

(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104.

(Added Pub. L. 109-59, title VII, §7203, Aug. 10, 2005, 119 Stat. 1913.)

REFERENCES IN TEXT

Section 416 of the Federal Food, Drug, and Cosmetic Act, referred to in subsec. (a)(1)(A), is classified to section 350e of Title 21, Food and Drugs.

PRIOR PROVISIONS

Prior sections 5701 to 5714 were omitted in the general amendment of this chapter by Pub. L. 109-59, §7203.

Section 5701, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 854, related to findings.

Section 5702, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 854, defined terms.

Section 5703, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 855, directed Secretary to prescribe regulations.

Section 5704, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 856, related to prohibited use of tank trucks, rail tank cars, and cargo tanks.

Section 5705, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 857, related to prohibited motor and rail transportation of nonfood products.

Section 5706, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 857, related to dedication of vehicles to transport asbestos, extremely dangerous products, or refuse.

Section 5707, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 857, related to waiver of provisions.

Section 5708, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 858, related to food transportation inspections. See section 5701 of this title.

Section 5709, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 858, related to consultation with Secretaries of Agriculture and Health and Human Services and Administrator of the Environmental Protection Agency.

Section 5710, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 858, related to duties and powers of Secretary.

Section 5711, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 858, related to enforcement and penalties.

Section 5712, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 859, related to relationship to other laws.

Section 5713, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 859, related to application of sections 5711 and 5712.

Section 5714, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 859, related to coordination between departments, agencies, and instrumentalities.

EFFECTIVE DATE

Section effective Oct. 1, 2005, see section 7204 of Pub. L. 109-59, set out as an Effective Date of 2005 Amendment note under section 331 of Title 21, Food and Drugs.

CHAPTER 59—INTERMODAL SAFE CONTAINER TRANSPORTATION

Table with 2 columns: Sec. and Description. Rows include 5901. Definitions, 5902. Notifications and certifications, 5903. Prohibitions, 5904. State enforcement, 5905. Liens, 5906. Perishable agricultural commodities, 5907. Effective date, 5908. Relationship to other laws.

AMENDMENTS

1996—Pub. L. 104-291, title II, §§208(b), 209(b), Oct. 11, 1996, 110 Stat. 3457, 3458, substituted "Effective date" for "Regulations and effective date" in item 5907 and added item 5908.

§ 5901. Definitions

In this chapter—

(1) except as otherwise provided in this chapter, the definitions in sections 10102 and 13102 of this title apply.

(2) "beneficial owner" means a person not having title to property but having ownership rights in the property, including a trustee of property in transit from an overseas place of origin that is domiciled or doing business in the United States, except that a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouse, or terminal operator is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of property.

(3) "carrier" means—

(A) a motor carrier, water carrier, and rail carrier providing transportation of property in commerce; and

(B) an ocean common carrier (as defined in section 40102 of title 46) providing transportation of property in commerce.

(4) "container" has the meaning given the term "freight container" by the International Standards Organization in Series 1, Freight Containers, 3d Edition (reference number ISO668-1979(E)), including successive revisions, and similar containers that are used in providing transportation in interstate commerce.

(5) "first carrier" means the first carrier transporting a loaded container or trailer in intermodal transportation.

(6) "gross cargo weight" means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.

(7) "intermodal transportation" means the successive transportation of a loaded container or trailer from its place of origin to its place of destination by more than one mode of transportation in interstate or foreign commerce, whether under a single bill of lading or under separate bills of lading.

(8) "trailer" means a nonpower, property-carrying, trailing unit that is designed for use in combination with a truck tractor.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 859; Pub. L. 104-291, title II, §203, Oct. 11, 1996, 110 Stat. 3453; Pub. L. 109-304, §17(h)(2), Oct. 6, 2006, 120 Stat. 1709.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows list revisions from 5901(1) to 5901(7) with corresponding U.S. Code and Statutes at Large references.

This chapter restates 49:508 and the relevant definitions in 49:501 because the subject matter more appropriately belongs in subtitle III of title 49. The text of 49:501(a)(1) is restated to incorporate the definitions in 49:10102. The terms defined in 49:501(a)(2) and (3) are not used in this chapter.

In clause (2), the word "including" is substituted for "For purposes of this paragraph . . . shall be treated as a beneficial owner of such property" for consistency and to eliminate unnecessary words. The words "is not a beneficial owner only because of providing or arrang-

ing for any part of the intermodal transportation of property” are substituted for “providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this paragraph, solely by reason of providing or arranging for such transportation” to eliminate unnecessary words.

In clause (3)(A), the words “(as such terms are defined in section 10102 of this title)” are omitted as unnecessary because of clause (1) of this section.

In clause (7), the words “property-carrying” are substituted for “cargo carrying” for consistency in the revised title.

#### AMENDMENTS

2006—Par. (3)(B). Pub. L. 109-304 substituted “section 40102 of title 46” for “section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)”.

1996—Par. (1). Pub. L. 104-291, §203(1), added par. (1) and struck out former par. (1) which read as follows: “the definitions in section 10102 of this title apply.”

Pars. (6) to (8). Pub. L. 104-291, §203(2), (3), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

### § 5902. Notifications and certifications

(a) **PRIOR NOTIFICATION.**—If the first carrier to which any loaded container or trailer having a projected gross cargo weight of more than 29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a notification of the gross cargo weight and a reasonable description of the contents of the container or trailer before the tendering of the container or trailer. The notification may be transmitted electronically or by telephone. This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.

(b) **CERTIFICATION.**—

(1) **IN GENERAL.**—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

(2) **CONTENTS OF CERTIFICATION.**—The certification required by paragraph (1) shall include—

- (A) the actual gross cargo weight;
- (B) a reasonable description of the contents of the container or trailer;
- (C) the identity of the certifying party;
- (D) the container or trailer number; and
- (E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

(3) **TRANSFER OF CERTIFICATION DATA.**—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

(4) **SHIPPING DOCUMENTS.**—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer

to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

(5) **USE OF “FREIGHT ALL KINDS” TERM.**—The term “Freight All Kinds” or “FAK” may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

(6) **SEPARATE DOCUMENT MARKING.**—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked “INTERMODAL CERTIFICATION”.

(7) **APPLICABILITY.**—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.

(c) **FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.**—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouse, or terminal operator shall forward the certification provided under subsection (b) of this section to a subsequent carrier transporting the container or trailer in intermodal transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required. The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification. If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.

(d) **LIABILITY TO OWNER OR BENEFICIAL OWNER.**—If—

(1) a person inaccurately transfers information on a certification required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

(3) that subsequent carrier exercises its rights to a lien under section 5905,