

## RAILROAD SAFETY STRATEGY

Pub. L. 110-432, div. A, title I, §102, Oct. 16, 2008, 122 Stat. 4852, provided that:

“(a) SAFETY GOALS.—In conjunction with existing federally-required and voluntary strategic planning efforts ongoing at the Department and the Federal Railroad Administration as of the date of enactment of this Act [Oct. 16, 2008], the Secretary shall develop a long-term strategy for improving railroad safety to cover a period of not less than 5 years. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

“(1) Reducing the number and rates of accidents, incidents, injuries, and fatalities involving railroads including train collisions, derailments, and human factors.

“(2) Improving the consistency and effectiveness of enforcement and compliance programs.

“(3) Improving the identification of high-risk highway-rail grade crossings and strengthening enforcement and other methods to increase grade crossing safety.

“(4) Improving research efforts to enhance and promote railroad safety and performance.

“(5) Preventing railroad trespasser accidents, incidents, injuries, and fatalities.

“(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic failures and other bridge and tunnel failures.

“(b) RESOURCE NEEDS.—The strategy and annual plan shall include estimates of the funds and staff resources needed to accomplish the goals established by subsection (a). Such estimates shall also include the staff skills and training required for timely and effective accomplishment of each such goal.

“(c) SUBMISSION WITH THE PRESIDENT’S BUDGET.—The Secretary shall submit the strategy and annual plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure at the same time as the President’s budget submission.

“(d) ACHIEVEMENT OF GOALS.—

“(1) PROGRESS ASSESSMENT.—No less frequently than annually, the Secretary shall assess the progress of the Department toward achieving the strategic goals described in subsection (a). The Secretary shall identify any deficiencies in achieving the goals within the strategy and develop and institute measures to remediate such deficiencies. The Secretary and the Administrator shall convey their assessment to the employees of the Federal Railroad Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

“(2) REPORT TO CONGRESS.—Beginning in 2009, not later than November 1 of each year, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the performance of the Federal Railroad Administration containing the progress assessment required by paragraph (1) toward achieving the goals of the railroad safety strategy and annual plans under subsection (a).”

[For definitions of “railroad”, “Department”, “Secretary”, and “crossing”, as used in section 102 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

## REPORTS ON STATUTORY MANDATES AND RECOMMENDATIONS

Pub. L. 110-432, div. A, title I, §106, Oct. 16, 2008, 122 Stat. 4859, provided that: “Not later than December 31, 2008, and annually thereafter, the Secretary shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Trans-

portation on the specific actions taken to implement unmet statutory mandates regarding railroad safety and each open railroad safety recommendation made by the National Transportation Safety Board or the Department’s Inspector General.”

[For definitions of “Secretary”, “railroad”, and “Department”, as used in section 106 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

## § 20102. Definitions

In this part—

(1) “Class I railroad”, “Class II railroad”, and “Class III railroad” mean railroad carriers that have annual carrier operating revenues that meet the threshold amount for Class I carriers, Class II carriers, and Class III carriers, respectively, as determined by the Surface Transportation Board under section 1201.1-1 of title 49, Code of Federal Regulations.

(2) “railroad”—

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including—

(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but

(B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(3) “railroad carrier” means a person providing railroad transportation, except that, upon petition by a group of commonly controlled railroad carriers that the Secretary determines is operating within the United States as a single, integrated rail system, the Secretary may by order treat the group of railroad carriers as a single railroad carrier for purposes of one or more provisions of part A, subtitle V of this title and implementing regulations and order, subject to any appropriate conditions that the Secretary may impose.

(4) “safety-related railroad employee” means—

(A) a railroad employee who is subject to chapter 211;

(B) another operating railroad employee who is not subject to chapter 211;

(C) an employee who maintains the right of way of a railroad;

(D) an employee of a railroad carrier who is a hazmat employee as defined in section 5102(3) of this title;

(E) an employee who inspects, repairs, or maintains locomotives, passenger cars, or freight cars; and

(F) any other employee of a railroad carrier who directly affects railroad safety, as determined by the Secretary.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 863; Pub. L. 110-432, div. A, §2(b), title IV, §407, Oct. 16, 2008, 122 Stat. 4850, 4886.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20102(1) .....	45:16.	Apr. 14, 1910, ch. 160, §1, 36 Stat. 298; restated June 22, 1988, Pub. L. 100-342, §13(3)(E), 102 Stat. 632.
	45:22.	Feb. 17, 1911, ch. 103, §1, 36 Stat. 913; June 7, 1924, ch. 355, §1, 43 Stat. 659; restated June 22, 1988, Pub. L. 100-342, §14(1), 102 Stat. 632.
	45:38 (last sentence).	May 6, 1910, ch. 208, 36 Stat. 350, §1 (last sentence); added June 22, 1988, Pub. L. 100-342, §15(1)(C), 102 Stat. 633.
	45:61(a).	Mar. 4, 1907, ch. 2939, §1(a), 34 Stat. 1415; Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 463; restated Nov. 2, 1978, Pub. L. 95-574, §5, 92 Stat. 2461; June 22, 1988, Pub. L. 100-342, §16(1)(A), 102 Stat. 634.
	45:61(b)(1).	Mar. 4, 1907, ch. 2939, §1(b)(1), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 463; June 22, 1988, Pub. L. 100-342, §16(1)(B), 102 Stat. 634.
	45:431(e).	Oct. 16, 1970, Pub. L. 91-458, §202(e), 84 Stat. 971; restated June 22, 1988, Pub. L. 100-342, §7(a), 102 Stat. 628.
	49:App.:26(a).	Feb. 4, 1887, ch. 104, 24 Stat. 379, §25(a); added Feb. 28, 1920, ch. 91, §441, 41 Stat. 498; Aug. 26, 1937, ch. 818, 50 Stat. 835; Sept. 18, 1940, ch. 722, §14(b), 54 Stat. 919; restated June 22, 1988, Pub. L. 100-342, §17(1), 102 Stat. 635.
20102(2) .....	(no source).	

Clause (1) is substituted for the source provisions to avoid repeating the definition of "railroad" in each chapter in this part.

Clause (2) is added to distinguish between railroad transportation and the entity providing railroad transportation.

## AMENDMENTS

2008—Pub. L. 110-432, §2(b), added pars. (1) and (4) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Par. (3). Pub. L. 110-432, §407, amended par. (3) generally. Prior to amendment, text read as follows: "railroad carrier" means a person providing railroad transportation."

## DEFINITIONS APPLICABLE TO DIVISION A OF PUB. L. 110-432

Pub. L. 110-432, div. A, §2(a), Oct. 16, 2008, 122 Stat. 4849, provided that: "In this division [see Short Title of 2008 Amendment note set out under section 20101 of this title]:

"(1) CROSSING.—The term 'crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks at grade[,] where—

"(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

"(B) a pathway explicitly authorized by a public authority or a railroad carrier that is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

"(2) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(3) RAILROAD.—The term 'railroad' has the meaning given that term by section 20102 of title 49, United States Code.

"(4) RAILROAD CARRIER.—The term 'railroad carrier' has the meaning given that term by section 20102 of title 49, United States Code.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(6) STATE.—The term 'State' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico."

## § 20103. General authority

(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.

(b) REGULATIONS OF PRACTICE FOR PROCEEDINGS.—The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) CONSIDERATION OF INFORMATION AND STANDARDS.—In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) NONEMERGENCY WAIVERS.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver.

(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this part, including a regulation or order establishing, amending, or providing a waiver, described in subsection (d), of compliance with a railroad safety regulation prescribed or order issued under this part. An opportunity for an oral presentation shall be provided.

(f) TOURIST RAILROAD CARRIERS.—In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.

(g) EMERGENCY WAIVERS.—

(1) IN GENERAL.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this part without prior notice and comment if the Secretary determines that—

(A) it is in the public interest to grant the waiver;

(B) the waiver is not inconsistent with railroad safety; and

(C) the waiver is necessary to address an actual or impending emergency situation or emergency event.