

SMALL BUSINESS REGULATORY RELIEF ACT OF 1996

SEPTEMBER 17, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3153]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3153) to amend title 49, United States Code, to exempt from regulation the transportation of certain hazardous materials by vehicles with a gross vehicle weight rating of 10,000 pounds or less, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business Regulatory Relief Act of 1996”.

SEC. 2. FINDINGS.

Congress finds that—

- (1) the Secretary of Transportation is considering, as part of a proposed rulemaking, expanding the exceptions provided for transportation of small quantities of hazardous materials from unnecessary and burdensome regulations;
- (2) the Secretary has found that certain businesses, and especially small businesses, carry small quantities of hazardous materials;
- (3) small businesses are critical in creating jobs in the United States economy and can be significantly affected by Federal regulations; and
- (4) regulatory relief for small businesses transporting relatively small quantities of hazardous materials should be promptly acted on and the Secretary has stated an intention to issue a final rule to provide this regulatory relief by December 31, 1996.

SEC. 3. MATERIALS OF TRADE EXCEPTIONS FROM HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) **DEADLINE FOR ISSUANCE OF FINAL RULE.**—Not later than December 31, 1996, the Secretary of Transportation shall issue, under the rulemaking proceeding under docket number HM-200, entitled “Hazardous Materials in Intrastate Transportation”, a final rule relating to materials of trade exceptions from chapter 51 of title

49, United States Code, and regulations issued pursuant thereto. The final rule shall substantially address the materials of trade exceptions contained in the proposed rule relating to hazardous materials in intrastate transportation published in the Federal Register on March 20, 1996 (61 Fed. Reg. 11489-11490).

(b) EFFECTIVE DATE.—The final rule issued under subsection (a) shall become effective not later than 90 days after date of publication of the final rule.

(c) TRAINING OF INSPECTORS.—Before the effective date of the final rule issued under subsection (a), the Secretary shall provide sufficient training of inspectors to provide for implementation of the final rule.

Amend the title so as to read:

A bill to direct the Secretary of Transportation to issue a final rule relating to materials of trade exceptions from hazardous materials transportation requirements.

PURPOSE

The purpose of this legislation is to direct the Secretary of Transportation to issue no later than December 31, 1996, under the rule-making proceeding under docket number HM-200, a final rule relating to materials of trade exceptions from hazardous materials regulation.

BACKGROUND AND NEED

On March 20, 1996, the Research and Special Programs Administration (RSPA) of the Department of Transportation issued a supplemental notice of proposed rulemaking which, in part, proposed to provide exceptions from hazardous materials regulation for certain small quantities of hazardous materials transported and used by carriers in the conduct of their businesses. This supplemental notice of proposed rulemaking was issued based on comments received in response to a notice of proposed rulemaking issued in July 1993, known as HM-200, to apply federal hazardous materials regulation to intrastate transportation. The Hazardous Materials Transportation Uniform Safety Act of 1990 (P.L. 101-615) required the Secretary to regulate hazardous materials in intrastate commerce.

The amendment in the nature of a substitute to H.R. 3153 adopted by the Committee on September 12, 1996, directs the Secretary to issue a final rule pertaining to materials of trade exceptions by December 31, 1996. H.R. 3153, as amended, applies only to the materials of trade exceptions proposed by RSPA in March of 1996 and does not affect other portions of HM-200. RSPA has proposed that the materials of trade exceptions apply to both intrastate and interstate commerce. While the materials of trade exceptions would be of great benefit to businesses, primarily small businesses, if and when federal hazardous materials regulation is extended to intrastate transportation, many businesses would enjoy benefits from the materials of trade exceptions from current regulation based on the materials they carry or the nature of their operations. Therefore, should the final rule of HM-200 be delayed beyond the end of the year due to controversies unrelated to the materials of trade exceptions, H.R. 3153 would ensure that this portion of the rule-making would be issued by December 31, 1996, to provide relief to those businesses currently regulated by federal hazardous materials requirements.

The materials of trade exceptions proposed by RSPA would allow a gross mass or capacity of not more than 0.5 L (one quart) or 0.5 kg (one pound) for Packing Group I material; 30 kg (66 pounds) for solids or 30 L (8 gallons) for liquids per packaging for a Packing Group II or III material or ORM-D material; and 75 kg (165 pounds) for a Division 2.1 or 2.2 material. The aggregate weight of all materials of trade on a motor vehicle could not exceed 150 kg (330 pounds). Certain materials would be excluded from the exceptions, including materials that are self-reactive, poisonous-by-inhalation, or assigned specific UN identification numbers associated with hazardous materials. Materials of trade would not be subject to regulation if, in general, the material is in the original packaging or in a packaging of equal or greater strength and integrity, and is properly secured; the package is marked to indicate the hazardous material it contains; and the operator of the motor vehicle is informed of the hazardous material. Materials of trade is defined as a hazardous material that is carried on a motor vehicle (1) for the purpose of protecting the health and safety of the motor vehicle operator or passengers; (2) for the purpose of supporting the operation or maintenance of the motor vehicle; or (3) by a private motor carrier in direct support of a principal business that is other than transportation by motor vehicle.

The public comment period closed on August 16, 1996, and RSPA has stated it intends to issue a final rule on HM-200 by the end of this year. It should be noted that H.R. 3153, as amended, does not prescribe the contents of the final rule and does not interfere with the normal rulemaking process and procedure. The bill only specifies a date by which the rulemaking process concerning the proposed materials of trade exceptions must be completed.

The Committee is aware that comments have been received by RSPA regarding bulk packaging and the treatment of hazardous materials which may not be regulated when concentrated but when diluted in water, become subject to regulation due to the volume carried. Also, these materials are used throughout the business day so that, although the materials may be subject to regulation when the work day begins, as the day progresses and the product is used during the course of business, the materials no longer may be of adequate amount to trigger regulation. The Committee expects that, as RSPA proceeds with the materials of trade rulemaking, RSPA will review and consider these comments to determine whether any streamlining of requirements is appropriate for bulk packaging and diluted hazardous materials.

In addition, the proposed rulemaking contains categorical exclusions for certain types of materials. RSPA should review, on a case-by-case basis, whether exceptions or reduced requirements are justified based on the individual industry and material for which the exception is sought and which would not diminish safety. For example, the residential swimming pool maintenance industry, which uses chlorine gas, has submitted comments to RSPA in response to the proposed materials of trade rule and petitioned for exemptions on behalf of individual companies. All comments in response to HM-200 and requests for exemptions under RSPA's authority in sections 5117 of title 49 should be individually reviewed and considered to determine whether reduced regulation is warranted.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

The Act may be cited as the “Small Business Regulatory Relief Act of 1996.”

Sec. 2. Findings

This section contains findings regarding the proposed rulemaking concerning materials of trade and relief for small businesses carrying relatively small amounts of hazardous materials.

Sec. 3. Materials of trade exceptions from hazardous materials transportation requirements

Subsection 3(a) requires that not later than December 31, 1996, the Secretary of Transportation shall issue a final rule relating to materials of trade exceptions from hazardous materials regulation. The rule is to be issued under the rulemaking proceeding under docket number HM-200 and substantially address the materials of trade exceptions published in the Federal Register on March 20, 1996 (61 Fed. Reg. 11489-11490).

Subsection 3(b) provides that the final rule on materials of trade shall become effective not later than 90 days after publication.

Subsection 3(c) provides that, prior to the effective date of the final rule, the Secretary must provide sufficient training of inspectors to provide for implementation of the final rule.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, no oversight findings or recommendations are included in this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the committee estimates that the enactment of H.R. 3153 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 3153 does not contain any new budget authority or new credit authority.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3153.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3153, as amended, from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 1996.

Hon. BUD SHUSTER,
*Chairman, Committee on Transportation and Infrastructure, House
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3153, the Small Business Regulatory Relief Act of 1996, as ordered reported by the House Committee on Transportation and Infrastructure on September 12, 1996. CBO estimates that implementing H.R. 3153 would cost the federal government about \$100,000, assuming appropriation of the necessary amount. Enacting H.R. 3923 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 3153 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

H.R. 3153 would require the Secretary of Transportation to issue—before December 31, 1996—a final rule establishing additional exceptions for materials of trade from rules governing transportation of hazardous materials. Materials of trade include hazardous materials carried for protecting the health and safety of drivers and passengers, or for operating and maintaining vehicles. The bill also would require the Secretary to provide training for inspectors to implement the final rule.

CBO estimates that enacting the bill would have no significant impact on federal, state, local, or tribal budgets because the Department of Transportation already intends to issue the final rule within the next year. Based on information from the agency, CBO estimates that the cost of training inspectors to implement the final rule would be about \$100,000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Clare Doherty (for federal costs); Karen McVey (for the state and local costs); and Jean Wooster (for the impact on the private sector).

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

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