

114TH CONGRESS
1ST SESSION

S. 859

To protect the public, communities across America, and the environment by increasing the safety of crude oil transportation by railroad, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 2015

Ms. CANTWELL (for herself, Ms. BALDWIN, Mrs. FEINSTEIN, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect the public, communities across America, and the environment by increasing the safety of crude oil transportation by railroad, 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.**

4 This Act may be cited as the “Crude-By-Rail Safety
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

8 (1) **HIGH-HAZARD FLAMMABLE TRAIN.**—The
9 term “high-hazard flammable train” means a single

1 train transporting 20 or more tank cars loaded with
2 a Class 3 flammable liquid (as defined in section
3 173.120(a) of title 49, Code of Federal Regulations).

4 (2) OIL.—The term “oil” means oil of any kind
5 or in any form, including crude, petroleum, fuel oil,
6 sludge, oil refuse, oil mixed with wastes other than
7 dredged spoil, any bitumen or bituminous mixture,
8 oil derived from a bitumen or bituminous mixture,
9 any oil derived from kerogen-bearing sources, devel-
10 oping oils, and emerging oils.

11 (3) RAIL CARRIER.—The term “rail carrier”
12 has the meaning given the term “railroad carrier” in
13 section 20102 of title 49, United States Code.

14 (4) WORST CASE DISCHARGE.—The term
15 “worst case discharge” has the meaning given such
16 term in section 130.5 of title 49, Code of Federal
17 Regulations.

18 **SEC. 3. CERTAINTY ON SAFETY REGULATIONS.**

19 (a) INTERIM NATIONAL STANDARD FOR MAXIMUM
20 VOLATILITY.—

21 (1) RULEMAKING.—Not later than 90 days
22 after the date of the enactment of this Act, the Sec-
23 retary of Transportation, by regulation, shall estab-
24 lish an interim national standard for the maximum
25 volatility of crude oil transported by rail within the

1 United States. Volatility in the interim national
2 standard shall be measured by the vapor pressure of
3 the crude oil.

4 (2) EFFECTIVE DATE.—The national standard
5 established pursuant to paragraph (1) shall take ef-
6 fect not later than 90 days after it is issued by the
7 Secretary.

8 (b) STUDY OF CRUDE OIL CHARACTERISTICS AND
9 ASSOCIATED SAFETY.—Not later than 2 years after the
10 date of the enactment of this Act, the Secretary of Trans-
11 portation, in collaboration with the Secretary of Energy,
12 shall complete a study of—

13 (1) the best methods for reliably measuring the
14 volatility of crude oil; and

15 (2) the level of volatility that is consistent with
16 the safest practicable shipment of crude oil by rail.

17 (c) FINAL NATIONAL STANDARD FOR MAXIMUM
18 VOLATILITY.—

19 (1) IN GENERAL.—Not later than 90 days after
20 the completion of the study under subsection (b), the
21 Secretary of Transportation shall issue a final rule
22 that establishes the maximum volatility of crude oil
23 that is transported by rail.

24 (2) REQUIREMENTS.—The maximum volatility
25 standard established pursuant to paragraph (1)—

1 (A) shall be consistent with the findings of
2 the study conducted under subsection (b); and

3 (B) shall require that the transportation of
4 crude oil by rail be as safe as practicable.

5 (d) TANK CAR DESIGN.—Not later than 90 days
6 after the date of the enactment of this Act, the Secretary
7 of Transportation shall issue a final rule, based on the
8 safety standards contained in the Notice of Proposed
9 Rulemaking issued on August 1, 2014, and entitled “En-
10 hanced Tank Car Standards and Operational Controls for
11 High-Hazard Flammable Trains”, which requires that all
12 new tank cars designed to transport a Class 3 flammable
13 liquid that are constructed after October 1, 2015, meet
14 or exceed the design standards set forth under option 1
15 of table 2 in such rulemaking.

16 (e) ENHANCED BRAKING.—Beginning on the date
17 identified in the final rule issued pursuant to subsection
18 (d), all high-hazard flammable trains shall operate with
19 electronically controlled pneumatic brakes.

20 **SEC. 4. ENDING USE OF UNSAFE TANK CARS.**

21 (a) MINIMUM SAFETY STANDARD.—

22 (1) OIL.—Except as provided under paragraph
23 (4), the Secretary of Transportation shall imme-
24 diately prohibit the shipment of oil in—

1 (A) any DOT-111 tank car that does not
2 meet the requirements of Casualty Prevention
3 Circular 1232, issued by the Association of
4 American Railroads on August 31, 2011; or

5 (B) any unjacketed CPC-1232 tank car.

6 (2) ETHANOL.—Except as provided under para-
7 graph (4), beginning on the date that is 2 years
8 after the date of the enactment of this Act, the Sec-
9 retary of Transportation shall prohibit the shipment
10 of ethanol in any tank car described in subpara-
11 graph (A) or (B) of paragraph (1).

12 (3) ADDITIONAL PRECAUTIONARY MEASURES.—
13 Any rail carrier or shipper who offers for transpor-
14 tation, or transports, in a tank car by rail in com-
15 merce to, from, or within the United States, a bulk
16 quantity of oil or ethanol shall take additional pre-
17 cautionary measures to enhance the safe shipment of
18 such liquids, including by avoiding the shipment of
19 such liquids in tank cars with unsafe tank car at-
20 tributes identified by the Secretary of Transpor-
21 tation, to the extent practicable.

22 (4) EXCEPTION.—Notwithstanding paragraphs
23 (1) and (2), tank cars described in subparagraphs
24 (A) and (B) of paragraph (1) may continue to trans-
25 port oil or ethanol if they have been retrofitted to

1 meet or exceed the design standards set forth under
2 Option 3 of table 2 in the Notice of Proposed Rule-
3 making issued on August 1, 2014, and entitled “En-
4 hanced Tank Car Standards and Operational Con-
5 trols for High-Hazard Flammable Trains”. All retro-
6 fitted tank cars shall be equipped with electronically
7 controlled pneumatic brakes.

8 (5) **JACKETED CPC-1232 TANK CARS.**—The Sec-
9 retary of Transportation shall establish, by regula-
10 tion, a retrofit standard and timeline for jacketed
11 CPC-1232 tank cars that transport oil or ethanol.

12 (b) **SAVINGS PROVISION.**—Nothing in this section
13 may be construed to prohibit the Secretary of Transpor-
14 tation from issuing, by regulation or order, a safety stand-
15 ard for tank cars transporting oil or ethanol that is more
16 stringent than the requirements referred to in section
17 3(d).

18 **SEC. 5. CRUDE-BY-RAIL INSPECTIONS.**

19 (a) **RAIL INSPECTIONS FOR HAZARDOUS MATERIAL**
20 **ROUTES.**—Rail carriers shall—

21 (1) perform at least 2 additional internal rail
22 inspections per calendar year than is required under
23 section 213.237(c) of title 49, Code of Federal Reg-
24 ulations, on routes that—

1 (A) the rail carrier owns or has been as-
 2 signed maintenance responsibility under section
 3 213.5 of such title; and

4 (B) over which 1 or more high-hazard
 5 flammable trains are operated; and

6 (2) conduct at least 4 track geometry inspec-
 7 tions each calendar year on routes that—

8 (A) the rail carrier owns or has been as-
 9 signed maintenance responsibility under such
 10 section 213.5; and

11 (B) over which 1 or more high-hazard
 12 flammable trains are operated.

13 (b) ENERGY PRODUCT INSPECTIONS.—

14 (1) INSPECTION REQUIREMENT.—A person that
 15 offers oil for transportation shall complete spot in-
 16 spections on 5 percent of all individual rail cars
 17 loaded with crude oil—

18 (A) to test and record the volatility of the
 19 crude oil in such cars; and

20 (B) to ensure that such crude oil meets—

21 (i) the interim national standard for
 22 maximum volatility established pursuant to
 23 section 3(a); or

1 (ii) any subsequently enacted volatility
2 standard that is more restrictive than such
3 standard.

4 (2) SPOT INSPECTIONS AND AUDITS.—

5 (A) SPOT INSPECTIONS.—The Secretary of
6 Transportation shall complete spot inspections
7 on crude oil volatility to ensure that the vola-
8 tility standards referred to in paragraph (1)(B)
9 are being met.

10 (B) AUDITS.—The Secretary of Transpor-
11 tation shall audit records of the inspections con-
12 ducted under paragraph (1) to ensure that the
13 volatility of the crude oil does not exceed the
14 volatility standards referred to in paragraph
15 (1)(B).

16 **SEC. 6. PENALTIES FOR NONCOMPLIANCE.**

17 (a) FINES FOR VIOLATING HAZARDOUS MATERIALS
18 TRANSPORTATION LAW.—Section 5123(a) of title 49,
19 United States Code, is amended to read as follows:

20 “(a) PENALTY.—

21 “(1) IN GENERAL.—A person that knowingly
22 violates this chapter or a regulation, order, special
23 permit, or approval issued under this chapter is lia-
24 ble to the United States Government for a civil pen-

1 alty of not more than \$500,000 for each such viola-
2 tion. A person acts knowingly when—

3 “(A) the person has actual knowledge of
4 the facts giving rise to the violation; or

5 “(B) a reasonable person acting in the
6 same circumstances and exercising reasonable
7 care would have such knowledge.

8 “(2) ENHANCED PENALTY.—If the Secretary
9 finds that a violation under paragraph (1) results in
10 death, serious illness, or severe injury to any person,
11 substantial destruction of property, or significant en-
12 vironmental damage, the Secretary may increase the
13 amount of the civil penalty for such violation to not
14 more than \$1,000,000.

15 “(3) SEPARATE VIOLATION.—A separate viola-
16 tion occurs for each day a person continues to know-
17 ingly violate this chapter or any regulation, order,
18 special permit, or approval issued under this chap-
19 ter.”.

20 (b) FINES FOR VIOLATING ENERGY PRODUCT IN-
21 SPECTIONS.—A person that offers oil for transportation
22 that violates the maximum volatility rule issued pursuant
23 to subsection (a) or (c) of section 3, or the inspection re-
24 quirement under section 5(b) shall be liable to the United

1 States Government for a civil penalty of not more than
2 \$1,000,000 for each such violation.

3 (c) FINES FOR VIOLATING RAIL INSPECTIONS.—A
4 rail carrier that violates the rail inspections requirement
5 under section 5(a) shall be liable to the United States Gov-
6 ernment for a civil penalty of not more than \$1,000,000
7 for each such violation.

8 **SEC. 7. SAFE TRANSPORTATION OF ENERGY PRODUCTS.**

9 (a) IN GENERAL.—The Secretary of Transportation
10 shall establish or expand safety programs relating to the
11 transportation of energy products and other Class 3 flam-
12 mable liquids by rail, pipeline, highway, and waterway,
13 which shall include initiatives—

14 (1) to expedite rulemaking proceedings;

15 (2) to conduct technical studies of energy prod-
16 ucts;

17 (3) to increase rail, pipeline, and energy prod-
18 uct inspections;

19 (4) to provide grants to States for additional
20 railroad track and pipeline inspectors;

21 (5) to improve notification procedures from
22 State Emergency Response Commission contacts to
23 first responders;

24 (6) to develop and conduct first responder
25 training programs, in collaboration with the Federal

1 Emergency Management Agency, the Department of
2 Homeland Security, the Coast Guard, the Environ-
3 mental Protection Agency, and national first re-
4 sponder organizations;

5 (7) to conduct technical research on infrastruc-
6 ture-related causes of train and pipeline accidents;

7 (8) to identify ways to mitigate the causes and
8 consequences of train accidents;

9 (9) to provide grants to communities to update
10 emergency response plans developed by local emer-
11 gency planning committees; and

12 (10) to audit comprehensive oil spill response
13 plans established under section 8(b).

14 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There
15 are authorized to be appropriated to carry out the safety
16 initiatives described in subsection (a)—

17 (1) \$40,000,000 for fiscal year 2016; and

18 (2) \$40,000,000 for fiscal year 2017.

19 **SEC. 8. OIL SPILL RESPONSE PLANS.**

20 (a) **DEFINED TERM.**—In this section, the term “max-
21 imum extent practicable” has the meaning given such
22 term in section 130.5 of title 49, Code of Federal Regula-
23 tions.

24 (b) **COMPREHENSIVE RESPONSE PLANS.**—

1 (1) REQUIREMENT.—Not later than 180 days
2 after the date of the enactment of this Act, the Sec-
3 retary of Transportation, in consultation with the
4 Secretary of the department in which the Coast
5 Guard is operating and the Administrator of the En-
6 vironmental Protection Agency, shall publish a final
7 rule revising the regulations set out in part 130 of
8 title 49, Code of Federal Regulations (relating to oil
9 spill prevention and response plans)—

10 (A) to modify the 1,000 barrels (42,000
11 gallons) requirement for a comprehensive writ-
12 ten plan in subsection (b) of section 130.31 of
13 title 49, Code of Federal Regulations, to ac-
14 count for worst-case discharges resulting from
15 accidents involving unit trains or blocks of tank
16 cars; and

17 (B) to include additional requirements in
18 each written plan required under such section
19 130.31 to respond to a discharge of oil that oc-
20 curs during transportation by a rail carrier that
21 has a reasonable probability of impacting a
22 water body or other area that is subject to the
23 jurisdiction of the Coast Guard or of the Envi-
24 ronmental Protection Agency under the Federal

1 Water Pollution Control Act (33 U.S.C. 1251 et
2 seq.) including such a discharge—

3 (i) into or on the navigable waters of
4 the United States;

5 (ii) on the adjoining shorelines to the
6 navigable waters;

7 (iii) inland waters; or

8 (iv) other impacted lands.

9 (2) COORDINATION.—The additional require-
10 ments under paragraph (1)(B) shall be promulgated
11 by the Secretary of Transportation in coordination
12 with—

13 (A) the Secretary of the department in
14 which the Coast Guard is operating, in the case
15 of potential impacts to a water body or other
16 area subject to the jurisdiction of the Coast
17 Guard; and

18 (B) the Administrator of the Environ-
19 mental Protection Agency, in the case of poten-
20 tial impacts to a water body or other area sub-
21 ject to the jurisdiction of the Environmental
22 Protection Agency under the Federal Water
23 Pollution Control Act (33 U.S.C. 1251 et seq.).

24 (c) NATIONAL CONTINGENCY PLAN.—To ensure effi-
25 cient and timely prevention, preparedness, and response

1 by the lead agency and the rail carrier in the event of
2 a discharge of oil, the President shall, for each comprehen-
3 sive written plan required under section 130.31(b) of title
4 49, Code of Federal Regulations (or similar successor reg-
5 ulation)—

6 (1) include such plan in the National Contin-
7 gency Plan required under section 311(d) of the
8 Federal Water Pollution Control Act (33 U.S.C.
9 1321(d)); and

10 (2) integrate such plan into the appropriate Re-
11 gional Response Plan required under section
12 300.210(b) of title 40, Code of Federal Regulations
13 (or similar successor regulation).

14 (d) AUDITS REQUIRED.—The Secretary of Transpor-
15 tation shall—

16 (1) develop a program to audit response plans
17 for rail carriers of oil to ensure that adequate provi-
18 sions are in place—

19 (A) to respond to and remove a worst-case
20 discharge to the maximum extent practicable;
21 and

22 (B) to mitigate or prevent a substantial
23 threat of a worst-case discharge; and

1 (2) audit rail carriers of oil to ensure that the
2 shippers and rail carriers with respect to trans-
3 porting oil by railroad—

4 (A) are using appropriate hazardous mate-
5 rials shipping classifications;

6 (B) have developed transportation safety
7 and security plans; and

8 (C) have made adequate provisions for
9 safety and security.

10 (e) SAVINGS PROVISION.—Nothing in this section
11 may be construed to prohibit the Secretary of Transpor-
12 tation from issuing, by regulation or order, a requirement
13 for comprehensive response plans for railroads trans-
14 porting oil or ethanol that is more stringent than the re-
15 quirements under subsection (b).

16 **SEC. 9. DISCLOSURE REQUIREMENT.**

17 (a) IN GENERAL.—A rail carrier may not operate any
18 high-hazard flammable train in any State until the rail
19 carrier has provided the Emergency Response Commission
20 for such State and any local emergency planning com-
21 mittee along the route such train will operate with—

22 (1) a reasonable estimate of the number of such
23 trains that are expected to travel, per week, through
24 the State;

1 (2) a description of the flammable liquid ex-
2 pected to be transported through the State, in ac-
3 cordance with subpart C of part 172 of title 49,
4 Code of Federal Regulations;

5 (3) all applicable emergency response informa-
6 tion required under subpart G of such part;

7 (4) the identification of the routes over which
8 the oil or ethanol will be transported; and

9 (5) the contact information for at least 1 point
10 of contact at the rail carrier responsible for serving
11 as the point of contact for the State Emergency Re-
12 sponse Commission and relevant emergency respond-
13 ers.

14 (b) SAVINGS PROVISION.—Nothing in this section
15 may be construed to prohibit the Secretary of Transpor-
16 tation from issuing, by regulation or order, a disclosure
17 requirement for high-hazard flammable train movement
18 that is wider than the requirements under subsection (a).

19 **SEC. 10. EMERGENCY RESPONSE RESOURCE INVENTORY.**

20 (a) IN GENERAL.—Rail carriers shall collaborate to
21 develop an inventory of emergency response resources
22 along routes over which 1 or more high-hazard flammable
23 trains operate for responding to worst case discharges re-
24 sulting from accidents involving unit trains or blocks of

1 tank cars transporting Class 3 flammable liquids in the
2 event of an incident.

3 (b) INCLUSIONS.—The inventory developed pursuant
4 to subsection (a) shall include—

5 (1) a detailed description of the type and quan-
6 tity of private emergency response resources;

7 (2) sufficient equipment to respond to a worst
8 case discharge from accidents involving unit trains
9 or blocks of tank cars;

10 (3) sufficient equipment to respond to a fire or
11 explosion that could result from a worst case dis-
12 charge from accidents involving unit trains or blocks
13 of tank cars;

14 (4) locations for the staging of emergency re-
15 sponse equipment; and

16 (5) contacts for the notification of communities,
17 as appropriate.

18 (c) ACCESS.—Rail carriers shall—

19 (1) provide the Department of Transportation
20 with access to the inventory developed under this
21 section; and

22 (2) make relevant information from the inven-
23 tory, upon request, available to emergency respond-
24 ers located along identified routes over which 1 or
25 more high-hazard flammable trains operate.

1 **SEC. 11. CONFIDENTIAL CLOSE CALL REPORTING SYSTEMS.**

2 (a) IN GENERAL.—Subchapter II of chapter 201 of
3 title 49, United States Code, is amended by adding at the
4 end the following:

5 **“§ 20168. Confidential close call reporting systems**

6 “(a) RULEMAKING.—

7 “(1) IN GENERAL.—Not later than 1 year after
8 the date of the enactment of the Crude-By-Rail
9 Safety Act, the Secretary of Transportation shall
10 promulgate regulations setting forth the require-
11 ments for an applicable railroad carrier to follow in
12 establishing a confidential close call reporting system
13 program.

14 “(2) CONSIDERATIONS.—The Secretary may
15 use any information and experience gathered
16 through research and pilot programs on confidential
17 close call reporting systems in developing the regula-
18 tions, including continuing the use of third parties
19 for the collection of close call reports and distribu-
20 tion of close call data. The Secretary shall ensure
21 that an applicable railroad carrier’s employees re-
22 ceive protection under its program from any related
23 Federal Railroad Administration enforcement ac-
24 tions.

25 “(b) PROGRAM DEVELOPMENT AND OVERSIGHT.—

1 “(1) IN GENERAL.—Not later than 180 days
2 after the date of the final regulations under sub-
3 section (a), an applicable railroad carrier shall de-
4 velop a proposed program and submit it to the Sec-
5 retary of Transportation for review and approval.

6 “(2) CONTENTS.—A railroad carrier shall de-
7 scribe its proposed program’s core principles and
8 values, explain the rights, roles, and responsibilities
9 of program stakeholders, identify concerns and inter-
10 ests, and describe how the program will operate.

11 “(3) REVIEW.—

12 “(A) IN GENERAL.—The Secretary shall
13 review and approve or disapprove each proposed
14 program within a reasonable amount of time. If
15 a proposed program is not approved, the Sec-
16 retary shall notify the applicable railroad car-
17 rier in writing as to the specific areas in which
18 the proposed program is deficient. The applica-
19 ble railroad carrier shall correct all deficiencies
20 within a reasonable period of time following re-
21 ceipt of written notice from the Secretary.

22 “(B) UPDATES.—An applicable railroad
23 carrier shall update its program as needed and
24 obtain the Secretary’s approval before making
25 any major changes to its program.

1 “(C) ANNUAL REVIEWS.—The Secretary
2 shall conduct an annual review to ensure that
3 each applicable railroad carrier is in compliance
4 with its program.

5 “(c) IN GENERAL.—Not later than 2 years after the
6 date of the enactment of the Crude-By-Rail Safety Act,
7 each applicable railroad carrier shall establish a confiden-
8 tial close call reporting system.

9 “(d) PROGRAM ELEMENTS.—Each applicable rail-
10 road carrier shall—

11 “(1) provide a safe environment for its employ-
12 ees to report unsafe events and conditions;

13 “(2) for unsafe events and conditions reported
14 within the scope of a confidential close call reporting
15 system, ensure its employees are protected from rail-
16 road carrier discipline;

17 “(3) use information collected through the con-
18 fidential close call reporting system to develop and
19 implement targeted corrective actions, as appro-
20 priate; and

21 “(4) use information collected by the programs
22 to supplement inspection data in identifying safety
23 issues and emerging risks before they develop into
24 accidents.

25 “(e) CONSENSUS.—

1 “(1) IN GENERAL.—Each applicable railroad
2 carrier shall consult with, employ good faith with,
3 and use its best efforts to reach agreement with all
4 of its directly affected employees, including any non-
5 profit employee labor organization representing a
6 class or craft of directly affected employees of the
7 applicable railroad carrier, on the development and
8 implementation of the proposed program.

9 “(2) STATEMENTS.—If an applicable railroad
10 carrier and its directly affected employees, including
11 any nonprofit employee labor organization rep-
12 resenting a class or craft of directly affected employ-
13 ees of the applicable railroad carrier, cannot reach
14 consensus on the development and implementation of
15 the proposed program, then directly affected employ-
16 ees and such organization may file a statement with
17 the Secretary of Transportation explaining their
18 views on the proposed program on which consensus
19 was not reached. The Secretary shall consider such
20 views during review of the proposed program under
21 subsection (b)(3)(A).

22 “(f) VOLUNTARY PROGRAM ESTABLISHMENT.—Any
23 railroad carrier that is not an applicable railroad carrier
24 may voluntarily establish a program under this section.
25 This section, and any regulations promulgated under this

1 section, shall apply to a program that is voluntarily estab-
2 lished.

3 “(g) USE OF DATA.—The Secretary of Transpor-
4 tation may use the confidential close call reporting data—

5 “(1) when implementing or updating the Fed-
6 eral Railroad Administration’s National Inspection
7 Plan;

8 “(2) when performing focused inspections; or

9 “(3) when developing agency rulemakings and
10 guidance, as appropriate.

11 “(h) DEFINITION OF APPLICABLE RAILROAD CAR-
12 RIER.—In this section, the term ‘applicable railroad car-
13 rier’ means—

14 “(1) a railroad carrier that is a Class I rail-
15 road;

16 “(2) a railroad carrier that has inadequate safe-
17 ty performance, as determined by the Secretary; or

18 “(3) a railroad carrier that provides intercity
19 rail passenger or commuter rail passenger transpor-
20 tation.

21 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to the Secretary of Trans-
23 portation such sums as may be necessary to implement
24 this section and to support the nationwide implementation,

1 as the Secretary determines appropriate, of confidential
2 close call reporting system programs.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for subchapter II of chapter 201 of title 49, United States
5 Code, is amended by adding at the end the following:

“20168. Confidential close call reporting systems.”.

6 **SEC. 12. HIGH-HAZARD FLAMMABLE TRAIN LIABILITY**
7 **STUDY.**

8 (a) IN GENERAL.—Not later than 30 days after the
9 date of the enactment of this Act, the Secretary of Trans-
10 portation shall contract with the Transportation Research
11 Board of the National Academy of Sciences to conduct a
12 study on high-hazard flammable train liability.

13 (b) PURPOSE.—The study conducted under sub-
14 section (a) shall evaluate—

15 (1) the level of insurance, including self insur-
16 ance, available in the private market against the full
17 liability potential for damages arising from an inci-
18 dent involving a high-hazard flammable train;

19 (2) the ability of the level and availability of in-
20 surance referred to in paragraph (1)—

21 (A) to address externalities that exist be-
22 cause of gaps between insurance coverage and
23 liability risk;

24 (B) to equitably allocate risk and financial
25 responsibility for claims;

1 (C) to ensure that rail carriers have suffi-
2 cient financial capacity to pay claims to those
3 affected by high consequence incidents in a
4 timely manner; and

5 (D) to ensure that rail carriers and ship-
6 pers of high-hazard flammable trains can con-
7 tinue to operate despite the risk of catastrophic
8 disaster; and

9 (3) the potential applicability to high-hazard
10 flammable trains of—

11 (A) a liability regime modeled after section
12 170 of the Atomic Energy Act of 1954 (42
13 U.S.C. 2210); and

14 (B) a liability regime modeled after sub-
15 title 2 of title XXI of the Public Health Service
16 Act (42 U.S.C. 300aa–10 et seq.).

17 (c) REPORT.—Not later than 1 year after the date
18 of the enactment of this Act, the Transportation Research
19 Board of the National Academy of Sciences shall submit
20 a report containing the results of the study and rec-
21 ommendations for addressing high hazard flammable train
22 liability issues to—

23 (1) the Secretary of Transportation;

24 (2) the Committee on Commerce, Science, and
25 Transportation of the Senate; and

1 (3) the Committee on Transportation and In-
2 frastructure of the House of Representatives.

3 **SEC. 13. REVIEW AND RECOMMENDATIONS.**

4 (a) IN GENERAL.—The Secretary of Transportation,
5 in cooperation with the Secretary of Energy, the Secretary
6 of Homeland Security, the Commanding General of the
7 United States Army Corps of Engineers, and the Adminis-
8 trator of the Environmental Protection Agency, shall con-
9 duct a comprehensive review of existing regulations for en-
10 ergy products that are transported by all modes of trans-
11 portation.

12 (b) REVIEW ELEMENTS.—The review under sub-
13 section (a) shall assess the effectiveness of existing regula-
14 tions and industry capability—

15 (1) to improve the safety of energy product
16 transportation through populated or environmentally
17 sensitive areas;

18 (2) to maximize, to the extent possible, the sta-
19 bility and uniformity of energy products prior to
20 transportation;

21 (3) to eliminate the occurrence of accidents in-
22 volving transportation of such products, and mini-
23 mize the severity of such accidents should they
24 occur;

1 (4) to minimize energy product routing through
2 populated or environmentally sensitive areas;

3 (5) to reduce the environmental impact of
4 transporting, loading, or unloading energy products;

5 (6) to improve the security of energy product
6 transportation; and

7 (7) to prepare for an appropriate emergency re-
8 sponse to accidents.

9 (c) SUBMISSION OF REVIEW AND RECOMMENDA-
10 TIONS.—Not later than June 30, 2016, the Secretary of
11 Transportation, in cooperation with the Secretary of En-
12 ergy, the Secretary of Homeland Security, the Com-
13 manding General of the United States Army Corps of En-
14 gineers, and the Administrator of the Environmental Pro-
15 tection Agency, shall submit the results of the review
16 under subsection (a) to Congress, in conjunction with rec-
17 ommendations for—

18 (1) improving all aspects of energy product
19 transport by all transportation modes;

20 (2) regulatory measures that the Secretary of
21 Transportation is authorized to undertake that
22 would improve the safety and reduce the environ-
23 mental and community impact of transporting en-
24 ergy products; and

1 (3) legislative changes that should be made to
2 improve the safety and reduce the environmental
3 and community impact of transporting energy prod-
4 ucts.

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