

sibilities under chapter 51 as delegated or authorized by the Secretary—

- (A) \$225,000,000 for fiscal year 2009;
- (B) \$245,000,000 for fiscal year 2010;
- (C) \$266,000,000 for fiscal year 2011;
- (D) \$289,000,000 for fiscal year 2012; and
- (E) \$293,000,000 for fiscal year 2013.

(2) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase Gage Restraint Measurement System vehicles and track geometry vehicles or other comparable technology as needed to assess track safety consistent with the results of the track inspection study required by section 403 of the Rail Safety Improvement Act of 2008.

(3) There are authorized to be appropriated to the Secretary \$18,000,000 for the period encompassing fiscal years 2009 through 2013 to design, develop, and construct the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado. The facility shall be used to test and evaluate the vulnerabilities of above-ground and underground rail tunnels to prevent accidents and incidents in such tunnels, to mitigate and remediate the consequences of any such accidents or incidents, and to provide a realistic scenario for training emergency responders.

(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2009 through 2013 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.

(b) GRADE CROSSING SAFETY.—Not more than \$1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, except demonstration projects under section 20134(c) of this title. Amounts appropriated under this subsection remain available until expended.

(c) RESEARCH AND DEVELOPMENT, AUTOMATED TRACK INSPECTION, AND STATE PARTICIPATION GRANTS.—Amounts appropriated under this section for research and development, automated track inspection, and grants under section 20105(e) of this title remain available until expended.

(d) MINIMUM AVAILABLE FOR CERTAIN PURPOSES.—At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety research, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development \$300,000 for fiscal year 1995, \$500,000 for fiscal year 1996, and \$750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 872; Pub. L. 103–440, title II, §§202, 218, Nov. 2, 1994, 108 Stat. 4619, 4625; Pub. L. 110–432, div. A, §3, Oct. 16, 2008, 122 Stat. 4850.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20117(a)(1) ..	45:444(a) (1st sentence).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(a) (1st sentence); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Aug. 13, 1981, Pub. L. 97–35, §1195, 95 Stat. 702; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624; Nov. 5, 1990, Pub. L. 101–508, §10501(b), 104 Stat. 1388–400; restated Sept. 3, 1992, Pub. L. 102–365, §12, 106 Stat. 980.
20117(a)(2) ..	45:435(h).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §206(h); Nov. 16, 1990, Pub. L. 101–615, §28(d), 104 Stat. 3277.
20117(b)	45:445(c).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §215(c); added June 22, 1988, Pub. L. 100–342, §20, 102 Stat. 638.
20117(c)	45:444(b).	Oct. 16, 1970, Pub. L. 91–458, 84 Stat. 971, §214(b); added Oct. 10, 1980, Pub. L. 96–423, §2, 94 Stat. 1811; Jan. 14, 1983, Pub. L. 97–468, §703, 96 Stat. 2580; restated June 22, 1988, Pub. L. 100–342, §2, 102 Stat. 624.
20117(d)	45:442.	Nov. 2, 1978, Pub. L. 95–574, §3, 92 Stat. 2459.

In subsection (a), references to fiscal years prior to 1993 are omitted as obsolete.

REFERENCES IN TEXT

Section 403 of the Rail Safety Improvement Act of 2008, referred to in subsec. (a)(2), is section 403 of Pub. L. 110–432, which is set out as a note under section 20142 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–432 amended subsec. (a) generally. Prior to amendment, subsec. (a) authorized appropriations for fiscal years 1993 through 1998.

1994—Subsec. (a)(1)(C) to (F). Pub. L. 103–440, §202, added subpars. (C) to (F).

Subsec. (e). Pub. L. 103–440, §218, added subsec. (e).

§ 20118. Prohibition on public disclosure of railroad safety analysis records

(a) IN GENERAL.—Except as necessary for the Secretary of Transportation or another Federal agency to enforce or carry out any provision of Federal law, any part of any record (including, but not limited to, a railroad carrier’s analysis of its safety risks and its statement of the mitigation measures it has identified with which to address those risks) that the Secretary has obtained pursuant to a provision of, or regulation or order under, this chapter related to the establishment, implementation, or modification of a railroad safety risk reduction program or pilot program is exempt from the requirements of section 552 of title 5 if the record is—

(1) supplied to the Secretary pursuant to that safety risk reduction program or pilot program; or

(2) made available for inspection and copying by an officer, employee, or agent of the Secretary pursuant to that safety risk reduction program or pilot program.

(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary may disclose any part of any record comprised of facts otherwise available to the public if, in the Secretary’s sole discretion,

the Secretary determines that disclosure would be consistent with the confidentiality needed for that safety risk reduction program or pilot program.

(c) **DISCRETIONARY PROHIBITION OF DISCLOSURE.**—The Secretary may prohibit the public disclosure of risk analyses or risk mitigation analyses that the Secretary has obtained under other provisions of, or regulations or orders under, this chapter if the Secretary determines that the prohibition of public disclosure is necessary to promote railroad safety.

(Added Pub. L. 110-432, div. A, title I, §109(a), Oct. 16, 2008, 122 Stat. 4866.)

§ 20119. Study on use of certain reports and surveys

(a) **STUDY.**—The Federal Railroad Administration shall complete a study to evaluate whether it is in the public interest, including public safety and the legal rights of persons injured in railroad accidents, to withhold from discovery or admission into evidence in a Federal or State court proceeding for damages involving personal injury or wrongful death against a carrier any report, survey, schedule, list, or data compiled or collected for the purpose of evaluating, planning, or implementing a railroad safety risk reduction program required under this chapter, including a railroad carrier's analysis of its safety risks and its statement of the mitigation measures with which it will address those risks. In conducting this study, the Secretary shall solicit input from the railroads, railroad non-profit employee labor organizations, railroad accident victims and their families, and the general public.

(b) **AUTHORITY.**—Following completion of the study required under subsection (a), the Secretary, if in the public interest, including public safety and the legal rights of persons injured in railroad accidents, may prescribe a rule subject to notice and comment to address the results of the study. Any such rule prescribed pursuant to this subsection shall not become effective until 1 year after its adoption.

(Added Pub. L. 110-432, div. A, title I, §109(a), Oct. 16, 2008, 122 Stat. 4867.)

§ 20120. Enforcement report

(a)¹ **IN GENERAL.**—Beginning not later than December 31, 2009, the Secretary of Transportation shall make available to the public and publish on its public Web site an annual report that—

(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, accident and incident reporting, and hazardous materials;

(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

(A) the number of civil penalties assessed; (B) the initial amount of civil penalties assessed;

(C) the number of civil penalty cases settled;

(D) the final amount of civil penalties assessed;

(E) the difference between the initial and final amounts of civil penalties assessed;

(F) the number of administrative hearings requested and completed related to hazardous materials transportation law violations or enforcement actions against individuals;

(G) the number of cases referred to the Attorney General for civil or criminal prosecution; and

(H) the number and subject matter of all compliance orders, emergency orders, or precursor agreements;

(3) analyzes the effect of the number of inspections conducted and enforcement actions taken on the number and rate of reported accidents and incidents and railroad safety;

(4) provide² the information required by paragraphs (2) and (3)—

(A) for each Class I railroad individually; and

(B) in the aggregate for—

(i) Class II railroads;

(ii) Class III railroads;

(iii) hazardous materials shippers; and

(iv) individuals;

(5) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—

(A) the Locomotive Engineer Review Board;

(B) an administrative hearing officer or administrative law judge; or

(C) the Administrator of the Federal Railroad Administration;

(6) provides an explanation regarding any changes in the Secretary's or the Federal Railroad Administration's enforcement programs or policies that may substantially affect the information reported; and

(7) includes any additional information that the Secretary determines is useful to improve the transparency of its enforcement program.

(Added Pub. L. 110-432, div. A, title III, §303(a), Oct. 16, 2008, 122 Stat. 4878; amended Pub. L. 114-94, div. A, title XI, §11316(d), Dec. 4, 2015, 129 Stat. 1676.)

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94, §11316(d)(1), substituted “Web site” for “website” in introductory provisions.

Subsec. (a)(1). Pub. L. 114-94, §11316(d)(2), substituted “accident and incident reporting” for “accident and incidence reporting”.

Subsec. (a)(2)(G). Pub. L. 114-94, §11316(d)(3), inserted “and” at end.

Subsec. (a)(5)(B). Pub. L. 114-94, §11316(d)(4), substituted “administrative hearing officer or administrative law judge” for “Administrative Hearing Officer or Administrative Law Judge”.

¹ So in original. No subsec. (b) has been enacted.

² So in original. Probably should be “provides”.