

shall not operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.

(2) EXTENSION.—The Director of the Transportation Security Administration may extend the deadline established by paragraph (1) for a period not to exceed 6 months if the Director determines that such an extension is necessary.

(3) COMMERCIAL MOTOR VEHICLE DEFINED.—In this subsection, the term “commercial motor vehicle” has the meaning given that term by section 31101.

(Added Pub. L. 107-56, title X, § 1012(a)(1), Oct. 26, 2001, 115 Stat. 396; amended Pub. L. 109-59, title VII, §§ 7104, 7105, 7126, Aug. 10, 2005, 119 Stat. 1894, 1909; Pub. L. 110-53, title XV, § 1556(a), Aug. 3, 2007, 121 Stat. 475; Pub. L. 110-244, title III, § 302(b), June 6, 2008, 122 Stat. 1618.)

REFERENCES IN TEXT

Section 101(a)(3) of the Immigration and Nationality Act, referred to in subsec. (f), is classified to section 1101(a)(3) of Title 8, Aliens and Nationality.

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

AMENDMENTS

2008—Subsec. (g)(1)(B)(ii). Pub. L. 110-244 substituted “subsection” for “Act”.

2007—Subsec. (a)(1). Pub. L. 110-53, § 1556(a)(1), substituted “Secretary of Homeland Security” for “Secretary”.

Subsec. (b). Pub. L. 110-53, § 1556(a)(2), substituted “Secretary of Transportation” for “Secretary” in two places.

Subsec. (d)(1)(B). Pub. L. 110-53, § 1556(a)(3), substituted “Secretary of Homeland Security” for “Secretary”.

Subsec. (e). Pub. L. 110-53, § 1556(a)(4), substituted “Secretary of Homeland Security” for “Secretary” wherever appearing.

2005—Subsec. (a)(1). Pub. L. 109-59, § 7126, substituted “Secretary” for “Secretary of Transportation”.

Pub. L. 109-59, § 7104(c), substituted “subsection (d)(1)(B),” for “subsection (c)(1)(B),”.

Subsec. (b). Pub. L. 109-59, § 7104(a), substituted “with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce” for “with respect to—
“(1) any material defined as a hazardous material by the Secretary of Transportation; and
“(2) any chemical or biological material or agent determined by the Secretary of Health and Human Services or the Attorney General as being a threat to the national security of the United States”.

Subsec. (c). Pub. L. 109-59, § 7104(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109-59, § 7104(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1)(B). Pub. L. 109-59, § 7126, substituted “Secretary” for “Secretary of Transportation”.

Subsec. (e). Pub. L. 109-59, § 7126, substituted “submit to the Secretary” for “submit to the Secretary of Transportation” in introductory provisions.

Pub. L. 109-59, § 7104(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109-59, § 7104(b)(1), redesignated subsec. (e) as (f).

Subsecs. (g), (h). Pub. L. 109-59, § 7105, added subssecs. (g) and (h).

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 107-56, title X, § 1012(c), Oct. 26, 2001, 115 Stat. 398, provided that: “There is authorized to be appropriated for the Department of Transportation and the Department of Justice such amounts as may be necessary to carry out section 5103a of title 49, United States Code, as added by subsection (a).”

§ 5104. Representation and tampering

(a) REPRESENTATION.—A person may represent, by marking or otherwise, that—

(1) a package, component of a package, or packaging for transporting hazardous material is safe, certified, or complies with this chapter only if the package, component of a package, or packaging meets the requirements of each applicable regulation prescribed under this chapter; or

(2) hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel only if the material is present.

(b) TAMPERING.—No person may alter, remove, destroy, or otherwise tamper unlawfully with—

(1) a marking, label, placard, or description on a document required under this chapter or a regulation prescribed under this chapter; or

(2) a package, component of a package, or packaging, container, motor vehicle, rail freight car, aircraft, or vessel used to transport hazardous material.

(Pub. L. 103-272, § 1(d), July 5, 1994, 108 Stat. 761; Pub. L. 103-311, title I, § 117(b), Aug. 26, 1994, 108 Stat. 1678; Pub. L. 103-429, § 6(4), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 109-59, title VII, § 7106, Aug. 10, 2005, 119 Stat. 1897.)

HISTORICAL AND REVISION NOTES

PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5104(a)	49 App.:1804(e).	Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, § 105(e), (f); added Nov. 16, 1990, Pub. L. 101-615, § 5, 104 Stat. 3252.
5104(b)	49 App.:1804(f).	

In subsection (a)(1), the words “the requirements of” and “applicable” are omitted as surplus.

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

PUB. L. 103-429

This amends 49:5104(a)(1) to clarify the restatement of 49 App.:1804(e)(1) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 761).

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109-59, § 7106(a), substituted “a package, component of a package, or packaging for” for “a container, package, or packaging (or a component of a container, package, or packaging) for” and “the package, component of a package, or packaging meets” for “the container, package, or packaging (or a component of a container, package, or packaging) meets”.

Subsec. (b). Pub. L. 109-59, § 7106(b)(1), substituted “No person may” for “A person may not” in introductory provisions.

Subsec. (b)(2). Pub. L. 109-59, § 7106(b)(2), inserted “component of a package, or packaging,” after “package,”.

1994—Subsec. (a)(1). Pub. L. 103-429 inserted “applicable” after “each”.

Pub. L. 103-311 substituted “, package, or packaging (or a component of a container, package, or packaging)” for “or package” in two places.

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.

§ 5105. Transporting certain highly radioactive material

(a) DEFINITIONS.—In this section, “high-level radioactive waste” and “spent nuclear fuel” have the same meanings given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) TRANSPORTATION SAFETY STUDY.—In consultation with the Secretary of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the rail transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, the Secretary shall conduct a study comparing the safety of using trains operated only to transport high-level radioactive waste and spent nuclear fuel with the safety of using other methods of rail transportation for transporting that waste and fuel. The Secretary shall submit to Congress not later than November 16, 1991, a report on the results of the study.

(c) SAFE RAIL TRANSPORTATION REGULATIONS.—Not later than November 16, 1992, after considering the results of the study conducted under subsection (b) of this section, the Secretary shall prescribe amendments to existing regulations that the Secretary considers appropriate to provide for the safe rail transportation of high-level radioactive waste and spent nuclear fuel, including trains operated only for transporting high-level radioactive waste and spent nuclear fuel.

(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—(1) Not later than November 16, 1991, the Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations. The Secretary may require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures.

(2) The Secretary may allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter. The inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle apply to an individual conducting an inspection under this paragraph.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 762; Pub. L. 109-59, title VII, §§7107, 7126, Aug. 10, 2005, 119 Stat. 1897, 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5105(a)	49 App.:1813(e).	Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §116(e); added Oct. 24, 1992, Pub. L. 102-508, §505(2), 106 Stat. 3311.
	49 App.:1813 (note).	Nov. 16, 1990, Pub. L. 101-615, §16(e), 104 Stat. 3263.
5105(b)	49 App.:1813(a).	Jan. 3, 1975, Pub. L. 93-633, 88 Stat. 2156, §116(a)-(d); added Oct. 30, 1984, Pub. L. 98-559, §3, 98 Stat. 2907; re-stated Nov. 16, 1990, Pub. L. 101-615, §15, 104 Stat. 3261; Oct. 24, 1992, Pub. L. 102-508, §505(1), 106 Stat. 3311.
5105(c)	49 App.:1813(b).	
5105(d)	49 App.:1813(c).	
5105(e)	49 App.:1813(d).	

In subsection (a), section 16(e) of the Hazardous Materials Transportation Uniform Safety Act of 1990 (Public Law 101-615, 104 Stat. 3263) is included to correct a mistake in the source provisions being restated. See section 16(a)(1) of the Act of 1990 (Public Law 101-615, 104 Stat. 3262), stating that the meanings of “high-level radioactive waste” and “spent nuclear fuel” are as defined in 49 App.:1813, as added by section 15 of the Act (104 Stat. 3261). See also Cong. Rec. S16863 (daily ed., Oct. 23, 1990).

In subsection (b), the words “Secretary of Energy” are substituted for “Department of Energy” because of 42:7131.

In subsection (c), the word “regulations” is substituted for “rule” for consistency in the revised title and with other titles of the United States Code and because “rule” and “regulation” are synonymous.

In subsection (d), before clause (1), the words “In combination” are omitted as surplus.

AMENDMENTS

2005—Subsecs. (b), (c). Pub. L. 109-59, §7126, substituted “Secretary shall” for “Secretary of Transportation shall” wherever appearing.

Subsec. (d). Pub. L. 109-59, §7126, substituted “Secretary shall” for “Secretary of Transportation shall” in par. (1) and “Secretary may” for “Secretary of Transportation may” in par. (2).

Pub. L. 109-59, §7107, redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to a study to be conducted not later than Nov. 16, 1991, to decide which factors, if any, shippers and carriers should consider when selecting routes and modes that would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel.

Subsec. (e). Pub. L. 109-59, §7107(2), redesignated subsec. (e) as (d).

§ 5106. Handling criteria

The Secretary may prescribe criteria for handling hazardous material, including—

- (1) a minimum number of personnel;
- (2) minimum levels of training and qualifications for personnel;
- (3) the kind and frequency of inspections;
- (4) equipment for detecting, warning of, and controlling risks posed by the hazardous material;
- (5) specifications for the use of equipment and facilities used in handling and transporting the hazardous material; and
- (6) a system of monitoring safety procedures for transporting the hazardous material.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 763; Pub. L. 109-59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909.)