

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 552(f)” could not be executed because “section 552(f)” did not appear.

1994—Subsec. (a)(1)(D). Pub. L. 103-311, §117(a)(3), substituted “a bulk packaging” for “a 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)”.

#### Statutory Notes and Related Subsidiaries

##### 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 con-

cerns 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.

#### Editorial Notes

##### 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.

#### Statutory Notes and Related Subsidiaries

##### 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 conducted 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,<sup>1</sup> 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

<sup>1</sup> So in original. Comma probably should not appear.