) the fol-
17 lowing:

18 “(5)(A) Subject to subparagraph (C), any State receiv-
19 ing a grant under this subsection shall, not later than 180
20 days after receiving the grant funds, make available to eligi-
21 ble local entities—

22 “(i) not less than 70 percent of the grant funds;

23 or

1 “(ii) eligible services or activities described in
2 paragraph (1) having a value of not less than 70 per-
3 cent of the amount of the grant.

4 “(B) A State shall certify to the Secretary that the
5 State has made the distribution to eligible local entities re-
6 quired under paragraph (1) by providing such information
7 as the Secretary shall require.

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

11 “(ii) The Secretary may approve a request under
12 clause (i) if the Secretary determines that the delay in pro-
13 viding grant funding to eligible local entities pursuant to
14 the extension is necessary to promote effective investments
15 to prepare for or respond to hazardous materials transpor-
16 tation incidents.

17 “(D) Subparagraph (A) shall not apply to Tribes, the
18 District of Columbia, the Commonwealth of Puerto Rico,
19 American Samoa, the Commonwealth of the Northern Mar-
20 iana Islands, Guam, or the Virgin Islands.

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

1 “(F) In making grant funds available to eligible local
2 entities under subparagraph (A), States shall consider
3 whether the eligible local entity has a high proportion of
4 volunteer emergency responders.

5 “(G) For purposes of this paragraph, term ‘eligible
6 local entity’ means each of the following:

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

8 “(ii) A public emergency response organiza-
9 tion.”;

10 (F) by inserting after paragraph (6) (as so
11 redesignated) the following:

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

16 (G) by inserting after paragraph (8) (as so
17 redesignated) the following:

18 “(9)(A) Each hazardous materials transportation
19 emergency response preparedness gap analysis shall in-
20 clude—

21 “(i) an identification of gaps and limitations of
22 the hazard response program of the applicable juris-
23 diction, including—

24 “(I) knowledge and personal protective
25 equipment gaps; and

1 “(II) gaps in training, including Incident
2 Command Management training and ASTM
3 Standard E3241 training; and

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

6 “(B) In developing a hazardous materials transpor-
7 tation emergency response preparedness gap analysis under
8 subparagraph (A), the entity preparing the analysis shall—

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

12 “(ii) include States, Tribes, hazardous materials
13 emergency response programs, local governments, and
14 emergency response personnel (including fire service
15 organizations) in that development, as appropriate;
16 and

17 “(iii) provide an opportunity for States, Tribes,
18 hazardous materials emergency response programs,
19 local governments, and emergency response personnel
20 (including fire service organizations) to review and
21 comment on the analysis before the analysis is pub-
22 lished.”;

23 (3) in subsection (d)—

24 (A) in the second sentence, by striking

25 “Amounts” and inserting the following:

1 “(2) *CERTAIN AMOUNTS.—Amounts*”;

2 *(B) in the first sentence, by striking “A*
 3 *grant under this section is for 80 percent of the*
 4 *cost the State or Indian tribe incurs” and insert-*
 5 *ing the following:*

6 “(1) *IN GENERAL.—A grant under this section is*
 7 *for 90 percent of the costs incurred by a State, or 100*
 8 *percent of the costs incurred by a Tribe,”; and*

9 *(C) by adding at the end the following:*

10 “(3) *IN-KIND CONTRIBUTIONS.—For purposes of*
 11 *this subsection, the contributions of a State or Tribe*
 12 *toward the costs of an activity funded by a grant*
 13 *under this section may be in the form of in-kind con-*
 14 *tributions.”;*

15 *(4) in subsection (h)—*

16 *(A) in the second sentence—*

17 *(i) in paragraph (4), by striking “2*
 18 *percent” and inserting “4 percent”;*

19 *(ii) by redesignating paragraphs (1)*
 20 *through (4) as subparagraphs (A) through*
 21 *(D), respectively, and indenting appro-*
 22 *priately; and*

23 *(iii) in the matter preceding subpara-*
 24 *graph (A) (as so redesignated), by striking*
 25 *“Without” and inserting the following:*

1 “(2) *USES.—Without*”; and
2 *(B) in the first sentence—*
3 *(i) by striking “section 5108(g)(2)(C)*
4 *of this title” and inserting “section*
5 *5108(g)(2)(D)”;* and
6 *(ii) by striking “The Secretary” and*
7 *inserting the following:*
8 “(1) *IN GENERAL.—The Secretary*”; and
9 *(C) by adding at the end the following:*
10 “(3) *SET ASIDE.—*
11 “(A) *IN GENERAL.—The amounts collected*
12 *under section 5123—*
13 *“(i) shall be set aside for the purpose*
14 *of carrying out subsection (k); and*
15 *“(ii) shall be available, without further*
16 *appropriation, for that purpose.*
17 “(B) *APPLICATION.—The set-aside described*
18 *in subparagraph (A)—*
19 *“(i) shall apply until the earliest date*
20 *on which the total amount set aside and*
21 *available for expenditure under that sub-*
22 *paragraph equals or exceeds \$50,000,000;*
23 *and*
24 *“(ii) after that date, shall apply to*
25 *each subsequent period—*

1 “(I) beginning on a date on which
2 the total amount set aside and avail-
3 able for expenditure under that sub-
4 paragraph is less than \$20,000,000;
5 and

6 “(II) ending on the earliest subse-
7 quent date on which the total amount
8 set aside and available for expenditure
9 under that subparagraph equals or ex-
10 ceeds \$50,000,000.”;

11 (5) in subsection (k)—

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

15 (B) by redesignating paragraphs (1)
16 through (4) as subparagraphs (A), (B), (D), and
17 (E), respectively, and indenting appropriately;

18 (C) by inserting after subparagraph (B) (as
19 so redesignated) the following:

20 “(C) a description of any personal protec-
21 tive equipment purchased using grant funds;”;
22 and

23 (D) in the matter preceding subparagraph

24 (A) (as so redesignated)—

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

3 (ii) by striking “the report to the pub-
4 lic” in the first sentence and all that follows
5 through “grants and include—” in the
6 third sentence and inserting the following:

7 “to the public an annual report that—

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

10 “(A) this section; and

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

12 “(2) identifies the ultimate recipients of those
13 grants;

14 “(3) identifies the amount of funding available
15 for each grant;

16 “(4) describes any unobligated balances, total
17 annual drawdown by each grantee, and recovered bal-
18 ances;

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

21 “(6) includes—”;

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

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

1 (b) *ASSISTANCE FOR LOCAL EMERGENCY RESPONSE*
2 *TRAINING.*—Section 5116(j)(1)(A) of title 49, United States
3 Code, is amended by striking “liquids” and inserting “ma-
4 terials”.

5 (c) *AUTHORIZATION OF APPROPRIATIONS.*—Section
6 5128(b) of title 49, United States Code, is amended—

7 (1) in the matter preceding paragraph (1), by
8 striking “Hazardous Materials Preparedness Fund”
9 and inserting “Hazardous Materials Emergency Pre-
10 paredness Fund”;

11 (2) in paragraph (3), by striking “section
12 5116(h)(3); and” and inserting “section
13 5116(h)(2)(C);”; and

14 (3) by striking paragraph (4) and inserting the
15 following:

16 “(4) \$4,000,000 to carry out section 5116(i); and

17 “(5) \$1,000,000 to carry out section 5116(j).”.

18 (d) *CLERICAL AMENDMENT.*—The analysis for chapter
19 51 of title 49, United States Code, is amended by striking
20 the item relating to section 5116 and inserting the fol-
21 lowing:

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

22 (e) *CONFORMING AMENDMENTS.*—

1 (1) *Section 5102 of title 49, United States Code,*
 2 *is amended by striking paragraph (6) and inserting*
 3 *the following:*

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

8 (2) *Section 5123 of title 49, United States Code,*
 9 *is amended by striking subsection (g) and inserting*
 10 *the following:*

11 “*(g) TRANSFER OF AMOUNTS COLLECTED.—Amounts*
 12 *collected under this section shall be transferred to the Haz-*
 13 *ardous Materials Emergency Preparedness Fund estab-*
 14 *lished under section 5116(h).”.*

15 **SEC. 204. EMERGENCY RESPONSE ASSISTANCE.**

16 *Section 5116 of title 49, United States Code, is amend-*
 17 *ed—*

18 (1) *by redesignating subsection (k) as subsection*
 19 *(l);*

20 (2) *by inserting after subsection (j) the following:*

21 “*(k) EMERGENCY RESPONSE ASSISTANCE.—*

22 “*(1) DEFINITIONS.—In this subsection:*

23 “*(A) SIGNIFICANT HAZARDOUS MATERIALS*
 24 *TRANSPORTATION INCIDENT.—The term ‘signifi-*

1 *cant hazardous materials transportation inci-*
2 *dent’ means an incident that—*

3 “(i) *involves hazardous materials being*
4 *moved by a motor carrier or rail carrier;*

5 “(ii) *requires a response by at least 1*
6 *eligible entity described in paragraph (6)*
7 *for which the Secretary estimates the costs*
8 *to the eligible entity to be at least \$15,000;*
9 *and*

10 “(iii) *results in a serious injury, fatal-*
11 *ity, or substantial property damage.*

12 “(B) *SUBSTANTIAL PROPERTY DAMAGE.—*

13 *The term ‘substantial property damage’ means*
14 *damage to public or private property or the en-*
15 *vironment (including clean up costs) the Sec-*
16 *retary reasonably estimates to be more than*
17 *\$45,000.*

18 “(2) *ESTABLISHMENT OF PROGRAM.—Not later*
19 *than 1 year after the date of enactment of the Rail-*
20 *way Safety Act of 2023, the Secretary, in consulta-*
21 *tion with the Administrator of the Federal Emergency*
22 *Management Agency and the Administrator of the*
23 *Environmental Protection Agency, after providing an*
24 *opportunity for notice and comment, shall establish*
25 *an emergency response assistance program to provide*

1 *immediate financial assistance to communities re-*
 2 *sponding to a significant hazardous materials trans-*
 3 *portation incident.*

4 “(3) *SIGNIFICANT HAZARDOUS MATERIALS*
 5 *TRANSPORTATION INCIDENT.—*

6 “(A) *IN GENERAL.—The Secretary shall*
 7 *have the authority to declare a significant haz-*
 8 *ardous materials transportation incident.*

9 “(B) *GUIDELINES.—The Secretary shall es-*
 10 *tablish and publish guidelines to determine*
 11 *whether a significant hazardous materials trans-*
 12 *portation incident has occurred.*

13 “(4) *RELEASE OF FUNDS.—*

14 “(A) *IN GENERAL.—The Secretary shall im-*
 15 *mediately make available from the amount set*
 16 *aside under subsection (h)(3) in the Hazardous*
 17 *Materials Emergency Preparedness Fund estab-*
 18 *lished under subsection (h)(1) (referred to in this*
 19 *subsection as the ‘Fund’) up to \$10,000,000 to*
 20 *quickly reimburse eligible entities described in*
 21 *paragraph (6) that responded to a significant*
 22 *hazardous materials transportation incident if—*

23 “(i) *the Secretary declares the incident*
 24 *a significant hazardous materials transpor-*
 25 *tation incident; and*

1 “(ii) at least 14 days but not later
2 than 21 days after the declaration of a sig-
3 nificant hazardous materials transportation
4 incident, the Secretary determines, in ac-
5 cordance with paragraph (8), that the re-
6 sponsible party does not have an acceptable
7 reimbursement plan.

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

15 “(C) *AUTHORITY.*—The Secretary may
16 make funds available under this subsection if the
17 Secretary determines the responsible party is not
18 complying with its acceptable plan under para-
19 graph (8).

20 “(5) *ADMINISTRATION OF FUNDS.*—The Sec-
21 retary may provide funds from the amount set aside
22 under subsection (h)(3) in the Fund to a State in
23 which a hazardous materials transportation incident
24 occurred for the State to use and administer reim-
25 bursements in accordance with this subsection, includ-

1 *ing by providing funds to eligible entities described in*
2 *paragraph (6).*

3 *“(6) ELIGIBLE ENTITIES DESCRIBED.—The eligi-*
4 *ble entities referred to in paragraphs (4)(A) and (5)*
5 *are—*

6 *“(A) States, territories, and Tribes;*

7 *“(B) political subdivisions of a State or ter-*
8 *ritory; and*

9 *“(C) public emergency response organiza-*
10 *tions.*

11 *“(7) USE OF FUNDS.—*

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

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

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

24 *“(iii) for operational costs exceeding*
25 *standard operating expenses that are di-*

1 rectly related to the cost of responding to the
2 significant hazardous materials transpor-
3 tation incident, such as the costs of running
4 a supplementary emergency response center;

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

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

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

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

10 “(8) *ACCEPTABLE PLAN.*—

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

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

21 “(i) *ADVANCE SUBMISSION.*—A plan to
22 provide reimbursement to eligible entities in
23 accordance with subparagraph (A) may be
24 submitted to the Secretary for approval in
25 advance of any significant hazardous mate-

1 *rials transportation incident to which the*
2 *plan might apply.*

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

8 “(9) *REIMBURSEMENT BY RESPONSIBLE*
9 *PARTY.—*

10 “(A) *IN GENERAL.—Subject to subpara-*
11 *graph (F), the party responsible for a significant*
12 *hazardous materials transportation incident*
13 *shall be liable to the Secretary for reimbursement*
14 *of all amounts disbursed from the Fund under*
15 *this subsection for that significant hazardous*
16 *materials transportation incident.*

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

20 “(C) *NOTICE.—After the Secretary has re-*
21 *ceived the documented costs under paragraph*
22 *(7)(B), the Secretary shall provide notice to the*
23 *responsible party regarding the total amount*
24 *owed.*

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

7 “(E) *CIVIL ACTION.*—

8 “(i) *IN GENERAL.*—The Attorney Gen-
9 eral may bring a civil action in an appro-
10 priate district court of the United States to
11 collect unpaid amounts under this para-
12 graph and any accrued interest on those
13 amounts.

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

20 “(F) *DISCRETION.*—If the responsible party
21 is a small business concern (within the meaning
22 of part 121 of title 13, Code of Federal Regula-
23 tions (or successor regulations)) that is unable to
24 fully reimburse the Secretary, the Secretary shall
25 have discretion with respect to the amount of

1 *funds the Secretary requests from the responsible*
2 *party under this paragraph.*

3 “(10) *STREAMLINED APPLICATION PROCESS.*—

4 *The Secretary shall streamline the application process*
5 *for the receipt of funds under this subsection, includ-*
6 *ing by—*

7 “(A) *providing technical assistance to eligi-*
8 *ble entities; and*

9 “(B) *creating a template that eligible enti-*
10 *ties can use to apply for funding.*

11 “(11) *SAVINGS PROVISIONS.*—

12 “(A) *LIABILITY.*—*Nothing in this subsection*
13 *limits, or may be construed to limit, the liability*
14 *of a responsible party.*

15 “(B) *REIMBURSEMENT.*—

16 “(i) *IN GENERAL.*—*A responsible party*
17 *may, in accordance with any other applica-*
18 *ble law—*

19 “(I) *seek to establish that another*
20 *party was responsible, in whole or in*
21 *part (as such other law allows), for the*
22 *applicable significant hazardous mate-*
23 *rials transportation incident; and*

1 “(II) seek reimbursement (to the
2 extent such other law allows) from that
3 other party.

4 “(i) *EFFECT OF SUBSECTION.*—*Noth-*
5 *ing in this subsection limits, or may be con-*
6 *strued to limit, the ability of a responsible*
7 *party to seek reimbursement from any other*
8 *party found to be responsible in any civil*
9 *action arising from the applicable signifi-*
10 *cant hazardous materials transportation in-*
11 *cident.*

12 “(iii) *EFFECT OF DETERMINATION.*—*A*
13 *determination by the Secretary that a party*
14 *is a responsible party for purposes of this*
15 *subsection shall not be considered or other-*
16 *wise have any effect with respect to the de-*
17 *termination of liability in any civil action*
18 *described in clause (i).*

19 “(iv) *EFFECT OF REIMBURSEMENTS*
20 *AND OTHER ACTIVITIES.*—*No activity taken*
21 *under this subsection to reimburse an eligi-*
22 *ble entity, reimburse the Secretary, prepare*
23 *or carry out a reimbursement plan, or oth-*
24 *erwise comply with or make a payment*
25 *under this subsection shall be considered or*

1 *otherwise have any effect with respect to the*
2 *determination of liability in any civil ac-*
3 *tion described in clause (ii).*

4 “(12) *COMPTROLLER GENERAL REPORT.—*

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

9 “*(B) CONTENTS.—The report submitted*
10 *under subparagraph (A) shall include, at a min-*
11 *imum, information on—*

12 “*(i) the number of significant haz-*
13 *ardous materials transportation incidents*
14 *that received funding under this subsection;*

15 “*(ii) the amount of financial assist-*
16 *ance the Secretary provided to eligible enti-*
17 *ties;*

18 “*(iii) the amount of financial assist-*
19 *ance responsible parties submitted to the*
20 *Secretary under paragraph (9);*

21 “*(iv) the amount of reimbursement the*
22 *Secretary received from eligible entities as*
23 *required under paragraph (7)(C);*

24 “*(v) whether the amounts provided by*
25 *the Secretary under this subsection ade-*

1 *quately reflect the amounts actually spent*
 2 *by the eligible entities;*

3 *“(vi) whether the Secretary was able to*
 4 *provide the financial assistance quickly*
 5 *enough to the eligible entities so that the as-*
 6 *sistance effectively supported the prepared-*
 7 *ness of the eligible entities to respond to po-*
 8 *tential future incidents; and*

9 *“(vii) any other factors the Comp-*
 10 *troller General of the United States con-*
 11 *siders to be appropriate to review the effec-*
 12 *tiveness of this subsection.”; and*

13 *(3) by adding at the end the following:*

14 *“(m) DEFINITIONS.—In this section:*

15 *“(1) EMERGENCY RESPONSE PERSONNEL.—The*
 16 *term ‘emergency response personnel’ means—*

17 *“(A) an employee of a State, territory,*
 18 *Tribe, or political subdivision of a State; and*

19 *“(B) a person belonging to a public emer-*
 20 *gency response organization.*

21 *“(2) PUBLIC EMERGENCY RESPONSE ORGANIZA-*
 22 *TION.—*

23 *“(A) IN GENERAL.—The term ‘public emer-*
 24 *gency response organization’ means—*

1 “(i) a fire department that has an all-
2 paid force of firefighting personnel other
3 than paid-on-call firefighters;

4 “(ii) a fire department that has—

5 “(I) paid firefighting personnel;

6 and

7 “(II) volunteer firefighting per-
8 sonnel;

9 “(iii) a nonaffiliated EMS organiza-
10 tion; and

11 “(iv) a fire department that has an
12 all-volunteer force of firefighting personnel.

13 “(B) ASSOCIATED DEFINITION.—For pur-
14 poses of subparagraph (A)(iii), the term ‘non-
15 affiliated EMS organization’ means a public or
16 private nonprofit emergency medical services or-
17 ganization that—

18 “(i) is not affiliated with a hospital;

19 and

20 “(ii) does not serve a geographic area
21 for which the Secretary or a State finds
22 that emergency medical services are ade-
23 quately provided by a fire department.”.

Calendar No. 284

118TH CONGRESS
1ST Session

S. 576

A BILL

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

DECEMBER 13, 2023

Reported with an amendment