

§ 5112. Highway routing of hazardous material

(a) APPLICATION.—(1) This section applies to a motor vehicle only if the vehicle is transporting hazardous material in commerce for which placarding of the vehicle is required under regulations prescribed under this chapter. However, the Secretary by regulation may extend application of this section or a standard prescribed under subsection (b) of this section to—

(A) any use of a vehicle under this paragraph to transport any hazardous material in commerce; and

(B) any motor vehicle used to transport hazardous material in commerce.

(2) Except as provided by subsection (d) of this section and section 5125(c) of this title, each State and Indian tribe may establish, maintain, and enforce—

(A) designations of specific highway routes over which hazardous material may and may not be transported by motor vehicle; and

(B) limitations and requirements related to highway routing.

(b) STANDARDS FOR STATES AND INDIAN TRIBES.—(1) The Secretary, in consultation with the States, shall prescribe by regulation standards for States and Indian tribes to use in carrying out subsection (a) of this section. The standards shall include—

(A) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall enhance public safety in the area subject to the jurisdiction of the State or tribe and in areas of the United States not subject to the jurisdiction of the State or tribe and directly affected by the designation, limitation, or requirement;

(B) minimum procedural requirements to ensure public participation when the State or Indian tribe is establishing a highway routing designation, limitation, or requirement;

(C) a requirement that, in establishing a highway routing designation, limitation, or requirement, a State or Indian tribe consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of that State or tribe establishing the designation, limitation, or requirement and with affected industries;

(D) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall ensure through highway routing for the transportation of hazardous material between adjacent areas;

(E) a requirement that a highway routing designation, limitation, or requirement of one State or Indian tribe affecting the transportation of hazardous material in another State or tribe may be established, maintained, and enforced by the State or tribe establishing the designation, limitation, or requirement only if—

(i) the designation, limitation, or requirement is agreed to by the other State or tribe within a reasonable period or is approved by the Secretary under subsection (d) of this section; and

(ii) the designation, limitation, or requirement is not an unreasonable burden on commerce;

(F) a requirement that establishing a highway routing designation, limitation, or requirement of a State or Indian tribe be completed in a timely way;

(G) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe provide reasonable routes for motor vehicles transporting hazardous material to reach terminals, facilities for food, fuel, repairs, and rest, and places to load and unload hazardous material;

(H) a requirement that a State be responsible—

(i) for ensuring that political subdivisions of the State comply with standards prescribed under this subsection in establishing, maintaining, and enforcing a highway routing designation, limitation, or requirement; and

(ii) for resolving a dispute between political subdivisions; and

(I) a requirement that, in carrying out subsection (a) of this section, a State or Indian tribe shall consider—

(i) population densities;

(ii) the types of highways;

(iii) the types and amounts of hazardous material;

(iv) emergency response capabilities;

(v) the results of consulting with affected persons;

(vi) exposure and other risk factors;

(vii) terrain considerations;

(viii) the continuity of routes;

(ix) alternative routes;

(x) the effects on commerce;

(xi) delays in transportation; and

(xii) other factors the Secretary considers appropriate.

(2) The Secretary may not assign a specific weight that a State or Indian tribe shall use when considering the factors under paragraph (1)(I) of this subsection.

(c) LIST OF ROUTE DESIGNATIONS.—In coordination with the States, the Secretary shall update and publish periodically a list of currently effective hazardous material highway route designations.

(d) DISPUTE RESOLUTION.—(1) The Secretary shall prescribe regulations for resolving a dispute related to through highway routing or to an agreement with a proposed highway route designation, limitation, or requirement between or among States, political subdivisions of different States, or Indian tribes.

(2) A State or Indian tribe involved in a dispute under this subsection may petition the Secretary to resolve the dispute. The Secretary shall resolve the dispute not later than one year after receiving the petition. The resolution shall provide the greatest level of highway safety without being an unreasonable burden on commerce and shall ensure compliance with standards prescribed under subsection (b) of this section.

(3)(A) After a petition is filed under this subsection, a civil action about the subject matter of the dispute may be brought in a court only after the earlier of—

(i) the day the Secretary issues a final decision; or

(ii) the last day of the one-year period beginning on the day the Secretary receives the petition.

(B) A State or Indian tribe adversely affected by a decision of the Secretary under this subsection may bring a civil action for judicial review of the decision in an appropriate district court of the United States not later than 89 days after the day the decision becomes final.

(e) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect sections 31111 and 31113 of this title or section 127 of title 23.

(f) EXISTING RADIOACTIVE MATERIAL ROUTING REGULATIONS.—The Secretary is not required to amend or again prescribe regulations related to highway routing designations over which radioactive material may and may not be transported by motor vehicles, and limitations and requirements related to the routing, that were in effect on November 16, 1990.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 769; Pub. L. 109–59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5112(a)(1)	49 App.:1804(b)(7).	Jan. 3, 1975, Pub. L. 93–633, §105(b)(1)–(3), (5)–(9), (c), 88 Stat. 2157; restated Nov. 16, 1990, Pub. L. 101–615, §4, 104 Stat. 3248, 3251.
5112(a)(2)	49 App.:1804(b)(1).	
5112(b)(1)	49 App.:1804(b)(2), (3).	
5112(b)(2)	49 App.:1804(b)(9).	
5112(c)	49 App.:1804(c).	
5112(d)	49 App.:1804(b)(5).	
5112(e)	49 App.:1804(b)(6).	
5112(f)	49 App.:1804(b)(8).	

In subsection (a)(1), the words “in the area which is subject to the jurisdiction of such State or Indian tribe” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “Not later than 18 months after November 16, 1990” are omitted as obsolete. In clause (H)(i), the words “prescribed under this subsection” are added for clarity.

In subsection (d)(1), the words “within 18 months of November 16, 1990” are omitted as obsolete. The words “over a matter” are omitted as surplus.

In subsection (d)(3), the word “civil” is added for consistency in the revised title and with other titles of the United States Code.

In subsection (e), the words “superseding or otherwise”, “application of”, “relating to vehicle weight limitations”, and “relating to vehicle length and vehicle width limitations, respectively” are omitted as surplus.

In subsection (f), the word “modify” is omitted as surplus and for consistency in the revised title. The words “issued by the Department of Transportation before November 16, 1990, and” are omitted as obsolete.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59 substituted “Secretary” for “Secretary of Transportation” in introductory provisions.

STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS

Pub. L. 103–311, title I, §121, Aug. 26, 1994, 108 Stat. 1681, directed Secretary of Transportation to submit to Congress, not later than 1 year after Aug. 26, 1994, report on results of study to determine safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particu-

larly those housing maximum security prisoners, which was to include evaluation of ability of such facilities and designated local planning agencies to safely evacuate such prisoners in event of emergency and any special training, equipment, or personnel that would be required by such facility and designated local emergency planning agencies to carry out such evacuation.

§ 5113. Unsatisfactory safety rating

A violation of section 31144(c)(3) shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 771; Pub. L. 105–178, title IV, §4009(b), June 9, 1998, 112 Stat. 407; Pub. L. 109–59, title VII, §7112(a), Aug. 10, 2005, 119 Stat. 1899.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5113(a)	49 App.:1814(a).	Jan. 3, 1975, Pub. L. 93–633, 88 Stat. 2156, §117; added Nov. 3, 1990, Pub. L. 101–500, §15(b)(1), 104 Stat. 1218.
5113(b)	49 App.:1814(b).	
5113(c)	49 App.:1814(c).	
5113(d)	49 App.:2501 (note).	Nov. 3, 1990, Pub. L. 101–500, §15(b)(2), 104 Stat. 1219.

In subsections (a) and (c), the words “individuals” is substituted for “passengers, including the driver” for clarity and consistency.

In subsection (a), before clause (1), the words “Effective January 1, 1991” are omitted as obsolete. The words “to take such action as may be necessary” are omitted as surplus.

In subsection (b), the words “from the Secretary” and “conditions and other” are omitted as surplus.

In subsection (d), the words “Not later than 1 year after the date of enactment of this Act” are omitted as obsolete.

AMENDMENTS

2005—Pub. L. 109–59 amended text generally. Prior to amendment, text read as follows: “See section 31144.”

1998—Pub. L. 105–178 substituted “See section 31144.” for subsecs. (a) to (d) which related to unsatisfactory safety ratings.

§ 5114. Air transportation of ionizing radiation material

(a) TRANSPORTING IN AIR COMMERCE.—Material that emits ionizing radiation spontaneously may be transported on a passenger-carrying aircraft in air commerce (as defined in section 40102(a) of this title) only if the material is intended for a use in, or incident to, research or medical diagnosis or treatment and does not present an unreasonable hazard to health and safety when being prepared for, and during, transportation.

(b) PROCEDURES.—The Secretary shall prescribe procedures for monitoring and enforcing regulations prescribed under this section.

(c) NONAPPLICATION.—This section does not apply to material the Secretary decides does not pose a significant hazard to health or safety when transported because of its low order of radioactivity.

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 772; Pub. L. 109–59, title VII, §7126, Aug. 10, 2005, 119 Stat. 1909.)