

“(B) have relevant experience in conducting railroad safety technology tests or similar crash tests.

“(3) TESTING FRAMEWORK.—In completing the testing under paragraph (1), the National Academy of Sciences and each contractor described in paragraph (2) shall ensure that the testing objectively, accurately, and reliably measures the performance of ECP brake systems relative to other braking technologies or systems, such as distributed power and 2-way end-of-train devices, including differences in—

- “(A) the number of cars derailed;
- “(B) the number of cars punctured;
- “(C) the measures of in-train forces; and
- “(D) the stopping distance.

“(4) FUNDING.—The Secretary shall provide funding, as part of the agreement under paragraph (1), to the National Academy of Sciences for the testing required under this section—

“(A) using sums made available to carry out sections 20108 and 5118 of title 49, United States Code; and

“(B) to the extent funding under subparagraph (A) is insufficient or unavailable to fund the testing required under this section, using such sums as are necessary from the amounts appropriated to the Secretary, the Federal Railroad Administration, or the Pipeline and Hazardous Materials Safety Administration, or a combination thereof.

“(5) EQUIPMENT.—

“(A) RECEIPT.—The National Academy of Sciences and each contractor described in paragraph (2) may receive or use rolling stock, track, and other equipment or infrastructure from a railroad carrier or other private entity for the purposes of conducting the testing required under this section.

“(B) CONTRACTED USE.—Notwithstanding paragraph (2)(A), to facilitate testing, the National Academy of Sciences and each contractor may contract with a railroad carrier or any other private entity for the use of such carrier or entity’s rolling stock, track, or other equipment and receive technical assistance on their use.

“(c) EVIDENCE-BASED APPROACH.—

“(1) ANALYSIS.—The Secretary shall—

“(A) not later than 90 days after the report date, fully incorporate the results of the evaluation under subsection (a) and the testing under subsection (b) and update the regulatory impact analysis of the final rule described in subsection (b)(2)(A) of the costs, benefits, and effects of the applicable ECP brake system requirements;

“(B) as soon as practicable after completion of the updated analysis under subparagraph (A), solicit public comment in the Federal Register on the analysis for a period of not more than 30 days; and

“(C) not later than 60 days after the end of the public comment period under subparagraph (B), post the final updated regulatory impact analysis on the Department of Transportation’s Internet Web site.

“(2) DETERMINATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

“(A) determine, based on whether the final regulatory impact analysis described in paragraph (1)(C) demonstrates that the benefits, including safety benefits, of the applicable ECP brake system requirements exceed the costs of such requirements, whether the applicable ECP brake system requirements are justified;

“(B) if the applicable ECP brake system requirements are justified, publish in the Federal Register the determination and reasons for such determination; and

“(C) if the Secretary does not publish the determination under subparagraph (B), repeal the applicable ECP brake system requirements.

“(3) SAVINGS CLAUSE.—Nothing in this section shall be construed to prohibit the Secretary from implementing the final rule described under subsection

(b)(2)(A) prior to the determination required under subsection (c)(2) of this section, or require the Secretary to promulgate a new rule on the provisions of such final rule, other than on the applicable ECP brake system requirements, if the Secretary does not determine that the applicable ECP brake system requirements are justified pursuant to this subsection.

“(d) DEFINITIONS.—In this section, the following definitions apply:

“(1) APPLICABLE ECP BRAKE SYSTEM REQUIREMENTS.—The term ‘applicable ECP brake system requirements’ means sections 174.310(a)(3)(ii), 174.310(a)(3)(iii), 174.310(a)(5)(v), 179.202–10, 179.202–12(g), and 179.202–13(i) of title 49, Code of Federal Regulations, and any other regulation in effect on the date of enactment of this Act requiring the installation of ECP brakes or operation in ECP brake mode.

“(2) CLASS 3 FLAMMABLE LIQUID.—The term ‘Class 3 flammable liquid’ has the meaning given the term flammable liquid in section 173.120(a) of title 49, Code of Federal Regulations.

“(3) ECP.—The term ‘ECP’ means electronically controlled pneumatic when applied to a brake or brakes.

“(4) ECP BRAKE MODE.—The term ‘ECP brake mode’ includes any operation of a rail car or an entire train using an ECP brake system.

“(5) ECP BRAKE SYSTEM.—

“(A) IN GENERAL.—The term ‘ECP brake system’ means a train power braking system actuated by compressed air and controlled by electronic signals from the locomotive or an ECP–EOT to the cars in the consist for service and emergency applications in which the brake pipe is used to provide a constant supply of compressed air to the reservoirs on each car but does not convey braking signals to the car.

“(B) INCLUSIONS.—The term ‘ECP brake system’ includes dual mode and stand-alone ECP brake systems.

“(6) RAILROAD CARRIER.—The term ‘railroad carrier’ has the meaning given the term in section 20102 of title 49, United States Code.

“(7) REPORT DATE.—The term ‘report date’ means the date that the reports under subsections (a)(3) and (b)(1)(B) are required to be transmitted pursuant to those subsections.”

§ 20142. Track safety

(a) REVIEW OF EXISTING REGULATIONS.—Not later than March 3, 1993, the Secretary of Transportation shall begin a review of Department of Transportation regulations related to track safety standards. The review at least shall include an evaluation of—

(1) procedures associated with maintaining and installing continuous welded rail and its attendant structure, including cold weather installation procedures;

(2) the need for revisions to regulations on track excepted from track safety standards; and

(3) employee safety.

(b) REVISION OF REGULATIONS.—Not later than September 1, 1995, the Secretary shall prescribe regulations and issue orders to revise track safety standards, considering safety information presented during the review under subsection (a) of this section and the report of the Comptroller General submitted under subsection (c) of this section.

(c) COMPTROLLER GENERAL’S STUDY AND REPORT.—The Comptroller General shall study the effectiveness of the Secretary’s enforcement of track safety standards, with particular atten-

tion to recent relevant railroad accident experience and information. Not later than September 3, 1993, the Comptroller General shall submit a report to Congress and the Secretary on the results of the study, with recommendations for improving enforcement of those standards.

(d) IDENTIFICATION OF INTERNAL RAIL DEFECTS.—In carrying out subsections (a) and (b), the Secretary shall consider whether or not to prescribe regulations and issue orders concerning—

- (1) inspection procedures to identify internal rail defects, before they reach imminent failure size, in rail that has significant shelling; and
- (2) any specific actions that should be taken when a rail surface condition, such as shelling, prevents the identification of internal defects.

(e) TRACK STANDARDS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this subsection, the Federal Railroad Administration shall—

(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.

(2) INSPECTION.—Whenever the Administration determines that it is necessary or appropriate, the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 879; Pub. L. 103-440, title II, §208, Nov. 2, 1994, 108 Stat. 4621; Pub. L. 109-59, title IX, §9005(a), Aug. 10, 2005, 119 Stat. 1924.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20142(a)	45:431(s)(1) (1st sentence), (2).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(s); added Sept. 3, 1992, Pub. L. 102-365, §8, 106 Stat. 976.
20142(b)	45:431(s)(1) (last sentence).	
20142(c)	45:431(s)(3).	

In subsection (c), the word “information” is substituted for “data” for consistency in the revised title.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109-59 added subsec. (e).
 1994—Subsec. (a)(1). Pub. L. 103-440, §208(2), inserted “, including cold weather installation procedures” after “attendant structure”.

Subsec. (b). Pub. L. 103-440, §208(1), substituted “September 1, 1995” for “September 3, 1994”.

Subsec. (d). Pub. L. 103-440, §208(3), added subsec. (d).

COMMUTER RAIL TRACK INSPECTIONS

Pub. L. 114-94, div. A, title XI, §11409, Dec. 4, 2015, 129 Stat. 1684, provided that:

“(a) IN GENERAL.—The Secretary [of Transportation] shall evaluate track inspection regulations to determine if a railroad carrier providing commuter rail passenger transportation on high density commuter railroad lines should be required to inspect the lines in the same manner as is required for other commuter railroad lines.

“(b) RULEMAKING.—Considering safety, including railroad carrier employee and contractor safety, system capacity, and other relevant factors, the Secretary may promulgate a rule for high density commuter railroad lines. If, after the evaluation under subsection (a), the Secretary determines that it is necessary to promulgate a rule, the Secretary shall specifically consider the following regulatory requirements for high density commuter railroad lines:

“(1) At least once every 2 weeks—

“(A) traverse each main line by vehicle; or

“(B) inspect each main line on foot.

“(2) At least once each month, traverse and inspect each siding by vehicle or by foot.

“(c) REPORT.—If, after the evaluation under subsection (a), the Secretary determines it is not necessary to revise the regulations under this section, the Secretary, not later than 18 months after the date of enactment of this Act [Dec. 4, 2015], shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report explaining the reasons for not revising the regulations.

“(d) CONSTRUCTION.—Nothing in this section may be construed to limit the authority of the Secretary to promulgate regulations or issue orders under any other law.”

TRACK INSPECTION TIME STUDY

Pub. L. 110-432, div. A, title IV, §403, Oct. 16, 2008, 122 Stat. 4884, provided that:

“(a) STUDY.—Not later than [sic] 2 years after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of a study to determine whether—

“(1) the required intervals of track inspections for each class of track should be amended;

“(2) track remedial action requirements should be amended;

“(3) different track inspection and repair priorities or methods should be required; and

“(4) the speed at which railroad track inspection vehicles operate and the scope of the territory they generally cover allow for proper inspection of the track and whether such speed and appropriate scope should be regulated by the Secretary.

“(b) CONSIDERATIONS.—In conducting the study the Secretary shall consider—

“(1) the most current rail flaw, rail defect growth, rail fatigue, and other relevant track- or rail-related research and studies;

“(2) the availability and feasibility of developing and implementing new or novel rail inspection technology for routine track inspections;

“(3) information from National Transportation Safety Board or Federal Railroad Administration accident investigations where track defects were the cause or a contributing cause; and

“(4) other relevant information, as determined by the Secretary.

“(c) UPDATE OF REGULATIONS.—Not later than 2 years after the completion of the study required by sub-

section (a), the Secretary shall prescribe regulations based on the results of the study conducted under subsection (a).

“(d) CONCRETE CROSS TIES.—Not later than 18 months after the date of enactment of this Act [Oct. 16, 2008], the Secretary shall promulgate regulations for concrete cross ties. In developing the regulations for class 1 through 5 track, the Secretary may address, as appropriate—

- “(1) limits for rail seat abrasion;
- “(2) concrete cross tie pad wear limits;
- “(3) missing or broken rail fasteners;
- “(4) loss of appropriate toeload pressure;
- “(5) improper fastener configurations; and
- “(6) excessive lateral rail movement.”

[For definitions of “Secretary” and “railroad”, as used in section 403 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.]

§ 20143. Locomotive visibility

(a) DEFINITION.—In this section, “locomotive visibility” means the enhancement of day and night visibility of the front end unit of a train, considering in particular the visibility and perspective of a driver of a motor vehicle at a grade crossing.

(b) INTERIM REGULATIONS.—Not later than December 31, 1992, the Secretary of Transportation shall prescribe temporary regulations identifying ditch, crossing, strobe, and oscillating lights as temporary locomotive visibility measures and authorizing and encouraging the installation and use of those lights. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation or to an amendment to a temporary regulation.

(c) REVIEW OF REGULATIONS.—The Secretary shall review the Secretary’s regulations on locomotive visibility. Not later than December 31, 1993, the Secretary shall complete the current research of the Department of Transportation on locomotive visibility. In conducting the review, the Secretary shall collect relevant information from operational experience by rail carriers using enhanced visibility measures.

(d) REGULATORY PROCEEDING.—Not later than June 30, 1994, the Secretary shall begin a regulatory proceeding to prescribe final regulations requiring substantially enhanced locomotive visibility measures. In the proceeding, the Secretary shall consider at least—

- (1) revisions to the existing locomotive headlight standards, including standards for placement and intensity;
- (2) requiring the use of reflective material to enhance locomotive visibility;
- (3) requiring the use of additional alerting lights, including ditch, crossing, strobe, and oscillating lights;
- (4) requiring the use of auxiliary lights to enhance locomotive visibility when viewed from the side;
- (5) the effect of an enhanced visibility measure on the vision, health, and safety of train crew members; and
- (6) separate standards for self-propelled, push-pull, and multi-unit passenger operations without a dedicated head end locomotive.

(e) FINAL REGULATIONS.—(1) Not later than June 30, 1995, the Secretary shall prescribe final regulations requiring enhanced locomotive visi-

bility measures. The Secretary shall require that not later than December 31, 1997, a locomotive not excluded from the regulations be equipped with temporary visibility measures under subsection (b) of this section or the visibility measures the final regulations require.

(2) In prescribing regulations under paragraph (1) of this subsection, the Secretary may exclude a category of trains or rail operations from a specific visibility requirement if the Secretary decides the exclusion is in the public interest and is consistent with rail safety, including grade-crossing safety.

(3) A locomotive equipped with temporary visibility measures prescribed under subsection (b) of this section when final regulations are prescribed under paragraph (1) of this subsection is deemed to be complying with the final regulations for 4 years after the final regulations are prescribed.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 880.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20143(a)	45:431(u)(6).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, §202(u); added Oct. 27, 1992, Pub. L. 102-533, §14, 106 Stat. 3522.
20143(b)	45:431(u)(2) (1st, 2d sentences).	
20143(c)	45:431(u)(1).	
20143(d)	45:431(u)(3).	
20143(e)(1) ..	45:431(u)(5).	
20143(e)(2) ..	45:431(u)(4).	
20143(e)(3) ..	45:431(u)(2) (last sentence).	

In this section, the word “visibility” is substituted for “conspicuity” for clarity and consistency in this chapter.

In subsection (a), the words “by means of lighting, reflective materials, or other means” are omitted as surplus.

In subsection (b), the words “those lights” are substituted for “such measures” for clarity.

In subsection (c), the word “Secretary’s” is substituted for “Department of Transportation’s” because of 49:102(b). The word “using” is substituted for “having . . . in service” to eliminate unnecessary words.

In subsection (e)(2) and (3) of this section, the reference is to paragraph (1) of this subsection, rather than to subsection (d) of this section, because the regulations are prescribed under paragraph (1).

In subsection (e)(2), the words “a category” are substituted for “and category” to correct an apparent mistake in the source provision. See S. Rept. 102-990, 102d Cong., 2d Sess., p. 18 (1992).

In subsection (e)(3), the word “full” is omitted as surplus.

§ 20144. Blue signal protection for on-track vehicles

The Secretary of Transportation shall prescribe regulations applying blue signal protection to on-track vehicles where rest is provided.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 881.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20144	(uncodified).	June 22, 1988, Pub. L. 100-342, §19(c), 102 Stat. 638.

The words “prescribe regulations” are substituted for “within one year after the date of the enactment of