§ 31144. Safety fitness of owners and operators

(a) In General.— The Secretary shall—

(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator—

(A) in operations that affect interstate commerce within the United States; and

(B) in operations in Canada and Mexico if the owner or operator also conducts operations within the United States;

(2) periodically update such safety fitness determinations;

(3) make such final safety fitness determinations readily available to the public; and

(4) prescribe by regulation penalties for violations of this section consistent with section 521.

(b) Procedure.— The Secretary shall maintain by regulation a procedure for determining the safety fitness of an owner or operator. The procedure shall include, at a minimum, the following elements:

(1) Specific initial and continuing requirements with which an owner or operator must comply to demonstrate safety fitness.

(2) A methodology the Secretary will use to determine whether an owner or operator is fit.

(3) Specific time frames within which the Secretary will determine whether an owner or operator is fit.

(c) Prohibited Transportation.—

(1) In general.— Except as provided in section 521 (b)(5)(A) and this subsection, an owner or operator who the Secretary determines is not fit may not operate commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(2) Owners or operators transporting passengers.— With regard to owners or operators of commercial motor vehicles designed or used to transport passengers, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

(3) Owners or operators transporting hazardous material.— With regard to owners or operators of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit. A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.

(4) Secretary’s discretion.— Except for owners or operators described in paragraphs (2) and (3), the Secretary may allow an owner or operator who is not fit to continue operating for an additional 60 days after the 61st day after the date of the Secretary’s fitness determination, if the Secretary determines that such owner or operator is making a good faith effort to become fit.

(5) Transportation affecting interstate commerce.— Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1)
through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.

(d) **Determination of Unfitness by State.**— If a State that receives motor carrier safety assistance program funds under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of a commercial motor vehicle that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicle in the State, the Secretary shall prohibit the owner or operator from operating such vehicle in interstate commerce until the State determines that the owner or operator is fit.

(e) **Review of Fitness Determinations.**—

(1) **In general.**— Not later than 45 days after an unfit owner or operator requests a review, the Secretary shall review such owner’s or operator’s compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(2) **Owners or operators transporting passengers.**— Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport passengers requests a review, the Secretary shall review such owner’s or operator’s compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(3) **Owners or operators transporting hazardous material.**— Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, the Secretary shall review such owner’s or operator’s compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

(f) **Prohibited Government Use.**— A department, agency, or instrumentality of the United States Government may not use to provide any transportation service an owner or operator who the Secretary has determined is not fit until the Secretary determines such owner or operator is fit.

(g) **Safety Reviews of New Operators.**—

(1) **In general.**— The Secretary shall require, by regulation, each owner and each operator granted new operating authority, after the date on which section 31148 (b) is first implemented, to undergo a safety review within the first 18 months after the owner or operator, as the case may be, begins operations under such authority.

(2) **Elements.**— In the regulations issued pursuant to paragraph (1), the Secretary shall establish the elements of the safety review, including basic safety management controls. In establishing such elements, the Secretary shall consider their effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

(3) **Phase-in of requirement.**— The Secretary shall phase in the requirements of paragraph (1) in a manner that takes into account the availability of certified motor carrier safety auditors.

(4) **New entrant authority.**— Notwithstanding any other provision of this title, any new operating authority granted after the date on which section 31148 (b) is first implemented shall be designated as new entrant authority until the safety review required by paragraph (1) is completed.

(5) **New entrant audits.**—

(A) **Grants.**— The Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States and local governments.

(B) **Set aside.**— The Secretary shall set aside from amounts made available by section 31104 (a) up to $29,000,000 per fiscal year and up to $14,500,000 for the period beginning
on October 1, 2011, and ending on March 31, 2012, for audits of new entrant motor carriers conducted pursuant to this paragraph.

(C) Determination.— If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier audits, the Secretary may use the funds set aside under this paragraph to conduct audits for such States or local governments.


### Historical and Revision Notes

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In subsection (a), the word “regulation” is substituted for “rule” for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1), the words “after notice and opportunity for comment” are omitted as unnecessary because of 5:553. The text of 49 App.:2512(b) is omitted as executed.

### Amendments

2011—Subsec. (g)(5)(B). Pub. L. 112–30 substituted “fiscal year and up to $14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” for “fiscal year”.

Pub. L. 112–5 struck out “(and up to $12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)” after “year”.

2010—Subsec. (g)(5)(B). Pub. L. 111–322 substituted “(and up to $12,315,000 for the period beginning October 1, 2010, and ending on March 4, 2011)” for “(and up to $7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)”.

Pub. L. 111–147 inserted “(and up to $7,310,000 for the period beginning on October 1, 2010, and ending on December 31, 2010)” after “fiscal year”.


2005—Subsec. (a). Pub. L. 109–59, § 4114(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary shall—

“(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles;

“(2) periodically update such safety fitness determinations;

“(3) make such final safety fitness determinations readily available to the public; and

“(4) prescribe by regulation penalties for violations of this section consistent with section 521.”

Subsec. (c). Pub. L. 109–59, § 7112(c), which directed amendment of this section by redesignating the second subsec. (c), relating to safety reviews of new operators, as (f), was repealed by Pub. L. 110–244, § 301(b)(2).
Pub. L. 109–59, § 4107(b)(1), as amended by Pub. L. 110–244, § 301(b)(1), redesignated subsec. (c), relating to safety reviews of new operators, as (f).

Subsec. (c)(1). Pub. L. 109–59, § 7112(b)(1), substituted “section 521 (b)(5)(A)” for “sections 521 (b)(5)(A) and 5113”.

Subsec. (c)(3). Pub. L. 109–59, § 7112(b)(2), inserted at end “A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.”

Subsec. (c)(5). Pub. L. 109–59, § 4114(b), added par. (5).


Pub. L. 109–59, § 4114(c)(1), as amended by Pub. L. 110–244, § 301(c), redesignated subsec. (d) as (e).

Subsec. (e). Pub. L. 109–59, § 4114(c)(1), as amended by Pub. L. 110–244, § 301(c), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–59, § 7112(c), which directed amendment of this section by redesignating the second subsec. (c), relating to safety reviews of new operators, as (f), was repealed by Pub. L. 110–244, § 301(b)(2).

Pub. L. 109–59, § 4114(c)(1), as amended by Pub. L. 110–244, § 301(c), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 109–59, § 4107(b)(1), as amended by Pub. L. 110–244, § 301(b)(1), redesignated subsec. (c), relating to safety reviews of new operators, as (f).


Subsec. (g). Pub. L. 109–59, § 4114(c)(1), as amended by Pub. L. 110–244, § 301(c), redesignated subsec. (f) as (g).

1999—Subsec. (c). Pub. L. 106–159 added subsec. (c) relating to safety reviews of new operators.

1998—Pub. L. 105–178 reenacted section catchline without change and amended text generally, substituting, in subsec. (a), general provisions for provisions relating to procedure and, in subsec. (b), provisions relating to procedure for provisions relating to findings and action on registrations, and adding subsecs. (c) to (e).

1995—Subsec. (a)(1). Pub. L. 104–88, § 104(g)(1)–(3), in first sentence substituted “The Secretary” for “In cooperation with the Interstate Commerce Commission, the Secretary” and “section 13902” for “sections 10922 and 10923” and in subpar. (C) struck out “and the Commission” after “Secretary”.

Subsec. (b). Pub. L. 104–88, § 104(g)(4), added subsec. (b) and struck out former subsec. (b) which read as follows: “Findings and Action on Applications.—The Commission shall—

“(1) find an applicant for authority to operate as a motor carrier unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section; and

“(2) deny the application.”

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.

Effective Date of 1995 Amendment


Deemed References to Chapters 509 and 511 of Title 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

High Risk Carrier Compliance Reviews

Pub. L. 109–59, title IV, § 4138, Aug. 10, 2005, 119 Stat. 1745, provided that: “From the funds authorized by section 31104 (i) of title 49, United States Code, the Secretary [of Transportation] shall ensure that compliance reviews are completed on motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, a compliance review shall be conducted whenever a motor carrier is rated as category A or B for 2 consecutive months.”
Minimum Requirements

Pub. L. 106–159, title II, § 210(b), Dec. 9, 1999, 113 Stat. 1765, provided that: “The Secretary shall initiate a rulemaking to establish minimum requirements for applicant motor carriers, including foreign motor carriers, seeking Federal interstate operating authority to ensure applicant carriers are knowledgeable about applicable Federal motor carrier safety standards. As part of that rulemaking, the Secretary shall consider the establishment of a proficiency examination for applicant motor carriers as well as other requirements to ensure such applicants understand applicable safety regulations before being granted operating authority.”