**Attachment A**

49 U.S. Code § 5103.General regulatory authority

* [U.S. Code](https://www.law.cornell.edu/uscode/text/49/5103#tab_default_1)
* [Notes](https://www.law.cornell.edu/uscode/text/49/5103#tab_default_2)
* [Authorities (CFR)](https://www.law.cornell.edu/uscode/text/49/5103#tab_default_3)

[prev](https://www.law.cornell.edu/uscode/text/49/5102) | [next](https://www.law.cornell.edu/uscode/text/49/5103a)

**(a)Designating Material as Hazardous.—**

The [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) 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](https://www.law.cornell.edu/uscode/text/49/5103) determines that transporting the material in[commerce](https://www.law.cornell.edu/uscode/text/49/5103)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](https://www.law.cornell.edu/uscode/text/49/5103) shall prescribe regulations for the safe [transportation](https://www.law.cornell.edu/uscode/text/49/5103), including security, of [hazardous material](https://www.law.cornell.edu/uscode/text/49/5103) in intrastate, interstate, and foreign[commerce.](https://www.law.cornell.edu/uscode/text/49/5103) The regulations—

**(A)**apply to a [person](https://www.law.cornell.edu/uscode/text/49/5103) who—

**(i)**

[transportshazardous material](https://www.law.cornell.edu/uscode/text/49/5103) in[commerce;](https://www.law.cornell.edu/uscode/text/49/5103)

**(ii)**

causes [hazardous material](https://www.law.cornell.edu/uscode/text/49/5103) to be transported in[commerce;](https://www.law.cornell.edu/uscode/text/49/5103)

**(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](https://www.law.cornell.edu/uscode/text/49/5103) in[commerce;](https://www.law.cornell.edu/uscode/text/49/5103)

**(iv)**

prepares or accepts [hazardous material](https://www.law.cornell.edu/uscode/text/49/5103) for[transportation](https://www.law.cornell.edu/uscode/text/49/5103)in[commerce;](https://www.law.cornell.edu/uscode/text/49/5103)

**(v)**

is responsible for the safety of transporting [hazardous material](https://www.law.cornell.edu/uscode/text/49/5103) in[commerce;](https://www.law.cornell.edu/uscode/text/49/5103)

**(vi)**

certifies compliance with any requirement under this chapter; or

**(vii)**

misrepresents whether such [person](https://www.law.cornell.edu/uscode/text/49/5103) is engaged in any activity under clause (i) through (vi); and

**(B)**

shall govern safety aspects, including security, of the [transportation](https://www.law.cornell.edu/uscode/text/49/5103) of [hazardous material](https://www.law.cornell.edu/uscode/text/49/5103) the[Secretary](https://www.law.cornell.edu/uscode/text/49/5103)considers appropriate.

**(2)**

A proceeding to prescribe the regulations must be conducted under [section 553 of title 5](https://www.law.cornell.edu/uscode/text/5/553), including an opportunity for informal oral presentation.

**(c)Federally Declared Disasters and Emergencies.—**

**(1)In general.—**The [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) may by order waive compliance with any part of an applicable standard prescribed under this chapter without prior notice and comment and on terms the [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) considers appropriate if the [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) determines that—

**(A)**

it is in the public interest to grant the waiver;

**(B)**

the waiver is not inconsistent with the safety of transporting [hazardous materials](https://www.law.cornell.edu/uscode/text/49/5103); and

**(C)**

the waiver is necessary to facilitate the safe movement of [hazardous materials](https://www.law.cornell.edu/uscode/text/49/5103) into, from, and within an area of a major disaster or emergency that has been declared under the [Robert T. Stafford Disaster Relief and Emergency Assistance Act](https://www.law.cornell.edu/topn/disaster_relief_act_of_1974) ([42 U.S.C. 5121](https://www.law.cornell.edu/uscode/text/42/5121) et seq.).

**(2)Period of waiver.—**

A waiver under this subsection may be issued for a period of not more than 60 days and may be renewed upon application to the [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) only after notice and an opportunity for a hearing on the waiver. The [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) shall immediately revoke the waiver if continuation of the waiver would not be consistent with the goals and objectives of this chapter.

**(3)Statement of reasons.—**

The [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) shall include in any order issued under this section the reasons for granting the waiver.

**(d)Consultation.—**

When prescribing a security regulation or issuing a security order that affects the safety of the [transportation](https://www.law.cornell.edu/uscode/text/49/5103) of [hazardous material](https://www.law.cornell.edu/uscode/text/49/5103), the Secretary of Homeland Security shall consult with the[Secretary](https://www.law.cornell.edu/uscode/text/49/5103)of[Transportation.](https://www.law.cornell.edu/uscode/text/49/5103)

**(e)Biennial Report.—**

The [Secretary](https://www.law.cornell.edu/uscode/text/49/5103) of [Transportation](https://www.law.cornell.edu/uscode/text/49/5103) shall submit to the Committee on [Transportation](https://www.law.cornell.edu/uscode/text/49/5103) and Infrastructure of the House of Representatives and the Senate Committee on[Commerce,](https://www.law.cornell.edu/uscode/text/49/5103) Science, and[Transportation](https://www.law.cornell.edu/uscode/text/49/5103)a biennial report providing information on whether the[Secretary](https://www.law.cornell.edu/uscode/text/49/5103)has designated as[hazardous materials](https://www.law.cornell.edu/uscode/text/49/5103)for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the[Secretary](https://www.law.cornell.edu/uscode/text/49/5103)to pose an unreasonable risk to health and safety or property when transported in[commerce](https://www.law.cornell.edu/uscode/text/49/5103)in a particular amount and form.

([Pub. L. 103–272, § 1(d)](https://www.congress.gov/public-laws/103rd-congress#272), July 5, 1994, [108 Stat. 761](https://www.law.cornell.edu/rio/citation/108_Stat._761); [Pub. L. 103–311, title I, § 117(a)(2)](https://www.congress.gov/public-laws/103rd-congress#311), Aug. 26, 1994, [108 Stat. 1678](https://www.law.cornell.edu/rio/citation/108_Stat._1678); [Pub. L. 103–429, § 6(3)](https://www.congress.gov/public-laws/103rd-congress#429), Oct. 31, 1994, [108 Stat. 4378](https://www.law.cornell.edu/rio/citation/108_Stat._4378); [Pub. L. 107–296, title XVII, § 1711(a)](https://www.law.cornell.edu/rio/citation/Pub._L._107-296), Nov. 25, 2002, [116 Stat. 2319](https://www.law.cornell.edu/rio/citation/116_Stat._2319); [Pub. L. 109–59, title VII](https://www.law.cornell.edu/rio/citation/Pub._L._109-59), §§ 7103, 7126, Aug. 10, 2005, [119 Stat. 1893](https://www.law.cornell.edu/rio/citation/119_Stat._1893), 1909; [Pub. L. 109–177, title VII, § 741](https://www.law.cornell.edu/rio/citation/Pub._L._109-177), Mar. 9, 2006, [120 Stat. 272](https://www.law.cornell.edu/rio/citation/120_Stat._272); [Pub. L. 114–94, div. A, title VII, § 7201](https://www.law.cornell.edu/rio/citation/Pub._L._114-94), Dec. 4, 2015, [129 Stat. 1589](https://www.law.cornell.edu/rio/citation/129_Stat._1589).)