

# 49 U.S. CODE § 5103 - GENERAL REGULATORY AUTHORITY

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**(a) Designating Material as Hazardous.**— The Secretary shall designate material (including an explosive, radioactive material, infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary determines that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

**(b) Regulations for Safe Transportation.**—

**(1)** The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

**(A)** apply to a person who—

**(i)** transports hazardous material in commerce;

**(ii)** causes hazardous material to be transported in commerce;

**(iii)** designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;

**(iv)** prepares or accepts hazardous material for transportation in commerce;

**(v)** is responsible for the safety of transporting hazardous material in commerce;

**(vi)** certifies compliance with any requirement under this chapter; or

**(vii)** misrepresents whether such person is engaged in any activity under clause (i) through (vi); and

**(B)** shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate.

**(2)** A proceeding to prescribe the regulations must be conducted under section [553](#) of title [5](#), including an opportunity for informal oral presentation.

**(c) Consultation.**— When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.

**(d) Biennial Report.**— The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form.

## Source

([Pub. L. 103–272](#), § 1(d), July 5, 1994, [108 Stat. 761](#); [Pub. L. 103–311](#), title I, § 117(a)(2), Aug. 26, 1994, [108 Stat. 1678](#); [Pub. L. 103–429](#), § 6(3), Oct. 31, 1994, [108 Stat. 4378](#); [Pub. L. 107–296](#), title XVII, § 1711(a), Nov. 25, 2002, [116 Stat. 2319](#); [Pub. L. 109–59](#), title VII, §§ 7103, 7126, Aug. 10, 2005, [119 Stat. 1893](#), 1909; [Pub. L. 109–177](#), title VII, § 741, Mar. 9, 2006, [120 Stat. 272](#).)

Pub. L. 103–272

Historical and  
Revision Notes  
**Revised Section**

**Source (U.S.  
Code)**

**Source (Statutes at Large)**

5103(a)	49 App.:1803.	Jan. 3, 1975, Pub. L. 93–633, § 104, 88 Stat. 2156.
5103(b)	49 App.:1804(a) (1)–(3).	Jan. 3, 1975, Pub. L. 93–633, § 105(a)(1)–(3), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, § 4, 104 Stat. 3247.

In subsection (a), the words “such quantity and form of material” and “in his discretion” are omitted as surplus. In subsection (b)(1), before clause (A), the words “in accordance with section 553 of title 5” are omitted because 5:553 applies unless otherwise stated. In clause (A)(i), the words “hazardous material in commerce”, and in clause (A)(ii), the words “hazardous material . . . in commerce”, are added for consistency in this chapter.

**Pub. L. 103–429**

This amends 49:5103(b)(2) to clarify the restatement of 49 App.:1804(a)(2) by section 1 of the Act of July 5, 1994 (Public Law 103–272, [108 Stat. 761](#)).

**Amendments**

2006—Subsec. (d). [Pub. L. 109–177](#) added subsec. (d).

2005—Subsec. (a). [Pub. L. 109–59](#), § 7126, substituted “Secretary shall designate” for “Secretary of Transportation shall designate”.

[Pub. L. 109–59](#), § 7103(a), substituted “infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,” for “etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material,” and “determines” for “decides”.

Subsec. (b)(1)(A). [Pub. L. 109–59](#), § 7103(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “apply to a person—

“(i) transporting hazardous material in commerce;

“(ii) causing hazardous material to be transported in commerce; or

“(iii) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a packaging or a container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; and”.

Subsec. (b)(1)(C). [Pub. L. 109–59](#), § 7103(c)(1), struck out heading and text of subpar. (C). Text read as follows: “When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”

Subsec. (c). [Pub. L. 109–59](#), § 7103(c)(2), added subsec. (c).

2002—Subsec. (b)(1). [Pub. L. 107–296](#), § 1711(a)(1), substituted “transportation, including security,” for “transportation” in introductory provisions.

Subsec. (b)(1)(B). [Pub. L. 107–296](#), § 1711(a)(2), substituted “aspects, including security,” for “aspects”.

Subsec. (b)(1)(C). [Pub. L. 107–296](#), § 1711(a)(3), added subpar. (C).

1994—Subsec. (b)(1)(A)(iii). [Pub. L. 103–311](#) substituted “a packaging or a” for “a package or”.

Subsec. (b)(2). [Pub. L. 103–429](#) substituted “be conducted under section 553 of title 5, including” for “include” and “presentation” for “presentations”.

**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.

**Railroad Carrier Employee Exposure to Radiation Study**

[Pub. L. 110–432](#), div. A, title IV, § 411, Oct. 16, 2008, [122 Stat. 4888](#), provided that:

“(a) Study.—The Secretary of Transportation shall, in consultation with the Secretary of Energy, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and the Chairman of the Nuclear Regulatory Commission, as appropriate, conduct a study of the potential hazards to which employees of railroad carriers and railroad contractors or subcontractors are exposed during the transportation of high-level radioactive waste and spent nuclear fuel (as defined in section [5101 \(a\)](#) [probably means section [5105 \(a\)](#)] of title 49, United States Code), supplementing the report submitted under section [5101 \(b\)](#) [probably means section [5105 \(b\)](#)] of that title, which may include—

“(1) an analysis of the potential application of ‘as low as reasonably achievable’ principles for exposure to radiation to such employees with an emphasis on the need for special protection from radiation exposure for such employees during the first trimester of pregnancy or who are undergoing or have recently undergone radiation therapy;

“(2) the feasibility of requiring real-time dosimetry monitoring for such employees;

“(3) the feasibility of requiring routine radiation exposure monitoring in fixed railroad locations, such as yards and repair facilities; and

“(4) a review of the effectiveness of the Department’s packaging requirements for radioactive materials.

“(b) Report.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary of Transportation shall transmit a report on the results of the study required by subsection (a) and any recommendations to further protect employees of a railroad carrier or of a contractor or subcontractor to a railroad carrier from unsafe exposure to radiation during the transportation of high-level radioactive waste and spent nuclear fuel to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

“(c) Regulatory Authority.—The Secretary of Transportation may issue regulations that the Secretary determines appropriate, pursuant to the report required by subsection (b), to protect railroad employees from unsafe exposure to radiation during the transportation of radioactive materials.”

[For definitions of “railroad carrier”, “Department”, “railroad”, and “Secretary”, as used in section 411 of [Pub. L. 110–432](#), set out above, see section 2(a) of [Pub. L. 110–432](#), set out as a note under section [20102](#) of this title.]

### **Safe Placement of Train Cars**

[Pub. L. 103–311](#), title I, § 111, Aug. 26, 1994, [108 Stat. 1676](#), provided that: “The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act [Aug. 26, 1994].”

### **Fiber Drum Packaging**

[Pub. L. 104–88](#), title IV, § 406, Dec. 29, 1995, [109 Stat. 957](#), provided that:

“(a) In General.—In the administration of chapter [51](#) of title [49](#), United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of the enactment of this Act [Dec. 29, 1995] authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991, if—

“(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act [former [49](#) U.S.C. 1801 et seq.] as in effect on September 30, 1991; and

“(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packing Groups I and II.

“(b) Expiration.—The regulation referred to in subsection (a) shall expire on the later of September 30, 1997, or the date on which funds are authorized to be appropriated to carry out chapter [51](#) of title [49](#), United States Code (relating to transportation of hazardous materials), for fiscal years beginning after September 30, 1997.

“(c) Study.—

“(1) In general.—Within 90 days after the date of the enactment of this Act [Dec. 29, 1995], the Secretary shall contract with the National Academy of Sciences to conduct a study—

“(A) to determine whether the requirements of section [5103 \(b\)](#) of title [49](#), United States Code (relating to regulations for safe transportation), as they pertain to fiber drum packaging with a removable head can be met for the transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards (including fiber drum industry standards set forth in a June 8, 1992, exemption application submitted to the Department of Transportation), other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title [49](#), Code of Federal Regulations; and

“(B) to determine whether a packaging standard (including such fiber drum industry standards), other than such performance-oriented packaging standards, will provide an equal or greater level of safety for the transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect.

“(2) Completion.—The study shall be completed before March 1, 1997 and shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

“(d) Secretarial Action.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c).”

[Pub. L. 103–311](#), title I, § 122, Aug. 26, 1994, [108 Stat. 1681](#), provided that:

“(a) Initiation of Rulemaking Proceeding.—Not later than the 60th day following the date of enactment of this Act [Aug. 26, 1994], the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section [5103 \(b\)](#) of title [49](#), United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title [49](#), Code of Federal Regulations.

“(b) Issuance of Standards.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996.

“(c) Completion of Rulemaking Proceeding.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

“(d) Limitations.—

“(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter [51](#) of title [49](#), United States Code.

“(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.”

The table below lists the classification updates, since **Jan. 3, 2012**, for this section. Updates to a broader range of sections may be found at the update page for containing chapter, title, etc.

The most recent Classification Table update that we have noticed was **Tuesday, August 13, 2013**

An empty table indicates that we see no relevant changes listed in the classification tables. If you suspect that our system may be missing something, please double-check with the [Office of the Law Revision Counsel](#).

## How To Use

Multiple entries for a section are listed most recent first, within the section.

The Session Year indicates which session of Congress was responsible for the changes classified. The Congress number forms the first part of the Public Law number; each Congress has two sessions.

Abbreviations used in the Description of Change column:

- An empty field implies a standard amendment.
- "new" means a new section or new note, or all new text of an existing section or note.
- "nt" means note.
- "nt [tbl]" means note [table].
- "prec" means preceding.
- "fr" means a transfer from another section.
- "to" means a transfer to another section.
- "omitted" means the section is omitted.
- "repealed" means the section is repealed.
- "nt ed change" and "ed change" - See the [Editorial Classification Change Table](#) [pdf].

The Public Law field is linked to the development of the law in the Thomas system at the Library of Congress.

The Statutes at Large field is linked to the text of the law, in the context of its volume of the Statutes at Large, at the Government Printing Office. Please note that it takes a while for these pages to get posted, so for very recent legislation, you need to look at the "enrolled" version at the [Thomas site](#).

The Statutes at Large references have been rendered in the format used as page numbers in the Public Law web pages to which we link, to facilitate copy-paste into browser "find on this (web) page" tools. We are still working on a more direct link facility.

For serious comparison work, we suggest copying all or a portion of the Public Law text into your favorite text editor, for convenient content traversal and window control.

Sections with change type "new" are a special case, still under development. All are now listed, at the title level only.

You will find that occasionally a specific update you notice in a Public Law listed in a classification table will already have made it into the Code. We assume this is an artifact of the LRC edit process. The LII does not edit the LRC content.

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General Reference

Refer to the [LRC \(Law Revision Council\)](#) for explanations about the US Code from the folks who put it all together.

You can look for information about what it is and is not, which titles are *positive law*, the schedule of Supplements, etc. Under [download](#) you can find the source data we use here (GPO locator files), as well as, PDF files that look just like the paper books (these may be rather large).

Refer to the [Thomas site](#) for changes that have not yet made it into the classification tables.

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<b>49 USC</b>	<b>Description of Change</b>	<b>Session Year</b>	<b>Public Law</b>	<b>Statutes at Large</b>
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This is a list of parts within the [Code of Federal Regulations](#) for which this US Code section provides rulemaking authority.

This list is taken from the [Parallel Table of Authorities and Rules](#) provided by [GPO \[Government Printing Office\]](#).

It is not guaranteed to be accurate or up-to-date, though we do refresh the database weekly. More limitations on accuracy are described at the GPO site.

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46 CFR - Shipping

[46 CFR Part 30](#) - GENERAL PROVISIONS

[46 CFR Part 31](#) - INSPECTION AND CERTIFICATION

[46 CFR Part 78](#) - OPERATIONS

[46 CFR Part 90](#) - GENERAL PROVISIONS

[46 CFR Part 97](#) - OPERATIONS

[46 CFR Part 153](#) - SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS  
HAZARDOUS MATERIALS

[46 CFR Part 188](#) - GENERAL PROVISIONS

49 CFR - Transportation

[49 CFR Part 105](#) - HAZARDOUS MATERIALS PROGRAM DEFINITIONS AND GENERAL  
PROCEDURES

[49 CFR Part 106](#) - RULEMAKING PROCEDURES

[49 CFR Part 107](#) - HAZARDOUS MATERIALS PROGRAM PROCEDURES

[49 CFR Part 109](#) - DEPARTMENT OF TRANSPORTATION HAZARDOUS MATERIALS PROCEDURAL  
REGULATIONS FOR OPENING OF PACKAGES, EMERGENCY ORDERS, AND EMERGENCY  
RECALLS

[49 CFR Part 110](#) - HAZARDOUS MATERIALS PUBLIC SECTOR TRAINING AND PLANNING  
GRANTS

[49 CFR Part 171](#) - GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

[49 CFR Part 172](#) - HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

[49 CFR Part 173](#) - SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

[49 CFR Part 174](#) - CARRIAGE BY RAIL

[49 CFR Part 175](#) - CARRIAGE BY AIRCRAFT

[49 CFR Part 176](#) - CARRIAGE BY VESSEL

[49 CFR Part 177](#) - CARRIAGE BY PUBLIC HIGHWAY

[49 CFR Part 178](#) - SPECIFICATIONS FOR PACKAGINGS

[49 CFR Part 179](#) - SPECIFICATIONS FOR TANK CARS

[49 CFR Part 180](#) - CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

[49 CFR Part 190](#) - PIPELINE SAFETY PROGRAMS AND RULEMAKING PROCEDURES

[49 CFR Part 192](#) - TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

[49 CFR Part 193](#) - LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

[49 CFR Part 195](#) - TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

[49 CFR Part 199](#) - DRUG AND ALCOHOL TESTING

[49 CFR Part 397](#) - TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

[49 CFR Part 1500](#) - APPLICABILITY, TERMS, AND ABBREVIATIONS

[49 CFR Part 1540](#) - CIVIL AVIATION SECURITY: GENERAL RULES

[49 CFR Part 1542](#) - AIRPORT SECURITY

[49 CFR Part 1544](#) - AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

[49 CFR Part 1546](#) - FOREIGN AIR CARRIER SECURITY

[49 CFR Part 1548](#) - INDIRECT AIR CARRIER SECURITY

[49 CFR Part 1549](#) - CERTIFIED CARGO SCREENING PROGRAM

[49 CFR Part 1550](#) - AIRCRAFT SECURITY UNDER GENERAL OPERATING AND FLIGHT RULES