

Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

(b) PURPOSE OF WORKING GROUP.—The purpose of the working group shall be to develop uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

(c) LIMITATION ON WORKING GROUP.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

(d) PROCEDURE.—The Secretary shall develop a procedure for the working group to employ in developing recommendations for the Secretary to harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.

(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

(f) REGULATIONS.—Not later than 18 months after the date the working group's report is delivered to the Secretary, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate. In developing such regulations, the Secretary shall consider the State needs associated with the transition to and implementation of a uniform forms and procedures program.

(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 777; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 109-59, title VII, §7116, Aug. 10, 2005, 119 Stat. 1901.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5119(a)	49 App.:1819(a).	Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §121(a)-(g); added Nov. 16, 1990, Pub. L. 101-615, §22, 104 Stat. 3271; Oct. 24, 1992, Pub. L. 102-508, §507, 106 Stat. 3312.
5119(b)	49 App.:1819(b), (c).	
5119(c)(1)	49 App.:1819(d).	
5119(c)(2)	49 App.:1819(e).	
5119(c)(3)	49 App.:1819(f).	
5119(d)	49 App.:1819(g).	

In subsection (a), before clause (1), the words "As soon as practicable after November 16, 1990" are omitted as obsolete.

In subsection (c)(1), the words "Subject to the provisions of this subsection" and "to the Secretary" are omitted as surplus.

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (e), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

AMENDMENTS

2005—Pub. L. 109-59 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to establishment of working group, consultation and reporting, regulations, and relationship to other laws.

1996—Subsec. (b)(2), Pub. L. 104-287 substituted "Transportation and Infrastructure" for "Public Works and Transportation".

§ 5120. International uniformity of standards and requirements

(a) PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of State, the Secretary of Transportation shall participate in international forums that establish or recommend mandatory standards and requirements for transporting hazardous material in international commerce.

(b) CONSULTATION.—The Secretary may consult with interested authorities to ensure that, to the extent practicable, regulations the Secretary prescribes under sections 5103(b), 5104, 5110, and 5112 of this title are consistent with standards and requirements related to transporting hazardous material that international authorities adopt.

(c) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—This section—

(1) does not require the Secretary to prescribe a standard or requirement identical to a standard or requirement adopted by an international authority if the Secretary decides the standard or requirement is unnecessary or unsafe; and

(2) does not prohibit the Secretary from prescribing a safety standard or requirement more stringent than a standard or requirement adopted by an international authority if the Secretary decides the standard or requirement is necessary in the public interest.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 778; Pub. L. 109-59, title VII, §§7117, 7126, Aug. 10, 2005, 119 Stat. 1902, 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5120(a)	49 App.:1804(d)(1).	Jan. 3, 1975, Pub. L. 93-633, §105(d), 88 Stat. 2157; re-stated Nov. 16, 1990, Pub. L. 101-615 §4, 104 Stat. 3252.
5120(b)	49 App.:1804(d)(2) (1st sentence).	
5120(c)	49 App.:1804(d)(2) (last sentence).	

Editorial Notes

AMENDMENTS

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

Pub. L. 109-59, §7117(a), inserted "and requirements" after "standards".

Subsec. (c)(1). Pub. L. 109-59, §7126, substituted "Secretary to prescribe" for "Secretary of Transportation to prescribe".

Pub. L. 109-59, §7117(b)(1), inserted "or requirement" after "standard" wherever appearing.

Subsec. (c)(2). Pub. L. 109-59, §7117(b)(2), struck out "included in a standard" before "adopted" and inserted

“standard or” before “requirement” wherever appearing.

§ 5121. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary may investigate, conduct tests, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. Except as provided in subsections (c) and (d), after notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed, or an order, special permit, or approval issued, under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

(1) maintain records and property, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, property, reports, and information available for inspection when the Secretary undertakes an investigation or makes a request.

(c) INSPECTIONS AND INVESTIGATIONS.—

(1) IN GENERAL.—A designated officer, employee, or agent of the Secretary—

(A) may inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);

(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material;

(C) may remove from transportation a package or related packages in a shipment offered for or in transportation for which—

(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and

(ii) such officer, employee, or agent contemporaneously documents such belief in accordance with procedures set forth in guidance or regulations prescribed under subsection (e);

(D) may gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;

(E) as necessary, under terms and conditions specified by the Secretary, may order the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis;

(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection; and

(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester,

or other person responsible for the package reasonable notice of—

(i) his or her decision to exercise his or her authority under paragraph (1);

(ii) any findings made; and

(iii) any actions being taken as a result of a finding of noncompliance.

(2) DISPLAY OF CREDENTIALS.—An officer, employee, or agent acting under this subsection shall display proper credentials, in person or in writing, when requested.

(3) SAFE RESUMPTION OF TRANSPORTATION.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—

(A) in the safe and prompt resumption of transportation of the package concerned; or

(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.

(d) EMERGENCY ORDERS.—

(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

(2) WRITTEN ORDERS.—The action of the Secretary under paragraph (1) shall be in a written emergency order that—

(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;

(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and

(C) describes the standards and procedures for obtaining relief from the order.

(3) OPPORTUNITY FOR REVIEW.—After taking action under paragraph (1), the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.

(4) EXPIRATION OF EFFECTIVENESS OF ORDER.—If a petition for review of an action is filed under paragraph (3) and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.

(5) OUT-OF-SERVICE ORDER DEFINED.—In this subsection, the term “out-of-service order” means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.