

SEC. 332. AIRPORT RESCUE AND FIREFIGHTING.

(a) FIREFIGHTING FOAM.—Not later than 3 years after the date of enactment of this Act, the Administrator, using the latest version of National Fire Protection Association 403, “Standard for Aircraft Rescue and Fire-Fighting Services at Airports”, and in coordination with the Administrator of the Environmental Protection Agency, aircraft manufacturers and airports, shall not require the use of fluorinated chemicals to meet the performance standards referenced in chapter 6 of AC No: 150/5210–6D and acceptable under 139.319(l) of title 14, Code of Federal Regulations.

(b) TRAINING FACILITIES.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress—

(1) a report on the number and sufficiency of aircraft rescue and firefighting training facilities in each FAA region; and (2) a plan, if appropriate, to address any coverage gaps identified in the report.

SEC. 333. SAFE AIR TRANSPORTATION OF LITHIUM CELLS AND BATTERIES.

(a) HARMONIZATION WITH ICAO TECHNICAL INSTRUCTIONS.—

(1) ADOPTION OF ICAO INSTRUCTIONS.—

(A) IN GENERAL.—Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note), not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall conform United States regulations on the air transport of lithium cells and batteries with the lithium cells and battery requirements in the 2015–2016 edition of the International Civil Aviation Organization’s (referred to in this subsection as “ICAO”) Technical Instructions (to include all addenda), including the revised standards adopted by ICAO which became effective on April 1, 2016 and any further revisions adopted by ICAO prior to the effective date of the FAA Reauthorization Act of 2018.

(B) FURTHER PROCEEDINGS.—Beginning on the date the revised regulations under subparagraph (A) are published in the Federal Register, any lithium cell and battery rulemaking action or update commenced on or after that date shall continue to comply with the requirements under section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

(2) REVIEW OF OTHER REGULATIONS.—Pursuant to section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note), the Secretary of Transportation may initiate a review of other existing regulations regarding the air transportation, including passenger-carrying and cargo aircraft, of lithium batteries and cells.

(b) MEDICAL DEVICE BATTERIES.—

(1) IN GENERAL.—For United States applicants, the Secretary of Transportation shall consider and either grant or deny, not later than 45 days after receipt of an application, an application submitted in compliance with part 107 of title 49, Code of Federal Regulations, for special permits or approvals for air transportation of lithium ion cells or batteries specifically used by medical devices. Not later than 30 days after the date of application, the Pipeline and Hazardous Materials Safety Administration shall provide a draft special permit to the Federal Aviation Administration based on the application. The Federal Aviation Administration shall conduct an on-site inspection for issuance of the special permit not later than 20 days after the date of receipt of the draft special permit from the Pipeline and Hazardous Materials Safety Administration.

(2) LIMITED EXCEPTIONS TO RESTRICTIONS ON AIR TRANSPORTATION OF MEDICAL DEVICE BATTERIES.—The Secretary shall issue limited exceptions to the restrictions on transportation of lithium ion and lithium metal batteries to allow the shipment on a passenger aircraft of not more than 2 replacement batteries specifically used for a medical device if—

(A) the intended destination of the batteries is not serviced daily by cargo aircraft if a battery is required for medically necessary care; and (B) with regard to a shipper of lithium ion or lithium metal batteries for medical devices that cannot comply

H.R.302—90 with a charge limitation in place at the time, each battery is— (i) individually packed in an inner packaging that completely encloses the battery; (ii) placed in a rigid outer packaging; and (iii) protected to prevent a short circuit.

(3) MEDICAL DEVICE DEFINED.—In this subsection, the term “medical device” means an instrument, apparatus, implement, machine, contrivance, implant, or in vitro reagent, including any component, part, or accessory thereof, which is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, of a person.

(4) SAVINGS CLAUSE.—Nothing in this subsection shall be construed as expanding or constricting any other authority the Secretary of Transportation has under section 828 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

(c) LITHIUM BATTERY SAFETY WORKING GROUP.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall establish a lithium battery safety working group (referred to as the “working group” in this section) to promote and coordinate efforts related to the promotion of the safe manufacture, use, and transportation of lithium batteries and cells.

(2) DUTIES.—The working group shall coordinate and facilitate the transfer of knowledge and expertise among the following Federal agencies: (A) The Department of Transportation. (B) The Consumer Product Safety Commission. (C) The National Institute on Standards and Technology. (D) The Food and Drug Administration.

(3) MEMBERS.—The Secretary shall appoint not more than 8 members to the working group with expertise in the safe manufacture, use, or transportation of lithium batteries and cells.

(4) SUBCOMMITTEES.—The Secretary, or members of the working group, may— (A) establish working group subcommittees to focus on specific issues related to the safe manufacture, use, or transportation of lithium batteries and cells; and (B) include in a subcommittee the participation of nonmember stakeholders with expertise in areas that the Secretary or members consider necessary.

(5) REPORT.—Not later than 1 year after the date it is established, the working group shall— (A) identify and assess— (i) additional ways to decrease the risk of fires and explosions from lithium batteries and cells; (ii) additional ways to ensure uniform transportation requirements for both bulk and individual batteries; and (iii) new or existing technologies that may reduce the fire and explosion risk of lithium batteries and cells; and

H.R.302—91 (B) transmit to the appropriate committees of Congress a report on the assessments conducted under subparagraph (A), including any legislative recommendations to effectuate the safety improvements described in clauses (i) through (iii) of that subparagraph.

(6) TERMINATION.—The working group, and any working group subcommittees, shall terminate 90 days after the date the report is transmitted under paragraph

(5). (d) LITHIUM BATTERY AIR SAFETY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall establish, in accordance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), a lithium ion and lithium metal battery air safety advisory committee (in this subsection referred to as the “Committee”).

(2) DUTIES.—The Committee shall—

(A) facilitate communication between manufacturers of lithium ion and lithium metal cells and batteries, manufacturers of products incorporating both large and small lithium ion and lithium metal batteries, air carriers, and the Federal Government regarding the safe air transportation of lithium ion and lithium metal cells and batteries and the effectiveness and economic and social impacts of the regulation of such transportation;

(B) provide the Secretary, the Federal Aviation Administration, and the Pipeline and Hazardous Materials Safety Administration with timely information about new lithium ion and lithium metal battery technology and transportation safety practices and methodologies;

(C) provide a forum for the Secretary to provide information on and to discuss the activities of the Department of Transportation relating to lithium ion and lithium metal battery transportation safety, the policies underlying the activities, and positions to be advocated in international forums;

(D) provide a forum for the Secretary to provide information and receive advice on— (i) activities carried out throughout the world to communicate and enforce relevant United States regulations and the ICAO Technical Instructions; and (ii) the effectiveness of the activities;

(E) provide advice and recommendations to the Secretary with respect to lithium ion and lithium metal battery air transportation safety, including how best to implement activities to increase awareness of relevant requirements and their importance to travelers and shippers; and

(F) review methods to decrease the risk posed by air shipment of undeclared hazardous materials and efforts to educate those who prepare and offer hazardous materials for shipment via air transport.

(3) MEMBERSHIP.—The Committee shall be composed of the following members:

(A) Individuals appointed by the Secretary to represent— (i) large volume manufacturers of lithium ion and lithium metal cells and batteries;

H.R.302—92 (ii) domestic manufacturers of lithium ion and lithium metal batteries or battery packs; (iii) manufacturers of consumer products powered by lithium ion and lithium metal batteries; (iv) manufacturers of vehicles powered by lithium ion and lithium metal batteries; (v) marketers of products powered by lithium ion and lithium metal batteries; (vi) cargo air service providers based in the United States; (vii) passenger air service providers based in the United States; (viii) pilots and employees of air service providers described in clauses (vi) and (vii); (ix) shippers of lithium ion and lithium metal batteries for air transportation; (x) manufacturers of battery-powered medical devices or batteries used in medical devices; and (xi) employees of the Department of Transportation, including employees of the Federal Aviation Administration and the Pipeline and Hazardous Materials Safety Administration. (B) Representatives of such other Government departments and agencies as the Secretary determines appropriate. (C) Any other individuals the Secretary determines are appropriate to comply with Federal law. (4) REPORT.— (A) IN GENERAL.—Not later than 180 days after the establishment of the Committee, the Committee shall submit to the Secretary and the appropriate committees of Congress a report that— (i) describes and evaluates the steps being taken in the private sector and by international regulatory authorities to implement and enforce requirements relating to the safe transportation by air of bulk shipments of lithium ion cells and batteries; and (ii) identifies any areas of enforcement or regulatory requirements for which there is consensus that greater attention is needed.

(B) INDEPENDENT STATEMENTS.—Each member of the Committee shall be provided an opportunity to submit an independent statement of views with the report submitted pursuant to subparagraph (A).

(5) MEETINGS.—

(A) IN GENERAL.—The Committee shall meet at the direction of the Secretary and at least twice a year.

(B) PREPARATION FOR ICAO MEETINGS.—Notwithstanding subparagraph (A), the Secretary shall convene a meeting of the Committee in connection with and in advance of each meeting of the International Civil Aviation Organization, or any of its panels or working groups, addressing the safety of

air transportation of lithium ion and lithium metal batteries to brief Committee members on positions to be taken by the United States at such meeting and provide Committee members a meaningful opportunity to comment.

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(6) TERMINATION.—The Committee shall terminate on the date that is 6 years after the date on which the Committee is established.

(7) TERMINATION OF FUTURE OF AVIATION ADVISORY COMMITTEE.—The Future of Aviation Advisory Committee shall terminate on the date on which the lithium ion battery air safety advisory committee is established. (e) COOPERATIVE EFFORTS TO ENSURE COMPLIANCE WITH SAFETY REGULATIONS.— (1) IN GENERAL.—The Secretary of Transportation, in coordination with appropriate Federal agencies, shall carry out cooperative efforts to ensure that shippers who offer lithium ion and lithium metal batteries for air transport to or from the United States comply with U.S. Hazardous Materials Regulations and ICAO Technical Instructions. (2) COOPERATIVE EFFORTS.—The cooperative efforts the Secretary shall carry out pursuant to paragraph (1) include the following: (A) Encouraging training programs at locations outside the United States from which substantial cargo shipments of lithium ion or lithium metal batteries originate for manufacturers, freight forwarders, and other shippers and potential shippers of lithium ion and lithium metal batteries. (B) Working with Federal, regional, and international transportation agencies to ensure enforcement of U.S. Hazardous Materials Regulations and ICAO Technical Instructions with respect to shippers who offer noncompliant shipments of lithium ion and lithium metal batteries. (C) Sharing information, as appropriate, with Federal, regional, and international transportation agencies regarding noncompliant shipments. (D) Pursuing a joint effort with the international aviation community to develop a process to obtain assurances that appropriate enforcement actions are taken to reduce the likelihood of noncompliant shipments, especially with respect to jurisdictions in which enforcement activities historically have been limited. (E) Providing information in brochures and on the internet in appropriate foreign languages and dialects that describes the actions required to comply with U.S. Hazardous Materials Regulations and ICAO Technical Instructions. (F) Developing joint efforts with the international aviation community to promote a better understanding of the requirements of and methods of compliance with U.S. Hazardous Materials Regulations and ICAO Technical Instructions. (3) REPORTING.—Not later than 120 days after the date of enactment of this Act, and annually thereafter for 2 years, the Secretary shall submit to the appropriate committees of Congress a report on compliance with the policy set forth in subsection (e) and the cooperative efforts carried out, or planned to be carried out, under this subsection. (f) PACKAGING IMPROVEMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with interested stakeholders, shall submit to the appropriate committees of Congress an evaluation of current practices for the

H.R.302—94 packaging of lithium ion batteries and cells for air transportation, including recommendations, if any, to improve the packaging of such batteries and cells for air transportation in a safe, efficient, and cost-effective manner.

(g) DEPARTMENT OF TRANSPORTATION POLICY ON INTERNATIONAL REPRESENTATION.—

(1) IN GENERAL.—It shall be the policy of the Department of Transportation to support the participation of industry and labor stakeholders in all panels and working groups of the dangerous goods panel of the ICAO and any other international test or standard setting organization that considers proposals on the

safety or transportation of lithium ion and lithium metal batteries in which the United States participates.

(2) PARTICIPATION.—The Secretary of Transportation shall request that as part of the ICAO deliberations in the dangerous goods panel on these issues, that appropriate experts on issues under consideration be allowed to participate.

(h) DEFINITIONS.—In this section, the following definitions apply:

(1) ICAO TECHNICAL INSTRUCTIONS.—The term “ICAO Technical Instructions” has the meaning given that term in section 828(c) of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 44701 note).

(2) U.S. HAZARDOUS MATERIALS REGULATIONS.—The term “U.S. Hazardous Materials Regulations” means the regulations in parts 100 through 177 of title 49, Code of Federal Regulations (including amendments adopted after the date of enactment of this Act).