

108TH CONGRESS
2D SESSION

S. 2952

To amend title 49, United States Code, to provide the Department of Transportation a more focused research organization, to improve pipeline and hazardous materials transportation safety, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 8, 2004

Mr. MCCAIN (for himself and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, to provide the Department of Transportation a more focused research organization, to improve pipeline and hazardous materials transportation safety, 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 “Norman Y. Mineta
5 Research and Special Programs Improvement Act”.

1 **SEC. 2. RESEARCH AND INNOVATIVE TECHNOLOGY ADMIN-**
2 **ISTRATION.**

3 (a) IN GENERAL.—Section 112 of title 49, United
4 States Code, is amended—

5 (1) by striking the section heading and insert-
6 ing the following:

7 **“§ 112. Research and Innovative Technology Adminis-**
8 **tration”;**

9 (2) by striking subsection (a) and inserting the
10 following:

11 “(a) ESTABLISHMENT.—The Research and Innova-
12 tive Technology Administration shall be an administration
13 in the Department of Transportation.”;

14 (3) by striking subsection (d) and inserting the
15 following:

16 “(d) POWERS AND DUTIES OF THE ADMINIS-
17 TRATOR.—The Administrator shall carry out—

18 “(1) powers and duties prescribed by the Sec-
19 retary for—

20 “(A) coordination, facilitation, and review
21 of the Department’s research and development
22 programs and activities;

23 “(B) advancement, and research and devel-
24 opment, of innovative technologies, including in-
25 telligent transportation systems;

1 “(C) comprehensive transportation statis-
2 tics research, analysis, and reporting;

3 “(D) education and training in transpor-
4 tation and transportation-related fields; and

5 “(E) activities of the Volpe National
6 Transportation Center; and

7 “(2) other powers and duties prescribed by the
8 Secretary.”; and

9 (4) by striking subsection (e).

10 (b) OFFICE OF INTERMODALISM.—Section 5503(a)
11 of title 49, United States Code, is amended to read as
12 follows:

13 “(a) ESTABLISHMENT.—There is established in the
14 Research and Innovative Technology Administration an
15 Office of Intermodalism.”.

16 (c) TRANSFER OF POWERS AND DUTIES OF RE-
17 SEARCH AND SPECIAL PROGRAMS ADMINISTRATION.—
18 The authority of the Research and Special Programs Ad-
19 ministration, other than authority exercised under chap-
20 ters 51, 57, 61, 601, and 603 of title 49, United States
21 Code, is transferred to the Administrator of the Research
22 and Innovative Technology Administration.

23 (d) CONFORMING AMENDMENT.—The analysis for
24 chapter 1 of title 49, United States Code, is amended by

1 striking the item relating to section 112 and inserting the
2 following:

“112. Research and Innovative Technology Administration.”.

3 (e) EXECUTIVE SCHEDULE PAY RATE.—Section
4 5314 of title 5, United States Code, is amended by strik-
5 ing the undesignated paragraph relating to the Adminis-
6 trator, Research and Special Programs Administration
7 and inserting the following:

8 “Administrator, Research and Innovative Tech-
9 nology Administration.”.

10 (f) REPORT.—

11 (1) IN GENERAL.—Not later than 120 days
12 after the date of enactment of this Act, the Adminis-
13 trator of the Research and Innovative Technology
14 Administration shall submit to the Committee on
15 Transportation and Infrastructure and the Com-
16 mittee on Science of the House of Representatives
17 and the Committee on Commerce, Science, and
18 Transportation of the Senate a report on the re-
19 search activities of the Department of Transpor-
20 tation.

21 (2) CONTENTS.—The report shall include—

22 (A) a summary of the mission and stra-
23 tegic goals of the Administration;

1 (B) a prioritized list of the research and
2 development activities that the Department in-
3 tends to pursue over the next 5 years;

4 (C) a description of the primary purposes
5 for conducting such research and development
6 activities, such as reducing traffic congestion,
7 improving mobility, and promoting safety;

8 (D) an estimate of the funding levels need-
9 ed to implement such research and development
10 activities for the current fiscal year; and

11 (E) any additional information the Admin-
12 istrator considers appropriate.

13 (3) DEVELOPMENT.—In developing the report,
14 the Administrator shall—

15 (A) solicit input from a wide range of
16 stakeholders;

17 (B) take into account how the research
18 and development activities of other Federal,
19 State, private sector, and not-for-profit institu-
20 tions contribute to the achievement of the pur-
21 poses identified under paragraph (2)(C); and

22 (C) address methods to avoid unnecessary
23 duplication of efforts in achieving such pur-
24 poses.

1 **SEC. 3. BUREAU OF TRANSPORTATION STATISTICS.**

2 (a) ESTABLISHMENT.—Section 111(a) of title 49,
3 United States Code, is amended by striking “in the De-
4 partment of Transportation” and inserting “in the Re-
5 search and Innovative Technology Administration”.

6 (b) APPOINTMENT OF DIRECTOR.—Section 111(b) of
7 title 49, United States Code, is amended—

8 (1) by striking paragraph (1) and inserting the
9 following:

10 “(1) APPOINTMENT.—The Bureau shall be
11 headed by a Director who shall be appointed in the
12 competitive service by the Secretary.”; and

13 (2) by striking paragraphs (3) and (4).

14 (c) EXECUTIVE SCHEDULE PAY RATE.—Section
15 5316 of title 5, United States Code, is amended by strik-
16 ing the undesignated paragraph relating to the Director,
17 Bureau of Transportation Statistics.

18 **SEC. 4. PIPELINE AND HAZARDOUS MATERIALS SAFETY AD-**
19 **MINISTRATION.**

20 (a) IN GENERAL.—Section 108 of title 49, United
21 States Code, is amended to read as follows:

22 **“§ 108. Pipeline and Hazardous Materials Safety Ad-**
23 **ministration**

24 “(a) IN GENERAL.—The Pipeline and Hazardous
25 Materials Safety Administration shall be an administra-
26 tion in the Department of Transportation.

1 “(b) SAFETY AS HIGHEST PRIORITY.—In carrying
2 out its duties, the Administration shall consider the as-
3 signment and maintenance of safety as the highest pri-
4 ority, recognizing the clear intent, encouragement, and
5 dedication of Congress to the furtherance of the highest
6 degree of safety in pipeline transportation and hazardous
7 materials transportation.

8 “(c) ADMINISTRATOR.—The head of the Administra-
9 tion shall be the Administrator who shall be appointed by
10 the President, by and with the advice and consent of the
11 Senate, and shall be an individual with professional experi-
12 ence in pipeline safety, hazardous materials safety, or
13 other transportation safety. The Administrator shall re-
14 port directly to the Secretary of Transportation.

15 “(d) DEPUTY ADMINISTRATOR.—The Administration
16 shall have a Deputy Administrator who shall be appointed
17 by the Secretary. The Deputy Administrator shall carry
18 out duties and powers prescribed by the Administrator.

19 “(e) CHIEF SAFETY OFFICER.—The Administration
20 shall have an Assistant Administrator for Pipeline and
21 Hazardous Materials Safety appointed in the competitive
22 service by the Secretary. The Assistant Administrator
23 shall be the Chief Safety Officer of the Administration.
24 The Assistant Administrator shall carry out the duties and
25 powers prescribed by the Administrator.

1 “(f) DUTIES AND POWERS OF THE ADMINIS-
2 TRATOR.—The Administrator shall carry out—

3 “(1) duties and powers related to pipeline and
4 hazardous materials transportation and safety vested
5 in the Secretary by chapters 51, 57, 61, 601, and
6 603; and

7 “(2) other duties and powers prescribed by the
8 Secretary.

9 “(g) LIMITATION.—A duty or power specified in sub-
10 section (f)(1) may be transferred to another part of the
11 Department of Transportation or another government en-
12 tity only if specifically provided by law.”.

13 (b) TRANSFER OF DUTIES AND POWERS OF RE-
14 SEARCH AND SPECIAL PROGRAMS ADMINISTRATION.—
15 The authority of the Research and Special Programs Ad-
16 ministration exercised under chapters 51, 57, 61, 601, and
17 603 of title 49, United States Code, is transferred to the
18 Administrator of the Pipeline and Hazardous Materials
19 Safety Administration.

20 (c) CONFORMING AMENDMENTS.—

21 (1) CHAPTER ANALYSIS.—The analysis for
22 chapter 1 of title 49, United States Code, is amend-
23 ed by striking the item relating to section 108 and
24 inserting the following:

“108. Pipeline and Hazardous Materials Safety Administration.”.

1 (2) DOT INSPECTORS.—Section 5118(b)(3)(A)
2 of title 49, United States Code, is amended by strik-
3 ing “Research and Special Programs Administra-
4 tion” and inserting “Pipeline and Hazardous Mate-
5 rials Safety Administration”.

6 (3) NTSB SAFETY RECOMMENDATIONS.—Sec-
7 tion 19(a) of the Pipeline Safety Improvement Act
8 of 2002 (49 U.S.C 1135 note; 116 Stat. 3009) is
9 amended by striking “Research and Special Pro-
10 gram Administration” and inserting “Pipeline and
11 Hazardous Materials Safety Administration”.

12 (4) NATIONAL MARITIME ENHANCEMENTS IN-
13 STITUTES.—Section 8(f)(2) of Public Law 101–115
14 (46 U.S.C. App. 1121–2(f)(2)) is amended by strik-
15 ing “Research and Special Programs Administra-
16 tion” and inserting “Research and Innovative Tech-
17 nology Administration”.

18 (5) OIL POLLUTION RESEARCH AND DEVELOP-
19 MENT PROGRAM.—Section 7001 of the Oil Pollution
20 Act of 1990 (33 U.S.C. 2761) is amended—

21 (A) in subsection (a)(3) by striking “Re-
22 search and Special Projects Administration”
23 and inserting “Pipeline and Hazardous Mate-
24 rials Safety Administration”; and

1 (B) in subsection (c)(11) by striking “Re-
2 search and Special Programs Administration”
3 and inserting “Pipeline and Hazardous Mate-
4 rials Safety Administration”.

5 (6) PENALTIES.—Section 844(g)(2)(B) of title
6 18, United State Code, is amended by striking “Re-
7 search and Special Projects Administration” and in-
8 serting “Pipeline and Hazardous Materials Safety
9 Administration”.

10 (d) EXECUTIVE SCHEDULE PAY RATE.—Section
11 5314 of title 5, United States Code, is amended by adding
12 at the end the following:

13 “Administrator, Pipeline and Hazardous Mate-
14 rials Safety Administration.”.

15 **SEC. 5. REPORTS.**

16 (a) REPORTS BY THE INSPECTOR GENERAL.—Not
17 later than 30 days after the date of enactment of this Act,
18 the Inspector General of the Department of Transpor-
19 tation shall submit to the Secretary of Transportation and
20 the Administrator of the Pipeline and Hazardous Mate-
21 rials Safety Administration a report containing the fol-
22 lowing:

23 (1) A list of each statutory mandate regarding
24 pipeline safety or hazardous materials safety that
25 has not been implemented.

1 (2) A list of each open safety recommendation
2 made by the National Transportation Safety Board
3 or the Inspector General regarding pipeline safety or
4 hazardous materials safety.

5 (b) REPORTS BY THE SECRETARY.—

6 (1) STATUTORY MANDATES.—Not later than 90
7 days after the date of enactment of this Act, and
8 every 180 days thereafter until each of the mandates
9 referred to in subsection (a)(1) has been imple-
10 mented, the Secretary shall transmit to the Com-
11 mittee on Transportation and Infrastructure and the
12 Committee on Energy and Commerce of the House
13 of Representatives and the Committee on Commerce,
14 Science, and Transportation of the Senate a report
15 on the specific actions taken to implement such
16 mandates.

17 (2) NTSB AND INSPECTOR GENERAL REC-
18 COMMENDATIONS.—Not later than January 1st of
19 each year, the Secretary shall transmit to the Com-
20 mittee on Transportation and Infrastructure and the
21 Committee on Energy and Commerce of the House
22 of Representatives and the Committee on Commerce,
23 Science, and Transportation of the Senate a report
24 containing each recommendation referred to in sub-
25 section (a)(2) and a copy of the Department of

1 Transportation response to each such recommenda-
2 tion.

3 **SEC. 6. DEADLINE FOR TRANSFERS.**

4 The Secretary shall provide for the orderly transfer
5 of duties and powers under this Act, including the amend-
6 ments made by this Act, as soon as practicable but not
7 later than 90 days after the date of enactment of this Act.

8 **SEC. 7. OFFICE OF INTERMODALISM.**

9 (a) IN GENERAL.—Section 5503 of title 49, United
10 States Code, is amended—

11 (1) by inserting “Amounts reserved under sec-
12 tion 5504(d) not awarded to States as grants may
13 be used by the Director to provide technical assist-
14 ance under this subsection.” after “organizations.”
15 in subsection (e);

16 (2) by redesignating subsection (f) as sub-
17 section (h), and inserting after subsection (e) the
18 following:

19 “(f) NATIONAL INTERMODAL SYSTEM IMPROVEMENT
20 PLAN.—

21 “(1) IN GENERAL.—The Director, in consulta-
22 tion with the advisory board established under sec-
23 tion 5502 of this title and other public and private
24 transportation interests, shall develop a plan to im-

1 prove the national intermodal transportation system.

2 The plan shall include—

3 “(A) an assessment and forecast of the na-
4 tional intermodal transportation system’s im-
5 pact on mobility, safety, energy consumption,
6 the environment, technology, international
7 trade, economic activity, and quality of life in
8 the United States;

9 “(B) an assessment of the operational and
10 economic attributes of each passenger and
11 freight mode of transportation and the optimal
12 role of each mode in the national intermodal
13 transportation system;

14 “(C) a description of recommended inter-
15 modal and multi-modal research and develop-
16 ment projects;

17 “(D) a description of emerging trends that
18 have an impact on the national intermodal
19 transportation system;

20 “(E) recommendations for improving inter-
21 modal policy, transportation decisionmaking,
22 and financing to maximize mobility and the re-
23 turn on investment of Federal spending on
24 transportation;

1 “(F) an estimate of the impact of current
2 Federal and State transportation policy on the
3 national intermodal transportation system; and

4 “(G) specific near and long-term goals for
5 the national intermodal transportation system.

6 “(2) PROGRESS REPORTS.—The Director shall
7 submit an initial report on the plan to improve the
8 national intermodal transportation system 2 years
9 after the date of enactment of the Norman Y. Mi-
10 neta Research and Special Programs Improvement
11 Act, and a follow-up report 2 years after that, to the
12 Senate Committee on Commerce, Science, and
13 Transportation and the House of Representatives
14 Committee on Transportation and Infrastructure.
15 The progress report shall—

16 “(A) describe progress made toward
17 achieving the plan’s goals;

18 “(B) describe challenges and obstacles to
19 achieving the plan’s goals;

20 “(C) update the plan to reflect changed
21 circumstances or new developments; and

22 “(D) make policy and legislative rec-
23 ommendations the Director believes are nec-
24 essary and appropriate to achieve the goals of
25 the plan.

1 “(3) PLAN DEVELOPMENT FUNDING.—Such
2 sums as may be necessary from the administrative
3 expenses of the Research and Innovative Technology
4 Administration shall be reserved each year for the
5 purpose of completing and updating the plan to im-
6 prove the national intermodal transportation plan.

7 “(g) IMPACT MEASUREMENT METHODOLOGY; IM-
8 PACT REVIEW.—The Director and the Director of the Bu-
9 reau of Transportation Statistics shall jointly—

10 “(1) develop, in consultation with the modal ad-
11 ministrations, and State and local planning organi-
12 zations, common measures to compare transpor-
13 tation investment decisions across the various modes
14 of transportation; and

15 “(2) formulate a methodology for measuring
16 the impact of intermodal transportation on—

17 “(A) the environment;

18 “(B) public health and welfare;

19 “(C) energy consumption;

20 “(D) the operation and efficiency of the
21 transportation system;

22 “(E) congestion, including congestion at
23 the Nation’s ports; and

24 “(F) the economy and employment.”.

1 **SEC. 8. SAVINGS PROVISIONS.**

2 (a) TRANSFER OF ASSETS AND PERSONNEL.—Per-
3 sonnel, property, and records employed, used, held, avail-
4 able, or to be made available in connection with functions
5 transferred within the Department of Transportation by
6 this Act shall be transferred for use in connection with
7 the functions transferred, and unexpended balances of ap-
8 propriations, allocations, and other funds (including funds
9 of any predecessor entity) shall also be transferred accord-
10 ingly.

11 (b) LEGAL DOCUMENTS.—All orders, determinations,
12 rules, regulations, permits, grants, loans, contracts, settle-
13 ments, agreements, certificates, licenses, and privileges—

14 (1) that have been issued, made, granted, or al-
15 lowed to become effective by any officer or employee,
16 or any other Government official, or by a court of
17 competent jurisdiction, in the performance of any
18 function that is transferred by this Act; and

19 (2) that are in effect on the effective date of
20 such transfer (or become effective after such date
21 pursuant to their terms as in effect on such effective
22 date),

23 shall continue in effect according to their terms until
24 modified, terminated, superseded, set aside, or revoked in
25 accordance with law by the Department, any other author-

1 ized official, a court of competent jurisdiction, or operation
2 of law.

3 (c) PROCEEDINGS.—The provisions of this Act shall
4 not affect any proceedings, including administrative en-
5 forcement actions, pending before this Act takes effect, in-
6 sofar as those functions are transferred by this Act; but
7 such proceedings, to the extent that they relate to func-
8 tions so transferred, shall proceed in accordance with ap-
9 plicable law and regulations. Nothing in this subsection
10 shall be deemed to prohibit the conclusion or modification
11 of any proceeding described in this subsection under the
12 same terms and conditions and to the same extent that
13 such proceeding could have been concluded or modified if
14 this Act had not been enacted. The Secretary of Transpor-
15 tation is authorized to provide for the orderly transfer of
16 pending proceedings.

17 (d) SUITS.—

18 (1) IN GENERAL.—This Act shall not affect
19 suits commenced before the date of enactment of
20 this Act, except as provided in paragraphs (2) and
21 (3). In all such suits, proceedings shall be had, ap-
22 peals taken, and judgments rendered in the same
23 manner and with the same effect as if this Act had
24 not been enacted.

1 (2) SUITS BY OR AGAINST DEPARTMENT.—Any
2 suit by or against the Department begun before the
3 date of enactment of this Act, shall proceed in ac-
4 cordance with applicable law and regulations, insofar
5 as it involves a function retained and transferred
6 under this Act.

7 (3) PROCEDURES FOR REMANDED CASES.—If
8 the court in a suit described in paragraph (1) re-
9 mands a case, subsequent proceedings related to
10 such case shall proceed under procedures that are in
11 accordance with applicable law and regulations as in
12 effect at the time of such subsequent proceedings.

13 (e) CONTINUANCE OF ACTIONS AGAINST OFFI-
14 CERS.—No suit, action, or other proceeding commenced
15 by or against any officer in his or her official capacity
16 shall abate by reason of the enactment of this Act.

17 (f) EXERCISE OF AUTHORITIES.—An officer or em-
18 ployee of the Department, for purposes of performing a
19 function transferred by this Act, may exercise all authori-
20 ties under any other provision of law that were available
21 with respect to the performance of that function to the
22 official responsible for the performance of the function im-
23 mediately before the effective date of the transfer of the
24 function by this Act.

1 (g) REFERENCES.—A reference relating to an agen-
 2 cy, officer, or employee affected by this Act in any Federal
 3 law, Executive order, rule, regulation, or delegation of au-
 4 thority, or in any document pertaining to an officer or em-
 5 ployee, is deemed to refer, as appropriate, to the agency,
 6 officer, or employee who succeeds to the functions trans-
 7 ferred by this Act.

8 (h) DEFINITION.—In this section, the term “this
 9 Act” includes the amendments made by this Act.

10 **SEC. 9. DEPARTMENT OF TRANSPORTATION SANITARY**
 11 **FOOD TRANSPORTATION REQUIREMENTS.**

12 Chapter 57 of title 49, United States Code, is amend-
 13 ed to read as follows:

14 **“CHAPTER 57—SANITARY FOOD**
 15 **TRANSPORTATION**

“Sec.

“5701. Food transportation safety inspections.

16 **“§ 5701. Food transportation safety inspections**

17 **“(a) INSPECTION PROCEDURES.—**

18 **“(1) IN GENERAL.—**The Secretary of Transpor-
 19 tation, in consultation with the Secretary of Health
 20 and Human Services and the Secretary of Agri-
 21 culture, shall—

22 **“(A)** establish procedures for transpor-
 23 tation safety inspections for the purpose of

1 identifying suspected incidents of contamination
2 or adulteration of—

3 “(i) food in violation of regulations
4 promulgated under section 416 of the Fed-
5 eral Food, Drug, and Cosmetic Act; and

6 “(ii) meat subject to detention under
7 section 402 of the Federal Meat Inspection
8 Act (21 U.S.C. 672); and

9 “(iii) poultry products subject to de-
10 tention under section 19 of the Poultry
11 Products Inspection Act (21 U.S.C. 467a);
12 and

13 “(B) train personnel of the Department of
14 Transportation in the appropriate use of the
15 procedures.

16 “(2) APPLICABILITY.—The procedures estab-
17 lished under paragraph (1) of this subsection shall
18 apply, at a minimum, to Department of Transpor-
19 tation personnel that perform commercial motor ve-
20 hicle or railroad safety inspections.

21 “(b) NOTIFICATION OF SECRETARY OF HEALTH AND
22 HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—
23 The Secretary of Transportation shall promptly notify the
24 Secretary of Health and Human Services or the Secretary
25 of Agriculture, as applicable, of any instances of potential

1 food contamination or adulteration of a food identified
2 during transportation safety inspections.

3 “(c) USE OF STATE EMPLOYEES.—The means by
4 which the Secretary of Transportation carries out sub-
5 section (b) of this section may include inspections con-
6 ducted by State employees using funds authorized to be
7 appropriated under sections 31102 through 31104 of this
8 title.”.

9 **SEC. 10. RESPONSIBILITIES OF THE SECRETARY OF**
10 **HEALTH AND HUMAN SERVICES.**

11 (a) UNSANITARY TRANSPORT DEEMED ADULTERA-
12 TION.—Section 402 of the Federal Food, Drug, and Cos-
13 metic Act (21 U.S.C. 342) is amended by adding at the
14 end the following:

15 “(i) NONCOMPLIANCE WITH SANITARY TRANSPOR-
16 TATION PRACTICES.—If the food is transported under
17 conditions that are not in compliance with the sanitary
18 transportation practices prescribed by the Secretary under
19 section 416.”.

20 (b) SANITARY TRANSPORTATION REQUIREMENTS.—
21 Chapter IV of the Federal Food, Drug, and Cosmetic Act
22 (21 U.S.C. 341 et seq.) is amended by adding at the end
23 the following:

24 **“SEC. 416. SANITARY TRANSPORTATION PRACTICES.**

25 “(a) DEFINITIONS.—In this section:

1 “(1) BULK VEHICLE.—The term ‘bulk vehicle’
2 includes a tank truck, hopper truck, rail tank car,
3 hopper car, cargo tank, portable tank, freight con-
4 tainer, or hopper bin, and any other vehicle in which
5 food is shipped in bulk, with the food coming into
6 direct contact with the vehicle.

7 “(2) TRANSPORTATION.—The term ‘transportation’ means any movement in commerce by motor
8 vehicle or rail vehicle.
9

10 “(b) REGULATIONS.—The Secretary shall by regula-
11 tion require shippers, carriers by motor vehicle or rail ve-
12 hicle, receivers, and other persons engaged in the trans-
13 portation of food to use sanitary transportation practices
14 prescribed by the Secretary to ensure that food is not
15 transported under conditions that may render the food
16 adulterated.

17 “(c) CONTENTS.—The regulations shall—

18 “(1) prescribe such practices as the Secretary
19 determines to be appropriate relating to—

20 “(A) sanitation;

21 “(B) packaging, isolation, and other pro-
22 tective measures;

23 “(C) limitations on the use of vehicles;

24 “(D) information to be disclosed—

1 “(i) to a carrier by a person arranging
2 for the transport of food; and

3 “(ii) to a manufacturer or other per-
4 son that—

5 “(I) arranges for the transpor-
6 tation of food by a carrier; or

7 “(II) furnishes a tank vehicle or
8 bulk vehicle for the transportation of
9 food; and

10 “(E) recordkeeping; and

11 “(2) include—

12 “(A) a list of nonfood products that the
13 Secretary determines may, if shipped in a bulk
14 vehicle, render adulterated food that is subse-
15 quently transported in the same vehicle; and

16 “(B) a list of nonfood products that the
17 Secretary determines may, if shipped in a
18 motor vehicle or rail vehicle (other than a tank
19 vehicle or bulk vehicle), render adulterated food
20 that is simultaneously or subsequently trans-
21 ported in the same vehicle.

22 “(d) WAIVERS.—

23 “(1) IN GENERAL.—The Secretary may waive
24 any requirement under this section, with respect to

1 any class of persons, vehicles, food, or nonfood prod-
2 ucts, if the Secretary determines that the waiver—

3 “(A) will not result in the transportation
4 of food under conditions that would be unsafe
5 for human or animal health; and

6 “(B) will not be contrary to the public in-
7 terest.

8 “(2) PUBLICATION.—The Secretary shall pub-
9 lish in the Federal Register any waiver and the rea-
10 sons for the waiver.

11 “(e) PREEMPTION.—

12 “(1) IN GENERAL.—No State or political sub-
13 division of a State may directly or indirectly estab-
14 lish or continue in effect, as to any food in interstate
15 commerce, any authority or requirement concerning
16 transportation of food that is not identical to an au-
17 thority or requirement under this section.

18 “(2) APPLICABILITY.—This subsection applies
19 to transportation that occurs on or after the effec-
20 tive date of the regulations promulgated under sub-
21 section (b).

22 “(f) ASSISTANCE OF OTHER AGENCIES.—The Sec-
23 retary of Transportation, the Secretary of Agriculture, the
24 Administrator of the Environmental Protection Agency,
25 and the heads of other Federal agencies, as appropriate,

1 shall provide assistance on request, to the extent resources
2 are available, to the Secretary for the purposes of carrying
3 out this section.”.

4 (c) INSPECTION OF TRANSPORTATION RECORDS.—

5 (1) REQUIREMENT.—Section 703 of the Fed-
6 eral Food, Drug, and Cosmetic Act (21 U.S.C. 373)
7 is amended—

8 (A) by striking the section heading and all
9 that follows through “For the purpose” and in-
10 sserting the following:

11 **“SEC. 703. RECORDS.**

12 “(a) IN GENERAL.—For the purpose”; and

13 (B) by adding at the end the following:

14 “(b) FOOD TRANSPORTATION RECORDS.—A shipper,
15 carrier by motor vehicle or rail vehicle, receiver, or other
16 person subject to section 416 shall, on request of an officer
17 or employee designated by the Secretary, permit the offi-
18 cer or employee, at reasonable times, to have access to
19 and to copy all records that the Secretary requires to be
20 kept under section 416(c)(1)(E).”.

21 (2) CONFORMING AMENDMENT.—Subsection (a)
22 of section 703 of the Federal Food, Drug, and Cos-
23 metic Act (as designated by paragraph (1)(A)) is
24 amended by striking “carriers.” and inserting “car-
25 riers, except as provided in subsection (b)”.

1 (d) PROHIBITED ACTS.—

2 (1) RECORDS INSPECTION.—Section 301(e) of
3 the Federal Food, Drug, and Cosmetic Act (21
4 U.S.C. 331(e)) is amended by inserting “416,” be-
5 fore “504,” each place it appears.

6 (2) UNSAFE FOOD TRANSPORTATION.—Section
7 301 of the Federal Food, Drug, and Cosmetic Act
8 (21 U.S.C. 331) is amended by adding at the end
9 the following:

10 “(hh) NONCOMPLIANCE WITH SANITARY TRANSPOR-
11 TATION PRACTICES.—The failure by a shipper, carrier by
12 motor vehicle or rail vehicle, receiver, or any other person
13 engaged in the transportation of food to comply with the
14 sanitary transportation practices prescribed by the Sec-
15 retary under section 416.”.

○