

Hazardous Materials Transportation Act

49 U.S.C. §§5101-5127

Regulation of hazardous materials transportation

The Secretary of Transportation must **designate as hazardous** any material that the Secretary determines may pose an **unreasonable risk** to health and safety or property when transported in commerce. [49 U.S.C. §5103(a)]

The Secretary must prescribe **regulations for the safe transportation in commerce of hazardous materials**. These regulations may govern such matters as packing, handling, labeling, and highway routing of hazardous materials, and manufacture, marking, or testing of packagings to be used to transport hazardous materials, as well as such safety aspects of the transportation of hazardous materials as the Secretary considers appropriate. [49 U.S.C. §5103(b)]

The Secretary may establish **criteria for handling hazardous materials**, including minimum number of personnel, minimum training and qualifications for personnel, type and frequency of inspections, equipment to be used for detection and control of risks, specifications for use of equipment, and a system to monitor safety procedures for transporting hazardous materials. [49 U.S.C. §5106]

The Secretary must specify **requirements for training** that “hazmat employers” must give to their employees on the safe loading, unloading, handling, storing, and transporting of hazardous materials. [49 U.S.C. §5107(a)] The employer must certify that “hazmat employees” have received proper training and been tested. [49 U.S.C. §5107(c)] The Act defines the terms hazmat employee and hazmat employer. [49 U.S.C. §5102(3)-(4)]

Certain persons who transport in commerce hazardous materials in specified amounts or kinds of packaging must register with the Secretary. [49 U.S.C. §5108(a)] The Act sets out specific requirements for the registration statements, including a provision allowing the Secretary to charge a **registration fee**, and requiring the Secretary to charge an **annual fee**. [49 U.S.C. §5108(b) & (g)] The Secretary may waive the registration and fee requirements for foreign-domiciled transporters who import hazardous materials to the United States if the country in which such transporters are domiciled does not require U.S.-domiciled transporters to register or pay fees to import U.S. hazardous materials into that country. [49 U.S.C. §5108(a)]

The Act requires **motor carriers** to obtain **safety permits** from the Secretary in order to transport hazardous materials in commerce by motor vehicle. [49 U.S.C. §5109(a)]

The Act requires persons offering hazardous materials for transport in commerce to provide the carrier with **shipping papers and disclosures** that the Secretary prescribes regarding the hazardous materials to be transported. [49 U.S.C. §5110(a)]

A motor carrier that receives an **unsatisfactory safety rating** from the Secretary may not continue to operate a commercial motor vehicle to transport hazardous materials or to transport more than 15 people if the motor carrier does not receive a conditional or satisfactory rating within 45 days. [49 U.S.C. §5113(a)]

Materials that emit **ionizing radiation** spontaneously may be transported in air commerce on **passenger aircraft** only if the materials will be used for research or medical purposes and do not pose an unreasonable hazard to health and safety. [49 U.S.C. §5114(a)]

States and Native American tribes may issue and enforce **highway routing designations** for the transport of hazardous materials in commerce for which vehicle placarding is required. These designations must comply with standards established by the Secretary. [49 U.S.C. §5112]

States or their political subdivisions and Native American tribes may impose a **fee** relating to the transport of hazardous materials if the fee is fair and is used for a purpose relating to the transport of hazardous materials. [49 U.S.C. §5125(g)]

The Secretary must make **grants** to states and Native American tribes to develop and carry out **emergency preparedness plans** and to **train public sector employees** to respond to incidents involving hazardous materials. [49 U.S.C. §5116(a)-(b)] The Secretary may make grants to private sector hazmat employers to support hazardous materials training programs for their employees. [49 U.S.C. §5107(e)] If funds are available, the Secretary may make grants to national nonprofit employee organizations engaged solely in fighting fires to train instructors to conduct hazardous materials response training programs. [49 U.S.C. §5116(j)]

The Secretary may issue **exemptions** from the Act's requirements to persons whose operations are at least as safe as required by the Act or, if no existing level of safety is established, when the safety level is consistent with the public interest. [49 U.S.C. §5117(a)]

Inspection and enforcement

The Secretary may authorize representatives to **inspect** property and records pertaining to the packaging and transportation of hazardous materials. [49 U.S.C. §5121(c)]

The Act provides for **civil and criminal penalties** for violations. [49 U.S.C. §§5123-5124]

The Attorney General may seek **equitable relief** in district court for a violation of the Act. [49 U.S.C. §5122(a)] When an **imminent hazard** exists, the Secretary or the Attorney General may seek an immediate

order suspending or restricting the transportation of the hazardous materials. [49 U.S.C. §5122(b)]

Preemption

State laws inconsistent with the Act are **preempted**, except when the Secretary determines that such laws afford an equal or greater level of protection to the public than is afforded by the Act, and that such laws do not unreasonably burden commerce. [49 U.S.C. §5125]