

In subsection (c)(1), the words “the procedural requirements of” and “the substantive requirements of” are omitted as surplus.

In subsection (c)(2)(A), the words “procedural requirements of the Federal standards established pursuant to” are omitted as surplus.

In subsection (f), the words “may bring a civil action for judicial review” are substituted for “may seek judicial review . . . only by filing a petition” for consistency in the revised title.

PUB. L. 103-429

This amends 49:5125(a) and (b)(1) to clarify the restatement of 49 App.:1804(a)(4) and 1811(a) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 781).

AMENDMENTS

2012—Subsec. (b)(1)(D). Pub. L. 112-141, § 33006(d), inserted “and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident” before period at end.

Subsec. (c)(1). Pub. L. 112-141, § 33013(b), inserted “, and is published in the Department’s hazardous materials route registry under section 5112(c)” before period at end.

Subsec. (f)(2). Pub. L. 112-141, § 33011, substituted “biennially” for “, upon the Secretary’s request,”.

2008—Subsec. (d)(1). Pub. L. 110-244, § 302(c)(1), substituted “5119(f)” for “5119(e)”.

Subsec. (e). Pub. L. 110-244, § 302(c)(2), substituted “5119(f)” for “5119(b)” in introductory provisions.

Subsec. (g). Pub. L. 110-244, § 302(c)(2), (3), substituted “(a), (b)(1), or (c)” for “(b), (c)(1), or (d)” and “5119(f)” for “5119(b)”.

2005—Subsec. (b)(1)(E). Pub. L. 109-59, § 7122(a)(1), added subpar. (E) and struck out former subpar. (E) which read as follows: “the design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.”

Subsec. (b)(2). Pub. L. 109-59, § 7126, substituted “If the Secretary” for “If the Secretary of Transportation”.

Pub. L. 109-59, § 7122(a)(2), substituted “subjects that the Secretary prescribes. The” for “subjects that the Secretary prescribes after November 16, 1990. However, the”.

Subsec. (d)(1). Pub. L. 109-59, § 7122(b), inserted “or section 5119(e)” before period at end of first sentence.

Subsec. (e). Pub. L. 109-59, § 7122(c), inserted “or section 5119(b)” before period at end of first sentence.

Subsec. (f). Pub. L. 109-59, § 7123(a), redesignated subsec. (g) as (f), realigned margins, and struck out heading and text of former subsec. (f). Text read as follows: “A party to a proceeding under subsection (d) or (e) of this section may bring a civil action in an appropriate district court of the United States for judicial review of the decision of the Secretary not later than 60 days after the decision becomes final.”

Subsec. (g). Pub. L. 109-59, § 7123(a)(2), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsecs. (h), (i). Pub. L. 109-59, § 7123(a)(2), redesignated subsecs. (h) and (i) as (g) and (h), respectively.

Pub. L. 109-59, § 7122(d), added subsecs. (h) and (i).

2002—Subsecs. (a), (b)(1). Pub. L. 107-296 substituted “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security” for “chapter or a regulation prescribed under this chapter” wherever appearing.

1994—Subsecs. (a), (b)(1). Pub. L. 103-429 inserted “and unless authorized by another law of the United States” after “section” in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 103-311, § 117(a)(2), substituted “a packaging or a” for “a package or”.

Subsec. (d). Pub. L. 103-311, § 120(b), inserted after second sentence “The Secretary shall issue a decision on

an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary’s decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.”

Subsec. (g). Pub. L. 103-311, § 107, designated existing provisions as par. (1) and added par. (2).

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.

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.

§ 5126. Relationship to other laws

(a) CONTRACTS.—A person under contract with a department, agency, or instrumentality of the United States Government that transports hazardous material, or causes hazardous material to be transported, or designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented as qualified for use in transporting hazardous material shall comply with this chapter, regulations prescribed and orders issued under this chapter, and all other requirements of the Government, State and local governments, and Indian tribes (except a requirement preempted by a law of the United States) in the same way and to the same extent that any person engaging in that transportation, designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing that is in or affects commerce must comply with the provision, regulation, order, or requirement.

(b) NONAPPLICATION.—This chapter does not apply to—

- (1) a pipeline subject to regulation under chapter 601 of this title; or
- (2) any matter that is subject to the postal laws and regulations of the United States under this chapter or title 18 or 39.

(Pub. L. 103-272, § 1(d), July 5, 1994, 108 Stat. 783; Pub. L. 103-311, title I, § 117(a)(2), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 109-59, title VII, § 7124, Aug. 10, 2005, 119 Stat. 1908; Pub. L. 110-244, title III, § 302(d), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5126(a)	49 App.:1818.	Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, § 120; added Nov. 16, 1990, Pub. L. 101-615, § 20, 104 Stat. 3270.
5126(b)	49 App.:1811(f).	Jan. 3, 1975, Pub. L. 93-633, § 112(f), 88 Stat. 2161; Nov. 30, 1979, Pub. L. 96-129, § 216(a), 93 Stat. 1015; re-stated Nov. 16, 1990, Pub. L. 101-615, § 13, 104 Stat. 3260.

In subsection (a), the word “manufactures” is substituted for “manufacturers” to correct an error in the source provisions. The words “of the executive, legislative, or judicial branch”, “be subject to and”, “substantive and procedural”, and “this chapter or any other” are omitted as surplus.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-244 amended Pub. L. 109-59. See 2005 Amendment note below.

2005—Subsec. (a). Pub. L. 109-59, §7124(4), substituted “designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing” for “manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing”.

Pub. L. 109-59, §7124(3), as amended by Pub. L. 110-244, substituted “shall comply with this chapter” for “must comply with this chapter”.

Pub. L. 109-59, §7124(1), (2), substituted “transports hazardous material, or causes hazardous material to be transported,” for “transports or causes to be transported hazardous material,” and “designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented” for “manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a packaging or a container that the person represents, marks, certifies, or sells”.

1994—Subsec. (a). Pub. L. 103-311 substituted “a packaging or a” for “a package or”.

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.

§ 5127. Judicial review

(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary’s action becomes final.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary’s final action and may order the Secretary to conduct further proceedings.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.

(Added Pub. L. 109-59, title VII, §7123(b), Aug. 10, 2005, 119 Stat. 1907.)

PRIOR PROVISIONS

A prior section 5127 was renumbered section 5128 of this title.

§ 5128. Authorization of appropriations

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

- (1) \$42,338,000 for fiscal year 2013; and
- (2) \$42,762,000 for fiscal year 2014.

(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2013 and 2014—

- (1) \$188,000 to carry out section 5115;
- (2) \$21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than \$13,650,000 shall be available to carry out section 5116(b);
- (3) \$150,000 to carry out section 5116(f);
- (4) \$625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and
- (5) \$1,000,000 to carry out section 5116(j).

(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend \$4,000,000 for each of the fiscal years 2013 and 2014 to carry out section 5107(e).

(d) CREDITS TO APPROPRIATIONS.—

- (1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.
- (2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 783, §5127; Pub. L. 103-311, title I, §§103, 119(b), (c)(4), Aug. 26, 1994, 108 Stat. 1673, 1680; renumbered §5128 and amended Pub. L. 109-59, title VII, §§7123(b), 7125, Aug. 10, 2005, 119 Stat. 1907, 1908; Pub. L. 110-244, title III, §302(f), June 6, 2008, 122 Stat. 1618; Pub. L. 112-141, div. C, title III, §33017, July 6, 2012, 126 Stat. 841.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5127(a)	49 App.:1812(a).	Jan. 3, 1975, Pub. L. 93-633, §115, 88 Stat. 2164; July 19, 1975, Pub. L. 94-56, §4, 89 Stat. 264; Oct. 11, 1976, Pub. L. 94-474, §3, 90 Stat. 2068; Sept. 30, 1978, Pub. L. 95-403, 92 Stat. 863; Oct. 30, 1984, Pub. L. 98-559, §2, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101-615, §14, 104 Stat. 3260; Oct. 24, 1992, Pub. L. 102-508, §504, 106 Stat. 3311.
5127(b)	49 App.:1816(d).	Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §118(d); added Nov. 16, 1990, Pub. L. 101-615, §18, 104 Stat. 3269; Oct. 24, 1992, Pub. L. 102-508, §506, 106 Stat. 3312.