

## Attachment A

# 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)**

[transport 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) FEDERALLY DECLARED DISASTERS AND EMERGENCIES.—**

**(1) IN GENERAL.—**The [Secretary](#) 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](#) considers appropriate if the [Secretary](#) 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](#); and

**(C)** the waiver is necessary to facilitate the safe movement of [hazardous materials](#) 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 \(42 U.S.C. 5121 et seq.\)](#).

**(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](#) only after notice and an opportunity for a hearing on the waiver. The [Secretary](#) 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](#) 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 of hazardous material](#), the Secretary of Homeland Security shall consult with the [Secretary of Transportation](#).

**(e) 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.

([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. 114-94, div. A, title VII, § 7201](#), Dec. 4, 2015, [129 Stat. 1589](#).)