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

(14) “United States” means all of the States.


HISTORICAL AND REVISION NOTES

Revised Section Source (U.S. Code) Source (Statutes at Large)
5102(1) ...... 49 App.:1802(1)-(3), (13).
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(13).
5102(12) ...... 49 App.:1802(14).
5102(13) ...... 49 App.:1802(15).
5102(14) ...... 49 App.:1802(16).

Jan. 3, 1975, Pub. L. 93–638, § 450b, 88 Stat. 2204, which was classified to section 450b of Title 49, was omitted as surplus.

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.

In clause (3), the words “traffic, commerce” are omitted as surplus.

In clause (6), 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 (9) and (13), the words “in connection with transporting containers” 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. 2304, which was classified to section 450b of Title 25, Indians, prior to editorial reclassification as section 5304 of Title 25.

AMENDMENTS


Par. (3)(B). Pub. L. 109–59, § 7102(2)(D)(i), added cl. (ii) and struck out former cl. (i) which read as follows: “includes a government, an owner-operator of a motor vehicle transporting hazardous material in commerce; and”.

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) and added cl. (ii) and struck out former cl. (i) which read as follows: “includes a government, an owner-operator of a motor vehicle transporting hazardous material in commerce; and”.

Par. (5). Pub. L. 110–244, § 302(a)(1), redesignated subpar. (C) as (B).

Par. (6). Pub. L. 110–244, § 302(a), 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. (7). Pub. L. 110–244, § 7102(3), 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. 110–244, § 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, an owner-operator of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but”.

Par. (9)(B). Pub. L. 109–59, § 7102(7), substituted “motor carrier, motor private carrier” for “motor carrier, motor private carrier” and “section 13102” for “section 13012”.

Par. (10). Pub. L. 110–244, § 7102(7), substituted “motor carrier, motor private carrier” for “motor carrier, motor private carrier” and “section 13102” for “section 13012”.


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 25, 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 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.


HISTORICAL AND REVISION NOTES

PUB. L. 103–272

Revised Section | Source (U.S. Code) | Source (Statutes at Large)
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5103(a) | §101 | 49 App.:1803.

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 §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.


2005—Subsec. (a). Pub. L. 109–59, §7120, substituted “Secretary shall designate” for “Secretary of Transportation shall designate”.

Pub. L. 109–59, §7120(a), substituted “infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,” for “etiological 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."


1994—Subsec. (b)(1)(A)(iii). Pub. L. 103–429 substituted "a packaging or an 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

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

GAO STUDY ON ACCEPTANCE OF CLASSIFICATION EXAMINATIONS

"(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 hazardous 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; and

"(3) identify what standards and protocols exist to rescind, suspend, or deny approval of persons to 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

"(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 5103(a) of title 49, United States Code), supplementing the report submitted under section 5101(b) [probably means section 5103(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) Regulative 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. 111–322, set out as a note under section 20202 of this title.]

§ 5103a

SAFE PLACEMENT OF TRAIN CARS

Pub. L. 101–311, 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


(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 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.

(b) Study.—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.

§ 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 and the Secretary of Transportation have determined, upon receipt of a notification under subsection (d)(1)(B),

80 So in original. The quotation marks and semicolon probably should not appear.