

Pub. L. 109-59, §7124(1), (2), substituted “transports hazardous material, or causes hazardous material to be transported,” for “transports or causes to be transported hazardous material,” and “designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented” for “manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a packaging or a container that the person represents, marks, certifies, or sells”.

1994—Subsec. (a). Pub. L. 103-311 substituted “a packaging or a” for “a package or”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-244 effective as of the date of enactment of Pub. L. 109-59 (Aug. 10, 2005) and to be treated as included in Pub. L. 109-59 as of that date, and provisions of Pub. L. 109-59, as in effect on the day before June 6, 2008, that are amended by Pub. L. 110-244 to be treated as not enacted, see section 121(b) of Pub. L. 110-244, set out as a note under section 101 of Title 23, Highways.

§ 5127. Judicial review

(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary’s action becomes final.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary’s final action and may order the Secretary to conduct further proceedings.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.

(Added Pub. L. 109-59, title VII, §7123(b), Aug. 10, 2005, 119 Stat. 1907.)

PRIOR PROVISIONS

A prior section 5127 was renumbered section 5128 of this title.

§ 5128. Authorization of appropriations

(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

- (1) For fiscal year 2005, \$24,940,000.
- (2) For fiscal year 2006, \$29,000,000.
- (3) For fiscal year 2007, \$30,000,000.
- (4) For fiscal year 2008, \$30,000,000.

(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2005 through 2008 the following:

(1) To carry out section 5115, \$200,000.

(2) To carry out sections 5116(a) and (b), \$21,800,000 to be allocated as follows:

(A) \$5,000,000 to carry out section 5116(a).

(B) \$7,800,000 to carry out section 5116(b).

(C) Of the amount provided for by this paragraph for a fiscal year in excess of the suballocations in subparagraphs (A) and (B)—

(i) 35 percent shall be used to carry out section 5116(a); and

(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

(3) To carry out section 5116(f), \$150,000.

(4) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), \$625,000.

(5) To carry out section 5116(j), \$1,000,000.

(c) HAZMAT TRAINING GRANTS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) \$4,000,000 for each of fiscal years 2005 through 2008.

(d) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

(e) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 783, §5127; Pub. L. 103-311, title I, §§103, 119(b), (c)(4), Aug. 26, 1994, 108 Stat. 1673, 1680; renumbered §5128 and amended Pub. L. 109-59, title VII, §§7123(b), 7125, Aug. 10, 2005, 119 Stat. 1907, 1908; Pub. L. 110-244, title III, §302(f), June 6, 2008, 122 Stat. 1618.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5127(a)	49 App.:1812(a).	Jan. 3, 1975, Pub. L. 93-633, §115, 88 Stat. 2164; July 19, 1975, Pub. L. 94-56, §4, 89 Stat. 264; Oct. 11, 1976, Pub. L. 94-474, §3, 90 Stat. 2068; Sept. 30, 1978, Pub. L. 95-403, 92 Stat. 863; Oct. 30, 1984, Pub. L. 98-559, §2, 98 Stat. 2907; restated Nov. 16, 1990, Pub. L. 101-615, §14, 104 Stat. 3260; Oct. 24, 1992, Pub. L. 102-508, §504, 106 Stat. 3311.