

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

(4) a highway-route-controlled quantity of radioactive material, as defined by the Secretary.

(c) APPLICATIONS.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this section. The Secretary may approve any part of the application or deny the application. The application shall be under oath and contain information the Secretary requires by regulation.

(d) AMENDMENTS, SUSPENSIONS, AND REVOCATIONS.—(1) After notice and an opportunity for a hearing, the Secretary may amend, suspend, or revoke a safety permit, as provided by procedures prescribed under subsection (e) of this section, when the Secretary decides the motor carrier is not complying with a requirement of this chapter, a regulation prescribed under this chapter, or an applicable United States motor carrier safety law or regulation or minimum financial responsibility law or regulation.

(2) If the Secretary decides an imminent hazard exists, the Secretary may amend, suspend, or revoke a permit before scheduling a hearing.

(e) PROCEDURES.—The Secretary shall prescribe by regulation—

- (1) application procedures, including form, content, and fees necessary to recover the complete cost of carrying out this section;
- (2) standards for deciding the duration, terms, and limitations of a safety permit;
- (3) procedures to amend, suspend, or revoke a permit; and
- (4) other procedures the Secretary considers appropriate to carry out this section.

(f) SHIPPER RESPONSIBILITY.—A person offering hazardous material for motor vehicle transportation in commerce may offer the material to a motor carrier only if the carrier has a safety permit issued under this section authorizing the transportation.

(g) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this section only if the carrier complies with conditions the Secretary finds are required to protect public safety.

(h) LIMITATION ON DENIAL.—The Secretary may not deny a non-temporary permit held by a motor carrier pursuant to this section based on a comprehensive review of that carrier triggered by safety management system scores or out-of-service disqualification standards, unless—

- (1) the carrier has the opportunity, prior to the denial of such permit, to submit a written description of corrective actions taken and other documentation the carrier wishes the Secretary to consider, including a corrective action plan; and
- (2) the Secretary determines the actions or plan is insufficient to address the safety concerns identified during the course of the comprehensive review.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 767; Pub. L. 109–59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909; Pub. L. 114–94, div. A, title VII, §7202, Dec. 4, 2015, 129 Stat. 1589.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5109(a)	49 App.:1805(d)(1), (2).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §106(d); added Nov. 16, 1990, Pub. L. 101–615, §8(a), 104 Stat. 3257; Oct. 24, 1992, Pub. L. 102–508, §503(a)(4), (5), (b), 106 Stat. 3311.
5109(b)	49 App.:1805(d)(5).	
5109(c)	49 App.:1805(d)(7).	
5109(d)	49 App.:1805(d)(4).	
5109(e)	49 App.:1805(d)(6).	
5109(f)	49 App.:1805(d)(3).	
5109(g)	49 App.:1805(d)(8).	
5109(h)	49 App.:1805 (note).	Nov. 16, 1990, Pub. L. 101–615, §8(b), 104 Stat. 3258.

In subsection (a), before clause (1), the words “Except as provided in this subsection” and “used to provide such transportation” are omitted as surplus.

In subsection (b), before clause (1), the word “all” is omitted as surplus.

In subsection (e)(2), the word “conditions” is omitted as being included in “terms”.

In subsection (h), the text of section 8(b) (words before semicolon of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101–615, 104 Stat. 3258) is omitted as obsolete.

AMENDMENTS

2015—Subsec. (h). Pub. L. 114–94 amended subsec. (h) generally. Prior to amendment, text read as follows: “The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.”

2005—Subsec. (a). Pub. L. 109–59 substituted “Secretary issues” for “Secretary of Transportation issues” in introductory provisions.

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.

MOTOR CARRIER SAFETY PERMITS

Pub. L. 112–141, div. C, title III, §33014, July 6, 2012, 126 Stat. 840, provided that:

“(a) REVIEW.—Not later than 1 year after the date of enactment of this Act [see section 3(a), (b) of Pub. L. 112–141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways], the Secretary [of Transportation] shall conduct a study of, and transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on, the implementation of the hazardous material safety permit program under section 5109 of title 49, United States Code. In conducting the study, the Secretary shall review, at a minimum—

- “(1) the list of hazardous materials requiring a safety permit;
- “(2) the number of permits that have been issued, denied, revoked, or suspended since inception of the program and the number of commercial motor carriers that have never had a permit denied, revoked, or suspended since inception of the program;
- “(3) the reasons for such denials, revocations, or suspensions;
- “(4) the criteria used by the Federal Motor Carrier Safety Administration to determine whether a hazardous material safety permit issued by a State is equivalent to the Federal permit; and
- “(5) actions the Secretary could implement to improve the program, including whether to provide opportunities for an additional level of fitness review prior to the denial, revocation, or suspension of a safety permit.

“(b) ACTIONS TAKEN.—Not later than 2 years after the date of enactment of this Act, based on the study con-

ducted under subsection (a), the Secretary shall either institute a rulemaking to make any necessary improvements to the hazardous materials safety permit program under section 5109 of title 49, United States Code or publish in the Federal Register the Secretary's justification for why a rulemaking is not necessary."

§ 5110. Shipping papers and disclosure

(a) PROVIDING SHIPPING PAPERS.—Each person offering for transportation in commerce hazardous material to which the shipping paper requirements of the Secretary apply shall provide to the carrier providing the transportation a shipping paper that makes the disclosures the Secretary prescribes in regulations.

(b) KEEPING SHIPPING PAPERS ON THE VEHICLE.—(1) A motor carrier, and the person offering the hazardous material for transportation if a private motor carrier, shall keep the shipping paper on the vehicle transporting the material.

(2) Except as provided in paragraph (1) of this subsection, the shipping paper shall be kept in a location the Secretary specifies in a motor vehicle, train, vessel, aircraft, or facility until—

(A) the hazardous material no longer is in transportation; or

(B) the documents are made available to a representative of a department, agency, or instrumentality of the United States Government or a State or local authority responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

(c) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—When an incident involving hazardous material being transported in commerce occurs, the person transporting the material, immediately on request of appropriate emergency response authorities, shall disclose to the authorities information about the material.

(d) RETENTION OF PAPERS.—

(1) OFFERORS.—The person who provides the shipping paper under this section shall retain the paper, or an electronic format of it, for a period of 2 years after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the offeror's principal place of business.

(2) CARRIERS.—The carrier required to keep the shipping paper under this section,¹ shall retain the paper, or an electronic format of it, for a period of 1 year after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the carrier's principal place of business.

(3) AVAILABILITY TO GOVERNMENT AGENCIES.—Any person required to keep a shipping paper under this subsection shall, upon request, make it available to a Federal, State, or local government agency at reasonable times and locations.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 768; Pub. L. 103-311, title I, §115, Aug. 26, 1994, 108 Stat. 1678; Pub. L. 109-59, title VII, §§7110, 7126, Aug. 10, 2005, 119 Stat. 1898, 1909; Pub. L. 110-244, title III, §302(i), June 6, 2008, 122 Stat. 1618.)

¹ So in original. Comma probably should not appear.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5110(a)	49 App.:1804(g)(1) (1st sentence words before "for the carrier").	Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §105(g); added Nov. 16, 1990, Pub. L. 101-615, §6, 104 Stat. 3253.
5110(b)	49 App.:1804(g)(2).	
5110(c)	49 App.:1804(g)(1) (1st sentence words after "paragraph (2)", last sentence), (3).	
5110(d)	49 App.:1804(g)(4).	

In subsection (c)(1), the words "A motor carrier" are substituted for "the carrier" for clarity.

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110-244, §302(i)(2), substituted "offeror's" for "shipper's".

Pub. L. 110-244, §302(i)(1), which directed substitution of "Offerors" for "Shippers" "in the subsection heading", was executed by making the substitution in par. (1) heading to reflect the probable intent of Congress.

2005—Subsec. (a). Pub. L. 109-59, §7126, substituted "Secretary apply" for "Secretary of Transportation apply".

Pub. L. 109-59, §7110(a)(1), substituted "in regulations" for "under subsection (b) of this section".

Subsecs. (b), (c). Pub. L. 109-59, §7110(a)(2), (3), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which related to considerations and requirements in carrying out subsec. (a).

Subsec. (d). Pub. L. 109-59, §7110(b), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: "After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations."

Pub. L. 109-59, §7110(a)(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 109-59, §7110(a)(3), redesignated subsec. (e) as (d).

1994—Subsec. (e). Pub. L. 103-311 added subsec. (e).

IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS

Pub. L. 101-615, §25, Nov. 16, 1990, 104 Stat. 3273, provided that:

"(a) RULEMAKING PROCEEDING.—

"(1) INITIATION.—In order to develop methods of improving the current system of identifying hazardous materials being transported in vehicles for safeguarding the health and safety of persons responding to emergencies involving such hazardous materials and the public and to facilitate the review and reporting process required by subsection (d), the Secretary of Transportation shall initiate a rulemaking proceeding not later than 30 days after the date of the enactment of this Act [Nov. 16, 1990].

"(2) PRIMARY PURPOSES.—The primary purposes of the rulemaking proceeding initiated under this subsection are—

"(A) to determine methods of improving the current system of placarding vehicles transporting hazardous materials; and

"(B) to determine methods for establishing and operating a central reporting system and computerized telecommunications data center described in subsection (b)(1).

"(3) METHODS OF IMPROVING PLACARDING SYSTEM.—The methods of improving the current system of pla-