(1), the Inspector General and the Board shall have a reimbursement agreement to cover such expense.

(Added Pub. L. 114–110, § 9, Dec. 18, 2015, 129 Stat. 2232.)

REFERENCES IN TEXT

Section 6 of the Inspector General Act of 1978, referred to in subsec. (c), is section 6 of Pub. L. 95–452, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

Chapter		Sec.
51.	**Transportation of Hazardous Material**	**5101**
53.	**Public Transportation**	**5301**
55.	**Intermodal Transportation**	**5501**
57.	**Sanitary Food Transportation**	**5701**
59.	**Intermodal Safe Container Transportation**	**5901**
61.	**One-Call Notification Programs**	**6101**
63.	**Bureau of Transportation Statistics** [1]	
63.	**Bureau of Transportation Statistics**	**6301** [1]
65.	**Research planning**	**6501**

AMENDMENTS

2015—Pub. L. 114–94, div. A, title VI, § 6019(c), Dec. 4, 2015, 129 Stat. 1581, added items for chapters 63 and 65.

2012—Pub. L. 112–141, div. E, title II, § 52011(c)(2), July 6, 2012, 126 Stat. 895, added item for chapter 63.

2005—Pub. L. 109–59, title III, § 3002(c), Aug. 10, 2005, 119 Stat. 1545, substituted ''Public'' for ''Mass'' in item for chapter 53.

1998—Pub. L. 105–178, title VII, § 7302(b), June 9, 1998, 112 Stat. 482, added item for chapter 61.

CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

Sec.
5101. Purpose.
5102. Definitions.
5103. General regulatory authority.
5103a. Limitation on issuance of hazmat licenses.
5104. Representation and tampering.
5105. Transporting certain highly radioactive material.
5106. Handling criteria.
5107. Hazmat employee training requirements and grants.
5108. Registration.
5109. Motor carrier safety permits.
5110. Shipping papers and disclosure.
[5111. Repealed.]
5112. Highway routing of hazardous material.
5113. Unsatisfactory safety rating.
5114. Air transportation of ionizing radiation material.
5115. Training curriculum for the public sector.
5116. Planning and training grants, monitoring, and review.
5117. Special permits and exclusions.
5118. Hazardous material technical assessment, research and development, and analysis program.
5119. Uniform forms and procedures.
5120. International uniformity of standards and requirements.
5121. Administrative.
5122. Enforcement.
5123. Civil penalty.
5124. Criminal penalty.
5125. Preemption.
5126. Relationship to other laws.
5127. Judicial review.
5128. Authorization of appropriations.

[1] So in original. Two items for chapter 63 have been enacted.

AMENDMENTS

2012—Pub. L. 112–141, div. C, title III, § 33007(b), July 6, 2012, 126 Stat. 836, added item 5118.

2005—Pub. L. 109–59, title VII, §§ 7111, 7115(a)(2), (h), 7123(c), Aug. 10, 2005, 119 Stat. 1899, 1901, 1908, struck out item 5111 ''Rail tank cars'', substituted ''Special permits and exclusions'' for ''Exemptions and exclusions'' in item 5117, struck out item 5118 ''Inspectors'', added items 5127 and 5128, and struck out former item 5127 ''Authorization of appropriations''.

2001—Pub. L. 107–56, title X, § 1012(a)(2), Oct. 26, 2001, 115 Stat. 397, added item 5103a.

§ 5101. Purpose

The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 759; Pub. L. 109–59, title VII, § 7101(b), Aug. 10, 2005, 119 Stat. 1891.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5101	49 App.:1801.	Jan. 3, 1975, Pub. L. 93–633, § 102, 88 Stat. 2156.

The words ''It is declared to be the policy of Congress'', ''the Nation'', and ''which are'' are omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59 substituted ''The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce'' for ''The purpose of this chapter is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation''.

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–94, div. A, title III, § 3001, Dec. 4, 2015, 129 Stat. 1446, provided that: ''This title [amending sections 5302 to 5304, 5307, 5309 to 5312, 5314, 5315, 5323, 5325, 5327, 5329, 5336 to 5340, and 10501 of this title and sections 5313 and 5314 of Title 5, Government Organization and Employees, repealing sections 5313, 5319, and 5322 of this title, enacting provisions set out as notes under 5309, 5310, 5325, 5329, 5338 of this title, section 5313 of Title 5, and section 12143 of Title 42, The Public Health and Welfare, amending provisions set out as a note under sections 5303 of this title, and repealing provisions set out as a note under section 5309 of this title] may be cited as the 'Federal Public Transportation Act of 2015'.''

Pub. L. 114–94, div. A, title VII, § 7001, Dec. 4, 2015, 129 Stat. 1588, provided that: ''This title [amending sections 5103, 5107 to 5109, 5116, 5117, 5121, and 5128 of this title and enacting provisions set out as notes under sections 5103, 5116, 20103, 20141, 20155, and 31305 of this title] may be cited as the 'Hazardous Materials Transportation Safety Improvement Act of 2015'.''

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–141, div. B, § 20001, July 6, 2012, 126 Stat. 622, provided that: ''This division [see Tables for classification] may be cited as the 'Federal Public Transportation Act of 2012'.''

Pub. L. 112–141, div. C, title III, § 33001, July 6, 2012, 126 Stat. 832, provided that: ''This title [see Tables for classification] may be cited as the 'Hazardous Materials Transportation Safety Improvement Act of 2012'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–59, title III, § 3001, Aug. 10, 2005, 119 Stat. 1544, provided that: ''This title [see Tables for classification] may be cited as the 'Federal Public Transportation Act of 2005'.''

Pub. L. 109–59, title VII, § 7001, Aug. 10, 2005, 119 Stat. 1891, provided that: ''This title [see Tables for classification] may be cited as the 'Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–178, title III, § 3001, June 9, 1998, 112 Stat. 338, provided that: ''This title [amending sections 5302 to 5305, 5307 to 5315, 5317 to 5320, 5323, 5325 to 5328, and 5333 to 5338 of this title and enacting provisions set out as notes under sections 301, 5301, 5307 to 5310, 5323, 5336, and 5338 of this title and sections 138 and 322 of Title 23, Highways] may be cited as the 'Federal Transit Act of 1998'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–291, title II, § 201, Oct. 11, 1996, 110 Stat. 3453, provided that: ''This title [enacting section 5908 of this title and amending sections 5901 to 5903 and 5905 to 5907 of this title] may be cited as the 'Intermodal Safe Container Transportation Amendments Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–311, title I, § 101, Aug. 26, 1994, 108 Stat. 1673, provided that: ''This title [amending sections 5102 to 5104, 5107, 5108, 5110, 5116, 5117, 5121, and 5125 to 5127 of this title and enacting provisions set out as notes under this section, sections 5103, 5112, and 5121 of this title, and section 307 of Title 23, Highways] may be cited as the 'Hazardous Materials Transportation Authorization Act of 1994'.''

TRANSFER OF FUNCTIONS

For transfer of duties, powers, and authority of Research and Special Programs Administration under this chapter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, see section 2(b) of Pub. L. 108–426, set out as a note under section 108 of this title.

FINDINGS

Pub. L. 109–59, title VII, § 7101(a), Aug. 10, 2005, 119 Stat. 1891, provided that: ''Congress finds with respect to hazardous materials transportation that—

''(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

''(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality and meet consumer demands and must be conducted in a safe, secure, and efficient manner;

''(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;

''(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable; and

''(5) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential.''

BUY AMERICAN

Pub. L. 103–311, title I, § 123, Aug. 26, 1994, 108 Stat. 1682, provided that:

''(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title [see Short Title of 1994 Amendment note above] may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 ([former] 41 U.S.C. 10a–10c; popularly known as the 'Buy American Act' [see 41 U.S.C. 8301 et seq.]), which are applicable to those funds.

''(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

''(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

''(2) In providing financial assistance under this title, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

''(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

''(d) RECIPROCITY.—

''(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

''(2)(A) The Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

''(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.''

''SECRETARY'' DEFINED

Pub. L. 112–141, div. C, title III, § 33002, July 6, 2012, 126 Stat. 832, provided that: ''In this title [see Tables for classification], the term 'Secretary' means the Secretary of Transportation.''

§ 5102. Definitions

In this chapter—

(1) ''commerce'' means trade or transportation in the jurisdiction of the United States—

(A) between a place in a State and a place outside of the State;

(B) that affects trade or transportation between a place in a State and a place outside of the State; or

(C) on a United States-registered aircraft.

(2) ''hazardous material'' means a substance or material the Secretary designates under section 5103(a) of this title.

(3) ''hazmat employee''—

(A) means an individual—

(i) who—

(I) is employed on a full time, part time, or temporary basis by a hazmat employer; or

(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and

(ii) who during the course of such full time, part time, or temporary employment, or such self employment, directly affects hazardous material transportation safety as the Secretary decides by regulation; and

(B) includes an individual, employed on a full time, part time, or temporary basis by a hazmat employer, or self employed, who during the course of employment—

(i) loads, unloads, or handles hazardous material;

(ii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

(iii) prepares hazardous material for transportation;

(iv) is responsible for the safety of transporting hazardous material; or

(v) operates a vehicle used to transport hazardous material.

(4) ''hazmat employer''—

(A) means a person—

(i) who—

(I) employs or uses at least 1 hazmat employee on a full time, part time, or temporary basis; or

(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and

(ii) who—

(I) transports hazardous material in commerce;

(II) causes hazardous material to be transported in commerce; or

(III) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; and

(B) includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in clause (ii).

(5) ''imminent hazard'' means the existence of a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(6) ''Indian tribe'' has the same meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).[1]

(7) ''motor carrier''—

(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102; but

(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.

(8) ''National Response Team'' means the National Response Team established under the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

(9) ''person'', in addition to its meaning under section 1 of title 1—

(A) includes a government, Indian tribe, or authority of a government or tribe that—

(i) offers hazardous material for transportation in commerce;

(ii) transports hazardous material to further a commercial enterprise; or

(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; but

(B) does not include—

(i) the United States Postal Service; and

(ii) in sections 5123 and 5124 of this title, a department, agency, or instrumentality of the Government.

(10) ''public sector employee''—

(A) means an individual employed by a State, political subdivision of a State, or Indian tribe and who during the course of employment has responsibilities related to responding to an accident or incident involving the transportation of hazardous material;

(B) includes an individual employed by a State, political subdivision of a State, or Indian tribe as a firefighter or law enforcement officer; and

(C) includes an individual who volunteers to serve as a firefighter for a State, political subdivision of a State, or Indian tribe.

(11) ''Secretary'' means the Secretary of Transportation except as otherwise provided.

(12) ''State'' means—

(A) except in section 5119 of this title, a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States designated by the Secretary; and

(B) in section 5119 of this title, a State of the United States and the District of Columbia.

[1] See References in Text note below.

(13) ''transports'' or ''transportation'' means the movement of property and loading, unloading, or storage incidental to the movement.

(14) ''United States'' means all of the States.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 759; Pub. L. 103–311, title I, § 117(a)(1), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 104–88, title III, § 308(d), Dec. 29, 1995, 109 Stat. 947; Pub. L. 109–59, title VII, §§ 7102, 7126, Aug. 10, 2005, 119 Stat. 1892, 1909; Pub. L. 110–244, title III, § 302(a), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5102(1)	49 App.:1802(1)–(3), (13).	Jan. 3, 1975, Pub. L. 93–633, § 103, 88 Stat. 2156; restated Nov. 16, 1990, Pub. L. 101–615, § 3(a), 104 Stat. 3245; Oct. 24, 1992, Pub. L. 102–508, §§ 501, 502, 106 Stat. 3311.
5102(2)	49 App.:1802(4).	
5102(3)	49 App.:1802(5).	
5102(4)	49 App.:1802(6).	
5102(5)	49 App.:1802(7).	
5102(6)	49 App.:1802(8).	
5102(7)	49 App.:1802(9).	
5102(8)	49 App.:1802(10).	
5102(9)	49 App.:1802(11).	
5102(10)	49 App.:1802(12).	
5102(11)	49 App.:1802(14).	
5102(12)	49 App.:1802(15).	
5102(13)	49 App.:1802(16).	

In this chapter, the words ''or shipped'' are omitted as being included in ''transported''.

In clause (1), before subclause (A), the text of 49 App.:1802(1), (3), and (13) is omitted because the complete names of the Administrator of the Environmental Protection Agency, Director of the Federal Emergency Management Agency, and Secretary of Transportation are used the first time the terms appear in a section. The words ''traffic, commerce'' are omitted as surplus. In subclause (B), the words ''between a place in a State and a place outside of the State'' are substituted for ''described in clause (A)'' for clarity.

In clauses (3)(C) and (10)(B), the words ''at a minimum'' are omitted as surplus.

In clause (5), the words ''administrative hearing or other'' are omitted as surplus.

In clause (9), before subclause (A), the words ''including any trustee, receiver, assignee, or similar representative thereof'' are omitted as surplus.

In clause (12), the words ''by any mode'' are omitted as surplus.

REFERENCES IN TEXT

Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), referred to in par. (6), is section 4 of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2204, which was classified to section 450b of Title 25, Indians, prior to editorial reclassification as section 5304 of Title 25.

AMENDMENTS

2008—Par. (3). Pub. L. 110–244 amended Pub. L. 109–59, § 7102(2). See 2005 Amendment notes below.

2005—Par. (1)(C). Pub. L. 109–59, § 7102(1), added subpar. (C).

Par. (2). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Par. (3)(A)(i). Pub. L. 109–59, § 7102(2)(A), as amended by Pub. L. 110–244, § 302(a)(1), (2), added cl. (i) and struck out former cl. (i) which read as follows: ''employed by a hazmat employer; and''.

Par. (3)(A)(ii). Pub. L. 109–59, § 7102(2)(B), as amended by Pub. L. 110–244, § 302(a)(1), (3), substituted ''course of such full time, part time, or temporary employment, or such self employment,'' for ''course of employment'' and inserted ''and'' at end.

Par. (3)(B). Pub. L. 109–59, § 7102(2)(D)(i), as amended by Pub. L. 110–244, § 302(a)(1), substituted ''employed on a full time, part time, or temporary basis by a hazmat employer, or self employed,'' for ''employed by a hazmat employer,'' in introductory provisions.

Pub. L. 109–59, § 7102(2)(C), as amended by Pub. L. 110–244, § 302(a)(1), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and''.

Par. (3)(B)(ii). Pub. L. 109–59, § 7102(2)(D)(ii), as amended by Pub. L. 110–244, § 302(a)(1), added cl. (ii) and struck out former cl. (ii) which read as follows: ''manufactures, reconditions, or tests containers, drums, and packagings represented as qualified for use in transporting hazardous material;''.

Par. (3)(C). Pub. L. 109–59, § 7102(2)(C), as amended by Pub. L. 110–244, § 302(a)(1), redesignated subpar. (C) as (B).

Par. (4). Pub. L. 109–59, § 7102(3), amended par. (4) generally. Prior to amendment, par. (4) consisted of subpars. (A) to (C), which included within definition of ''hazmat employer'' a person using at least one employee in connection with transporting or containers for transporting hazardous material, an owner-operator of a motor vehicle transporting hazardous material in commerce, and a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out certain described activities.

Par. (5). Pub. L. 109–59, § 7102(4), inserted ''relating to hazardous material'' after ''of a condition''.

Par. (7). Pub. L. 109–59, § 7102(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: '' 'motor carrier' means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102 of this title.''

Par. (8). Pub. L. 109–59, § 7102(6), substituted ''National Response Team'' for ''national response team'' in two places and ''National Contingency Plan'' for ''national contingency plan''.

Par. (9)(A). Pub. L. 109–59, § 7102(7), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but''.

Pars. (11) to (14). Pub. L. 109–59, § 7102(8), added par. (11) and redesignated former pars. (11) to (13) as (12) to (14), respectively.

1995—Par. (7). Pub. L. 104–88 substituted ''motor carrier, motor private'' for ''motor common carrier, motor contract carrier, motor private'' and ''section 13102'' for ''section 10102''.

1994—Pars. (3)(C)(ii), (4)(A)(iii). Pub. L. 103–311 substituted ''packagings'' for ''packages''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–244 effective as of the date of enactment of Pub. L. 109–59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109–59 as of that date, and provisions of Pub. L. 109–59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110–244 to be treated as not enacted, see section 121(b) of Pub. L. 110–244, set out as a note under section 101 of Title 23, Highways.

§ 5103. General regulatory authority

(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary shall designate material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and

form may pose an unreasonable risk to health and safety or property.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

(A) apply to a person who—

(i) transports hazardous material in commerce;

(ii) causes hazardous material to be transported in commerce;

(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

(iv) prepares or accepts hazardous material for transportation in commerce;

(v) is responsible for the safety of transporting hazardous material in commerce;

(vi) certifies compliance with any requirement under this chapter; or

(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate.

(2) A proceeding to prescribe the regulations must be conducted under section 553 of title 5, including an opportunity for informal oral presentation.

(c) FEDERALLY DECLARED DISASTERS AND EMERGENCIES.—

(1) IN GENERAL.—The Secretary may by order waive compliance with any part of an applicable standard prescribed under this chapter without prior notice and comment and on terms the Secretary considers appropriate if the Secretary determines that—

(A) it is in the public interest to grant the waiver;

(B) the waiver is not inconsistent with the safety of transporting hazardous materials; and

(C) the waiver is necessary to facilitate the safe movement of hazardous materials into, from, and within an area of a major disaster or emergency that has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) PERIOD OF WAIVER.—A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the Secretary only after notice and an opportunity for a hearing on the waiver. The Secretary shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

(3) STATEMENT OF REASONS.—The Secretary shall include in any order issued under this section the reasons for granting the waiver.

(d) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.

(e) BIENNIAL REPORT.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103–311, title I, § 117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103–429, § 6(3), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 107–296, title XVII, § 1711(a), Nov. 25, 2002, 116 Stat. 2319; Pub. L. 109–59, title VII, §§ 7103, 7126, Aug. 10, 2005, 119 Stat. 1893, 1909; Pub. L. 109–177, title VII, § 741, Mar. 9, 2006, 120 Stat. 272; Pub. L. 114–94, div. A, title VII, § 7201, Dec. 4, 2015, 129 Stat. 1589.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5103(a)	49 App.:1803.	Jan. 3, 1975, Pub. L. 93–633, § 104, 88 Stat. 2156.
5103(b)	49 App.:1804(a)(1)–(3).	Jan. 3, 1975, Pub. L. 93–633, § 105(a)(1)–(3), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, § 4, 104 Stat. 3247.

In subsection (a), the words ''such quantity and form of material'' and ''in his discretion'' are omitted as surplus.

In subsection (b)(1), before clause (A), the words ''in accordance with section 553 of title 5'' are omitted because 5:553 applies unless otherwise stated. In clause (A)(i), the words ''hazardous material in commerce'', and in clause (A)(ii), the words ''hazardous material . . . in commerce'', are added for consistency in this chapter.

PUB. L. 103–429

This amends 49:5103(b)(2) to clarify the restatement of 49 App.:1804(a)(2) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 761).

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (c)(1)(C), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2015—Subsecs. (c) to (e). Pub. L. 114–94 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2006—Subsec. (d). Pub. L. 109–177 added subsec. (d).

2005—Subsec. (a). Pub. L. 109–59, § 7126, substituted ''Secretary shall designate'' for ''Secretary of Transportation shall designate''.

Pub. L. 109–59, § 7103(a), substituted ''infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,'' for ''etiologic agent, flammable or combustible liquid or solid, poison,

oxidizing or corrosive material,'' and ''determines'' for ''decides''.

Subsec. (b)(1)(A). Pub. L. 109–59, § 7103(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''apply to a person—

''(i) transporting hazardous material in commerce;

''(ii) causing hazardous material to be transported in commerce; or

''(iii) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a packaging or a container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; and''.

Subsec. (b)(1)(C). Pub. L. 109–59, § 7103(c)(1), struck out heading and text of subpar. (C). Text read as follows: ''When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.''

Subsec. (c). Pub. L. 109–59, § 7103(c)(2), added subsec. (c).

2002—Subsec. (b)(1). Pub. L. 107–296, § 1711(a)(1), substituted ''transportation, including security,'' for ''transportation'' in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 107–296, § 1711(a)(2), substituted ''aspects, including security,'' for ''aspects''.

Subsec. (b)(1)(C). Pub. L. 107–296, § 1711(a)(3), added subpar. (C).

1994—Subsec. (b)(1)(A)(iii). Pub. L. 103–311 substituted ''a packaging or a'' for ''a package or''.

Subsec. (b)(2). Pub. L. 103–429 substituted ''be conducted under section 553 of title 5, including'' for ''include'' and ''presentation'' for ''presentations''.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

GAO STUDY ON ACCEPTANCE OF CLASSIFICATION EXAMINATIONS

Pub. L. 114–94, div. A, title VII, § 7207, Dec. 4, 2015, 129 Stat. 1592, provided that:

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Dec. 4, 2015], the Comptroller General of the United States shall evaluate and transmit to the Secretary [of Transportation], the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report on the standards, metrics, and protocols that the Secretary uses to regulate the performance of persons approved to recommend hazard classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations (commonly referred to as 'third-party labs').

''(b) EVALUATION.—The evaluation required under subsection (a) shall—

''(1) identify what standards and protocols are used to approve such persons, assess the adequacy of such standards and protocols to ensure that persons seeking approval are qualified and capable of performing classifications, and make recommendations to address any deficiencies identified;

''(2) assess the adequacy of the Secretary's oversight of persons approved to perform the classifications, including the qualification of individuals engaged in the oversight of approved persons, and make recommendations to enhance oversight sufficiently to ensure that classifications are issued as required;

''(3) identify what standards and protocols exist to rescind, suspend, or deny approval of persons who perform such classifications, assess the adequacy of such standards and protocols, and make recommendations to enhance such standards and protocols if necessary; and

''(4) include annual data for fiscal years 2005 through 2015 on the number of applications received for new classifications pursuant to section 173.56(b) of title 49, Code of Federal Regulations, of those applications how many classifications recommended by persons approved by the Secretary were changed to another classification and the reasons for the change, and how many hazardous materials incidents have been attributed to a classification recommended by such approved persons in the United States.

''(c) ACTION PLAN.—Not later than 180 days after receiving the report required under subsection (a), the Secretary shall make available to the public a plan describing any actions the Secretary will take to establish standards, metrics, and protocols based on the findings and recommendations in the report to ensure that persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, can sufficiently perform such examinations in a manner that meets the hazardous materials regulations.

''(d) REGULATIONS.—If the report required under subsection (a) recommends new regulations in order for the Secretary to have confidence in the accuracy of classification recommendations rendered by persons approved to perform classification examinations required under section 173.56(b) of title 49, Code of Federal Regulations, the Secretary shall consider such recommendations, and if determined appropriate, issue regulations to address the recommendations not later than 18 months after the date of the publication of the plan under subsection (c).''

RAILROAD CARRIER EMPLOYEE EXPOSURE TO RADIATION STUDY

Pub. L. 110–432, div. A, title IV, § 411, Oct. 16, 2008, 122 Stat. 4888, provided that:

''(a) STUDY.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section 5101(a) [probably means section 5105(a)] of title 49, United States Code), supplementing the report submitted under section 5101(b) [probably means section 5105(b)] of that title, which may include—

''(1) an analysis of the potential application of 'as low as reasonably achievable' principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

''(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

''(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

''(4) a review of the effectiveness of the Department's packaging requirements for radioactive materials.

''(b) REPORT.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad

carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

''(c) REGULATORY AUTHORITY.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials.''

[For definitions of ''railroad carrier'', ''Department'', ''railroad'', and ''Secretary'', as used in section 411 of Pub. L. 110–432, set out above, see section 2(a) of Pub. L. 110–432, set out as a note under section 20102 of this title.]

SAFE PLACEMENT OF TRAIN CARS

Pub. L. 103–311, title I, § 111, Aug. 26, 1994, 108 Stat. 1676, provided that: ''The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act [Aug. 26, 1994].''

FIBER DRUM PACKAGING

Pub. L. 104–88, title IV, § 406, Dec. 29, 1995, 109 Stat. 957, provided that:

''(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of the enactment of this Act [Dec. 29, 1995] authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991, if—

''(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act [former 49 U.S.C. 1801 et seq.] as in effect on September 30, 1991; and

''(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packing Groups I and II.

''(b) EXPIRATION.—The regulation referred to in subsection (a) shall expire on the later of September 30, 1997, or the date on which funds are authorized to be appropriated to carry out chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), for fiscal years beginning after September 30, 1997.

''(c) STUDY.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act [Dec. 29, 1995], the Secretary shall contract with the National Academy of Sciences to conduct a study—

''(A) to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to fiber drum packaging with a removable head can be met for the transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards (including fiber drum industry standards set forth in a June 8, 1992, exemption application submitted to the Department of Transportation), other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations; and

''(B) to determine whether a packaging standard (including such fiber drum industry standards), other than such performance-oriented packaging standards, will provide an equal or greater level of safety for the transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect.

''(2) COMPLETION.—The study shall be completed before March 1, 1997 and shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

''(d) SECRETARIAL ACTION.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c).''

Pub. L. 103–311, title I, § 122, Aug. 26, 1994, 108 Stat. 1681, provided that:

''(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act [Aug. 26, 1994], the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations.

''(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

''(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

''(d) LIMITATIONS.—

''(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

''(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.''

§ 5103a. Limitation on issuance of hazmat licenses

(a) LIMITATION.—

(1) ISSUANCE OF LICENSES.—A State may not issue to any individual a license to operate a motor vehicle transporting in commerce a hazardous material unless—

(A) ''the Secretary of Homeland Security''; [1] has first determined, upon receipt of a notification under subsection (d)(1)(B),

[1] So in original. The quotation marks and semicolon probably should not appear.

that the individual does not pose a security risk warranting denial of the license; or

(B) the individual holds a valid transportation security card issued under section 70105 of title 46.

(2) RENEWALS INCLUDED.—For the purposes of this section, the term ''issue'', with respect to a license, includes renewal of the license.

(b) HAZARDOUS MATERIALS DESCRIBED.—The limitation in subsection (a) shall apply with respect to any material defined as hazardous material by the Secretary of Transportation for which the Secretary of Transportation requires placarding of a commercial motor vehicle transporting that material in commerce.

(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secretary of Health and Human Services determines that such material or agent poses a significant risk to the health of individuals.

(d) BACKGROUND RECORDS CHECK.—

(1) IN GENERAL.—Upon the request of a State regarding issuance of a license under subsection (a)(1)(A) to an individual, the Attorney General—

(A) shall carry out a background records check regarding the individual; and

(B) upon completing the background records check, shall notify the Secretary of Homeland Security of the completion and results of the background records check.

(2) SCOPE.—A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history data bases.

(B) In the case of an alien, a check of the relevant data bases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international data bases through Interpol–U.S. National Central Bureau or other appropriate means.

(e) REPORTING REQUIREMENT.—Each State shall submit to the Secretary of Homeland Security, at such time and in such manner as the Secretary of Homeland Security may prescribe, the name, address, and such other information as the Secretary of Homeland Security may require, concerning—

(1) each alien to whom the State issues a license described in subsection (a); and

(2) each other individual to whom such a license is issued, as the Secretary of Homeland Security may require.

(f) ALIEN DEFINED.—In this section, the term ''alien'' has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act.

(g) BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.—

(1) IN GENERAL.—

(A) EMPLOYER NOTIFICATION.—Not later than 90 days after the date of enactment of this subsection, the Director of the Transportation Security Administration, after receiving comments from interested parties, shall develop and implement a process for notifying hazmat employers designated by an applicant of the results of the applicant's background record check, if—

(i) such notification is appropriate considering the potential security implications; and

(ii) the Director, in a final notification of threat assessment,[2] served on the applicant[2] determines that the applicant does not meet the standards set forth in regulations issued to carry out this section.

(B) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—

(i) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—

(I) has performed a security threat assessment under this section; and

(II) has issued a final notification of no security threat,

is deemed to have met the requirements of any other background check that is required for purposes of any Federal law applicable to transportation workers if that background check is equivalent to, or less stringent than, the background check required under this section.

(ii) DETERMINATION BY DIRECTOR.—Not later than 60 days after the date of issuance of the report under paragraph (5), but no later than 120 days after the date of enactment of this subsection, the Director shall initiate a rulemaking proceeding, including notice and opportunity for comment, to determine which background checks required for purposes of Federal laws applicable to transportation workers are equivalent to, or less stringent than, those required under this section.

(iii) FUTURE RULEMAKINGS.—The Director shall make a determination under the criteria established under clause (ii) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this subsection.

(2) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes its own standards for applicants for a hazardous materials endorsement to a commercial driver's license, the State shall also provide—

(A) an appeals process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial; and

(B) a waiver process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a haz-

[2] So in original. Comma probably should appear after ''applicant''.

ardous materials endorsement to a commercial driver's license by that State may apply for a waiver.

(3) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term ''transportation security incident'', as defined in part 1572 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Not later than 30 days after the date of enactment of this subsection, the Director shall modify the definition of that term to reflect the preceding sentence.

(4) BACKGROUND CHECK CAPACITY.—Not later than October 1, 2005, the Director shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives a report on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.

(5) REPORT.—

(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Director shall transmit to the committees referred to in paragraph (4) a report on the Director's plans to reduce or eliminate redundant background checks for holders of hazardous materials endorsements performed under this section.

(B) CONTENTS.—The report shall—

(i) include a list of background checks and other security or threat assessment requirements applicable to transportation workers under Federal laws for which the Department of Homeland Security is responsible and the process by which the Secretary of Homeland Security will determine whether such checks or assessments are equivalent to, or less stringent than, the background check performed under this section; and

(ii) provide an analysis of how the Director plans to reduce or eliminate redundant background checks in a manner that will continue to ensure the highest level of safety and security.

(h) COMMERCIAL MOTOR VEHICLE OPERATORS REGISTERED TO OPERATE IN MEXICO OR CANADA.—

(1) IN GENERAL.—Beginning on the date that is 6 months after the date of enactment of this subsection, a commercial motor vehicle operator registered to operate in Mexico or Canada shall not operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) EXTENSION.—The Director of the Transportation Security Administration may extend the deadline established by paragraph (1) for a period not to exceed 6 months if the Director determines that such an extension is necessary.

(3) COMMERCIAL MOTOR VEHICLE DEFINED.—In this subsection, the term ''commercial motor vehicle'' has the meaning given that term by section 31101.

(Added Pub. L. 107–56, title X, § 1012(a)(1), Oct. 26, 2001, 115 Stat. 396; amended Pub. L. 109–59, title VII, §§ 7104, 7105, 7126, Aug. 10, 2005, 119 Stat. 1894, 1909; Pub. L. 110–53, title XV, § 1556(a), Aug. 3, 2007, 121 Stat. 475; Pub. L. 110–244, title III, § 302(b), June 6, 2008, 122 Stat. 1618; Pub. L. 115–254, div. K, title I, § 1978, Oct. 5, 2018, 132 Stat. 3618.)

REFERENCES IN TEXT

Section 101(a)(3) of the Immigration and Nationality Act, referred to in subsec. (f), is classified to section 1101(a)(3) of Title 8, Aliens and Nationality.

The date of enactment of this subsection, referred to in subsecs. (g) and (h), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–254, § 1978(a), substituted ''unless—'' for ''unless'', ''(A) 'the Secretary of Homeland Security';'' for ''the Secretary of Homeland Security'', and ''; or'' for period at end and added subpar. (B).

Subsec. (d)(1). Pub. L. 115–254, § 1978(b), substituted ''under subsection (a)(1)(A)'' for ''described in subsection (a)(1)'' in introductory provisions.

2008—Subsec. (g)(1)(B)(ii). Pub. L. 110–244 substituted ''subsection'' for ''Act''.

2007—Subsec. (a)(1). Pub. L. 110–53, § 1556(a)(1), substituted ''Secretary of Homeland Security'' for ''Secretary''.

Subsec. (b). Pub. L. 110–53, § 1556(a)(2), substituted ''Secretary of Transportation'' for ''Secretary'' in two places.

Subsec. (d)(1)(B). Pub. L. 110–53, § 1556(a)(3), substituted ''Secretary of Homeland Security'' for ''Secretary''.

Subsec. (e). Pub. L. 110–53, § 1556(a)(4), substituted ''Secretary of Homeland Security'' for ''Secretary'' wherever appearing.

2005—Subsec. (a)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Pub. L. 109–59, § 7104(c), substituted ''subsection (d)(1)(B),'' for ''subsection (c)(1)(B),''.

Subsec. (b). Pub. L. 109–59, § 7104(a), substituted ''with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce'' for ''with respect to—

''(1) any material defined as a hazardous material by the Secretary of Transportation; and

''(2) any chemical or biological material or agent determined by the Secretary of Health and Human Services or the Attorney General as being a threat to the national security of the United States''.

Subsec. (c). Pub. L. 109–59, § 7104(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109–59, § 7104(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1)(B). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (e). Pub. L. 109–59, § 7126, substituted ''submit to the Secretary'' for ''submit to the Secretary of Transportation'' in introductory provisions.

Pub. L. 109–59, § 7104(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–59, § 7104(b)(1), redesignated subsec. (e) as (f).

Subsecs. (g), (h). Pub. L. 109–59, § 7105, added subsecs. (g) and (h).

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 107–56, title X, § 1012(c), Oct. 26, 2001, 115 Stat. 398, provided that: ''There is authorized to be appropriated for the Department of Transportation and the Department of Justice such amounts as may be necessary to carry out section 5103a of title 49, United States Code, as added by subsection (a).''

§ 5104. Representation and tampering

(a) REPRESENTATION.—A person may represent, by marking or otherwise, that—

(1) a package, component of a package, or packaging for transporting hazardous material is safe, certified, or complies with this chapter only if the package, component of a package, or packaging meets the requirements of each applicable regulation prescribed under this chapter; or

(2) hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel only if the material is present.

(b) TAMPERING.—No person may alter, remove, destroy, or otherwise tamper unlawfully with—

(1) a marking, label, placard, or description on a document required under this chapter or a regulation prescribed under this chapter; or

(2) a package, component of a package, or packaging, container, motor vehicle, rail freight car, aircraft, or vessel used to transport hazardous material.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103–311, title I, § 117(b), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103–429, § 6(4), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 109–59, title VII, § 7106, Aug. 10, 2005, 119 Stat. 1897.)

HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5104(a)	49 App.:1804(e).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 105(e), (f); added Nov. 16, 1990, Pub. L. 101–615, § 5, 104 Stat. 3252.
5104(b)	49 App.:1804(f).	

In subsection (a)(1), the words ''the requirements of'' and ''applicable'' are omitted as surplus.

In subsection (b), before clause (1), the word ''deface'' is omitted as surplus.

PUB. L. 103–429

This amends 49:5104(a)(1) to clarify the restatement of 49 App.:1804(e)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 761).

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, § 7106(a), substituted ''a package, component of a package, or packaging for'' for ''a container, package, or packaging (or a component of a container, package, or packaging) for'' and ''the package, component of a package, or packaging meets'' for ''the container, package, or packaging (or a component of a container, package, or packaging) meets''.

Subsec. (b). Pub. L. 109–59, § 7106(b)(1), substituted ''No person may'' for ''A person may not'' in introductory provisions.

Subsec. (b)(2). Pub. L. 109–59, § 7106(b)(2), inserted ''component of a package, or packaging,'' after ''package,''.

1994—Subsec. (a)(1). Pub. L. 103–429 inserted ''applicable'' after ''each''.

Pub. L. 103–311 substituted '', package, or packaging (or a component of a container, package, or packaging)'' for ''or package'' in two places.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

§ 5105. Transporting certain highly radioactive material

(a) DEFINITIONS.—In this section, ''high-level radioactive waste'' and ''spent nuclear fuel'' have the same meanings given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) TRANSPORTATION SAFETY STUDY.—In consultation with the Secretary of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the rail transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, the Secretary shall conduct a study comparing the safety of using trains operated only to transport high-level radioactive waste and spent nuclear fuel with the safety of using other methods of rail transportation for transporting that waste and fuel. The Secretary shall submit to Congress not later than November 16, 1991, a report on the results of the study.

(c) SAFE RAIL TRANSPORTATION REGULATIONS.—Not later than November 16, 1992, after considering the results of the study conducted under subsection (b) of this section, the Secretary shall prescribe amendments to existing regulations that the Secretary considers appropriate to provide for the safe rail transportation of high-level radioactive waste and spent nuclear fuel, including trains operated only for transporting high-level radioactive waste and spent nuclear fuel.

(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—(1) Not later than November 16, 1991, the Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations. The Secretary may require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures.

(2) The Secretary may allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter. The inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle apply to an individual conducting an inspection under this paragraph.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 762; Pub. L. 109–59, title VII, §§ 7107, 7126, Aug. 10, 2005, 119 Stat. 1897, 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5105(a)	49 App.:1813(e).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 116(e); added Oct. 24, 1992, Pub. L. 102–508, § 505(2), 106 Stat. 3311.
	49 App.:1813 (note).	Nov. 16, 1990, Pub. L. 101–615, § 16(e), 104 Stat. 3263.
5105(b)	49 App.:1813(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 116(a)–(d); added Oct. 30, 1984, Pub. L. 98–559, § 3, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101–615, § 15, 104 Stat. 3261; Oct. 24, 1992, Pub. L. 102–508, § 505(1), 106 Stat. 3311.
5105(c)	49 App.:1813(b).	
5105(d)	49 App.:1813(c).	
5105(e)	49 App.:1813(d).	

In subsection (a), section 16(e) of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3263) is included to correct a mistake in the source provisions being restated. See section 16(a)(1) of the Act of 1990 (Public Law 101–615, 104 Stat. 3262), stating that the meanings of ''high-level radioactive waste'' and ''spent nuclear fuel'' are as defined in 49 App.:1813, as added by section 15 of the Act (104 Stat. 3261). See also Cong. Rec. S16863 (daily ed., Oct. 23, 1990).

In subsection (b), the words ''Secretary of Energy'' are substituted for ''Department of Energy'' because of 42:7131.

In subsection (c), the word ''regulations'' is substituted for ''rule'' for consistency in the revised title and with other titles of the United States Code and because ''rule'' and ''regulation'' are synonymous.

In subsection (d), before clause (1), the words ''In combination'' are omitted as surplus.

AMENDMENTS

2005—Subsecs. (b), (c). Pub. L. 109–59, § 7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall'' wherever appearing.

Subsec. (d). Pub. L. 109–59, § 7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall'' in par. (1) and ''Secretary may'' for ''Secretary of Transportation may'' in par. (2).

Pub. L. 109–59, § 7107, redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to a study to be conducted not later than Nov. 16, 1991, to decide which factors, if any, shippers and carriers should consider when selecting routes and modes that would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel.

Subsec. (e). Pub. L. 109–59, § 7107(2), redesignated subsec. (e) as (d).

§ 5106. Handling criteria

The Secretary may prescribe criteria for handling hazardous material, including—

(1) a minimum number of personnel;

(2) minimum levels of training and qualifications for personnel;

(3) the kind and frequency of inspections;

(4) equipment for detecting, warning of, and controlling risks posed by the hazardous material;

(5) specifications for the use of equipment and facilities used in handling and transporting the hazardous material; and

(6) a system of monitoring safety procedures for transporting the hazardous material.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 763; Pub. L. 109–59, title VII, § 7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5106	49 App.:1805(a).	Jan. 3, 1975, Pub. L. 93–633, § 106(a), 88 Stat. 2157.

Before clause (1), the text of 49 App.:1805(a) (last sentence) is omitted as being included in ''prescribe''. In clause (4), the words ''to be used'' are omitted as surplus. In clause (6), the word ''assurance'' is omitted as surplus.

AMENDMENTS

2005—Pub. L. 109–59 substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

§ 5107. Hazmat employee training requirements and grants

(a) TRAINING REQUIREMENTS.—The Secretary shall prescribe by regulation requirements for training that a hazmat employer must give hazmat employees of the employer on the safe loading, unloading, handling, storing, and transporting of hazardous material and emergency preparedness for responding to an accident or incident involving the transportation of hazardous material. The regulations—

(1) shall establish the date, as provided by subsection (b) of this section, by which the training shall be completed; and

(2) may provide for different training for different classes or categories of hazardous material and hazmat employees.

(b) BEGINNING AND COMPLETING TRAINING.—A hazmat employer shall begin the training of hazmat employees of the employer not later than 6 months after the Secretary prescribes the regulations under subsection (a) of this section. The training shall be completed within a reasonable period of time after—

(1) 6 months after the regulations are prescribed; or

(2) the date on which an individual is to begin carrying out a duty or power of a hazmat employee if the individual is employed as a hazmat employee after the 6-month period.

(c) CERTIFICATION OF TRAINING.—After completing the training, each hazmat employer shall certify, with documentation the Secretary may require by regulation, that the hazmat employees of the employer have received training and have been tested on appropriate transportation areas of responsibility, including at least one of the following:

(1) recognizing and understanding the Department of Transportation hazardous material classification system.

(2) the use and limitations of the Department hazardous material placarding, labeling, and marking systems.

(3) general handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transporting hazardous material.

(4) health, safety, and risk factors associated with hazardous material and the transportation of hazardous material.

(5) appropriate emergency response and communication procedures for dealing with an accident or incident involving hazardous material transportation.

(6) the use of the Department Emergency Response Guidebook and recognition of its limitations or the use of equivalent documents and recognition of the limitations of those documents.

(7) applicable hazardous material transportation regulations.

(8) personal protection techniques.

(9) preparing a shipping document for transporting hazardous material.

(d) COORDINATION OF TRAINING REQUIREMENTS.—In consultation with the Administrator of the Environmental Protection Agency and the Secretary of Labor, the Secretary shall ensure that the training requirements prescribed under this section do not conflict with or duplicate—

(1) the requirements of regulations the Secretary of Labor prescribes related to hazard communication, and hazardous waste operations, and emergency response that are contained in part 1910 of title 29, Code of Federal Regulations; and

(2) the regulations the Agency prescribes related to worker protection standards for hazardous waste operations that are contained in part 311 of title 40, Code of Federal Regulations.

(e) TRAINING GRANTS.—

(1) IN GENERAL.—Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—

(A) for training instructors to train hazmat employees; and

(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.

(2) ELIGIBILITY.—A grant under this subsection shall be made through a competitive process to a nonprofit organization that demonstrates—

(A) expertise in conducting a training program for hazmat employees; and

(B) the ability to reach and involve in a training program a target population of hazmat employees.

(f) TRAINING OF CERTAIN EMPLOYEES.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.

(g) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)–(d) of this section.

(2) An action of the Secretary under subsections (a)–(d) of this section and section 5106 is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(h) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.

(i) COMMUNITY SAFETY GRANTS.—The Secretary shall establish a competitive program for making grants to nonprofit organizations for—

(1) conducting national outreach and training programs to assist communities in preparing for and responding to accidents and incidents involving the transportation of hazardous materials, including Class 3 flammable liquids by rail; and

(2) training State and local personnel responsible for enforcing the safe transportation of hazardous materials, including Class 3 flammable liquids.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 763; Pub. L. 103–311, title I, §§ 106, 119(c)(1)–(3), Aug. 26, 1994, 108 Stat. 1674, 1680; Pub. L. 109–59, title VII, §§ 7108, 7126, Aug. 10, 2005, 119 Stat. 1897, 1909; Pub. L. 112–141, div. C, title III, § 33016, July 6, 2012, 126 Stat. 841; Pub. L. 114–94, div. A, title VII, § 7301, Dec. 4, 2015, 129 Stat. 1594.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5107(a)	49 App.:1805(b)(1), (2), (5) (1st sentence).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 106(b); added Nov. 16, 1990, Pub. L. 101–615, § 7(3), 104 Stat. 3253.
5107(b)	49 App.:1805(b)(4), (5) (last sentence).	
5107(c)	49 App.:1805(b)(6).	
5107(d)	49 App.:1805(b)(3) (1st sentence).	
5107(e)	49 App.:1816(a)–(c).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 118(a)–(c); added Nov. 16, 1990, Pub. L. 101–615, § 18, 104 Stat. 3269.
5107(f)(1)	49 App.:1805(b)(7).	
5107(f)(2)	49 App.:1805(b)(3) (last sentence).	

In subsections (a)(1) and (b), before clause (1), the words ''in order to comply with requirements established by such regulations'' are omitted as surplus.

In subsection (a), before clause (1), the words ''Within 18 months after November 16, 1990'' are omitted as obsolete. In clause (1), the words ''as provided by subsection (b) of this section'' are added for clarity.

In subsection (b), before clause (1), the words ''in accordance with the requirements established by such regulations'' are omitted as surplus.

In subsection (c), before clause (1), the words ''in accordance with the requirements established under this subsection'' and ''appropriate'' before ''documentation'' are omitted as surplus.

In subsection (d), before clause (1), the words ''take such actions as may be necessary to'' are omitted as surplus. In clauses (1) and (2), the words ''(and amendments thereto)'' are omitted as surplus. In clause (1), the words ''Secretary of Labor'' are substituted for ''Occupational Safety and Health Administration of the Department of Labor'' because of 29:551.

In subsection (e), the words ''and education'' are omitted as being included in ''training''. Before clause (1), the words ''regarding the safe loading, unloading, handling, storage, and transportation of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials in order to meet the requirements issued under section 1816(b) of this title may be made under this section'' are omitted as surplus.

In subsection (f)(1), the words ''(relating to coordination of Federal information policy)'' are omitted as surplus.

AMENDMENTS

2015—Subsec. (i). Pub. L. 114–94 added subsec. (i).

2012—Subsec. (e)(2). Pub. L. 112–141 inserted ''through a competitive process'' after ''shall be made'' and struck out ''hazmat employee'' after ''nonprofit'' in introductory provisions.

2005—Subsecs. (a) to (d). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions of subsecs. (a) to (c) and ''Secretary shall'' for ''Secretary of Transportation shall'' in introductory provisions of subsec. (d).

Subsec. (e). Pub. L. 109–59, § 7108(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: ''The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section. A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

''(1) expertise in conducting a training program for hazmat employees; and

''(2) the ability to reach and involve in a training program a target population of hazmat employees.''

Subsec. (f). Pub. L. 109–59, § 7108(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, § 7108(2), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (g)(2). Pub. L. 109–59, § 7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Pub. L. 109–59, § 7108(4), substituted ''section 5106'' for ''sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title''.

Subsec. (h). Pub. L. 109–59, § 7108(2), redesignated subsec. (g) as (h).

1994—Subsec. (d). Pub. L. 103–311, § 106, in introductory provisions inserted ''or duplicate'' after ''conflict with'' and in par. (1) substituted ''hazard communication, and hazardous waste operations, and'' for ''hazardous waste operations and''.

Subsec. (e). Pub. L. 103–311, § 119(c)(1), (2), in first sentence substituted ''The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section.'' for ''In consultation with the Secretaries of Transportation and Labor and the Administrator, the Director of the National Institute of Environmental Health Sciences may make grants to train hazmat employees under this section.'' and in second sentence inserted ''hazmat employee'' after ''nonprofit''.

Subsec. (g). Pub. L. 103–311, § 119(c)(3), added subsec. (g).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112–141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 5108. Registration

(a) PERSONS REQUIRED TO FILE.—(1) A person shall file a registration statement with the Secretary under this subsection if the person is transporting or causing to be transported in commerce any of the following:

(A) a highway-route-controlled quantity of radioactive material.

(B) more than 25 kilograms of a Division 1.1, 1.2, or 1.3 explosive material in a motor vehicle, rail car, or transport container.

(C) more than one liter in each package of a hazardous material the Secretary designates as extremely toxic by inhalation.

(D) hazardous material in a bulk packaging, container, or tank, as defined by the Secretary, if the bulk packaging, container, or tank has a capacity of at least 3,500 gallons or more than 468 cubic feet.

(E) a shipment of at least 5,000 pounds (except in a bulk packaging) of a class of hazardous material for which placarding of a vehicle, rail car, or freight container is required under regulations prescribed under this chapter.

(2) The Secretary may require any of the following persons to file a registration statement with the Secretary under this subsection:

(A) a person transporting or causing to be transported hazardous material in commerce and not required to file a registration statement under paragraph (1) of this subsection.

(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

(3) A person required to file a registration statement under this subsection may transport or cause to be transported, or design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or container for use in transporting, hazardous material, only if the person has a statement on file as required by this subsection.

(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.

(b) FORM, CONTENTS, AND LIMITATION ON FILINGS.—(1) A registration statement under subsection (a) of this section shall be in the form and contain information the Secretary requires by regulation. The Secretary may use existing forms of the Department of Transportation and the Environmental Protection Agency to carry out this subsection. The statement shall include—

(A) the name and principal place of business of the registrant;

(B) a description of each activity the registrant carries out for which filing a statement under subsection (a) of this section is required; and

(C) each State in which the person carries out any of the activities.

(2) A person carrying out more than one activity, or an activity at more than one location, for which filing is required only has to file one registration statement to comply with subsection (a) of this section.

(c) FILING.—Each person required to file a registration statement under subsection (a) shall file the statement in accordance with regulations prescribed by the Secretary.

(d) SIMPLIFYING THE REGISTRATION PROCESS.—The Secretary may take necessary action to simplify the registration process under subsections (a)–(c) of this section and to minimize the number of applications, documents, and other information a person is required to file under this chapter and other laws of the United States.

(e) COOPERATION WITH ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall assist the Secretary in carrying out subsections (a)–(g)(1) and (h) of this section by providing the Secretary with information the Secretary requests to carry out the objectives of subsections (a)–(g)(1) and (h).

(f) AVAILABILITY OF STATEMENTS.—The Secretary shall make a registration statement filed under subsection (a) of this section available for inspection by any person for a fee the Secretary establishes. However, this subsection does not require the release of information described in section 552(b) of title 5 or otherwise protected by law from disclosure to the public.

(g) FEES.—(1) The Secretary shall establish, impose, and collect from a person required to file a registration statement under subsection (a) of this section a fee necessary to pay for the costs of the Secretary in processing the statement.

(2)(A) In addition to a fee established under paragraph (1) of this subsection, the Secretary shall establish and impose by regulation and collect an annual fee. Subject to subparagraph (B) of this paragraph, the fee shall be at least $250 but not more than $3,000 from each person required to file a registration statement under this section. The Secretary shall determine the amount of the fee under this paragraph on at least one of the following:

(i) gross revenue from transporting hazardous material.

(ii) the type of hazardous material transported or caused to be transported.

(iii) the amount of hazardous material transported or caused to be transported.

(iv) the number of shipments of hazardous material.

(v) the number of activities that the person carries out for which filing a registration statement is required under this section.

(vi) the threat to property, individuals, and the environment from an accident or incident involving the hazardous material transported or caused to be transported.

(vii) the percentage of gross revenue derived from transporting hazardous material.

(viii) the amount to be made available to carry out sections 5108(g)(2), 5115, and 5116 of this title.

(ix) other factors the Secretary considers appropriate.

(B) The Secretary shall adjust the amount being collected under this paragraph to reflect any unexpended balance in the account established under section 5116(h) of this title. However, the Secretary is not required to refund any fee collected under this paragraph.

(C) The Secretary shall transfer to the Secretary of the Treasury amounts the Secretary of Transportation collects under this paragraph for deposit in the Hazardous Materials Emergency Preparedness Fund established under section 5116(h) of this title.

(3) FEES ON EXEMPT PERSONS.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the costs incurred by the Secretary in processing registration statements filed by such persons.

(h) MAINTAINING PROOF OF FILING AND PAYMENT OF FEES.—The Secretary may prescribe regulations requiring a person required to file a registration statement under subsection (a) of this section to maintain proof of the filing and payment of fees imposed under subsection (g) of this section.

(i) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary under subsections (a)–(g)(1) and (h) of this section.

(2)(A) This section does not apply to an employee of a hazmat employer.

(B) Subsections (a)–(h) of this section do not apply to a department, agency, or instrumentality of the United States Government, an authority of a State or political subdivision of a State, an Indian tribe, or an employee of a department, agency, instrumentality, or authority carrying out official duties.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 765; Pub. L. 103–311, title I, §§ 104, 117(a)(3), 119(d)(1), Aug. 26, 1994, 108 Stat. 1673, 1678, 1680; Pub. L. 105–102, § 2(3), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105–225, § 7(b)(1), Aug. 12, 1998, 112 Stat. 1511; Pub. L. 109–59, title VII, §§ 7109(a)–(c), (e), (f), 7114(d)(3), 7126, Aug. 10, 2005, 119 Stat. 1897, 1898, 1900, 1909; Pub. L. 114–94, div. A, title VII, § 7203(b)(1), Dec. 4, 2015, 129 Stat. 1591.)

HISTORICAL AND REVISION NOTES
PUB. L. 103–272

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
5108(a)(1)	49 App.:1805(c)(1).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 106(c); added Nov. 16, 1990, Pub. L. 101–615, § 8(a), 104 Stat. 3255; Oct. 24, 1992, Pub. L. 102–508, § 503(a)(1)–(3), (b), 106 Stat. 3311.
5108(a)(2)	49 App.:1805(c)(3).	
5108(a)(3)	49 App.:1805(c)(4).	
5108(b)	49 App.:1805(c)(7), (8).	
5108(c)	49 App.:1805(c)(5), (6).	
5108(d)	49 App.:1805(c)(9).	
5108(e)	49 App.:1805(c)(2).	
5108(f)	49 App.:1805(c)(10).	
5108(g)(1)	49 App.:1805(c)(11).	
5108(g)(2)	49 App.:1815(h) (1)–(5).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, § 117A(h)(1)–(5); added Nov. 16, 1990, Pub. L. 101–615, § 17, 104 Stat. 3267.
5108(h)	49 App.:1805(c)(12).	
5108(i)	49 App.:1805(c) (13)–(15).	

In subsection (b)(1), before clause (A), the words ''at a minimum'' are omitted as surplus.

In subsection (d), the words ''streamline and'', ''with respect to a person who is required to file a registration statement under this subsection'', and ''with the Department of Transportation'' are omitted as surplus.

In subsection (g), the word ''impose'' is substituted for ''assess'' for consistency in the revised title and with other titles of the United States Code.

In subsection (g)(2)(A), before clause (i), the words ''Not later than September 30, 1992'' are omitted as obsolete. In clause (viii), the words ''of funds'' are omitted as surplus.

In subsection (g)(2)(B), the words ''of fees'' and ''from persons'' are omitted as surplus.

In subsection (i)(1), the words ''(relating to coordination of Federal information policy)'' are omitted as surplus.

In subsection (i)(2)(A), the words ''Notwithstanding any other provisions of this subsection'' are omitted as surplus.

PUB. L. 105–102

This amends 49:5108(f) to correct an erroneous cross-reference.

AMENDMENTS

2015—Subsec. (g)(2)(B), (C). Pub. L. 114–94 substituted ''5116(h)'' for ''5116(i)''.

2005—Subsec. (a)(1). Pub. L. 109–59, §7126, substituted ''Secretary'' for ''Secretary of Transportation'' in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 109–59, §7109(a)(1), substituted ''Division 1.1, 1.2, or 1.3 explosive material'' for ''class A or B explosive''.

Subsec. (a)(2). Pub. L. 109–59, §7126, substituted ''Secretary may'' for ''Secretary of Transportation may'' in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 109–59, §7109(a)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''a person manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a package or container the person represents, marks, certifies, or sells for use in transporting in commerce hazardous material the Secretary designates.''

Subsec. (a)(3). Pub. L. 109–59, §7109(a)(3), substituted ''design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or'' for ''manufacture, fabricate, mark, maintain, recondition, repair, or test a package or''.

Subsec. (b)(1). Pub. L. 109–59, §7126, substituted ''Secretary requires'' for ''Secretary of Transportation requires'' in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 109–59, §7109(b), substituted ''any of the activities'' for ''the activity''.

Subsec. (c). Pub. L. 109–59, §7109(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

''(1) Each person required to file a registration statement under subsection (a) of this section must file the first statement not later than March 31, 1992. The Secretary of Transportation may extend that date to September 30, 1992, for activities referred to in subsection (a)(1) of this section. A person shall renew the statement periodically consistent with regulations the Secretary prescribes, but not more than once each year and not less than once every 5 years.

''(2) The Secretary of Transportation shall decide by regulation when and under what circumstances a registration statement must be amended and the procedures to follow in amending the statement.''

Subsecs. (d) to (f). Pub. L. 109–59, §7126, substituted ''Secretary'' for ''Secretary of Transportation'' in subsec. (d), ''Secretary in carrying'' for ''Secretary of Transportation in carrying'' in subsec. (e), and ''Secretary shall'' for ''Secretary of Transportation shall'' in subsec. (f).

Subsec. (g)(1). Pub. L. 109–59, §7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall''.

Pub. L. 109–59, §7109(f)(1), substituted ''shall'' for ''may''.

Subsec. (g)(2)(A). Pub. L. 109–59, §7126, substituted ''Secretary shall establish'' for ''Secretary of Transportation shall establish'' in introductory provisions.

Pub. L. 109–59, §7109(f)(2), substituted ''$3,000'' for ''$5,000'' in introductory provisions.

Subsec. (g)(2)(B). Pub. L. 109–59, §7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall''.

Subsec. (g)(2)(C). Pub. L. 109–59, §7126, substituted ''Secretary shall'' for ''Secretary of Transportation shall''.

Pub. L. 109–59, §7114(d)(3), substituted ''the Hazardous Materials Emergency Preparedness Fund established'' for ''the account the Secretary of the Treasury establishes''.

Subsec. (g)(3). Pub. L. 109–59, §7109(f)(3), added par. (3).

Subsec. (h). Pub. L. 109–59, §7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (i)(1). Pub. L. 109–59, §7126, substituted ''Secretary'' for ''Secretary of Transportation''.

Subsec. (i)(2)(B). Pub. L. 109–59, §7109(e), inserted ''an Indian tribe,'' after ''subdivision of a State,''.

1998—Subsec. (f). Pub. L. 105–225 substituted ''section 552(b)'' for ''section 552(f)''.

1997—Subsec. (f). Pub. L. 105–102 which directed substitution of ''section 552(b)'' for ''section 522(f)'' could not be executed because ''section 522(f)'' did not appear.

1994—Subsec. (a)(1)(D). Pub. L. 103–311, §117(a)(3), substituted ''a bulk packaging'' for ''a bulk package'' and ''the bulk packaging'' for ''the package''.

Subsec. (a)(4). Pub. L. 103–311, §104, added par. (4).

Subsec. (g)(2)(A)(viii). Pub. L. 103–311, §119(d)(1), struck out ''5107(e),'' before ''5108(g)(2)''.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

REGISTRATION

Pub. L. 109–59, title VII, §7109(d), Aug. 10, 2005, 119 Stat. 1898, provided that: ''As soon as practicable, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act [Aug. 10, 2005] under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant.''

§ 5109. Motor carrier safety permits

(a) REQUIREMENT.—A motor carrier may transport or cause to be transported by motor vehicle in commerce hazardous material only if the carrier holds a safety permit the Secretary issues under this section authorizing the transportation and keeps a copy of the permit, or other proof of its existence, in the vehicle. The Secretary shall issue a permit if the Secretary finds the carrier is fit, willing, and able—

(1) to provide the transportation to be authorized by the permit;

(2) to comply with this chapter and regulations the Secretary prescribes to carry out this chapter; and

(3) to comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations.

(b) APPLICABLE TRANSPORTATION.—The Secretary shall prescribe by regulation the hazardous material and amounts of hazardous material to which this section applies. However, this section shall apply at least to transportation by a motor carrier, in amounts the Secretary establishes, of—

(1) a class A or B explosive;

(2) liquefied natural gas;

(3) hazardous material the Secretary designates as extremely toxic by inhalation; and